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COMMISSION ON HUMAN RIGHTS
REPORT ON THE TWENTY-FOURTH SESSION

5 February - 12 March 1968

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS: FORTY-FOURTH SESSION

SUPPLEMENT No. 4

UNITED NATIONS

(b) Political prisoners and opponents of apartheid should not be subjected to discriminatory and harsh treatment because of their opposition to the policy of apartheid;

(c) All prisoners, on Robben Island in particular, should be provided with shoes at all times;

(d) The inhuman practices known as the "tausa dance" and "carry-on" should be immediately terminated in the South African gaols;

(e) Action should be taken to put an immediate end to the exploitation of African convict labour;

(f) Every effort should be made to put an end immediately to any encouragement by prison officials of the practices of homosexuality and lesbianism amongst prisoners and detainees;

(g) Food given to non-white prisoners should be the same as that given to all other prisoners and should be improved to increase its nutritional value;

(h) The clothing given to all prisoners should be such as is adequate for the climatic conditions at all times;

(i) The bedding provided for prisoners should be adequate and should meet varying climatic conditions, and beds should be provided to all prisoners;

(j) The toilet facilities provided in cells should be so constructed and located as to meet reasonable hygienic prison conditions; and

(k) Due care and attention should be taken to ensure that only a reasonable number of prisoners be placed in any prison cell and that they should be of the same sex;

5. Also calls upon the Government of the Republic of South Africa to bring to an end in each and every case all practices of torture and all cruel, inhuman and degrading treatment of detainees or prisoners during interrogation and during detention in prison, and to take immediate steps to ensure that the supervising authorities keep a close watch on the behaviour of the police and prison officials in conformity with the international rules concerning detainees, and to establish an effective system of remedies against violations of human rights in South African police stations and prisons;

6. Requests the Economic and Social Council to recommend to the General Assembly the adoption of the following resolution:

/For the text, see chapter XIX, draft resolution II./

6 (XXIV). Question of human rights in the territories occupied as a result of hostilities in the Middle East 24/

The Commission on Human Rights,

Recalling provisions of the Geneva Conventions of 12 August 1949 regarding the protection of civilian persons in time of war,

24/ See paras. 140-210 above.

Mindful of the principle embodied in the Universal Declaration of Human Rights regarding the right of everyone to return to his own country,

Recalling resolution 237 (1967), adopted by the Security Council on 14 June 1967, in which the Council considered that essential and inalienable human rights should be respected even during the vicissitudes of war and called upon the Government of Israel, inter alia, to facilitate the return of those inhabitants who had fled the areas of military operations since the outbreak of hostilities,

Recalling also resolution 2252 (ES-V) of the General Assembly, which welcomed with great satisfaction Security Council resolution 237 (1967), of 14 June 1967, and called for humanitarian assistance,

1. Notes with appreciation the resolutions adopted by the Security Council and the General Assembly in accordance with the provisions of the Universal Declaration of Human Rights and the Geneva Conventions of 1949 regarding human rights in the territories occupied as a result of the hostilities in the Middle East;

2. Affirms the right of all the inhabitants who have left since the outbreak of hostilities in the Middle East to return and that the Government concerned should take the necessary measures in order to facilitate the return of those inhabitants to their own country without delay;

3. Requests the Secretary-General to keep the Commission informed upon developments with respect to operative paragraphs 1 and 2 above.

7 (XXIV). Question of the establishment of regional commissions on human rights 25/

The Commission on Human Rights,

Recalling resolution 2144 A (XXI) adopted by the General Assembly on 26 October 1966 in which the Assembly invited the Economic and Social Council and the Commission on Human Rights "to give urgent consideration to ways and means of improving the capacity of the United Nations to put a stop to violations of human rights wherever they may occur",

Recalling its resolution 6 (XXIII) in which it decided to set up an ad hoc study group to study in all its aspects, the proposal to establish regional commissions on human rights within the United Nations family,

Noting the report of the ad hoc Study Group established under resolution 6 (XXIII) in document E/CN.4/966 and Add.1,

1. Requests the Secretary-General to transmit the report of the ad hoc Study Group to Member States for their comments on the part concerning regional commissions;

25/ See paras. 211-245.



COMMISSION ON HUMAN RIGHTS

REPORT ON THE TWENTY-FIFTH SESSION

17 February - 21 March 1969

**ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS: FORTY-SIXTH SESSION**

UNITED NATIONS

6 (XXV). Question of human rights in the territories occupied as a result of hostilities in the Middle East^{21/}

The Commission on Human Rights,

Mindful of the principle embodied in the Universal Declaration of Human Rights recognizing the right of everyone to return to his country,

Recalling Security Council resolution 237 (1967) of 14 June 1967, General Assembly resolutions 2252 (ES-V) of 4 July 1967 and 2341B (XXII) of 19 December 1967, resolution 6 (XXIV) of the Commission on Human Rights and Economic and Social Council resolution 1336 (XLIV) of 31 May 1968 and General Assembly resolution 2452 (XXIII) of 19 December 1968 which called upon the Government of Israel to take effective and immediate steps for the return without delay of those inhabitants who fled the areas since the outbreak of hostilities.

Further recalling the telegram dispatched by the Commission on Human Rights on 8 March 1968, calling upon the Government of Israel to desist forthwith from acts of destroying homes of the Arab civilian population in areas occupied by Israel, and to respect human rights and fundamental freedoms,

Bearing in mind that the Security Council resolution 237 (1967) of 14 June 1967, General Assembly resolution 2252 (ES-V) of 4 July 1967, Economic and Social Council resolution 1336 (XLIV) of 31 May 1968, and resolution 6 (XXIV) of the Commission on Human Rights have called for the application of Geneva Conventions of 12 August 1949 in the territories occupied by Israel,

Noting that the Security Council has once again expressed its concern for the safety, welfare and security of the inhabitants of the Arab territories under military occupation by Israel, and deplored the delay in the implementation of resolution 237 (1967),

Noting also resolution I on respect for and implementation of human rights in occupied territories, adopted by the International Conference on Human Rights on 7 May 1968 (A/CONF.32/41) and General Assembly resolution 2443 (XXIII) of 19 December 1968,

Deeply concerned about the reported continuation of human rights violations as well as violations of the Geneva Conventions 12 August 1949 in the territories occupied by Israel,

Having received the report of the Secretary-General (E/CN.4/999),

1. Reaffirms the inalienable right of all the inhabitants who have left since the outbreak of hostilities to return, and calls upon the Government of Israel to immediately implement the United Nations resolutions to this effect,

2. Deplores Israel's continued violations of human rights in the occupied territories, particularly the acts of destroying homes of Arab civilian population, deportation of inhabitants and the resorting to violence against inhabitants expressing their resentment to occupation and calls upon the Government of Israel to put an immediate end to such acts,

^{21/} Adopted at the 1014th meeting on 4 March 1969, see para. 224 above.

3. Expresses its deep concern on Israel's refusal to abide by the Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War, and calls once again upon the Government of Israel to fully respect and apply that Convention;

4. Decides to establish a special Working Group of Experts composed of the members of the Ad Hoc Working Group of Experts established under Commission resolutions 2 (XXIII) and 2 (XXIV) with the following mandate:

(a) To investigate allegations concerning Israel's violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in the territories occupied by Israel as a result of hostilities in the Middle East;

(b) To receive communications, to hear witnesses, and use such modalities of procedure as it may deem necessary;

(c) To report, with its conclusions and recommendations, to the Commission's twenty-sixth session;

5. Decides to include the question of human rights in the territories occupied as a result of hostilities in the Middle East as a separate item of priority on the agenda of the Commission's twenty-sixth session.

7 (XXV). Question of human rights arising out of hostilities in the Middle East^{22/}

The Commission on Human Rights

Deeply concerned at the conflict affecting the Middle East, which continues to constitute an explosive factor that might spark off a universal conflagration, and at its consequences for the civil populations,

Aware of its legal and moral obligation to foster universal respect for fundamental human rights and freedoms, to promote conditions which guarantee such respect and to eliminate harm and suffering which constitute an affront to civilization.

Makes a fervent appeal to all Governments, their peoples and world public opinion to spare no efforts to ensure a peaceful settlement of the conflict affecting the Middle East through respect for the principles of the Charter of the United Nations and through the implementation of the relevant resolutions of the Security Council, in particular resolution 242 (1967) of 22 November 1967, and, meanwhile, to ensure in that region respect for the fundamental rights of all human beings which will greatly contribute in creating conditions for the restoration of peace.

^{22/} Adopted at the 1015th meeting on 4 March 1969, see para. 228 above.



COMMISSION ON HUMAN RIGHTS

REPORT ON THE TWENTY-FIFTH SESSION

17 February - 21 March 1969

**ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS: FORTY-SIXTH SESSION**

UNITED NATIONS

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(b) To receive communications, to hear witnesses, and use such modalities of procedure as it may deem necessary;

(c) To report, with its conclusions and recommendations, to the Commission's twenty-sixth session;

5. Decides to include the question of human rights in the territories occupied as a result of hostilities in the Middle East as a separate item of priority on the agenda of the Commission's twenty-sixth session.

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Aware of its legal and moral obligation to foster universal respect for fundamental human rights and freedoms, to promote conditions which guarantee such respect and to eliminate harm and suffering which constitute an affront to civilization.

Makes a fervent appeal to all Governments, their peoples and world public opinion to spare no efforts to ensure a peaceful settlement of the conflict affecting the Middle East through respect for the principles of the Charter of the United Nations and through the implementation of the relevant resolutions of the Security Council, in particular resolution 242 (1967) of 22 November 1967, and, meanwhile, to ensure in that region respect for the fundamental rights of all human beings which will greatly contribute in creating conditions for the restoration of peace.

^{22/} Adopted at the 1015th meeting on 4 March 1969, see para. 228 above.



COMMISSION ON HUMAN RIGHTS
REPORT ON THE TWENTY-SIXTH SESSION

(24 February - 27 March 1970)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS: FORTY-EIGHTH SESSION

SUPPLEMENT No. 5

UNITED NATIONS

Recognizing the contribution of the report of the Group to the continuing efforts of the United Nations to investigate and thus expose the gross and flagrant violation of human rights in southern Africa,

Having examined the report of the Group (E/CN.4/1020 and Add.1-3),

1. Expresses its appreciation of the work of the Ad Hoc Working Group of Experts and looks forward to receiving a more detailed report from it at the twenty-seventh session of the Commission;
2. Endorses the observations, conclusions and recommendations of the Group;
3. Requests the Economic and Social Council to forward the report of the Group to the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the United Nations Council for Namibia;
4. Requests the Group to study, from the point of view of international penal law, the question of apartheid, which has been declared a crime against humanity;
5. Requests the International Labour Organisation to include, as far as possible, a report on forced labour in the African Territories under Portuguese domination in its paper to be submitted to the Economic and Social Council at its forty-eighth session in accordance with Council resolution 1412 (XLVI);
6. Requests the Economic and Social Council to adopt the following draft resolution:

/For the text, see chapter XXIV, draft resolution III./

9 (XXVI). Model rules of procedure for United Nations bodies dealing with violations of human rights 25/

The Commission on Human Rights,

Taking into account the note by the Secretary-General of 18 February 1970 (E/CN.4/1021),

Decides to resume consideration of the above-mentioned document at its twenty-seventh session.

10 (XXVI). Question of human rights in the territories occupied as a result of hostilities in the Middle East, including the report of the Special Working Group of Experts 26/

The Commission on Human Rights,

Mindful of the principles embodied in the Universal Declaration of Human Rights recognizing the inherent dignity and equal and inalienable rights of peoples to justice, freedom and peace,

25/ Adopted at the 1079th meeting, on 19 March 1970. See chap. X, paras. 174-179.

26/ Adopted at the 1082nd meeting, on 23 March 1970. See chap. XI, paras. 184-198.

Recalling resolution I of the International Conference on Human Rights of May 1968 in which the Conference requested the Commission on Human Rights to keep the question of respect for and implementation of human rights in occupied territories under constant review,

Recalling also Security Council resolutions 237 (1967) and 259 (1968) and General Assembly resolution 2252 (ES-V), in which the Council and the Assembly called upon Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who had fled the areas since the outbreak of hostilities, and General Assembly resolutions 2535 B (XXIV), which reaffirmed the inalienable rights of the people of Palestine, and 2546 (XXIV), in which the Assembly expressed its grave concern at the continuing violations of human rights in the territories occupied by Israel and called upon Israel to comply with its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,

Recalling further its resolution 6 (XXV) by which it decided to establish a special working group of experts to investigate allegations concerning Israel's violations of that Convention,

Bearing in mind that the said Convention is binding upon Israel,

Recalling its resolution 5 B (XXVI) in which it considered violations of the Geneva Conventions of 12 August 1949 as war crimes and an affront to humanity in addition to being crimes,

Gravely concerned about the deteriorating conditions of human rights in the militarily occupied territories in the Middle East,

Gravely disturbed about recent reports of the planned mass deportation of the Palestinian refugees (numbered 300,000) from the occupied Gaza Strip by the Israeli occupying authorities,

Having received and studied the report of the Special Working Group established under resolution 6 (XXV) to investigate allegations concerning Israel's violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War in the territories militarily occupied by Israel,

1. Notes with dismay the refusal of Israel to co-operate with the above-mentioned Working Group established by the Commission on Human Rights;

2. Endorses the conclusions of the Working Group concerning:

(a) The applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to all the occupied areas including occupied Jerusalem;

(b) The existence of violations of that Convention in the Israeli occupied territories;

3. Condemns Israel's refusal to apply that Convention and its violation of the provisions of that Convention, in particular the following violations:

- (a) The total or partial destruction of villages and cities in the occupied territories;
- (b) The establishment of Israeli settlements in the militarily occupied Arab territories;
- (c) The unlawful deportation and expulsion of civilian population;
- (d) The coercive acts to compel the civilian population under its military occupation to collaborate with the occupying Power against their will;
- (e) The abrogation of the national laws in occupied territories contrary to the Convention and the relevant resolutions of the Security Council and the General Assembly;
- (f) All policies and measures of collective punishment;

4. Deplores all policies and actions aiming at the deportation of the Palestinian refugees from the occupied Gaza Strip;

5. Expresses its grave concern over:

- (a) The use of means of coercion to extract information and confession in violation of the relevant provisions of the Convention;
- (b) The ill-treatment and killing of civilians without provocation;
- (c) The detention of people by virtue of administrative orders for periods that are automatically renewed ad infinitum;
- (d) The deprivation of those detainees of any guarantee concerning the length of detention and fair trial;
- (e) The deprivation of the accused persons of having counsel of their choice, and the prevention of the counsel, in the cases where a counsel was chosen, from discharging their duties satisfactorily;
- (f) The destruction and usurpation of movable and immovable property;

6. Calls upon Israel once more to observe strictly that Convention in the occupied territories;

7. Further calls upon Israel immediately:

- (a) To rescind all measures and to desist forthwith from taking any action prejudicial to the national laws, systems and practices in the occupied territories;
- (b) To refrain from establishing settlements in the occupied territories;
- (c) To cease immediately from compelling the inhabitants of the occupied territories to collaborate with the Israeli occupying authorities;

(d) To ensure the immediate return of deported and transferred persons to their homes without any formalities the fulfilment of which would render their return impossible;

(e) To refrain from demolishing houses in contravention of the relevant provisions of the Convention;

(f) To restore the property confiscated or otherwise taken from its owners in contravention of the provisions of the Convention;

8. Also calls upon Israel to desist forthwith from deporting the Palestinian civilians from the Gaza Strip;

9. Commends the Special Working Group for its work and decides that the Working Group should continue to investigate and report the Israeli violations of that Convention which occur in the militarily occupied Arab territories since the outbreak of hostilities and to examine in particular:

(a) The evidence concerning the cases of torture taking place in the Israeli prisons against prisoners in the occupied territories;

(b) Other cases of violation of the Convention in the occupied territories which it has not yet investigated, including those that took place during the period investigated by the Group;

(c) The establishment of settlements in the occupied territories in contravention of the provisions of the Convention;

10. Calls upon Israel to receive the Special Working Group, to co-operate with and to facilitate its task in carrying out its mandate as specified in the preceding paragraph;

11. Decides to continue to include the question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East as a separate item of priority on the agenda of the Commission's twenty-seventh session;

12. Requests the Secretary-General to give the widest publicity to the entire report and to report at the twenty-seventh session on the publicity given to it;

13. Further requests the Secretary-General to bring the report of the Special Working Group, together with this resolution, to the attention of the General Assembly, the Security Council and the Economic and Social Council.



COMMISSION ON HUMAN RIGHTS
REPORT ON THE TWENTY-SEVENTH SESSION
(22 February – 26 March 1971)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS: FIFTIETH SESSION

SUPPLEMENT No. 4

UNITED NATIONS

relating to the right of peoples under colonial and alien domination to self-determination and to submit its conclusions and recommendations to the General Assembly, through the Economic and Social Council, as soon as possible,

Believing that effective application of the principle of self-determination of peoples is the essential basis for recognition and observance of human rights and that self-determination means that all peoples have the right freely to determine their political status without external interference and to pursue their economic, social and cultural development,

1. Requests the Secretary-General to prepare an annotated collection of all the resolutions adopted by the various organs of the United Nations, the specialized agencies and the regional organizations relating to the right of peoples under colonial and alien domination to self-determination;

2. Decides, making use of this collection, to continue the consideration of this question with a view to appointing a special rapporteur at its twenty-eighth session.

B

The Commission on Human Rights,

Bearing in mind General Assembly resolution 2649 (XXV) of 30 November 1970, by which the Commission on Human Rights is requested to study the question of the implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination,

Having considered this question, in pursuance of the request by the General Assembly, at its twenty-seventh session,

Decides to recommend to the Economic and Social Council the following draft resolution:

/For the text, see chapter XX, draft resolution VI/

9 (XXVII). Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East^{20/}

The Commission on Human Rights,

Guided by the purpose and principles of the Charter of the United Nations,

Bearing in mind the Universal Declaration on Human Rights,

20/ Adopted at the 1120th meeting, on 15 March 1971. See chap. IV, para. 173.

Reaffirming that the Human Rights and fundamental freedoms as provided for in the Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12, 1949,^{21/} and in other relevant international instruments, fully apply to all the territories occupied by Israel as a result of the hostilities in the Middle East, including occupied Jerusalem,

Recalling Security Council resolutions 237 (1967) of 14 June 1967 and 259 (1968) of 27 September 1968 and General Assembly resolution 2252 (ES-V) of 4 July 1967, in which the Council and the General Assembly called upon Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled these areas since the outbreak of hostilities,

Recalling General Assembly resolutions 2443 (XXIII) of 19 December 1968, 2546 (XXIV) of 11 December 1969, 2674 (XXV) of 9 December 1970, and 2675 (XXV) of 9 December 1970,

Further recalling General Assembly resolution 2727 (XXV) of 15 December 1970 in which the Assembly requested the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, pending an early termination of Israeli occupation, to continue its work in order to ensure the safeguarding of the human rights of the population in the occupied territories,

Also recalling its resolution 6 (XXV) by which it decided to establish a special Working Group of Experts to investigate allegations concerning Israel's violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12, 1949, and resolution 10 (XXVI) in which it condemned Israel's grave violations of human rights as well as its violations of the Geneva Convention in the occupied territories,

Having studied the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,^{22/}

Gravely concerned by the fact that Israel's violations of human rights in the occupied territories continue unabated, in total disregard of the appeals and resolutions adopted by the United Nations, the specialized agencies, the International Conference on Human Rights held at Teheran in 1968 and the XXIst International Conference of the Red Cross held in Istanbul in September 1969,

Alarmed by the fact that Israel continues the establishment of settlements in the occupied territories including occupied Jerusalem, while it refuses to permit the return of the refugees and displaced persons to their homes, a right the denial of which by Israel constitutes an affront to humanity and a grave violation of international law,

1. Condemns Israel's continued violations of human rights in the occupied territories, including policies aimed at changing the status of these territories;

^{21/} United Nations, Treaty Series, Vol. 75 (1950), No. 973.

^{22/} A/8089.

2. Condemns specifically the following policies and practices of Israel:

- (a) Denial of the right of the refugees and displaced persons to return to their homes;
- (b) Resort to collective punishment;
- (c) The deportation and expulsion of the citizens of the occupied territories;
- (d) Arbitrary arrest and detention of the citizens of the occupied territories;
- (e) Ill treatment and torture of prisoners;
- (f) Destruction and demolition of villages, town quarters, houses and confiscation and expropriation of property;
- (g) Evacuation and transfer of sections of the population of the occupied territories;
- (h) Transfer of parts of its own civilian population into the occupied territories;

3. Strongly deplores Israel's policies in the occupied territories aimed at placing the population in a general state of repression, fear and deprivation, and particularly deplores:

- (a) Requisition of hospitals and their transformation into police stations;
- (b) Abrogation of the national laws and interference with the judicial system;
- (c) Refusal to allow the text books approved by the Director-General of the United Nations Educational, Scientific and Cultural Organization for schools in the occupied territories, and the insistence on forcing upon school children an alien system of education;

4. Calls upon Israel once again to comply fully with its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12, 1949;

5. Again calls upon Israel to enable forthwith the refugees and displaced persons to return to their homes;

6. Once again calls upon Israel to heed and to implement the many resolutions adopted by the United Nations organs and the specialized agencies for the safeguarding of human rights in the occupied territories;

7. Reaffirms that all measures taken by Israel to colonize the occupied territories including occupied Jerusalem are completely null and void;

8. Declares that Israel's continued and increasing violations of the human rights of the population of the occupied territories, and its deliberate and persistent refusal to abide by its legal obligations under the United Nations Charter, international law, and the Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12, 1949, indicate the necessity of collective action on the part of the international community to ensure respect for the human rights of the population of the occupied territories;

9. Urges the International Committee of the Red Cross to co-operate with the United Nations organs, and particularly with the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories in the fulfilment of its task to ensure the safeguarding of the human rights of the population of the occupied territories, and to inform the Commission on Human Rights at its twenty-eighth session of the steps it has taken in this regard;

10. Requests the Secretary-General to give wide publicity to United Nations documents dealing with the violations of human rights in the occupied territories, and in particular to the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population in the Occupied Territories, and to use United Nations media of information in disseminating information on the conditions of the population of the occupied territories, the refugees and displaced persons;

11. Decides to include the question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East as a separate item of high priority on the agenda of the Commission's twenty-eighth session.

10 (XXVII). Report of the Secretary-General on Human Rights and Scientific and Technological Development^{23/}

The Commission on Human Rights,

Recalling that, in its resolutions 2450 (XXIII) of 19 December 1968 and 2721 (XXV) of 15 December 1970, the General Assembly expressed its profound concern at certain consequences which current scientific and technological developments have for human rights,

Reaffirming that scientific discoveries and their technological applications open up vast prospects for economic, social and cultural progress and for raising the level of living, and that, for that very reason, they may constitute an important factor in the effective application of human rights for all individuals and all peoples,

Being convinced that the favourable opportunities opened up by the scientific and technological revolution should be utilized in the interests of society as a whole and not to increase social and property inequality or to intensify the

^{23/} Adopted at the 1127th meeting, on 18 March 1971. See chap. V, para. 190.



COMMISSION ON HUMAN RIGHTS
REPORT ON THE TWENTY-EIGHTH SESSION

(6 March – 7 April 1972)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS: FIFTY-SECOND SESSION

SUPPLEMENT No. 7

UNITED NATIONS

of discrimination on the basis of colour faced by people of African origin in all countries, and of the measures being taken and to be taken to combat such policies and practices, with a view to the submission of a report to the General Assembly by the Commission on Human Rights through the Economic and Social Council as soon as possible, but not later than at the twenty-ninth session of the General Assembly, together with recommendations for action to combat such policies and practices, in accordance with section III, paragraph 6, of General Assembly resolution 2784 (XXVI);

2. Requests the Economic and Social Council to transmit to Member States, the Special Committee on Apartheid and the International Law Commission the report of the Ad Hoc Working Group of Experts concerning the question of apartheid from the point of view of international penal law (E/CN.4/1075), submitted under resolution 8 (XXVI) of the Commission on Human Rights for their comments;

3. Decides to consider again at its twenty-ninth session the question of the elimination of racial discrimination.

3 (XXVIII). Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East 13/

The Commission on Human Rights,

Guided by the principles and purposes of the Charter of the United Nations, as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

Recalling all the relevant resolutions adopted by the various United Nations organs on the subject of the protection of the human rights of the inhabitants of the Arab territories occupied by Israel,

Recalling also that in accordance with the provisions of the Charter of the United Nations and those of the Universal Declaration of Human Rights, Member States bear a special responsibility to ensure the protection of human rights and to reaffirm faith in fundamental human rights and in the dignity and worth of the human person,

Recalling further that, in accordance with article 1 of the said Geneva Convention, States parties have undertaken not only to respect but also to ensure respect for the Convention in all circumstances,

Taking note of the reports submitted to and/or discussed in the different competent organs of the United Nations on the aforementioned subject,

Gravely concerned at all acts and policies that affect the status or the character of those occupied territories and the basic rights of the inhabitants thereof, such as:

13/ Adopted at the 1161st meeting on 22 March 1972. See chap. III, paras. 63-67.

(a) The declared intention of annexing certain parts of the occupied Arab territories,

(b) The establishment of Israeli settlements in the occupied territories and the transfer of parts of the civilian population into those territories,

(c) The evacuation, transfer, deportation and expulsion of the inhabitants of occupied territories,

(d) The destruction and demolition of villages, quarters and houses and the confiscation and expropriation of property,

(e) The denial of the right of the refugees and displaced persons to return to their homes,

(f) Collective punishment and ill-treatment of prisoners and detainees,

(g) Administrative detention and holding of prisoners incommunicado,

Noting with regret that the aforementioned acts have not been rescinded in spite of the numerous resolutions adopted on the subject,

Deploing the persistent defiance and disregard by Israel of all United Nations resolutions on the protection of human rights of the inhabitants of the occupied territories and on the preservation of the demographic composition and geographic character thereof,

Taking note of the fact that the Geneva Convention of 12 August 1949 (article 147) has considered unlawful deportation or transfer, unlawful confinement, deprivation of the rights of fair and regular trial, taking of hostages and extensive destruction and appropriation of property as grave breaches of the Convention,

Noting that the Charter of the International Military Tribunal of Nuremberg as confirmed by General Assembly resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 has considered as war crimes the "grave breaches" later enumerated in the Geneva Conventions of 12 August 1949,

Recalling its resolution 5 B (XXVI), which considered violations of the Geneva Conventions as war crimes and an affront to humanity,

1. Strongly calls upon Israel to rescind forthwith all measures and to desist from all policies and practices affecting the demographic structure or the physical character of the occupied Arab territories and the human rights of their inhabitants;

2. Calls upon the Government of Israel to permit all persons who have fled the occupied territories or who have been deported or expelled therefrom to return to their homes without conditions;

3. Reaffirms that all measures taken by Israel to annex or settle the occupied territories are null and void;

4. Calls upon the Government of Israel, once more, to comply fully with its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

5. Also calls upon Israel once more to respect and implement the resolutions adopted by the Commission and other competent organs on the question of the protection of the human rights of the inhabitants of the occupied territories;

6. Requests all States Members of the United Nations and all States parties to the fourth Geneva Convention of 12 August 1949 to do their utmost to ensure that Israel respects the principles of human rights and fulfils its obligations under that Convention;

7. Considers that grave breaches of the fourth Geneva Convention committed by Israel in the occupied Arab territories constitute war crimes and an affront to humanity;

8. Decides to place on the provisional agenda of its twenty-ninth session as a matter of high priority the item entitled "Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East".

4 (XXVIII). Draft convention on the suppression and punishment of the crime of apartheid 14/

The Commission on Human Rights,

Recalling General Assembly resolution 2786 (XXVI), which recognized the need to take further effective measures for the suppression and punishment of the crime of apartheid,

Noting the urgency and importance of this question in view of the continuing crime of apartheid being committed by the racist régimes in southern Africa against the African population,

Emphasizing the need to take effective national and international measures for the suppression of the crime of apartheid and the punishment of those who are guilty of perpetrating it,

Having considered the draft convention on the suppression and punishment of the crime of apartheid and the draft protocol on the suppression and punishment of the crime of apartheid to be annexed to the International Convention on the Elimination of All Forms of Racial Discrimination, contained in documents A/C.3/L.1871 and E/CN.4/L.1189.

Taking into account the report of the Ad Hoc Working Group of Experts under Commission resolution 8 (XXVI), and Commission resolution 2 (XXVIII).

Noting that it does not have time to consider fully the aforementioned draft convention and draft protocol,

14/ Adopted at the 1163rd meeting on 23 March 1972. See chap. II, paras. 40-48.



COMMISSION ON HUMAN RIGHTS

REPORT ON THE TWENTY-NINTH SESSION

(26 February – 6 April 1973)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS: FIFTY-FOURTH SESSION

SUPPLEMENT No. 6

UNITED NATIONS

2 (XXIX). Activities of non-governmental organizations to combat racism and racial discrimination 26/

The Commission on Human Rights,

Recalling Economic and Social Council resolutions 1588 (L) and 1591 (L),

Having noted the reports received from non-governmental organizations pursuant to the aforementioned resolutions,

Recommends the following draft resolution for adoption by the Economic and Social Council:

[For the text, see chapter XXI below, draft resolution I]

3 (XXIX). Exploitation of labour through illicit and clandestine trafficking 27/

The Commission on Human Rights,

Noting General Assembly resolution 2920 (XXVII) and Economic and Social Council resolution 1706 (LIII),

Recommends that the Economic and Social Council should adopt the following draft resolution:

[For the text, see chapter XXI below, draft resolution II]

4 (XXIX). Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East 28/

The Commission on Human Rights,

Guided by the principles and purposes of the Charter of the United Nations, as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the fourth Geneva Convention of 12 August 1949, relative to the protection of civilian persons in time of war,

Recalling the pertinent United Nations resolutions on the protection of human rights and the fundamental freedoms of the inhabitants of the occupied Arab territories,

26/ Adopted at the 1204th meeting, on 9 March 1973. See chap. IV above, paras. 53-56.

27/ Adopted at the 1208th meeting, on 13 March 1973. See chap. V above, paras. 91-100.

28/ Adopted at the 1210th meeting, on 14 March 1973. See chap. VI above, paras. 116-123.

Further recalling that the General Assembly in its resolution 2949 (XXVII) declared "that changes carried out by Israel in the occupied Arab territories in contravention of the Geneva Conventions of 1949 are null and void," and called upon all States "not to recognize any such changes and measures carried out by Israel in the occupied Arab territories",

Taking note of the reports of the United Nations and other international humanitarian organizations on the situation of the inhabitants of the occupied Arab territories,

Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms, by Israel, in the occupied Arab territories, in particular the destruction of houses, expropriation of Arab properties, ill treatment of prisoners, the pillaging of the archeological and cultural heritage and the exploitation of the natural resources of those territories,

Deeply concerned by the fact that Israel continues to establish Israeli settlements in the occupied Arab territories, encourages massive immigration to that end, continues to deport and transfer the indigenous Arab population and refuses the return of the refugees and displaced persons to their homes,

Convinced that Israel's deliberate policy of annexation and of settlement in the occupied Arab territories is in contravention of the Charter of the United Nations, international humanitarian law and basic human rights and fundamental freedoms,

Deploring Israel's persistent defiance of the relevant resolutions of the United Nations and its continued policy of violating the basic human rights of the population in the occupied Arab territories,

1. Deplores Israel's continued grave breaches of the fourth Geneva Convention in the occupied Arab territories, which were considered by the Commission on Human Rights as war crimes and an affront to humanity;

2. Reaffirms that all measures taken by Israel to change the demographic structure and status of the occupied Arab territories, including occupied Jerusalem, are null and void;

3. Calls upon Israel to comply with its obligations under the Charter of the United Nations, the Universal Declaration of Human Rights, the principles of international humanitarian law, to abide by its obligations under the fourth Geneva Convention and to respect and implement the relevant United Nations resolutions;

4. Further calls upon Israel to stop immediately the establishment of settlements in the occupied Arab territories and to rescind all policies and measures affecting the physical character and demographic composition of those territories;

5. Calls upon all States to do their utmost to ensure that Israel respects the principles of human rights and fundamental freedoms and that it desists from all acts and policies aimed at changing the physical character and demographic composition of the occupied Arab territories, particularly through the establishment of settlements and the deportation and transfer of the Arab population;

6. Considers that Israel's policy of settling parts of its population, including immigrants, in the occupied Arab territories, is a flagrant violation of article 49 of the fourth Geneva Convention, as well as of the relevant United Nations resolutions, and calls upon all States and organizations not to assist Israel in any way to enable it to pursue its policy of colonizing the occupied Arab territories;

7. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, specialized agencies and regional inter-governmental organizations, and to give it the widest possible publicity and to report to the Commission on Human Rights at its next session;

8. Decides to place on the provisional agenda of its thirtieth session, as a matter of high priority, the item entitled "Questions of the violation of human rights in the territories occupied as a result of hostilities in the Middle East".

5 (XXIX). Draft principles relating to equality in the administration of justice 29/

The Commission on Human Rights,

Having heard the statement of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the study on equality in the administration of justice,

Having received the comments of several Governments submitted pursuant to resolution 8 (XXVIII) of the Commission on the draft principles relating to equality in the administration of justice (E/CN.4/1112 and Add.1-8),

Recommends to the Economic and Social Council the adoption of the following draft resolution for submission to the General Assembly:

[For the text, see chapter XXI below, draft resolution III]

6 (XXIX). Study of discrimination in the matter of political rights and draft general principles on freedom and non-discrimination in the matter of political rights 30/

The Commission on Human Rights,

Recommends to the Economic and Social Council the adoption of the following draft resolution:

[For the text, see chapter XXI below, draft resolution IV]

29/ Adopted at the 1217th meeting, on 20 March 1973. See chap. VII, paras. 132-135, above.

30/ Adopted at the 1217th meeting, on 20 March 1973. See chap. VII, paras. 140-144, above.



COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTIETH SESSION

(4 February - 8 March 1974)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS: FIFTY-SIXTH SESSION

SUPPLEMENT No. 5

UNITED NATIONS

XIX. RESOLUTIONS AND OTHER DECISIONS ADOPTED BY
THE COMMISSION AT ITS THIRTIETH SESSION

A. Resolutions

1 (XXX). Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East 30/

The Commission on Human Rights,

Guided by the principles and purposes of the Charter of the United Nations, as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, 31/

Recalling the pertinent United Nations resolutions on the situation in the occupied territories and on the protection of human rights and the fundamental freedoms of the inhabitants of the occupied Arab territories, including the resolutions of the Commission on Human Rights,

Taking note of the reports of the United Nations and other international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants,

Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupied Arab territories, in particular the destruction of houses, expropriation of Arab properties, ill-treatment of prisoners, pillaging of the archaeological and cultural heritage and exploitation of the natural resources of those territories, and interference in family life and religious freedom and practices,

Deeply concerned over Israel's persistence in establishing settlements in the occupied Arab territories, implementing massive programmes of immigration, continuing the deportation and transfer of the indigenous population and refusing the return of the refugees and displaced persons to their homes,

1. Deplores Israel's continued grave breaches in the occupied Arab territories, of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which have been considered by the Commission on Human Rights as war crimes and an affront to humanity;

30/ Adopted at the 1254th meeting, on 11 February 1974, by 21 votes to 1, with 8 abstentions. See chapter III, paragraphs 30-37.

31/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

2. Deplores Israel's persistent defiance of the relevant resolutions of the United Nations and its continued policy of violating the basic human rights of the inhabitants of the occupied Arab territories;

3. Reaffirms that all measures taken by Israel to change the physical character, the demographic structure and the status of the occupied Arab territories, including occupied Jerusalem, are null and void;

4. Declares that Israel's policy of annexation, establishment of settlements and transfer of an alien population to the occupied territories is in contravention of the purposes and principles of the Charter of the United Nations, the principles and provisions of international law concerning occupation, the principles of sovereignty and territorial integrity, and the basic human rights and fundamental freedoms of the people;

5. Calls upon Israel once more to comply with its obligations under the Charter of the United Nations and the Universal Declaration of Human Rights, to acknowledge and abide by its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War and to implement all the relevant United Nations resolutions;

6. Further calls upon Israel to stop immediately the establishment of settlements in the occupied Arab territories and to rescind all policies and measures affecting the physical character and demographic composition of those territories;

7. Reaffirms that Israel's policy of settling parts of its population and new immigrants in the occupied territories is a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant United Nations resolutions;

8. Calls upon all States to do their utmost to ensure that Israel respects the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and that it desists from all acts and policies aimed at changing the physical character and demographic composition of the occupied Arab territories, particularly through the establishment of settlements and the deportation and transfer of the indigenous inhabitants;

9. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, specialized agencies and regional intergovernmental organizations and to give it the widest possible publicity and to report to the Commission on Human Rights at its next session;

10. Decides to place on the provisional agenda of its thirty-first session, as a matter of high priority, the item entitled "Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East".



COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-FIRST SESSION

(3 February-7 March 1975)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS: FIFTY-EIGHTH SESSION

SUPPLEMENT No. 4

UNITED NATIONS

12. Decides that the Ad Hoc Working Group of Experts, whose membership shall be constituted by the Chairman of the Commission,^{20/} should continue carefully to observe and survey further developments concerning the policy of apartheid and racial discrimination present in the situation prevailing in Namibia and Southern Rhodesia;

13. Requests the Group to study the private goal and farm goal systems, the development of the separate homelands policy and its effects on the right to self-determination, as well as the farm labour system in the Republic of South Africa;

14. Requests the Group to study the consequences of apartheid as regards the African family and to inquire into the particular difficulties of the student movements in South Africa and Namibia;

15. Requests the Group to submit a report on its findings to the Commission not later than at the Commission's thirty-third session and to present an interim report to the Commission at its thirty-second session;

16. Recommends to the Economic and Social Council to request the Secretary-General to appeal to the United Nations Commissioner for Namibia to establish appropriate collaboration with the Ad Hoc Working Group of Experts;

17. Recommends to the Economic and Social Council and the General Assembly to make arrangements for adequate and sufficient financial resources and staff to be provided to the Ad Hoc Working Group of Experts in order to enable it to carry out its mandate;

18. Invites the Economic and Social Council to request the Secretary-General to give wide publicity to the report of the Ad Hoc Working Group of Experts (E/CN.4/1159);

19. Recommends that the Economic and Social Council adopt the following draft resolution:

[For the text, see chapter I, section A draft resolution I.]

6 (XXXI). Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East

A^{21/}

The Commission on Human Rights,

Guided by the principles and purposes of the Charter of the United Nations, as well as the principles and provisions of the Universal Declaration of Human Rights and the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,^{22/}

^{20/} For the composition of the Ad Hoc Working Group of Experts see chap. VIII, para. 90, above.

^{21/} Adopted at the 1315th meeting, on 21 February 1975, by 22 votes to 1, with 9 abstentions. See chap. VII, paras. 54, 55 and 57.

^{22/} United Nations, Treaty Series, vol. 75, p.287.

Recalling the pertinent United Nations resolutions on the situation in the occupied territories and the protection of the human rights and fundamental freedoms of the inhabitants of the occupied Arab territories, and in particular General Assembly resolutions 3236 (XXIX), 3240 (XXIX) and 3336 (XXIX),

Taking into account that the General Assembly has reaffirmed, in resolution 3236 (XXIX), the inalienable rights of the Palestinian people in Palestine, including:

- (a) The right to self-determination without external interference,
- (b) The right to national independence and sovereignty,

Taking note of the reports of the United Nations and other international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants, in particular the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/9817),

Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupied Arab territories, in particular the continued occupation of these territories and the measures aiming at annexation as well as the continuing destruction of houses, expropriation of Arab properties and ill-treatment of prisoners,

Deeply concerned over Israel's persistence in establishing settlements in the occupied Arab territories, implementing massive programmes of immigration, continuing the deportation and transfer of the indigenous population and refusing their return,

Recalling also resolution IX adopted by the International Labour Conference at its fifty-ninth session, in 1974, which declares that any military occupation of territory constitutes in itself a permanent violation of basic human rights and fundamental freedoms and in particular of trade union and social rights,

Noting the conclusion of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories that the Israeli occupying forces were responsible for the deliberate and total destruction of Quneitra and that this constituted a violation of article 53 of the fourth Geneva Convention of 12 August 1949 and fell within the scope of article 147 of that Convention,

Seriously concerned that the population of the occupied Arab territories are hindered in the exercise of their inalienable rights to national education and cultural life,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX), which qualifies as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

1. Deplores Israel's continued grave violations, in the occupied Arab territories, of the basic norms of international law and of the relevant international conventions, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, which have been considered by the Commission on Human Rights as war crimes and an affront to humanity, as well as its persistent defiance of the relevant resolutions of the United Nations and its continued policy of violating the basic human rights of the inhabitants of the occupied Arab territories;

2. Reaffirms the inalienable right of the Arab people to return to their homes and property from which they have been displaced and uprooted and calls for their return,

3. Reaffirms also that Israel's policy of settling parts of its population and new immigrants in the occupied territories is a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the United Nations resolutions and urges all States to refrain from any action that might be exploited by Israel in carrying out its policy of colonizing the occupied territories;

4. Reaffirms further that all measures taken by Israel to exploit the human, natural and all other resources and wealth of the occupied Arab territories infringe upon the permanent sovereignty of the Arab people over their natural resources and calls upon Israel immediately to rescind all such measures and to compensate and make full restitution for the exploitation and depletion of their human and natural resources;

5. Reaffirms that military occupation of territory constitutes a grave threat to international peace and security and is in itself a permanent violation of the Charter of the United Nations and of the Universal Declaration of Human Rights;

6. Declares that Israel's policy of annexation, establishment of settlements and transfer of an alien population to the occupied territories is in contravention of the purposes and principles of the Charter of the United Nations, the principles and provisions of international law, the principles of sovereignty and territorial integrity and the basic human rights and fundamental freedoms of the people;

7. Further declares that all measures taken by Israel to change the physical character, the demographic structure and the status of occupied Arab territories are null and void;

8. Censures in the strongest terms all measures taken by Israel to change the status of Jerusalem;

9. Condemns Israel for its deliberate destruction and devastation of the town of Quneitra and considers these acts as a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949;

10. Calls upon Israel once more to comply with its obligations under the Charter of the United Nations and the Universal Declaration of Human Rights to acknowledge and abide by its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War and to implement all the relevant United Nations resolutions;

11. Calls upon all States to do their utmost to ensure that Israel respects the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and that it desists from all acts and policies aimed at colonizing and changing the physical character and demographic composition of the occupied Arab territories, particularly through the establishment of settlements and the deportation and transfer of the indigenous inhabitants;

12. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, specialized agencies and regional intergovernmental organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its next session;

13. Decides to place on the provisional agenda of its thirty-second session, as a matter of high priority, the item entitled "Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East".

B²³/

The Commission on Human Rights,

Guided by the principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights as well as the other related international instruments,

Deeply concerned over Israel's continued policies and practices of suppressing the inhabitants of the occupied Arab territories in their struggle to attain their inalienable rights, entailing arbitrary imprisonment and inhumane treatment, which did not even spare religious personalities such as Archbishop Capucci, Archbishop of the Greek Catholic Church in the occupied Arab West Bank,

1. Deplores the policies and practices of desecration of Moslem and Christian shrines, disrespect and ill-treatment of religious leaders and violations of rights of worship in the Arab territories occupied by Israel;

2. Calls upon Israel to ensure freedom of worship and accord the esteem, regard and protection due to the religious shrines and personalities in accordance with the established traditions in the region, particularly in Jerusalem, which have been fully respected by all authorities throughout the centuries;

3. Further calls upon Israel to rescind its aforementioned policies and release immediately Archbishop Capucci.

23/ Adopted at the 1315th meeting, on 21 February 1975, by 21 votes to 6, with 5 abstentions. See chap. VII, paras. 54, 56 and 57.



COMMISSION ON HUMAN RIGHTS
REPORT ON THE THIRTY-SECOND SESSION
(2 February - 5 March 1976)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS: SIXTIETH SESSION

SUPPLEMENT No. 3

UNITED NATIONS

2 (XXXII). Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East 14/

The Commission on Human Rights,

Guided by the principles and purposes of the Charter of the United Nations, as well as the principles and provisions of the Universal Declaration of Human Rights and the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,

Recalling the pertinent United Nations resolutions on the situation in the occupied territories and the protection of the human rights and fundamental freedoms of the inhabitants of the occupied Arab territories,

Taking into account that the General Assembly has, in resolution 3376 (XXX), reaffirmed its resolution 3236 (XXIX), which confirmed the inalienable rights of the Palestinian people in Palestine, and has expressed grave concern that no progress has been achieved towards:

(a) The exercise by the Palestinian people of their inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty,

(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX), which defines as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

Recalling also resolution IX adopted by the International Labour Conference at its fifty-ninth session, in 1974, which declares that any military occupation of territory constitutes in itself a permanent violation of basic human rights and fundamental freedoms and, in particular, of trade union and social rights,

Taking note of the reports of the United Nations and other international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants, in particular the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/10272),

Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupation of these territories and the measures aiming at annexation, as well as the continuing destruction of homes, expropriation of Arab properties and ill-treatment of prisoners,

14/ Adopted at the 1352nd meeting, on 13 February 1976, by a roll-call vote of 23 in favour, 1 against and 8 abstentions. See chap. V.

Deploring Israel's continued persistence in establishing settlements in the occupied Arab territories, implementing massive programmes of immigration, continuing the deportation and transfer of the indigenous population and refusing their return,

Recalling the conclusion of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories that the Israeli occupying forces were responsible for the deliberate and total destruction of Quneitra and that this constituted a violation of article 53 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and fell within the scope of article 147 of that Convention,

Seriously concerned that the population of the occupied Arab territories are hindered in the exercise of their inalienable rights to national education and cultural life,

1. Deplores once again Israel's continued grave violations, in the occupied Arab territories, of the basic norms of international law and of the relevant international conventions, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, which are considered by the Commission on Human Rights as war crimes and an affront to humanity, as well as its persistent defiance of the relevant resolutions of the United Nations and its continued policy of violating the basic human rights of the inhabitants of the occupied Arab territories;

2. Reaffirms that military occupation of territory constitutes a grave threat to international peace and security and is, in itself, a continuous violation of the Charter of the United Nations and of the Universal Declaration of Human Rights;

3. Reaffirms further the condemnation of Israel for the deliberate destruction and devastation of the town of Quneitra and considers these acts as a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949;

4. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes;

5. Calls upon Israel to desist forthwith from establishing new settlements in the occupied Arab territories and to commence immediately with the removal of the existing settlements;

6. Deplores the measures taken by Israel to exploit the human, natural and all other resources and wealth of the occupied Arab territories and calls upon Israel immediately to rescind all such measures and to compensate and make full restitution for the exploitation and depletion of their human and natural resources;

7. Declares that all measures taken by Israel to change the physical character, the demographic structure and the status of occupied Arab territories are null and void, and considers these changes as an impediment to the achievement of a just and lasting peace;

8. Reaffirms its call upon Israel to ensure freedom of worship and accord the esteem, regard and protection due to the religious shrines and personalities in

accordance with the established traditions in the region, particularly in Jerusalem, which have been fully respected by all authorities throughout the centuries;

9. Declares all measures taken by Israel with a view to changing the institutional structure and established religious practices in the sanctuary of Al-Ibrahimi mosque in the city of Al-Khalil null and void;

10. Calls upon all States not to recognize any such changes and measures carried out by Israel in the occupied Arab territories and invites them to do their utmost to ensure that Israel respects the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

11. Censures in the strongest terms all measures taken by Israel to change the status of Jerusalem;

12. Condemns in particular the following Israeli policies and practices:

(a) Measures aiming at annexation of parts of the occupied territories;

(b) The intensification of action aiming at the establishment of Israeli settlements therein and the transfer of an alien population thereto;

(c) The destruction and demolition of Arab houses;

(d) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving the Israeli authorities, institutions or nationals, on the one hand, and the inhabitants and institutions of the occupied territories, on the other;

(e) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories and the denial of their right to return;

(f) Mass arrests, administrative detention and ill-treatment of the Arab population;

(g) The pillaging of archaeological and cultural property;

(h) The interference with religious freedoms and practices, as well as family rights and customs;

(i) The hindrance of the exercise by the population of the occupied territories of their rights to national education and cultural life;

13. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies and regional intergovernmental organizations and to give it the widest possible publicity and to report to the Commission on Human Rights at its next session;

14. Decides to place on the provisional agenda of its thirty-third session, as a matter of high priority, the item entitled "Question of the violation of human rights in the territories occupied as a result of hostilities in the Middle East".



COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-THIRD SESSION

(7 February - 11 March 1977)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS: SIXTY-SECOND SESSION

SUPPLEMENT No. 6

UNITED NATIONS

XXI. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS THIRTY-THIRD SESSION

A. Resolutions

1. (XXXIII). Question of the violation of human rights
in the territories occupied as a result
of hostilities in the Middle East

A^{22/}

The Commission on Human Rights,

Guided by the principles and purposes of the Charter of the United Nations, as well as the principles and provisions of the Universal Declaration of Human Rights and the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,

Recalling the pertinent United Nations resolutions on the situation in the occupied territories and the protection of the human rights and fundamental freedoms of the inhabitants of the occupied Arab territories,

Taking into account that the General Assembly has, in resolution 31/20, recalled its resolution 3376 (XXX), in which it expressed grave concern that no progress has been achieved towards:

(a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty,

(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) which defines as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

Welcoming the statement adopted by the Security Council at its 1969th meeting, on 11 November 1976, by which the Council, inter alia, expressed its grave anxiety and concern over the present serious situation in the occupied Arab territories as a result of continued Israeli occupation,

^{22/} Adopted at the 1390th meeting, on 15 February 1977, by a roll-call vote of 23 in favour, 3 against and 6 abstentions. See chap. II.

Taking note of the reports of United Nations organs, specialized agencies and international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants, in particular the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/31/218),

Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupied Arab territories, particularly the measures aiming at annexation, as well as the continuing establishment of settlers' colonies, mass destruction of homes, torture and ill-treatment of detainees, expropriation of properties and imposition of discriminatory economic legislation,

1. Expresses its grave anxiety and concern over the deteriorating serious situation in the occupied Arab territories as a result of the continued Israeli occupation and aggression;

2. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes;

3. Deplores once again Israel's continued violations, in the occupied Arab territories, of the basic norms of international law and of the relevant international conventions, in particular, Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, which are considered as war crimes and an affront to humanity, as well as Israel's persistent defiance of the relevant resolutions of the United Nations and its continued policy of violating the basic human rights of the inhabitants of the occupied Arab territories;

4. Condemns in particular the following Israeli policies and practices:

(a) The annexation of parts of the occupied territories;

(b) The establishment of Israeli settlers' colonies therein and the transfer of alien population thereto;

(c) Mass destruction and demolition of Arab houses;

(d) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(e) Mass arrests, administrative detention and ill-treatment of the Arab population;

(f) The torture and ill-treatment of persons under detention and the violation of the relevant provisions of the Geneva Conventions;

(g) The confiscation, expropriation and all transactions for the acquisition of Arab property and land by Israeli authorities and individuals;

(h) The exploitation of human, natural and all other resources of the occupied territories and the promulgation of discriminatory economic legislations;

(i) The pillaging of archaeological and cultural property;

(j) The denial to the population of the occupied Arab territories of their right to national education and cultural life;

(k) The interference with religious freedoms and practices;

5. Condemns once more the massive deliberate destruction of Quneitra perpetrated during Israeli occupation and prior to the withdrawal of Israeli forces from that city in 1974, and considers this act as a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949;

6. Reaffirms that all such measures taken by Israel to change the physical character, demographic composition or status of the occupied Arab territories or any part thereof, including Jerusalem, are all null and void, and calls upon Israel to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of the occupied Arab territories, including Jerusalem;

7. Declares all measures taken by Israel with a view to changing the structure, status, and established religious practices in the sanctuary of Al-Ibrahimi Mosque in the city of Al-Khalil null and void and calls upon Israel to rescind all such measures already taken;

8. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions concerning the treatment of prisoners of war and, in this context, requests the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its next session;

9. Further calls upon Israel once more to comply with its obligations under the Charter of the United Nations and the Universal Declaration of Human Rights, and to acknowledge and abide by its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

10. Reiterates its call upon all States, international organizations and specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid actions which might be used by Israel in its pursuit of the policies and practices referred to in the present resolution;

11. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its next session;

12. Decides to place on the provisional agenda of the thirty-fourth session as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine", and requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of these territories.

B²³/

The Commission on Human Rights,

Recalling General Assembly resolution 31/106/B, which reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem,

1. Deplores the failure of Israel to acknowledge the applicability of that Convention to all the Arab territories it has occupied since 1967, including Jerusalem;
2. Urgently calls once more upon Israel to acknowledge and to comply with the provisions of that Convention in all the Arab territories it has occupied since 1967, including Jerusalem;
3. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;
4. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations.

2 (XXXIII). Status of the International Covenants
on Human Rights 24/

The Commission on Human Rights,

Recalling its resolution 12 (XXXII) inviting all Member States to consider the question of ratification of the International Covenants on Human Rights in the near future,

23/ Adopted at the 1390th meeting, on 15 February 1977, without a vote.
See chap. II.

24/ Adopted at the 1396th meeting, on 18 February 1977, without a vote.
See chap. IV.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-FOURTH SESSION

(6 February - 10 March 1978)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1978

SUPPLEMENT No. 4



UNITED NATIONS

New York, 1978

XXVI. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS THIRTY-FOURTH SESSION

A. Resolutions

- 1 (XXXIV). Question of the violation of human rights in
the occupied Arab territories, including
Palestine

A 24/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and of other relevant conventions and regulations,

Recalling General Assembly resolutions 32/5, 32/14, 32/20, 32/40, 32/42, 32/90, 32/91, 32/122, 32/161 and 32/171,

Taking into account that the General Assembly has, in resolution 31/20, recalled its resolution 3376 (XXX), in which it expressed grave concern that no progress has been achieved towards:

(a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty,

(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX), which defines as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

Recalling the statement adopted by the Security Council at its 1969th meeting, on 11 November 1976, by which the Council, inter alia, expressed its grave anxiety and concern over the serious situation in the occupied Arab territories as a result of continued Israeli occupation,

24/ Adopted at the 1440th meeting, on 14 February 1978, by a roll-call vote of 23 in favour, 2 against and 7 abstentions. See chap. II.

Taking note of the reports of the United Nations organs, specialized agencies and international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants,

Taking into account the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, 25/ which contained, inter alia, public statements made by leaders of the Government of Israel, indicating Israel's determination to pursue and consolidate its expansionist and annexationist policies,

Noting with deep concern the fears expressed by the Special Committee "that the situation of civilians in the occupied territories, especially the situation of the detainees which has been shown during recent months to be a matter of particular concern, may deteriorate still further in the near future" and its statement that "The international community must assume its responsibilities to ensure the protection of the fundamental rights of civilians in the occupied territories, 26/

Greatly alarmed by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupied Arab territories, particularly the measures aiming at annexation, as well as the continuing establishment of settlers' colonies, mass destruction of homes, torture and ill-treatment of detainees, expropriation of properties and imposition of economic and fiscal measures aimed at the exploitation of the population of the occupied territories,

1. Expresses its grave anxiety and concern over the deteriorating serious situation in the occupied Arab territories as a result of continued Israeli occupation and aggression, in particular:

(a) The intensification of the establishment of settlers' colonies;

(b) The continued and increasing use of arbitrary detention, torture, ill-treatment and cruel treatment of Arab detainees and prisoners;

2. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes;

3. Declares that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are war crimes and an affront to humanity;

4. Condemns the following Israeli policies and practices:

(a) The annexation of parts of the occupied territories;

(b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

25/ A/32/284, para. 14.

26/ Ibid.

(c) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(d) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other;

(e) The destruction and demolition of Arab houses;

(f) Mass arrests, administrative detention and ill-treatment of the Arab population;

(g) The ill-treatment and torture of persons under detention;

(h) The pillaging of archaeological and cultural property;

(i) The interference with religious freedoms and practices as well as family rights and customs;

(j) The illegal exploitation of the natural wealth, resources and population of the occupied territories;

5. Further condemns administrative and legislative measures by the Israeli authorities to encourage, promote and expand the establishment of settlers' colonies in the occupied territories, which further demonstrate Israel's determination to annex those territories;

6. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new settlers in the occupied territories constitutes a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant United Nations resolutions;

7. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 4, 5 and 6 above;

8. Demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

9. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions concerning the treatment of prisoners of war;

10. Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its thirty-fifth session;

11. Condemns once more the massive deliberate destruction of Quneitra perpetrated during Israeli occupation and prior to the withdrawal of Israeli forces from that city in 1974, and considers this act a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

12. Reiterates its call upon all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with article 4 of that Convention, and upon international organizations and specialized agencies not to recognize any changes carried out by Israel in the occupied territories and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any of the other policies and practices referred to in the present resolution;

13. Calls upon Israel to report, through the Secretary-General, to the Commission at its thirty-fifth session on the implementation of paragraphs 2, 7, 8 and 9 above;

14. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its thirty-fifth session;

15. Decides to place on the provisional agenda of the thirty-fifth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine", and requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of these territories.

B 27/

The Commission on Human Rights,

Recalling its resolution 1 B (XXXIII) and General Assembly resolutions 3092 A (XXVIII) and 32/91 A,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the parties to the conflict,

Recalling resolution 10, on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in the occupied territories in the Middle East, of the Twenty-third International Conference of the Red Cross held in Bucharest in October 1977,

27/ Adopted at the 1440th meeting, on 14 February 1978, without a vote.
See chap. II.

Taking into account that States parties to the Geneva Conventions of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's refusal to apply fully and effectively the Geneva Convention relative to the Protection of Civilian Persons in Time of War in all its provisions to all the Arab territories occupied since 1967, including Jerusalem;
2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;
3. Strongly deplores the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;
4. Calls upon Israel to abide by and respect the obligation arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in all the Arab territories occupied since 1967, including Jerusalem;
5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;
6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

2 (XXXIV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 28/

The Commission on Human Rights,

Recalling General Assembly resolutions 1514 (XV), 3236 (XXIX), 32/14, 32/20, 32/40 and 32/42,

Recognizing that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI),

28/ Adopted at the 1440th meeting, on 14 February 1978, by a roll-call vote of 25 in favour, 3 against and 4 abstentions. See chap. VII.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-FIFTH SESSION

(12 February-16 March 1979)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1979

SUPPLEMENT No. 6



UNITED NATIONS

New York, 1979

XXIV. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS THIRTY-FIFTH SESSION

A. Resolutions

- 1 (XXXV). Question of the violation of human rights in the occupied Arab territories, including Palestine

A 37/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and of other relevant conventions and regulations,

Recalling General Assembly resolutions, 32/5 of 28 October 1977, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 32/90 and 32/91 of 13 December 1977, 32/122 of 16 December 1977, 32/161 and 32/171 of 19 December 1977 and 33/113 of 18 December 1978,

Taking into account that the General Assembly has, in resolution 31/20 of 24 November 1976, recalled its resolution 3376 (XXX) of 10 November 1975, in which it expressed grave concern that no progress has been achieved towards:

(a) the exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty,

(b) the exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

Recalling the statement by the Security Council at its 1969th meeting on 11 November 1976 by which the Council, inter alia, expressed its grave anxiety and concern over the serious situation in the occupied Arab territories as a result of continued Israeli occupation.

37/ Adopted at the 1489th meeting, on 21 February 1979, by a roll-call vote by 20 votes to 2, with 9 abstentions. See chap. II.

Taking note of the reports of the United Nations organs, specialized agencies and in particular the reports of the United Nations Educational, Scientific and Cultural Organization, the International Labour Organisation and the World Health Organization and international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants,

Taking into account the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, 38/ which contained, inter alia, public statements made by leaders of the Government of Israel, indicating Israel's determination to pursue and consolidate its expansionist and annexationist policies,

Noting with deep concern the conclusion arrived at by the Special Committee that "the Government of Israel consciously follows a policy which is in violation of the Fourth Geneva Convention, in particular article 47 which prohibits annexation of territories under military occupation of the occupying power, and article 49 which prohibits the transfer of citizens of the occupying power into the occupied territories",

Greatly concerned by the continuation of the violations of human rights and fundamental freedoms by Israel in the occupied Arab territories, particularly the measures aiming at annexation, as well as the continuing establishment of settlers' colonies, mass destruction of homes, torture and ill-treatment of detainees, expropriation of properties and imposition of economic and fiscal measures aimed at the dispossession and exploitation of the population of the occupied territories,

Expressing its grave anxiety and concern over the deteriorating serious situation in the occupied Arab territories as a result of continued Israeli occupation and aggression, in particular:

- (a) the intensification of the establishment of settlers' colonies,
- (b) the continued and increasing use of arbitrary detention, torture, ill-treatment and cruel treatment of Arab detainees and prisoners,
- (c) collective punishment, in particular the blowing up of Arab houses,
 1. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes and property;
 2. Declares that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are war crimes and an affront against humanity;
 3. Condemns the following Israeli policies and practices:
 - (a) The annexation of parts of the occupied territories;
 - (b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

38/ A/33/356

(c) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(d) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other;

(e) The destruction and demolition of Arab houses;

(f) Mass arrests, administrative detention and ill-treatment of the Arab population;

(g) The ill-treatment and torture of persons under detention;

(h) The pillaging of archaeological and cultural property;

(i) The interference with religious freedoms and practices as well as with family rights and customs;

(j) The continuous interference with and obstruction of the educational and scholastic activities and the brutal suppression of all forms of students' opinion, expression and manifestations;

(k) The illegal exploitation of the natural wealth, resources and population of the occupied territories;

4. Further condemns administrative and legislative measures by the Israeli authorities to encourage, promote and expand the establishment of settlers' colonies in the occupied territories, which further demonstrate Israel's determination to annex those territories;

5. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new settlers in the occupied territories constitutes a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant United Nations resolutions;

6. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 3, 4 and 5 above;

7. Demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

8. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war;

9. Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its thirty-sixth session;

10. Condemns once more the massive, deliberate destruction of Quneitra perpetrated during Israeli occupation and prior to the withdrawal of Israeli forces from that city in 1974, and considers this act a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

11. Reiterates its call upon all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War in accordance with article 1 of that Convention, and upon international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any of the other policies and practices referred to in the present resolution;

12. Calls upon Israel to report, through the Secretary-General, to the Commission at its thirty-sixth session on the implementation of paragraphs 1, 6, 7 and 8 above;

13. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies and in particular the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, the regional intergovernmental organization and the international humanitarian organizations, and to give it the widest possible publicity, and to report to the Commission on Human Rights at its thirty-sixth session;

14. Decides to place on the provisional agenda of the thirty-sixth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine", and requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of those territories.

B 39/

The Commission on Human Rights,

Recalling its resolution 1 B (XXXIV) and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91A of 13 December 1977, and 33/113 A of 18 December 1978,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recalling resolution 10, on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in the occupied territories in the Middle East, of the Twenty-third International Conference of the Red Cross held in Bucharest in October 1977,

39/ Adopted at the 1489th meeting, on 21 February 1979, without a vote.
See chap. II.

Taking into account that States parties of the Geneva Conventions of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's refusal to apply fully and effectively the Geneva Convention relative to the Protection of Civilian Persons in Time of War in all its provisions to all the Arab territories occupied since 1967, including Jerusalem;

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;

3. Strongly deplores the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;

4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in all the Arab territories occupied since 1967, including Jerusalem;

5. Urges once more all States parties of that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

2 (XXXV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 40/

The Commission on Human Rights,

Recalling General Assembly resolutions 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977 and 33/28 of 7 December 1978

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

40/ Adopted at the 1489th meeting, on 21 February 1979, by a roll-call vote of 23 votes to 3, with 5 abstentions. See chap. VII.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-SIXTH SESSION

(4 February-14 March 1980)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1980

SUPPLEMENT No. 3



UNITED NATIONS

XXVI. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS THIRTY-SIXTH SESSION

A. Resolutions

1 (XXXVI). Question of the violation of human rights in
the occupied Arab territories, including
Palestine

A 1/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the protection of Civilian Persons in Time of War of 12 August 1949 and of other relevant conventions and regulations,

Recalling General Assembly resolutions, 32/5 of 28 October 1977, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 32/90 and 32/91 of 13 December 1977, 32/122 of 16 December 1977, 32/161 and 32/171 of 19 December 1977, 33/113 of 18 December 1978 and 34/90 of 12 December 1979,

Taking into account that the General Assembly has, in resolution 31/20 of 24 November 1976, recalled its resolution 3376 (XXX) of 10 November 1975, in which it expressed grave concern that no progress has been achieved towards:

(a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty,

(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

1/ Adopted at the 1538th meeting, on 13 February 1980, by a roll-call vote of 28 to 3, with 8 abstentions. See chap. II.

Recalling Security Council resolution 452 (1979) of 20 July 1979 which strongly deplores the failure of Israel to abide by Security Council resolutions 237 (1967) of 14 June 1967, 252 (1968) of 21 May 1968 and 298 (1971) of 25 September 1971 and the consensus statement by the President of the Security Council on 11 November 1976 and Security Council resolution 446 (1979) of 22 March 1979 and General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967, 32/5 of 28 October 1977 and 33/113 of 18 December 1978,

Taking note of the reports of United Nations organs, specialized agencies, in particular of the reports of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, and international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants,

Deeply alarmed by the conclusions of the Special Committee to investigate Israeli practices affecting the human rights of the population of occupied territories contained in paragraphs 367 and 368 of its report 2/ to the United Nations General Assembly which contains inter alia the following conclusions:

"√.√ Israel's policy in the occupied territories is based on the so-called 'homeland' doctrine which envisages a mono-religious (Jewish) State established on territory that includes those territories occupied by Israel in June 1967. In was this doctrine that was announced as the basis for decision of the Government of Israel to authorize purchase of land in the occupied territories by Israeli citizens and corporations.

...

In general it may be stated that, to the extent that the inhabitants of the occupied territories do not form part of the religious group in whose name the Government of Israel claims the right to establish itself, these inhabitants have no rights vis-à-vis the governing authorities (in this case the Government of Israel as a military occupation authority) whenever the exercise of the rights happens to run counter to the 'homeland' policy."

Reaffirming the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the occupied Arab territories,

1. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes and property;

2. Declares that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are war crimes and an affront to humanity;

3. Condemns the following Israeli policies and practices:

(a) the annexation of parts of the occupied territories;

2/ A/34/631.

(b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

(c) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(d) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other and most recently the expropriation of the Arab electric company of Jerusalem;

(e) The destruction and demolition of Arab houses;

(f) Mass arrests, administrative detention and ill-treatment of the Arab population and the torture of persons under detention;

(g) The pillaging of archaeological and cultural property;

(h) The interference with religious freedoms and practices as well as with family rights and customs;

(i) The continuous interference with and obstruction of the educational and scholastic activities and the brutal suppression of all forms of students opinion, expression and manifestation;

(j) The illegal exploitation of the natural wealth, resources and population of the occupied territories;

(k) The arming of the settlers in occupied territories to commit acts of violence against the Arab civilians;

4. Further condemns administrative and legislative measures by the Israeli authorities to encourage, promote and expand the establishment of settlers' colonies in the occupied territories, which further demonstrate Israel's determination to annex those territories;

5. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new settlers in the occupied territories constitutes a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant United Nations resolutions;

6. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 3, 4 and 5 above;

7. Demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

8. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war;

9. Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its thirty-seventh session;

10. Condemns once more the massive, deliberate destruction of Quneitra perpetrated during Israeli occupation and prior to the withdrawal of Israeli forces from that city in 1974, and considers this act a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

11. Reiterates its call upon all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War in accordance with article 1 of that Convention, and upon international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any of the other policies and practices referred to in the present resolution;

12. Calls upon Israel to report, through the Secretary-General, to the Commission at its thirty-seventh session on the implementation of paragraphs 1, 6, 7 and 8 above;

13. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies and in particular the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, the regional intergovernmental organizations and the international humanitarian organizations, and to give it the widest possible publicity, and to report to the Commission on Human Rights at its thirty-seventh session;

14. Decides to place on the provisional agenda of the thirty-seventh session as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine", and requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of those territories.

B 3/

The Commission on Human Rights,

Recalling its resolution 1 B (XXXV) of 21 February 1979 and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, and resolution 34/90 B of 12 December 1979,

3/ Adopted at the 1538th meeting, on 13 February 1980, by a roll-call vote of 28 to 1, with 10 abstentions. See chap. II.

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recalling resolution 10, on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in the occupied territories in the Middle East, of the XXIIIrd International Conference of the Red Cross held in Bucharest in October 1977,

Recognizing that the failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, poses a grave threat to world peace and security,

Taking into account that States parties to the Geneva Convention of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's refusal to apply fully and effectively the Geneva Convention relative to the Protection of Civilian Persons in Time of War in all its provisions to all the Arab territories occupied since 1967, including Jerusalem;
2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;
3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;
4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in all the Arab territories occupied since 1967, including Jerusalem;
5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;
6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-SEVENTH SESSION

(2 February-13 March 1981)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1981

SUPPLEMENT No. 5



UNITED NATIONS

New York, 1981

XXVIII. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS THIRTY-SEVENTH SESSION

A. Resolutions

1 (XXXVII). Question of the violation of human rights in the
occupied Arab territories, including Palestine

A 1/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and of other relevant conventions and regulations,

Recalling its resolution I (XXXVI) of 13 February 1980 on the "Question of Violation of Human Rights in the Occupied Arab Territories, including Palestine", and previous resolutions of the Commission on Human Rights on this subject,

Recalling General Assembly resolution ES-7/2 of 29 July 1980, 35/75 of 5 December 1980 and resolution 35/122 of 11 December 1980 and all General Assembly resolutions on Israeli violations of the human rights of the population of occupied territories,

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Bearing in mind resolution No. II, adopted on 24 June 1980 by the International Labour Conference at its sixty-sixth session, entitled "Resolution concerning the Implications of Israeli Settlements in Palestine and other Occupied Arab Territories in Connection with the Situation of Arab Workers",

Taking note of the reports and of the resolutions of the World Health Organization and the United Nations Educational, Scientific and Cultural Organization concerning the health and educational conditions of the Arab population in the Palestinian and other occupied Arab territories since 1967, including Jerusalem,

Bearing in mind paragraph 5 of the Programme of Action adopted by the World Conference of the United Nations Decade for Women: Equality, Development and Peace,

1/ Adopted at the 1595th meeting on 11 February 1981, by a roll-call vote of 31 to 3, with 8 abstentions. See chap. II.

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the Palestinian and other Arab occupied territories;
2. Reiterates the alarm deeply expressed by the Special Committee to investigate Israeli practices affecting the human rights of the population of the occupied territories in its report 2/ submitted to the General Assembly at its thirty-fourth session and confirmed in its report 3/ to the General Assembly at its thirty-fifth session that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a mono-religious (Jewish) State that includes also territories occupied by Israel since June 1967;
3. Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and the other Arab territories occupied since June 1967;
4. Declares that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are war crimes and an affront to humanity;
5. Firmly rejects and condemns Israel's decision to annex Jerusalem, declare it as its "capital" and alter its physical character, demographic composition, institutional structure and status, and considers all these measures and their consequences null and void;
6. Shares the concern of the General Assembly expressed in resolution 35/122 E of 11 December 1980, concerning reports indicating the intention of the Israeli authorities to enact legislation embodying changes in the character and status of the occupied Syrian Arab Golan Heights and condemns the persistence of Israel in changing the physical character, demographic composition, institutional structure and legal status of the aforementioned area;
7. Condemns the following Israeli policies and practices:
 - (a) The annexation of parts of the occupied territories;
 - (b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

2/ A/34/631.

3/ A/35/425.

(c) The arming of settlers in the occupied territories to commit acts of violence against Arab civilians, the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide scale damage to Arab property;

(d) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(e) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other and, most recently, the expropriation of the Arab electric company of Jerusalem;

(f) The destruction and demolition of Arab houses;

(g) Mass arrests, collective punishments, administrative detention and ill-treatment of the Arab population and the torture of persons under detention, the inhuman conditions in prisons, in particular in the Nafha prison;

(h) The pillaging of archaeological and cultural property;

(i) The interference with religious freedoms and practices as well as with family rights and customs;

(j) The systematic Israeli campaign of repression against universities in the occupied Palestinian territories, restricting and impeding academic activities of Palestinian universities by subjecting selections of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities, in clear contravention of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

(k) The illegal exploitation of the natural wealth, resources and population of the occupied territories;

8. Condemns the assassination attempts on the life of Bassam Shaka'a, Mayor of Nablus, of Karim Khalaf, Mayor of Ramallah, and of Ibrahim Tawil, Mayor of El-Bireh;

9. Calls upon the Israeli authorities to implement forthwith Security Council resolution 484 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the expelled Mayors of Hebron and Halhul so they can resume the functions for which they were elected and appointed;

10. Further condemns administrative and legislative measures by the Israeli authorities to encourage, promote and expand the establishment of settler colonies in the occupied territories, which further demonstrate Israel's determination to annex those territories, and strongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon the Government of Israel to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Palestinian and other Arab territories occupied since 1967;

11. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new settlers in the occupied territories constitutes a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant United Nations resolutions;

12. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 5, 6, 7, 10 and 11 above;

13. Demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

14. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war;

15. Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its thirty-eighth session;

16. Condemns once more the massive deliberate destruction of Quneitra perpetrated during Israeli occupation and prior to the withdrawal of Israeli forces from that city in 1974, and considers this act a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

17. Reiterates its call upon all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War in accordance with article 1 of that Convention, and upon international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution;

18. Calls upon Israel, to report, through the Secretary-General, to the Commission at its thirty-eighth session on the implementation of paragraphs 5, 6, 7, 9, 10, 13 and 14 above;

19. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies and in particular the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, the regional intergovernmental organizations and the international humanitarian organizations, and to give it the widest possible publicity, and to report to the Commission on Human Rights at its thirty-eighth session;

20. Decides to place on the provisional agenda of the thirty-eighth session as a matter of high priority, the item entitled "Question of violation of human rights in the Arab occupied territories, including Palestine", and requests the

Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of those territories.

B 4/

The Commission on Human Rights,

Recalling its resolution 1 B (XXXVI) of 13 February 1980 and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, resolution 34/90 B of 12 December 1979, and resolution 35/122 A of 11 December 1980,

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 creates a situation fraught with danger,

Taking into account that States parties to the Geneva Convention of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's systematic refusal to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem;
2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;
3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;
4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem;

4/ Adopted at the 1595th meeting, on 11 February 1981, by a roll-call vote of 41 to 1. See chap. II.

5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

2 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 5/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978, 34/65 B of 29 November 1979, ES-7/2 of 29 July 1980, 35/169 of 15 December 1980,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 3 (XXXI) of 11 February 1975, 6 (XXXI) of 21 February 1975, 2 (XXXIV) and 3 (XXXIV) of 14 February 1978 and 2 (XXXV) of 21 February 1979 and 2 (XXXVI) of 14 February 1980,

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 6/

Reaffirming that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

Recalling General Assembly resolution 35/169 A of 15 December 1980 which expresses its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security, and that Security Council resolution 242 (1967) of 22 November 1967 does

5/ Adopted at the 1595th meeting, on 11 February 1981, by a roll-call vote of 25 to 9, with 8 abstentions. See Chap. VII.

6/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 35, A/35/35.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-EIGHTH SESSION

(1 February - 12 March 1982)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1982

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1982

XXVI. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS THIRTY-EIGHTH SESSION

A. Resolutions

1982/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine 1/

A 2/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 3/ and of other relevant conventions and regulations,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

Recalling General Assembly resolutions ES-7/2 of 29 July 1980, 36/15 of 28 October 1981, 36/120 of 10 December 1981, 36/147 of 16 December 1981 and 36/226 of 17 December 1981, and all General Assembly resolutions on Israeli violations of the human rights of the population of occupied Arab territories,

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980.

Taking note of the reports and resolutions of the International Labour Organisation, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization concerning the conditions of the population in the Palestinian and other occupied Arab territories since 1967, including Jerusalem,

1/ Adopted at the 17th meeting on 11 February 1982, by a roll-call vote of 32 to 1, with 9 abstentions. See chap.II.

2/ Adopted at the 17th meeting on 11 February 1982, by a roll-call vote of 32 to 3, with 7 abstentions. See chap.II.

3/ United Nations, Treaty Series, vol. 75, p.287.

Taking note of the report "Review of the economic conditions of the Palestinian people in the occupied Arab territories" 4/ prepared by the secretariat of the United Nations Conference on Trade and Development,

Recalling its resolution 1 (XXXVII) of 11 February 1981 on the "Question of the violation of human rights in the occupied Arab territories, including Palestine", and previous resolutions of the Commission on Human Rights on this subject,

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the Palestinian and other Arab occupied territories;

2. Reiterates the alarm deeply expressed by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories in its reports submitted to the General Assembly at its thirty-fourth, 5/ thirty-fifth 6/ and thirty-sixth 7/ sessions, that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a mono-religious (Jewish) State that includes also territories occupied by Israel since June 1967, and the affirmation by the Special Committee that this policy not only denies the rights to self-determination of the population of the occupied territories but also constitutes the source of the continuing and systematic violation of human rights;

3. Declares that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and of the Additional Protocols to the Geneva Conventions 8/ are war crimes and an affront to humanity;

4. Firmly rejects and reiterates its condemnation of Israel's decision to annex Jerusalem and alter its physical character, demographic composition, institutional structure and status, and considers all these measures and their consequences null and void;

5. Strongly condemns Israeli policies and practices, administrative and legislative measures to promote and expand the establishment of settler colonies in the occupied territories as well as the following practices:

(a) The annexation of parts of the occupied territories, including Jerusalem;

(b) The establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and the transfer of an alien population thereto;

4/ TD/B/870.

5/ A/34/631.

6/ A/35/425.

7/ A/36/632/Add.1 and Add.1/Corr.1.

8/ A/32/144, annexes I and II.

(c) The arming of settlers in the occupied territories to commit acts of violence against Arab civilians, the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide-scale damage to Arab property;

(d) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(e) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other;

(f) The destruction and demolition of Arab houses;

(g) Mass arrests, collective punishments, administrative detention and ill-treatment of the Arab population and the torture of persons under detention, and the inhuman conditions in prisons;

(h) The pillaging of archaeological and cultural property;

(i) The interference with religious freedoms and practices as well as with family rights and customs;

(j) The systematic Israeli repression against universities in the occupied Palestinian territories, restricting and impeding academic activities of Palestinian universities by subjecting selections of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities;

(k) The illegal exploitation of the natural wealth, resources and population of the occupied territories;

6. Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and the other Arab territories occupied since June 1967;

7. Calls upon the Israeli authorities to implement forthwith Security Council resolution 484 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the expelled Mayors of Hebron and Halhoul so that they can resume the functions for which they were elected and appointed;

8. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 4 and 5 above;

9. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and for the liberation of their territories, and to accord them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war, and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

10. Reiterates its call to all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of

War, in accordance with article 1 of that Convention, and to international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution;

11. Calls upon Israel to report, through the Secretary-General, to the Commission at its thirty-ninth session on the implementation of paragraphs 4 5 and 9 above;

12. Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its thirty-ninth session;

13. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its thirty-ninth session;

14. Further requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the population of those occupied territories;

15. Decides that a seminar on "Violations of human rights in the Palestinian and other Arab territories occupied by Israel" be held at the United Nations Office at Geneva and requests the Secretary-General to make the appropriate arrangements for the organization of this seminar and to report to the Commission on Human Rights at its thirty-ninth session;

16. Decides to place on the provisional agenda of the thirty-ninth session as a matter of high priority the item entitled "Question of the violation of human rights in the Arab occupied territories, including Palestine";

B 9/

The Commission on Human Rights,

Recalling its resolution 1 B (XXXVII) of 11 February 1981 and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, 34/90 B of 12 December 1979, 35/122 A of 11 December 1980 and 36/147 of 16 December 1981,

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

9/ Adopted at the 17th meeting on 11 February 1982, by a roll-call vote of 41 to 1. See chap. II.

Recalling resolution III on the application of the Fourth Geneva Convention of 12 August 1949 adopted by the XXIVth International Conference of the Red Cross held at Manila in November 1981,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the persistent failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 10/ creates a situation fraught with danger,

Taking into account that States parties to the Fourth Geneva Convention of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Convention in all circumstances,

1. Expresses its deep concern at the consequences of Israel's systematic refusal to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem;
2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;
3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;
4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem;
5. Urged once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;
6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

10/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-EIGHTH SESSION

(1 February - 12 March 1982)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1982

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1982

1982/2. Question of the violation of human rights in the occupied Arab territories, including Palestine 11/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as by the principles of international law,

Gravely alarmed by Israel's behaviour in ignoring all the relevant resolutions of the Security Council, the General Assembly, the Commission on Human Rights and other international organs of the United Nations concerning the Arab territories occupied by Israel and its persistent violations of human rights in those territories,

Reaffirming that the acquisition of territories by force is inadmissible, according to the Charter of the United Nations, the principles of international law, and relevant Security Council resolutions,

Recalling General Assembly resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation resulting from such invasion or attack or any annexation by the use of force of the territory of another State or part thereof,

Recalling Security Council resolution 497/1981 of 17 December 1981, in which the Security Council decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect,

Recalling its resolution 1 (XXXVII) of 11 February 1981 by which the Commission on Human Rights condemned the Israeli policies and practices of annexing parts of the occupied Arab territories,

Recalling General Assembly resolution 36/226 B of 17 December 1981 by which the General Assembly reaffirmed once more the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 12/ to the occupied Syrian territory,

Recalling General Assembly resolution ES-9/1 of 5 February 1982 in which the Assembly strongly deplored the negative vote by a permanent member of the Security Council which prevented the Council from adopting against Israel, under Chapter VII of the Charter, the "appropriate measures" referred to in resolution 497 (1981) unanimously adopted by the Council;

1. Resolutely condemns the Israeli decision, dated 14 December 1981, annexing the Golan Syrian territory occupied since 1967, through the imposition of its laws, jurisdiction and administration on the occupied territory;

11/ Adopted at the 17th meeting on 11 February 1982, by a roll-call vote of 22 to 11, with 7 abstentions. See chap. II.

12/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

2. Declares that the Israeli decision is null and void and without any international legal effect and demands that Israel, the occupying Power, rescind its illegal and pernicious act;

3. Determines that the persistent defiance by Israel of the resolutions and authority of the United Nations and the systematic violations of human rights in the occupied Arab territories, including Palestine, constitute a continuing threat to international peace and security;

4. Calls upon all Member States to apply against Israel the measures referred to in paragraphs 11, 12, 13 and 15 of General Assembly resolution ES-9/1 of 5 February 1982.

1982/3. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 13/

The Commission on Human Rights,

Recalling General Assembly resolutions 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978, 34/65 of 29 November 1979, ES.7/2 of 29 July 1980, 35/169 of 15 December 1980, 36/120 of 10 December 1981 and 36/226 of 17 December 1981,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 2 (XXXVII) of 11 February 1981 and 14 (XXXVII) of 6 March 1981,

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 14/ and especially paragraphs 49 to 72 of that report,

Reaffirming that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions, and expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

Expressing its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security,

13/ Adopted at the 17th meeting on 11 February 1982, by a roll-call vote of 24 to 8, with 10 abstentions. See chap. VII.

14/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 35 (A/36/35).

**COMMISSION ON HUMAN RIGHTS
REPORT ON THE THIRTY-NINTH SESSION**

(31 January - 11 March 1983)

**ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1983**

SUPPLEMENT No. 3



**UNITED NATIONS
New York, 1983**

XXVII RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS THIRTY-NINTH SESSION

A Resolutions

1983/1 Question of the violation of human rights in the
occupied Arab territories, including Palestine 1/

A 2/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Also guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and of other relevant conventions and regulations,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof",

Recalling General Assembly resolutions ES-7/2 of 29 July 1980, 57/68 of 10 December 1982, 37/123 of 16/20 December 1982 and all relevant General Assembly resolutions on Israeli violations of the human rights of the population of occupied Arab territories,

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Taking note of the reports and resolutions of the International Labour Organisation, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization concerning the conditions of the population in the Palestinian and other occupied Arab territories since 1967, including Jerusalem,

Recalling its resolution 1982/1 of 11 February 1982 on the "Question of the violation of human rights in the occupied Arab territories, including Palestine", and previous resolutions of the Commission on Human Rights on this subject,

1/ Adopted at the 22nd meeting, on 15 February 1983, by a roll-call vote of 29 to 1, with 12 abstentions. See chap. II.

2/ Adopted at the 22nd meeting, on 15 February 1983, by a roll-call vote of 29 to 1, with 13 abstentions. See chap. II.

Taking note of the report of the seminar on violations of human rights in the Palestinian and other Arab territories occupied by Israel, held at Geneva from 29 November to 3 December 1982, 3/

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the Palestinian and other occupied Arab territories

2. Reiterates the alarm deeply expressed by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories in its reports submitted to the General Assembly at its thirty-fourth, 4/ thirty-fifth, 5/ thirty-sixth, 6/ and thirty-seventh 7/ session that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a mono-religious (Jewish) State that includes also territories occupied by Israel since June 1967, and the affirmation by the Special Committee that this policy not only denies the right to self-determination of the population of the occupied territories but also constitutes the source of the continuing and systematic violation of human rights

3. Declares that Israel's continuous grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 8/ and of the Additional Protocols 9/ to the Geneva Conventions are war crimes and an affront to humanity

4. Firmly rejects and reiterates its condemnation of Israel's decision to annex Jerusalem and to change the physical character, demographic composition, institutional structure or status of the occupied territories, including the Holy City, and considers all these measures and their consequences null and void

5. Strongly condemns Israeli policies and practices, administrative and legislative measures to promote and expand the establishment of settler colonies in the occupied territories as well as the following practices:

(a) The annexation of parts of the occupied territories, including Jerusalem

(b) The continuing establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and the transfer of an alien population thereto

(c) The arming of settlers in the occupied territories to commit acts of violence against Arab civilians, and the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide-scale damage to Arab property

2/ ST/HR/DIR A/14

4/ A/34/631

5/ A/35/A25

6/ A/36/632 and Add 1 and Add 1/Corr 1

7/ A/31/485

8/ United Nations, Treaty Series, vol 75, p 287

9/ A/32/144, annexes J and II

(d) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return

(e) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other,

(f) The destruction and demolition of Arab houses,

(g) Mass arrests, collective punishments, administrative detention and ill-treatment of the Arab population and the torture of persons under detention, and the inhuman conditions in prisons

(h) The pillaging of archaeological and cultural property;

(i) The interference with religious freedoms and practices as well as with family rights and customs

(j) The systematic Israeli repression against cultural and educational institutions, especially universities, in the occupied Palestinian territories, closing them or restricting and invading their academic activities by subjecting selection of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities and by the expulsion of numerous faculty members of several universities for refusing to sign statements containing political positions, in flagrant defiance and disregard of their right to academic freedom,

(k) The illegal exploitation of the natural wealth, water and other resources and the population of the occupied territories,

(l) The dismantlement of the municipal services by dismissing the elected mayors as well as the municipal councils and forbidding Arab aid funds,

6 Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and the other Arab territories occupied since June 1967

7 Calls upon the Israeli authorities to implement forthwith Security Council resolution 494 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the expelled Mayors of Hebron and Halhoul so that they can resume the functions for which they were elected and appointed,

8 Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and for the liberation of their territories, and to accord them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war, and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners,

9 Reiterates its call to all states, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with article 1 of that Convention, and to international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or

extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution

10 Urges Israel to refrain from the policies and practice violating human rights in the occupied territories, and to report, through the Secretary General, to the Commission at its fortieth session on the implementation of this resolution

11 Requests the General Assembly, through the Economic and Social Council, to recommend to the Security Council the adoption against Israel of the measures referred to in Chapter VII of the Charter of the United Nations for its persistence in violating the human rights of the population of the Palestinian and other occupied Arab territories

12 Requests the Secretary-General to submit the report of the seminar on violations of human rights in the Palestinian and other Arab territories occupied by Israel to the General Assembly at its thirty-eighth session and to draw its attention particularly to the conclusions, recommendations and appeal adopted by the seminar

13 Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its fortieth session

14 Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fortieth session

15 Further requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the population of those occupied territories

16 Decides to place on the provisional agenda of the fortieth session as a matter of high priority the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine"

B 10/

The Commission on Human Rights,

Recalling its resolution 1982/1 B of 11 February 1982 and General Assembly resolutions 3092 A (XVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, 34/40 B of 12 December 1979, 35/122 A of 11 December 1980, 36/147 of 16 December 1981, and 37/88 A of 10 December 1982,

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 481 (1980) of 19 December 1980,

10/ Adopted at the 22 d meeting on 15 February 1983, by a roll-call vote of 39 to 1, with 3 abstentions See chap II

Recalling resolution III on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 adopted by the Twenty-fourth International Conference of the Red Cross held at Manila in November 1961,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the persistent failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War creates a situation fraught with danger,

Taking into account that States parties to the fourth Geneva Convention of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the convention in all circumstances,

1. Expresses its deep concern at the consequence of Israel's systematic refusal to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem

3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem,

4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem

5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem,

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations

1983/2 Question of the violation of human rights in the occupied Arab territories, including Palestine II/

The Commission on Human Rights,

Having examined the situation in the occupied Arab territories, including Palestine and the occupied Syrian Golan Heights,

11/ Adopted at the 22nd meeting, on 15 February 1983, by a roll-call vote of 27 to 2, with 13 abstentions. See chap. II

COMMISSION ON HUMAN RIGHTS
REPORT ON THE THIRTY-NINTH SESSION

(31 January - 11 March 1983)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1983

SUPPLEMENT No. 3



UNITED NATIONS
New York, 1983

Recalling resolution III on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 adopted by the Twenty-fourth International Conference of the Red Cross held at Manila in November 1961,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the persistent failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War creates a situation fraught with danger,

Taking into account that States parties to the fourth Geneva Convention of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the convention in all circumstances,

1. Expresses its deep concern at the consequence of Israel's systematic refusal to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem

3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem,

4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem

5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem,

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations

1983/2 Question of the violation of human rights in the occupied Arab territories, including Palestine II/

The Commission on Human Rights,

Having examined the situation in the occupied Arab territories, including Palestine and the occupied Syrian Golan Heights,

11/ Adopted at the 22nd meeting, on 15 February 1983, by a roll-call vote of 27 to 2, with 13 abstentions. See chap. II

Recalling its resolutions 1967 and 21 February 1982,

Taking note of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, 12/

Gravely alarmed by Israel's behaviour in systematically ignoring all relevant resolutions of the Security Council, the General Assembly, the Commission on Human Rights and other organs of the United Nations concerning the Arab territories occupied by Israel and its persistent violations of human rights in those territories,

Reaffirming that the acquisition of territories by force is inadmissible under the Charter of the United Nations, the principles of international law and relevant United Nations resolutions,

Recalling General Assembly resolution 3314 (XXIX) of 14 December 1974, in which the Assembly defined an act of aggression, inter alia, as "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof" and provided that "no consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression",

Recalling Security Council resolution 497 (1981) of 17 December 1981 and General Assembly resolutions 36/226 B of 17 December 1981, ES-9/1 of 5 February 1982 and 37/123 A of 16 December 1982,

Reaffirming once more the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 to the occupied Palestinian and other Arab territories, including the occupied Syrian Golan Heights,

Gravely alarmed by the inhuman treatment imposed by the occupying Israeli authorities on the Syrian population of the Golan Heights and noting that "The continued protests [by the Syrian population] led to a wave of arrests, dismissal and a rupture in communications and, on 25 February 1982, a blockade was imposed on the villages ... the population was even prevented from obtaining medical aid outside the area", 13/

1. Resolutely condemns Israel for its failure to comply with Security Council resolution 497 (1981) and General Assembly resolutions 36/226 B, ES-9/1 and 37/123 A;

2. Declares once more that Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan Heights constitutes an act of aggression under the provisions of Article 39 of the Charter of the United Nations and General Assembly resolution 3314 (XXIX);

3. Declares once more that Israel's decision to impose its laws, jurisdiction and administration on the occupied Syrian Golan Heights is null and void and has no legal validity and/or effect;

12/ A/37/465.

13/ Ibid., para. 43.

4. Reaffirms its determination that all provisions of the Hague Convention of 1907 and the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 14/ continue to apply to the Syrian territory occupied by Israel since 1967, and calls upon parties thereto to respect their obligations under these instruments in all circumstances,

5. Determines once more that continued occupation of the Syrian Golan Heights since 1967 and its effective annexation by Israel on 14 December 1981, as well as the inhuman treatment of the Syrian population, constitute a grave violation of the Universal Declaration of Human Rights, the Geneva Convention and the relevant United Nations resolutions,

6. Strongly deplores the negative vote of a permanent member of the Security Council which prevented the Council from adopting against Israel, under chapter VII of the Charter of the United Nations, the "appropriate measures" referred to in resolution 497 (1981), adopted unanimously by the Security Council

7. Calls upon Israel, the occupying Power, to rescind forthwith its decision of 14 December 1981 to impose its laws, jurisdiction and administration on the Syrian Golan Heights, and firmly emphasizes the overriding necessity of the total and unconditional withdrawal by Israel from all Palestinian and Syrian territories occupied since 1967, including Jerusalem, which is an essential prerequisite for the establishment of a comprehensive and just peace in the Middle East,

8. Decides to place on the provisional agenda of its fortieth session as a matter of high priority the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

1983/5 The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 15/

The Commission on Human Rights,

Recalling General Assembly resolutions 181 (II) of 29 November 1947, 194 (III) of 11 December 1948, 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978, 34/65 of 29 November 1979, ES-7/2 of 29 July 1980, 35/169 of 15 December 1980, 36/120 of 10 December 1981, 36/226 of 17 December 1981, ES-1/9 of 24 September 1982 and 37/86 of 10/20 December 1982,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolution 1982/3 of 11 February 1982,

14/ United Nations, Treaty Series, vol. 75, p 287

15/ Adopted at the 22nd meeting, on 15 February 1983, by a roll-call vote of 26 to 7, with 10 abstentions See chap VII

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTIETH SESSION

(6 February-16 March 1984)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1984

SUPPLEMENT No. 4



UNITED NATIONS

New York, 1984

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS FORTIETH SESSION

A. Resolutions

1984/1. Question of the violation of human rights in the occupied Arab territories, including Palestine

A 1/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Also guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, 2/ and of other relevant conventions and regulations,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof",

Recalling General Assembly resolutions ES-7/2 of 29 July 1980, 37/88 A to G of 10 December 1982, 37/123 A to F of 16 and 20 December 1982, 38/58 A to E of 13 December 1983 and 38/79 A to H of 15 December 1983, and all other relevant General Assembly resolutions on Israeli violations of the human rights of the population of occupied Arab territories,

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Taking note of the reports and resolutions of the International Labour Organisation, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization as well as the report of the seminar on violations of human rights in the Palestinian and other Arab territories occupied by Israel, held at Geneva from 29 November to 3 December 1982, 3/ the Geneva Declaration adopted by the International Conference on the Question of Palestine held at Geneva from 29 August to 7 September 1983, 4/ and the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,

1/ Adopted at the 19th meeting, on 20 February 1984, by 29 votes to 1, with 11 abstentions. See chap. IV.

2/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

3/ ST/HR/SER.A/14.

4/ Report of the International Conference on the Question of Palestine, Geneva, 29 August-7 September 1983 (United Nations publication, Sales No. E.83.I.21), part one, chap. I, sect. A.

Recalling the International Committee of the Red Cross press release No. 1478 of 13 December 1983 on Israeli violations of the agreement for the exchange of prisoners between the Palestine Liberation Organization and Israel which involved the retaining of prisoners and detainees whose release was provided for in the agreement,

Recalling its resolutions 1982/1 A and B of 11 February 1982 and 1983/1 A and B and 1983/2 of 15 February 1983 on the "Question of the violation of human rights in the occupied Arab territories, including Palestine", and previous resolutions of the Commission on Human Rights on this subject,

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the Palestinian and other occupied Arab territories;

2. Denounces the continued refusal of Israel to allow the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories access to the occupied territories;

3. Reiterates the deep alarm expressed by the Special Committee in its reports submitted to the General Assembly at its thirty-fourth, 5/ thirty-fifth, 6/ thirty-sixth, 7/ thirty-seventh 8/ and thirty-eighth 9/ sessions that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a monoreligious (Jewish) State that includes territories occupied by Israel since June 1967, and the affirmation by the Special Committee that this policy not only denies the right to self-determination of the population of the occupied territories but also constitutes the source of the continuing and systematic violation of human rights;

4. Confirms its declaration that Israel's continuous grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and of the Additional Protocols 10/ to the Geneva Conventions are war crimes and an affront to humanity;

5. Firmly rejects and reiterates its condemnation of Israel's decision to annex Jerusalem and to change the physical character, demographic composition, institutional structure or status of the occupied territories, including the Holy City, and considers all these measures and their consequences null and void;

6. Strongly condemns Israel's attempts to subject the West Bank and the Gaza Strip to Israeli laws;

7. Strongly condemns Israeli policies and practices, administrative and legislative measures to promote and expand the establishment of settler colonies in the occupied territories as well as the following practices:

(a) The annexation of parts of the occupied territories, including Jerusalem;

(b) The continuing establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and the transfer of an alien population thereto;

5/ A/34/631.

6/ A/35/425.

7/ A/36/632 and Add.1 and Add.1/Corr.1

8/ A/37/485.

9/ A/38/409.

10/ International Committee of the Red Cross, Protocols additional to the Geneva Conventions of 12 August 1949 (Geneva, 1977).

(c) The arming of settlers in the occupied territories to commit acts of violence against Arab civilians, and the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide-scale damage to Arab property;

(d) The arming of settlers in the occupied territories to strike at Muslim and Christian religious and holy places;

(e) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(f) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other;

(g) The destruction and demolition of Arab houses;

(h) Mass arrests, collective punishments, administrative detention and ill-treatment of the Arab population, the torture of persons under detention and the inhuman conditions in prisons;

(i) The pillaging of archaeological and cultural property;

(j) The interference with religious freedoms and practices as well as with family rights and customs;

(k) The systematic Israeli repression against cultural and educational institutions, especially universities, in the occupied Palestinian territories, closing them or restricting and impeding their academic activities by subjecting selection of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities and by the expulsion of numerous faculty members of several universities for refusing to sign statements containing political positions, in flagrant defiance and disregard of their right to academic freedom;

(l) The illegal exploitation of the natural wealth, water and other resources and the population of the occupied territories;

(m) The dismantling of municipal services of dismissing the elected mayors as well as the municipal councils and forbidding Arab aid funds;

8. Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and the other Arab territories occupied since June 1967;

9. Calls upon the Israeli authorities to implement forthwith Security Council resolution 484 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the municipal chiefs to their municipalities so that they can resume the functions for which they were elected;

10. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and for the liberation of their territories, and, pending their release, to accord them the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war, and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

11. Condemns Israel for its continued detention of Ziad Abu Ain, and calls on Israel to implement fully the agreement on the exchange of prisoners with the Palestine Liberation Organization concluded with the International Committee of the Red Cross in November 1983; and further calls on Israel to release Ziad Abu Ain and others whom it continues to detain and who were in Ansar Camp, which must be closed under the provisions of the above-mentioned agreement;

12. Reiterates its call to all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with article 1 of that Convention, and to international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution;

13. Urges Israel to refrain from the policies and practices violating human rights in the occupied territories, and to report, through the Secretary-General, to the Commission at its forty-first session on the implementation of this resolution;

14. Requests the General Assembly, through the Economic and Social Council, to recommend to the Security Council the adoption against Israel of the measures referred to in Chapter VII of the Charter of the United Nations for its persistent violation of the human rights of the population of the Palestinian and other occupied Arab territories;

15. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its forty-first session;

16. Further requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the population of those occupied territories;

17. Decides to place on the provisional agenda of the forty-first session as a matter of high priority the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

B 11/

The Commission on Human Rights,

Recalling its resolutions 1982/1 B of 11 February 1982 and 1982/1 B of 15 February 1983 and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, 34/90 B of 12 December 1979, 35/122 A of 11 December 1980, 36/147 A of 16 December 1981, 37/88 of 10 December 1982 and 38/79 B of 15 December 1983,

11/ Adopted at the 19th meeting, on 20 February 1984, by 32 votes to 1, with 8 abstentions. See chap. IV.

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Recalling resolution III on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 adopted by the Twenty-fourth International Conference of the Red Cross held at Manila in November 1981,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the persistent failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War creates a situation fraught with danger, and considering that it persists in violating human rights,

Taking into account that States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Convention in all circumstances,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;
2. Expresses its deep concern at the consequence of Israel's systematic refusal to apply that Convention in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem;
3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;
4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem; requests Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories and to accord them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war; and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;
5. Urges once more all States parties to that Convention to make every effort to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;
6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission on Human Rights at its forty-first session.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTIETH SESSION

(6 February-16 March 1984)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1984

SUPPLEMENT No. 4



UNITED NATIONS

New York, 1984

1984/2. Question of the violation of human rights in the occupied Arab territories, including Palestine 12/

The Commission on Human Rights,

Having examined the ever deteriorating situation in the occupied Arab territories, including Palestine and the occupied Syrian Golan Heights,

Recalling its resolution 1983/2 of 15 February 1983.

Taking note of the report of the Special Committee of Experts appointed to study the health conditions of the inhabitants of the occupied territories 13/ and the relevant resolution of the World Health Assembly, 14/

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, 15/

Gravely alarmed by Israeli's increasingly arrogant behaviour in systematically ignoring and openly defying all relevant resolutions of the Security Council, the General Assembly, the Commission on Human Rights, the World Health Organization, and other organs and agencies of the United Nations concerning the Arab territories occupied by Israel and its persistent violations of human rights in those territories,

Reaffirming that the acquisition of territories by force is inadmissible under the Charter of the United Nations, the principles of international law and relevant United Nations resolutions,

Recalling General Assembly resolution 3314 (XXIX) of 14 December 1974, in which the Assembly defined an act of aggression, inter alia, as "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof" and provided that "no consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression",

Recalling Security Council resolution 497 (1981) of 17 December 1981 and General Assembly resolutions 36/226 B of 17 December 1981, ES-9/1 of 5 February 1982 and 37/123 A of 16 December 1982 in connection with the Israeli occupation of the Syrian Golan Heights, and the imposition of its laws, jurisdiction and administration on the Syrian occupied territory,

12/ Adopted at the 19th meeting, on 20 February 1984, by a roll-call vote of 30 to 1, with 11 abstentions. See chap. IV.

13/ World Health Organization, document A36/14, 28 April 1983.

14/ World Health Organization, document WHA36.27, 16 May 1983.

15/ A/38/409.

Reiterating its grave alarm at the inhuman treatment which the occupying Israeli authorities continue to impose on the Syrian population of the occupied Golan Heights, and the measures and actions designed to change the legal status, geographic nature and demographic composition of these occupied territories,

Recalling General Assembly resolutions 38/79 D and F of 15 December 1983 and 38/180 A and D of 19 December 1983 on the situation in the Middle East and the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,

1. Resolutely condemns Israel for its failure to comply with Security Council resolution 497 (1981) and General Assembly resolutions 36/226 B, ES-9/1 and 37/123 A;

2. Declares once more that Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan Heights, whose outcome has been the effective annexation of this territory, is null and void and has no legal validity and no effect, and that Israeli practices and inhuman treatment of the Syrian Arab population constitute a grave violation of the Universal Declaration of Human Rights, the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 16/ and the relevant United Nations resolutions as well as a continuing threat to international peace and security;

3. Strongly condemns Israel for its attempts and measures to impose Israeli citizenship and identity cards on the Syrian citizens in the occupied Golan Heights by force;

4. Strongly deplores the negative vote and pro-Israeli position of a permanent member of the Security Council which prevented the Council from adopting against Israel, under Chapter VII of the Charter of the United Nations, the "appropriate measures" referred to in resolution 497 (1981), adopted unanimously by the Security Council;

5. Reaffirms its determination that all provisions of the The Hague Convention of 1907 17/ and the Geneva Convention relative to the Protection of Civilian Persons in Time of War continue to apply to the Syrian territory occupied by Israel since 1967, strongly demands that Israel recognize the provisions of these Conventions and apply them in the occupied Arab territories, and calls upon parties to these Conventions to respect their obligations thereunder in all circumstances;

6. Calls upon Israel, the occupying Power, to rescind forthwith its decision of 14 December 1981 to impose its laws, jurisdiction and administration on the Syrian Golan Heights, emphasizes that Israel must allow the evacuees from

16/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

17/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

among the Golan population to return to their homes and to recover their former property and residences occupied by Israel since 1967, and firmly emphasizes the overriding necessity of the total and unconditional withdrawal by Israel from all Palestinian and Syrian territories occupied since 1967, including Jerusalem, which is an essential prerequisite for the establishment of a comprehensive and just peace in the Middle East;

7. Decides to place on the provisional agenda of its forty-first session as a matter of high priority the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

1984/3. Question of the violation of human rights and fundamental freedoms - The situation in the Arab territories occupied by Israel 18/

The Commission on Human Rights,

1. Condemns Israel for its continued occupation of the Palestinian territories, including Jerusalem, and of other Arab territories in violation of relevant United Nations resolutions and of the provisions of international law;

2. Condemns Israel for its persistence in developing the colonization of these territories which aims at changing the demographic composition, institutional structure and status of the occupied territories, including Jerusalem;

3. Reaffirms that measures such as those described in the above paragraph constitute grave violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, 19/ and The Hague Convention of 1907, 20/ and that they are null and void with regard to international law;

4. Calls upon Israel to withdraw immediately from the occupied Palestinian territories, including Jerusalem, in order to restore to the Palestinian people their inalienable national rights, and from all the other occupied Arab territories

1984/4. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts 21/

The Commission on Human Rights,

Recalling its resolution 2 (XXIII) of 6 March 1967, by which it set up the Ad Hoc Working Group of Experts, and its resolutions 21 (XXV) of 19 March 1969, 7 (XXVII) of 8 March 1971, 19 (XXIX) of 3 April 1973, 5 (XXXI) of 14 February 1975, 6 A to C (XXXIII) of 4 March 1977, 12 (XXXV) of 6 March 1979, 5 (XXXVII) of 23 February 1981 and 1983/10 of 18 February 1983,

18/ Adopted at the 19th meeting, on 20 February 1984, by 30 votes to 1, with 11 abstentions. See chap. IV.

19/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

20/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

21/ Adopted at the 31st meeting, on 28 February 1984, by 39 votes to none, with 4 abstentions. See chap. VI.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTIETH SESSION

(6 February-16 March 1984)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1984

SUPPLEMENT No. 4



UNITED NATIONS

New York, 1984

among the Golan population to return to their homes and to recover their former property and residences occupied by Israel since 1967, and firmly emphasizes the overriding necessity of the total and unconditional withdrawal by Israel from all Palestinian and Syrian territories occupied since 1967, including Jerusalem, which is an essential prerequisite for the establishment of a comprehensive and just peace in the Middle East;

7. Decides to place on the provisional agenda of its forty-first session as a matter of high priority the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

1984/3. Question of the violation of human rights and fundamental freedoms - The situation in the Arab territories occupied by Israel 18/

The Commission on Human Rights,

1. Condemns Israel for its continued occupation of the Palestinian territories, including Jerusalem, and of other Arab territories in violation of relevant United Nations resolutions and of the provisions of international law;

2. Condemns Israel for its persistence in developing the colonization of these territories which aims at changing the demographic composition, institutional structure and status of the occupied territories, including Jerusalem;

3. Reaffirms that measures such as those described in the above paragraph constitute grave violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, 19/ and The Hague Convention of 1907, 20/ and that they are null and void with regard to international law;

4. Calls upon Israel to withdraw immediately from the occupied Palestinian territories, including Jerusalem, in order to restore to the Palestinian people their inalienable national rights, and from all the other occupied Arab territories

1984/4. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts 21/

The Commission on Human Rights,

Recalling its resolution 2 (XXIII) of 6 March 1967, by which it set up the Ad Hoc Working Group of Experts, and its resolutions 21 (XXV) of 19 March 1969, 7 (XXVII) of 8 March 1971, 19 (XXIX) of 3 April 1973, 5 (XXXI) of 14 February 1975, 6 A to C (XXXIII) of 4 March 1977, 12 (XXXV) of 6 March 1979, 5 (XXXVII) of 23 February 1981 and 1983/10 of 18 February 1983,

18/ Adopted at the 19th meeting, on 20 February 1984, by 30 votes to 1, with 11 abstentions. See chap. IV.

19/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

20/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

21/ Adopted at the 31st meeting, on 28 February 1984, by 39 votes to none, with 4 abstentions. See chap. VI.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-FIRST SESSION

(4 February-15 March 1985)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1985

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1985

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS FORTY-FIRST SESSION

A. Resolutions

1985/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine

A 1/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, 2/ and of other relevant conventions and regulations,

Taking into consideration General Assembly resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof",

Recalling General Assembly resolutions ES-7/2 of 29 July 1980, 37/88 A to G of 10 December 1982, 37/123 A to F of 16 and 20 December 1982, 38/58 A to E of 13 December 1983, 38/79 A to H of 15 December 1983, 39/49 A to D of 11 December 1984 and 39/95 A to H of 14 December 1984 and all other relevant General Assembly resolutions on Israeli violations of the human rights of the population of occupied Arab territories,

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Taking note of the reports and resolutions of the International Labour Organisation, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization as well as the report of the seminar on

1/ Adopted at the 21st meeting, on 19 February 1985, by a roll-call vote of 28 to 5, with 8 abstentions. See chap. IV.

2/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

violations of human rights in the Palestinian and other Arab territories occupied by Israel, held at Geneva from 29 November to 3 December 1982, 3/ the Geneva Declaration adopted by the International Conference on the Question of Palestine held at Geneva from 29 August to 7 September 1983, 4/ and the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,

Recalling the International Committee of the Red Cross press release No. 1478 of 13 December 1983 on Israeli violations of the agreement for the exchange of prisoners between the Palestine Liberation Organization and Israel which involved the retaining of prisoners and detainees whose release was provided for in the agreement,

Recalling its resolutions 1982/1 A and B of 11 February 1982, 1983/1 A and B and 1983/2 of 15 February 1983 and 1984/1 A and B and 1984/2 of 20 February 1984 on the "Question of the violation of human rights in the occupied Arab territories, including Palestine", and previous resolutions of the Commission on Human Rights on this subject,

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the Palestinian and other occupied Arab territories;
2. Denounces the continued refusal of Israel to allow the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories access to the occupied territories;
3. Reiterates the deep alarm expressed by the Special Committee in its reports submitted to the General Assembly at its thirty-fourth, 5/ thirty-fifth, 6/ thirty-sixth, 7/ thirty-seventh, 8/ thirty-eighth 9/ and thirty-ninth 10/ sessions that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a monoreligious (Jewish) State that includes territories occupied by Israel since June 1967, and the affirmation by the Special Committee that this policy not only denies the right to self-determination of the population of the occupied territories but also constitutes the source of the continuing and systematic violation of human rights;

3/ ST/HR/SER.A/14.

4/ Report of the International Conference on the Question of Palestine, Geneva, 29 August-7 September 1983 (United Nations publication, Sales No. E.83.I.21), part one, chap. I, sect. A.

5/ A/34/631.

6/ A/35/425.

7/ A/36/632 and Add.1 and Add.1/Corr.1.

8/ A/37/485.

9/ A/38/409.

10/ A/39/591.

4. Confirms its declaration that Israeli's continuous grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and of the Additional Protocols 11/ to the Geneva Conventions are war crimes and an affront to humanity;

5. Firmly rejects and reiterates its condemnation of Israel's decision to annex Jerusalem and to change the physical character, demographic composition, institutional structure or status of the occupied territories, including the Holy City, and considers all these measures and their consequences null and void;

6. Strongly condemns Israel's attempts to subject the West Bank and the Gaza Strip to Israeli laws;

7. Strongly condemns all the terrorist actions perpetrated against the Palestinian inhabitants of the occupied territories by Jewish gangs, led by Rabbi Meir Kahane, member of the Knesset, and the racist Rabbi Moshe Levinger, the leader of the Gush Emunim gang, and other racist Zionists;

8. Strongly condemns Israeli policies and practices, administrative and legislative measures to promote and expand the establishment of settler colonies in the occupied territories as well as the following practices:

(a) The annexation of parts of the occupied territories, including Jerusalem;

(b) The continuing establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and the transfer of an alien population thereto;

(c) The arming of settlers in the occupied territories to commit acts of violence against Arab civilians, and the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide-scale damage to Arab property;

(d) The arming of settlers in the occupied territories to strike at Muslim and Christian religious and holy places;

(e) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, the denial of their right to return to their homeland and the transfer and settlement of alien populations brought from other parts of the world in the place of the original Palestinian owners of land;

(f) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other;

11/ International Committee of the Red Cross, Protocols additional to the Geneva Conventions of 12 August 1949 (Geneva, 1977).

- (g) The destruction and demolition of Arab houses;
- (h) Mass arrests, collective punishments, administrative detention and ill-treatment of the Arab population, the torture of persons under detention and the inhuman conditions in prisons;
- (i) The pillaging of archaeological and cultural property;
- (j) The interference with religious freedoms and practices as well as with family rights and customs;
- (k) The systematic Israeli repression of cultural and educational institutions, especially universities, schools and institutes, in the occupied Palestinian territories, closing them or restricting and impeding their academic activities by subjecting selection of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities and by expelling numerous faculty members of several universities for refusing to sign statements containing political positions, in flagrant defiance and disregard of their right to academic freedom;
- (l) The illegal expropriation and exploitation of the natural wealth, water and other resources which belong to the inhabitants of the occupied territories;
- (m) The dismantling of municipal services, dismissing the elected mayors as well as the municipal councils and preventing the flow of Arab aid funds to the population of the occupied territories;
9. Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and the other Arab territories occupied since June 1967;
10. Calls upon the Israeli authorities to implement forthwith Security Council resolution 484 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the municipal chiefs to their municipalities so that they can resume the functions for which they were elected;
11. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and for the liberation of their territories, and, pending their release, to accord them the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war, and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;
12. Condemns Israel for its continued detention of Ziad Abu Ain, and calls on Israel to implement fully the agreement concluded with the International Committee of the Red Cross in November 1983 for the exchange of prisoners between the Palestine Liberation Organization and Israel; and further calls on Israel to release Ziad Abu Ain and others whom it continues to detain and who were in Ansar Camp, which must be closed under the provisions of the above-mentioned agreement;

13. Reiterates its call to all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with article 1 of that Convention, and to international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution;

14. Urges Israel to refrain from the policies and practices violating human rights in the occupied territories, and to report, through the Secretary-General, to the Commission at its forty-second session on the implementation of this resolution;

15. Requests the General Assembly, through the Economic and Social Council, to recommend to the Security Council the adoption against Israel of the measures referred to in Chapter VII of the Charter of the United Nations for its persistent violation of the human rights of the population of the Palestinian and other occupied Arab territories;

16. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its forty-second session;

17. Further requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the population of those occupied territories;

18. Decides to place on the provisional agenda of the forty-second session as a matter of high priority the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

B 12/

The Commission on Human Rights,

Recalling its resolutions 1982/1 B of 11 February 1982, 1983/1 B of 15 February 1983 and 1984/1 B of 20 February 1984 and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, 34/90 B of 12 December 1979, 35/122 A of 11 December 1980, 36/147 A of 16 December 1981, 37/88 of 10 December 1982, 38/79 B of 15 December 1983 and 39/95 D of 14 December 1984,

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

12/ Adopted at the 21st meeting, on 19 February 1985, by a roll-call vote of 33 to 1, with 7 abstentions. See chap. IV.

Recalling resolution III on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, adopted by the Twenty-fourth International Conference of the Red Cross held at Manila in November 1981,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 13/ must be fully applied in all circumstances to all persons protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the persistent failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War creates a situation fraught with danger, and considering that it persists in violating human rights,

Taking into account that States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Convention in all circumstances,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;

2. Expresses its deep concern at the consequences of Israel's systematic refusal to apply that Convention in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem;

3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;

4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem; requests Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories and to accord them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war; and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

5. Urges once more all States parties to that Convention to make every effort to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission on Human Rights at its forty-second session.

13/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-SECOND SESSION

(3 February-14 March 1986)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1986

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1986

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS FORTY-SECOND SESSION

A. Resolutions

1986/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine

A 1/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, 2/ of The Hague Convention of 1907, 3/ and of other relevant conventions and regulations,

Taking into consideration General Assembly resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof",

Recalling General Assembly resolutions ES-7/2 of 29 July 1980, 37/88 A to G of 10 December 1982, 37/123 A to F of 16 and 20 December 1982, 38/58 A to E of 13 December 1983, 38/79 A to H of 15 December 1983, 39/49 A to D of 11 December 1984, 39/95 A to H of 14 December 1984 and 40/161 A to G of 16 December 1985 and all other relevant General Assembly resolutions on Israeli violations of the human rights of the population of occupied Arab territories,

1/ Adopted at the 25th meeting, on 20 February 1986, by a roll-call vote of 29 to 7, with 6 abstentions. See chap. IV, para. 42.

2/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

3/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Taking note of the reports and resolutions of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization as well as the report of the seminar on violations of human rights in the Palestinian and other Arab territories occupied by Israel, held at Geneva from 29 November to 3 December 1982, 4/ the Geneva Declaration adopted by the International Conference on the Question of Palestine, held at Geneva from 29 August to 7 September 1983, 5/ and the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, particularly its report to the General Assembly at its fortieth session, 6/

Recalling its previous resolutions in this connection, particularly resolutions 1982/1 A and B of 11 February 1982, 1983/1 A and B and 1983/2 of 15 February 1983, 1984/1 A and B and 1984/2 of 20 February 1984 and 1985/1 A and B of 19 February 1985 on the "Question of the violation of human rights in the occupied Arab territories, including Palestine",

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the occupied Arab territories, including Palestine;
2. Denounces the continued refusal of Israel to allow the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories access to the occupied territories;
3. Reiterates the deep concern expressed by the Special Committee in its reports submitted to the General Assembly that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a monoreligious (Jewish) State that includes territories occupied by Israel since June 1967, and the affirmation by the Special Committee that this policy not only denies the right to self-determination of the population of the occupied territories but also constitutes the source of the continuing and systematic violation of human rights;

4/ ST/HR/SER.A/14.

5/ Report of the International Conference on the Question of Palestine, Geneva, 29 August-7 September 1983 (United Nations publication, Sales No. E.83.I.21), part one, chap. I, sect. A.

6/ A/40/702.

4. Reaffirms the fact that Israel's continuous grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and of the Additional Protocols 7/ to the Geneva Conventions of 1949 are war crimes and an affront to humanity;

5. Firmly rejects and reiterates its condemnation of Israel's decision to annex Jerusalem and to change the physical character, demographic composition, institutional structure or status of the occupied territories, including Jerusalem, and considers all these measures and their consequences null and void;

6. Strongly condemns Israel's attempts to subject the West Bank and the Gaza Strip to Israeli laws;

7. Strongly condemns all the terrorist actions perpetrated against the Palestinian inhabitants of the occupied territories by Jewish gangs, led by Rabbi Meir Kahane, member of the Knesset, and the racist Rabbi Moshe Levinger, the leader of the Gush Emunim gang, and other racist Zionists;

8. Strongly condemns Israeli policies and practices, administrative and legislative measures to promote and expand the establishment of settler colonies in the occupied territories, as well as the following practices;

(a) The annexation of parts of the occupied territories, including Jerusalem;

(b) The continuing establishment of new Israeli settlements and expansion of the existing settlements on private and public Arab lands, and the transfer of an alien population thereto;

(c) The arming of settlers in the occupied territories to commit acts of violence against Arab civilians, and the perpetration of acts of violence by these armed settlers against individuals from Palestinian camps and institutions, causing injury and death and wide-scale damage to Arab property;

(d) Striking at Muslim and Christian religious and holy places and repeated attacks on Al Aqsa Mosque aimed at seizing and destroying it;

(e) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, the denial of their right to return to their homeland and the transfer and settlement of alien populations brought from other parts of the world in the place of the original Palestinian owners of land;

7/ International Committee of the Red Cross, Protocols additional to the Geneva Conventions of 12 August 1949 (Geneva, 1977).

(f) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other;

(g) The destruction and demolition of Arab houses;

(h) Mass arrests, collective punishments, administrative detention and ill-treatment of the Arab population, the torture of persons under detention and the inhuman conditions in prisons;

(i) The pillaging of archaeological and cultural property;

(j) The interference with religious freedoms and practices as well as with family rights and customs;

(k) The systematic Israeli repression of cultural and educational institutions, especially universities, schools and institutes, in the occupied Palestinian territories, closing them or restricting and impeding their academic activities by subjecting selection of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities and by expelling numerous faculty members of several universities for refusing to sign statements containing political positions, in flagrant defiance and disregard of their right to academic freedom;

(l) Expropriation and exploitation of the natural wealth, water and other resources which belong to the inhabitants of the occupied territories;

(m) The dismantling of municipal services by dismissal of the elected mayors as well as the municipal councils and prevention of the flow of Arab aid funds to the population of the occupied territories;

9. Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and other Arab territories occupied since June 1967;

10. Calls upon the Israeli authorities to implement forthwith Security Council resolution 484 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the municipal chiefs to their municipalities so that they can resume the functions for which they were elected;

11. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and for the liberation of their territories, and, pending their release, to accord them the protection envisaged in the relevant provisions of the international instruments

concerning the treatment of prisoners of war, and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

12. Reiterates its call to all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with article 1 of that Convention, and to international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution;

13. Urges Israel to refrain from the policies and practices violating human rights in the occupied territories, and to report, through the Secretary-General, to the Commission at its forty-third session on the implementation of the present resolution;

14. Requests the General Assembly, through the Economic and Social Council, to recommend to the Security Council the adoption against Israel of the measures referred to in Chapter VII of the Charter of the United Nations for its persistent violation of the human rights of the population of the Palestinian and other occupied Arab territories;

15. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its forty-third session;

16. Further requests the Secretary-General to provide the Commission with all United Nations reports appearing between sessions of the Commission and dealing with the situation of the population of those occupied territories;

17. Decides to place on the provisional agenda of the forty-third session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

The Commission on Human Rights,

Recalling its resolutions 1982/1 B of 11 February 1982, 1983/1 B of 15 February 1983, 1984/1 B of 20 February 1984 and 1985/1 B of 19 February 1985 and General Assembly resolutions 2674 (XXV) and 2675 (XXV) of 9 December 1970, 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, 34/90 B of 12 December 1979, 35/122 A of 11 December 1980, 36/147 A of 16 December 1981, 37/88 of 10 December 1982, 38/79 B of 15 December 1983, 39/95 D of 14 December 1984 and 40/161 A to G of 16 December 1985,

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Recalling resolution III on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, adopted by the Twenty-fourth International Conference of the Red Cross held at Manila in November 1981,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 ^{9/} must be fully applied in all circumstances to all persons protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Deeply alarmed at the situation of Palestinians detained by Israel in Israeli prisons,

Recognizing that the persistent refusal of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War creates a situation fraught with danger, and considering that it persists in violating human rights,

Taking into account that States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Convention in all circumstances,

^{8/} Adopted at the 25th meeting, on 20 February 1986, by a roll-call vote of 32 to 1, with 9 abstentions. See chap. IV, para. 48.

^{9/} United Nations, Treaty Series, vol. 75, Nos. 970-973.

1. Reaffirms the fact that the fundamental human rights as established by international law and set forth in international instruments remain fully applicable in cases of armed conflict;

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to all Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;

3. Expresses its deep concern at the consequences of Israel's systematic refusal to apply that Convention in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem;

4. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;

5. Strongly condemns Israel for its policies of ill-treatment and torture of Palestinian detainees and prisoners in Israeli prisons;

6. Urges Israel to grant prisoner-of-war status, in accordance with the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, 10/ to all Palestinian fighters captured by Israel, and to treat them accordingly;

7. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem; requests Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories and to accord them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War and The Hague Convention of 1907; and demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

8. Urges once more all States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War to make every effort to ensure respect for and compliance with the provisions of that Convention in all the Arab territories occupied by Israel since 1967, including Jerusalem;

10/ Ibid., No. 972, p. 135.

9. Strongly condemns Israel for its deportation of the liberated Palestinian prisoners in contravention of the agreement for the exchange of prisoners, and in violation of the principles of international law and United Nations resolutions, and calls upon Israel, the occupying Power, to refrain forthwith from the deportation of Palestinians, to rescind the deportation decision in order to enable those who were deported to return to their homeland and property, and to comply strictly with the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

10. Urges Israel to co-operate with the International Committee of the Red Cross and to allow it to visit all Palestinian detainees in Israeli prisons;

11. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission on Human Rights at its forty-third session;

12. Decides to consider this subject at its forty-third session as a matter of high priority.

1986/2. Human rights in occupied Syrian territory 11/

The Commission on Human Rights,

Gravely concerned at the fact that Syrian Arab territories occupied by Israel in 1967 are still suffering from the Israeli military occupation, which is becoming increasingly severe and vicious,

Recalling once again the provisions of the Charter of the United Nations and the Universal Declaration of Human Rights and guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Recalling the resolution adopted by the 71st Inter-Parliamentary Conference, held at Geneva from 2 to 7 April 1984, which condemned all Israeli policies and practices relating to the annexation of occupied Arab territories in Jerusalem and the Syrian Golan Heights,

11/ Adopted at the 25th meeting, on 20 February 1986, by a roll-call vote of 31 to 1, with 10 abstentions. See chap. IV, para. 56.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-THIRD SESSION

(2 February-13 March 1987)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1987

SUPPLEMENT No. 5



UNITED NATIONS

New York, 1987

11. Decides to place on the provisional agenda of its forty-fourth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

27th meeting
19 February 1987

[Adopted by a roll-call vote of 28 to 1, with 13 abstentions. See chap. IV.]

1987/2. Question of the violation of human rights in the occupied Arab territories, including Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and of The Hague Convention IV of 1907, as well as the principles of international humanitarian law,

Taking into consideration General Assembly resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof",

Recalling General Assembly resolutions ES-7/2 of 29 July 1980, 37/88 A to G of 10 December 1982, 37/123 A to F of 16 and 20 December 1982, 38/58 A to E of 13 December 1983, 38/79 A to H of 15 December 1983, 39/49 A to D of 11 December 1984, 39/95 A to H of 14 December 1984, 40/161 A to G of 16 December 1985 and 41/63 A to G of 2 December 1986 and all other relevant General Assembly resolutions on Israeli violations of the human rights of the population of occupied Arab territories,

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980 and all other relevant Security Council resolutions,

Taking note of the reports and resolutions of the International Labour Organisation, the United Nations Educational, Scientific and Cultural

Organization and the World Health Organization as well as the report of the seminar on violations of human rights in the Palestinian and other Arab territories occupied by Israel, held at Geneva from 29 November to 3 December 1982, and the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,

Recalling its previous resolutions in this connection, particularly resolutions 1982/1 A and B of 11 February 1982, 1983/1 A and B and 1983/2 of 15 February 1983, 1984/1 A and B and 1984/2 of 20 February 1984, 1985/1 A and B of 19 February 1985 and 1986/1 A and B of 20 February 1986 on the "Question of the violation of human rights in the occupied Arab territories, including Palestine",

Taking note with grave alarm of the content of the report of the Special Committee regarding Israel's pursuance of the "iron fist" policy in the occupied Palestinian territories,

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the occupied Arab territories, including Palestine;
2. Denounces the continued refusal of Israel to allow the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories access to the occupied territories, and calls upon it to allow the Special Committee to visit the occupied territories in implementation of the relevant General Assembly resolutions;
3. Reiterates the deep concern expressed by the Special Committee in its reports submitted to the General Assembly that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a monoreligious (Jewish) State that includes territories occupied by Israel since June 1967, and the affirmation by the Special Committee that this policy not only denies the right to self-determination of the population of the occupied territories but also constitutes the source of the continuing and systematic violation of human rights;
4. Reaffirms the fact that Israel's continuous grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and of the Additional Protocols to the Geneva Conventions of 1949 are war crimes and an affront to humanity;
5. Firmly rejects and reiterates its condemnation of Israel's decision to annex Jerusalem and to change the physical character, demographic composition, institutional structure or status of the occupied territories, including Jerusalem, and considers all these measures and their consequences null and void;
6. Strongly condemns the implementation of the "iron fist" policy against the population of the occupied territories;
7. Strongly condemns Israel's attempts to subject the West Bank and the Gaza Strip to Israeli laws;

8. Strongly condemns Israeli policies and practices, administrative and legislative measures to promote and expand the establishment of settler colonies in the occupied territories, as well as the following practices:

(a) Annexation of parts of the occupied territories, including Jerusalem;

(b) Continuing establishment of new Israeli settlements and expansion of existing settlements on private and public Arab lands, and transfer of an alien population thereto;

(c) Arming of settlers in the occupied territories to commit acts of violence against Arab civilians, and perpetration of acts of violence by these armed settlers against individuals from Palestinian camps and institutions, causing injury and death and wide-scale damage to Arab property, and all terrorist acts undertaken against the Palestinian inhabitants of the occupied territories by Zionist gangs under the supervision of the occupation authorities;

(d) Striking at Muslim and Christian religious and holy places and repeated attacks on Al Aqsa Mosque aimed at seizing and destroying it, and hindering religious freedom and practices;

(e) Evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, denial of their right to return to their homeland and transfer and settlement of alien populations brought from other parts of the world in the place of the original Palestinian owners of land;

(f) Confiscation and expropriation of Arab property in the occupied territories from Palestinian owners and demolition and destruction of Arab houses;

(g) Mass arrests, collective punishments, administrative detention, torture of persons under detention, ill-treatment of the Arab population and inhuman conditions in prisons as well as attacks and use of tear-gas against prisoners in the prisons of Kfar Youna, Janeed, Narha, Hebron, Ashkelon and Para'a, in September and October 1986;

(h) Pillaging of archaeological and cultural property and systematic Israeli repression of cultural and educational institutions, especially universities, schools and institutes, in the occupied Palestinian territories, their closure or the restriction and obstruction of their academic activities through subjection of the selection of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities;

(i) Attacks against Palestinian students in universities and institutes, such as that which occurred in Bir Zeit University, where a number of them were killed or wounded when they were fired upon inside the university campus on 4 December 1986;

(j) Expropriation and exploitation of the natural wealth, water and other resources which belong to the inhabitants of the occupied territories;

(k) The dismantling of municipal services by dismissal of the elected mayors as well as the municipal councils and prevention of the flow of Arab aid funds to the population of the occupied territories;

9. Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and other Arab territories occupied since June 1967;

10. Calls upon the Israeli authorities to implement forthwith Security Council resolution 484 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the elected mayors to their municipalities so that they can resume the functions for which they were elected;

11. Urges Israel to refrain from policies and practices which violate human rights in the occupied territories;

12. Reiterates its call to all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with article 1 of that Convention, and to international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution;

13. Requests the General Assembly, through the Economic and Social Council, to recommend to the Security Council the adoption against Israel of the measures referred to in Chapter VII of the Charter of the United Nations for its persistent violation of the human rights of the population of the Palestinian and other occupied Arab territories;

14. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its forty-fourth session;

15. Further requests the Secretary-General to provide the Commission with all United Nations reports appearing between sessions of the Commission and dealing with the situation of the population of those occupied territories;

16. Decides to place on the provisional agenda of the forty-fourth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

27th meeting
19 February 1987

[Adopted by a roll-call vote of 28 to 8, with
6 abstentions. See chap. IV.]

The Commission on Human Rights,

Recalling its resolutions 1982/1 B of 11 February 1982, 1983/1 B of 15 February 1983, 1984/1 B of 20 February 1984, 1985/1 B of 19 February 1985 and 1986/1 A and B of 20 February 1986,

Recalling General Assembly resolutions 2674 (XXV) and 2675 (XXV) of 9 December 1970, 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, 34/90 B of 12 December 1979, 35/122 A of 11 December 1980, 36/147 A of 16 December 1981, 37/88 A of 10 December 1982, 38/79 B of 15 December 1983, 39/95 D of 14 December 1984, 40/161 A to G of 16 December 1985, 41/43 A to D of 2 December 1986 and 41/63 A to G of 3 December 1986,

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Recalling resolution III on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, adopted by the Twenty-fourth International Conference of the Red Cross held at Manila in November 1981, and reaffirmed by its Twenty-fifth International Conference held in Geneva in October 1986,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the persistent refusal of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War creates a situation fraught with danger, and considering that it persists in violating human rights,

Taking into account that States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Convention in all circumstances,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to all Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;

2. Strongly condemns Israel's systematic refusal to apply that Convention in all its provisions to the Palestinian and Arab territories occupied since 1967 and their inhabitants, despite its adherence to that Convention, and its refusal to recognize the applicability of that Convention to those territories;

3. Strongly condemns Israel for its policies of ill-treatment and torture of Palestinian detainees and prisoners in Israeli prisons;

4. Urges Israel to grant prisoner-of-war status, in accordance with the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, to all Palestinian fighters captured by Israel, and to treat them accordingly;

5. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other principles of international law, in Palestinian and other Arab territories occupied since 1967, including Jerusalem; requests Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories and to accord them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, and The Hague Convention IV of 1907; and demands that Israel cease forthwith all acts of torture and ill-treatment of Palestinian and Arab detainees and prisoners;

6. Urges once more all States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War to make every effort to ensure respect for and compliance with the provisions of that Convention in all the Palestinian and Arab territories occupied by Israel since 1967, including Jerusalem;

7. Strongly condemns Israel for its policy of deporting Palestinian citizens from their homeland, as occurred recently with regard to Mr. Akram Haniyeh, editor of the Jerusalem newspaper Al Shaab, and calls upon Israel, the occupying Power, to refrain forthwith from the deportation of Palestinians and to rescind the deportation decisions to enable those who were deported to return to their homeland and property;

8. Urges Israel to co-operate with the International Committee of the Red Cross and to allow it to visit all Palestinian and Arab detainees in Israeli prisons;

9. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission on Human Rights at its forty-fourth session;

10. Decides to consider this subject at its forty-fourth session as a matter of high priority.

27th meeting
19 February 1987

[Adopted by a roll-call vote of 29 to 1, with
12 abstentions. See chap. IV.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-FOURTH SESSION

(1 February-11 March 1988)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1988

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1988

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE COMMISSION AT
ITS FORTY-FOURTH SESSION

A. Resolutions

1988/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and of The Hague Convention IV of 1907, as well as the principles of international humanitarian law,

Taking into consideration General Assembly resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof",

Recalling all other relevant General Assembly resolutions adopted at regular and special sessions in respect of Israeli violations of the human rights of the population of occupied Arab territories,

Recalling, in particular, relevant Security Council resolutions, including resolutions 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988 and 608 (1988) of 14 January 1988,

Taking note of the report of the Secretary-General on the fact-finding mission of his envoy, Mr. Marrack Goulding, to occupied Palestine (S/19443), and of relevant reports and resolutions of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization as well as all reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories,

Recalling the press release issued by the International Committee of the Red Cross in Geneva on 13 January 1988 on the expulsion of Palestinian citizens from their homeland,

Recalling its previous resolutions on Israeli violations of human rights in occupied Palestine,

Reaffirming its grave alarm at Israel's continued pursuance of the "iron fist" policy in the occupied Palestinian territories, and Israel's crimes of murder, injury, arrest and deportation against Palestinians, its policy of starvation of the camps and its acts involving the breaking of children's and young people's arms,

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the occupied Arab territories, including Palestine;

2. Reaffirms that Israel's continuous grave violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and of the Additional Protocols of 1977 to the Geneva Conventions of 1949 are war crimes and an affront to humanity;

3. Strongly condemns Israel's policy of physical violence in occupied Palestine, breaking the bones of children, women and men and causing women to miscarry as a result of severe beating;

4. Strongly condemns Israel's pursuance of the "iron fist" policy and its continued and systematic violation of the human rights of the Palestinian people, including opening fire on children, women and civilian men as well as killing, wounding, arresting and torturing thousands of Palestinians, and the attempts to kidnap Palestinian children by force and transfer them to unknown places, as happened in Dheisheh camp and Khawlah school in Al Bireh on 1 and 3 February 1988;

5. Firmly rejects and reiterates its condemnation of Israel's decision to annex Jerusalem and to change the architectural character, demographic composition, institutional structure or status of the occupied territories, including Jerusalem, and considers all these measures and their consequences null and void, and further condemns the confiscation of land and property, the demolition of houses and efforts by Israel to subject the West Bank and the Gaza Strip to Israeli laws;

6. Condemns once again the establishment of Israeli settlements and the arming of settlers to kill Palestinians under the supervision of the occupation authorities in occupied Palestine;

7. Condemns once again aggression against Islamic and Christian religious holy places, including the repeated attacks on Al Aqsa Mosque with the aim of seizing and destroying it, the obstruction of religious freedoms and practices and the act of opening fire on worshippers, wounding dozens of them in Al Aqsa Mosque, for example, on 15 January 1988;

8. Condemns once again the evacuation, deportation, expulsion, displacement and transfer of the Palestinian population and the denial of their right to return to their homeland and the transfer and settlement of alien populations brought from other parts of the world in the place of the original Palestinian owners of the land;

9. Condemns once again mass arrests, collective punishment, administrative detention and the torture of detainees;

10. Condemns once again the pillaging of archaeological and cultural property and systematic Israeli repression of cultural and educational institutions, especially universities, schools and institutes, and the expropriation of the natural wealth, water and other resources which belong to the Palestinian citizens in the occupied territories;

11. Calls upon the Israeli authorities to implement forthwith Security Council resolutions 484 (1980) of 19 December 1980 and 608 (1988) of 14 January 1988 as well as previous resolutions of the Council calling for the immediate return of the elected mayors to their municipalities and the return to their homeland of all citizens deported by the occupation authorities;

12. Urges Israel to refrain from policies and practices which violate human rights in the occupied territories;

13. Requests the General Assembly, through the Economic and Social Council, to recommend to the Security Council the adoption against Israel of the measures referred to in Chapter VII of the Charter of the United Nations for its persistent violation of the human rights of the population of the Palestinian and other occupied Arab territories;

14. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity, and to report on the extent of its implementation to the Commission on Human Rights at its forty-fifth session;

15. Further requests the Secretary-General to provide the Commission with all United Nations reports appearing between sessions of the Commission and dealing with the situation of the population of those occupied territories;

16. Decides to consider this subject at its forty-fifth session as a matter of high priority.

19th meeting

15 February 1988

[Adopted by a roll-call vote of 31 to 8, with
4 abstentions. See chap. IV.]

B

The Commission on Human Rights,

Recalling Security Council resolutions 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 497 (1981) of 17 December 1981, 592 (1986) of 8 December 1986 and 605 (1987) of 22 December 1987, as well as all its previous resolutions on the application of the Geneva Conventions of 12 August 1949 to the Palestinian and other Arab territories occupied by Israel and the refusal of Israel to abide by those Conventions,

Recalling all relevant General Assembly resolutions,

Recalling the decisions of the International Conference of the Red Cross in respect of the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

Recalling the statement of the International Committee of the Red Cross of 13 January 1988 in which it reiterated its protest against the continued violation by Israel of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

Recalling its previous resolutions on this question,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused or attributed to the conflict,

Recognizing that the persistent refusal of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War creates a situation fraught with danger, and considering that it persists in violating human rights,

Taking into account that States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Convention in all circumstances,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to all Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;
2. Strongly condemns once again Israel's systematic refusal to apply that Convention in all its provisions to the Palestinian and Arab territories occupied since 1967 and their inhabitants, despite its adherence to that Convention, and its refusal to recognize the applicability of that Convention to those territories;
3. Once more strongly condemns Israel for its policies of ill-treatment and torture of Palestinian detainees and prisoners in Israeli prisons;
4. Once more urges Israel to grant prisoner-of-war status, in accordance with the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, to all Palestinian fighters captured by Israel, and to treat them accordingly;
5. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other principles of international law, in Palestinian and other Arab territories occupied since 1967, including Jerusalem; requests Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories and to accord them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war and, in particular, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and The Hague Convention IV of 1907; and demands that Israel cease forthwith all acts of torture and ill-treatment of Palestinian and Arab detainees and prisoners;
6. Urges once more all States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War to make every effort to ensure respect for and compliance with the provisions of that Convention in all the Palestinian and Arab territories occupied by Israel since 1967, including Jerusalem;
7. Strongly condemns Israel for the violations of article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War which it has perpetrated by pursuing a policy of deportation and expulsion of Palestinian citizens, as occurred recently in the case of citizens Jibril Mahmoud Rajoub, Hussam Osman Mahmoud Khodr, Bashir Ahmed Khairy and Jamal Abdallah Jabbarah, and calls upon Israel, the occupying Power, to refrain forthwith from the deportation of Palestinians and to rescind the deportation decisions to enable those who were deported to return to their homeland and property;

8. Urges Israel to co-operate with the International Committee of the Red Cross and to allow it to visit all Palestinian and Arab detainees in Israeli prisons;

9. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission on Human Rights at its forty-fifth session;

10. Decides to consider this subject at its forty-fifth session as a matter of high priority.

19th meeting
15 February 1988

(Adopted by a roll-call vote of 31 to 1, with
11 abstentions. See chap. IV.)

1988/2. Human rights in occupied Syrian territory

The Commission on Human Rights,

Guided by the provisions of the Charter of the United Nations and the Universal Declaration of Human Rights and by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Gravely concerned at the fact that Syrian and other Arab territories occupied by Israel in 1967 are still suffering from Israeli military occupation, aggression and continued violation of human rights,

Recalling Israel's violation of Article 25 of the Charter of the United Nations and its refusal to accept and carry out relevant resolutions of the Security Council, in particular resolution 497 (1981) of 17 December 1981, in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Arab Golan was null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision,

Recalling the resolution adopted by the Seventy-first Inter-Parliamentary Conference, held at Geneva from 2 to 7 April 1984, which condemned all Israeli policies and practices relating to the annexation of occupied Arab territory in Jerusalem and the Syrian Arab Golan,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/42/650),

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-FIFTH SESSION

(30 January-10 March 1989)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1989

SUPPLEMENT No. 2



UNITED NATIONS

1989/2. Question of violations of human rights
in occupied Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and The Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling that military aggression by the forces of any State against the territory of another State constitutes an offence against the peace and security of mankind,

Recalling also the relevant Security Council resolutions, including resolutions 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988 and 608 (1988) of 14 January 1988,

Recalling further General Assembly resolutions on Israeli violations of human rights in occupied Palestine,

Taking note of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/43/694),

Recalling all its previous resolutions on the subject,

1. Affirms that the Israeli occupation of Palestine constitutes a gross violation of human rights and an offence against the peace and security of mankind;

2. Affirms that the systematic and persistent practices of the Israeli occupation authorities as reflected in the killing of Palestinians, including children, the breaking of the bones of youths, causing them grievous and permanent bodily harm, the subjection of towns, villages and camps to living conditions intended to destroy them through the imposition of curfews and military siege, the throwing of gas bombs into houses, mosques and hospitals resulting in the death of many Palestinians by suffocation, and the savage

beatings and maltreatment of pregnant women, causing them to abort, all constitute serious violations of the principles of international law, human rights and fundamental freedoms;

3. Affirms that Israeli violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, applicable to the Palestinian population and territories under Israeli occupation, including the physical and psychological torture of Palestinian detainees and their subjection to improper and inhuman treatment, the imposition of collective punishment on towns, villages and camps, and the administrative detention of thousands of Palestinians, for example in the "Ansar 3" concentration camp in the Negev, the deportation and expulsion of Palestinian citizens by force, the confiscation of their property, raiding and demolition of their houses, and the annexation of Jerusalem, all constitute war crimes under international law;

4. Condemns Israel:

(a) For its gross violation of international conventions, the principles of international law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, through the systematic and persistent practices mentioned above, and calls upon Israel to desist forthwith from such practices and, pursuant to the principles of international law and the relevant United Nations resolutions, to withdraw from the Palestinian territories occupied by force;

(b) For its expropriation of Palestinian land and the establishment of Israeli settlements thereon;

(c) For annexing Jerusalem and altering its architectural character and its demographic and structural composition as well as the institutional status of the occupied Palestinian territories, and considers all such measures and the consequences thereof null and void;

(d) For its attacks against holy places, such as mosques and churches, and its attempt to occupy Al Aqsa Mosque and to destroy it, as well as for obstructing the freedom of worship and religious practices;

(e) For its attacks on universities, schools and institutes and the closure thereof in occupied Palestine, and its obstruction of the education of thousands of students and pupils in such institutions;

5. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation to the Commission on Human Rights at its forty-sixth session;

6. Further requests the Secretary-General to provide the Commission with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the population of occupied Palestine are living;

7. Decides to consider this subject at its forty-sixth session as a matter of high priority.

27th meeting

17 February 1989

[Adopted by a roll-call vote of 32 to 8, with
2 abstentions. See chap. IV.]

B

The Commission on Human Rights,

Recalling Security Council resolutions 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 497 (1981) of 17 December 1981, 592 (1986) of 8 December 1986 and 605 (1987) of 22 December 1987, as well as all its previous resolutions on the application of the Geneva Conventions of 12 August 1949 to the Palestinian and other Arab territories occupied by Israel and the refusal of Israel to abide by those Conventions,

Recalling all relevant General Assembly resolutions,

Recalling the decisions of the International Conference of the Red Cross in respect of the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

Recalling its previous resolutions on this question,

Taking into account that States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Convention in all circumstances,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to all Palestinian territories occupied by Israel since 1967, including Jerusalem;

2. Strongly condemns once again Israel's refusal to apply that Convention to Palestine and Arab territories occupied since 1967 and their inhabitants;

3. Once more strongly condemns Israel for its policies of ill-treatment and torture of Palestinian detainees and prisoners in Israeli prisons and concentration camps and its disregard for the principles of international law, the Charter of the United Nations and the provisions of the Geneva Conventions of 1949,

4. Once more urges Israel to grant prisoner-of-war status, in accordance with the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, to all Palestinian fighters captured by Israel, and to treat them accordingly;

5. Urges once more all States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War to make every effort to ensure respect for and compliance with the provisions of that Convention in all the Palestinian and Arab territories occupied by Israel since 1967, including Jerusalem;

6. Strongly condemns Israel for the violations of article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War which it has perpetrated by pursuing a policy of deportation and expulsion of Palestinian citizens, and calls upon Israel to comply with the resolutions of the Security Council, the General Assembly and the Commission on Human Rights which demand their return to their homeland and to desist forthwith from this policy;

7. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission at its forty-sixth session;

8. Decides to consider this subject at its forty-sixth session as a matter of high priority.

27th meeting

17 February 1989

[Adopted by a roll-call vote of 32 to 1, with
9 abstentions. See chap. IV.]

1989/3. Situation of human rights in Namibia

The Commission on Human Rights,

Recalling its resolutions 1987/8 of 26 February 1987 and 1988/10 of 29 February 1988,

Recalling all relevant resolutions of the General Assembly, in particular, resolutions 43/26 A to E of 17 November 1988, and Declaration AHG/Decl.1 (XXIV) Rev.1 adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its twenty-fourth ordinary session, held at Addis Ababa from 25 to 28 May 1988 (A/43/398, annex II),

COMMISSION ON HUMAN RIGHTS
REPORT ON THE FORTY-SIXTH SESSION

(29 January-9 March 1990)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1990

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1990

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS FORTY-SIXTH SESSION

A. Resolutions

1990/1. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2 of the Universal Declaration of Human Rights, everyone has the right to leave any country including his own and to return to his country,

Affirming that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to all Palestinian and Arab territories occupied by Israel since 1967, including Jerusalem,

Seriously concerned at the recent suggestions that immigrants to Israel may be settled in the occupied territories,

1. Affirms that the settling of Israeli civilians in the occupied territories is illegal and contravenes the relevant provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War,

2. Calls upon the Government of Israel to refrain from settling immigrants in the occupied territories.

28th meeting
16 February 1990

[Adopted by a roll-call vote of 42 to none,
with 1 abstention. See chap. IV.]

1990/2. Question of violations of human rights in occupied Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the relevant Security Council resolutions, including resolutions 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988 and 608 (1988) of 14 January 1988,

Recalling further General Assembly resolutions on Israeli violations of human rights in occupied Palestine,

Taking note of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/44/599),

Recalling all its previous resolutions on the subject,

1. Condemns the policies and practices of Israel, the occupying Power, which violate the human rights of the Palestinian people in the occupied Palestinian territory, including Jerusalem, and, in particular, such acts as the opening of fire by the Israeli army and settlers that result in the killing and wounding of defenceless Palestinian civilians, the imposition of restrictive economic measures, the demolition of houses, the ransacking of real or personal property belonging individually or collectively to private persons, collective punishment and detention, and the confiscation of the property of the inhabitants, including their bank accounts, as happened recently in the village of Beit Sahour;

2. Affirms the right of the Palestinian people to resist the Israeli occupation by all means, in accordance with the relevant United Nations resolutions, consistent with the purposes and principles of the Charter of the United Nations;

3. Calls once more upon Israel to desist from all forms of violations of human rights in the Palestinian and other occupied Arab territories and to respect the principles of international law;

4. Calls upon Israel to withdraw from the Palestinian and other occupied Arab territories in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

5. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation to the Commission on Human Rights at its forty-seventh session;

6. Further requests the Secretary-General to provide the Commission with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the population of the Palestinian and other occupied Arab territories is living;

7. Decides to consider the question at its forty-seventh session as a matter of high priority.

28th meeting
16 February 1990

[Adopted by 38 votes to 1,
with 1 abstention. See chap. IV.]

B

The Commission on Human Rights,

Recalling Security Council resolutions 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 497 (1981) of 17 December 1981, 592 (1986) of 8 December 1986 and 605 (1987) of 22 December 1987, as well as all its previous resolutions on the application of the Geneva Conventions of 12 August 1949 to the Palestinian and other Arab territories occupied by Israel and the refusal of Israel to abide by those Conventions,

Recalling all relevant General Assembly resolutions,

Recalling the decisions of the International Conference of the Red Cross in respect of the application of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

Recalling its previous resolutions on this question,

Taking into account that States parties to the Fourth Geneva Convention undertake, in accordance with article 1 thereof, to respect, and ensure respect for, the Convention in all circumstances,

Recalling the wide international support to the accession of Palestine to the Geneva Conventions of 1949, as expressed in resolution 1989/4 of 31 August 1989 adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-first session, as well as in the resolution adopted by the ninth Conference of Heads of State or Government of the Non-Aligned Countries, held at Belgrade from 4 to 7 September 1989 (see A/44/551, annex), which both welcomed the accession of Palestine to the four Geneva Conventions of 1949,

1. Reaffirms that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;

2. Welcomes with high appreciation the accession of Palestine to the four Geneva Conventions of 1949;

3. Urges once more all States parties to the Fourth Geneva Convention to make every effort to ensure respect for, and compliance with, the provisions of that Convention in all the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;

4. Strongly condemns once more Israel's refusal to apply the Fourth Geneva Convention to Palestine and the Arab territories occupied since 1967 and to their inhabitants, and Israel's policies of ill-treatment and torture of Palestinian detainees and prisoners in Israeli prisons and concentration camps, and its disregard for the provisions of the Fourth Geneva Convention;

5. Strongly condemns Israel for its violations of article 49 of the Fourth Geneva Convention by pursuing a policy of deportation and expulsion of Palestinian citizens, and calls upon Israel to comply with the resolutions of the Security Council, the General Assembly and the Commission on Human Rights which provide for their return to their homeland, and to desist forthwith from this policy;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission on Human Rights at its forty-seventh session;

7. Decides to consider the question at its forty-seventh session as a matter of high priority.

28th meeting
16 February 1990

[Adopted by a roll-call vote of 32 to 1,
with 10 abstentions. See chap. IV.]

1990/3. Human rights in the occupied Syrian Arab territory

The Commission on Human Rights,

Deeply concerned by the suffering of the population of the Syrian and other Arab territories occupied by Israel since 1967 and by continued Israeli military occupation and that the human rights of the population continue to be violated,

Recalling Security Council resolution 497 (1981) of 17 December 1981, in which the Council, inter alia, decided that the Israeli decision to impose its

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-SEVENTH SESSION

(28 January-8 March 1991)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1991

SUPPLEMENT No. 2



UNITED NATIONS

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE COMMISSION
AT ITS FORTY-SEVENTH SESSION

A. Resolutions

1991/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine

A

The Commission on Human Rights.

Guided by the purposes and principles of the Charter of the United Nations as well as the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of the First Protocol annexed to it, and The Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the relevant Security Council resolutions, in particular resolutions 252 (1968) of 25 May 1968, 267 (1969) of 3 July 1969, 298 (1971) of 25 September 1971, 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980, 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, and 672 (1990) of 12 October 1990,

Recalling the General Assembly resolutions on Israeli violations of human rights in occupied Palestine, since 1967 and until now,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, in particular the report of 1990 (A/45/576),

Expressing its deep concern at the contents of the report by the Special Rapporteur, Mr. S. Amos Wako (E/CN.4/1990/22 and Corr.1), regarding summary or arbitrary executions and what is committed by Israel in this respect,

Recalling all its previous resolutions on the subject,

1. Condemns the policies and practices of Israel, which violate the human rights of the Palestinian people in the Palestinian territory occupied

by Israel with military force, including Jerusalem, and, in particular, such acts as the opening of fire by the Israeli army and settlers on Palestinian civilians that results in killing and wounding them, as has happened continuously since the eruption of the Palestinian people's intifada against Israeli military occupation and as took place in the massacres of 20 May 1990 in Rishon Letzion and in the Al-Aqsa Mosque on 8 October 1990; the imposition of restrictive economic measures; the demolition of houses; the ransacking of real or personal property belonging individually or collectively to private persons; collective punishment; arbitrary and administrative detention of thousands of Palestinians; the confiscation of the property of Palestinians, including their bank accounts; the expropriation of land; the prevention of travel; the closure of universities and schools; the perpetration of crimes of torture in prisons and detention centres; and the establishment of Jewish settlements in the occupied Palestinian territory;

2. Affirms the right of the Palestinian people to resist the Israeli occupation by all means, in accordance with the relevant United Nations resolutions, consistent with the purposes and principles of the Charter of the United Nations, as has been expressed by the Palestinian people in their brave intifada since December 1987;

3. Calls once more upon Israel to desist from all forms of violations of human rights in the Palestinian and other occupied Arab territories and to respect the principles of international law, and its commitments to the provisions of the Charter;

4. Calls upon Israel to withdraw from the Palestinian territory, including Jerusalem, and other occupied Arab territories in accordance with the resolutions of the United Nations and the Commission on Human Rights in this regard;

5. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation to the Commission on Human Rights at its forty-eighth session;

6. Further requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the population of the Palestinian and other occupied Arab territories is living;

7. Decides to consider the question at its forty-eighth session as a matter of priority.

28th meeting
15 February 1991

[Adopted by a roll-call vote of 28 to 1,
with 10 abstentions. See chap. IV.]

The Commission on Human Rights.

Recalling Security Council resolutions 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 497 (1981) of 17 December 1981, 592 (1986) of 8 December 1986, and 605 (1987) of 22 December 1987, as well as all its previous resolutions on the application of the Geneva Conventions of 12 August 1949 to the Palestinian and other Arab territories occupied by Israel and the refusal of Israel to abide by those Conventions,

Recalling all relevant General Assembly resolutions on the applicability of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the occupied Palestinian territory, and the necessity for Israel to abide by their provisions,

Recalling the decisions of the International Conference of the Red Cross in respect of the application of the Fourth Geneva Convention,

Recalling its previous resolutions on this question,

Recalling the different appeals and statements of the International Committee of the Red Cross which point to the continuing Israeli violations of the provisions of the Fourth Geneva Convention and which call upon those authorities to respect the provisions of the Convention and abide by them,

Taking into account that the States parties to the Fourth Geneva Convention undertake, in accordance with article 1 thereof, to respect, and ensure respect for, the Convention in all circumstances,

1. Reaffirms that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and calls upon Israel to comply with its international commitments, to respect the Fourth Geneva Convention and to apply it in the occupied Palestinian territory, including Jerusalem;

2. Urges once more all States parties to the Fourth Geneva Convention to make every effort to ensure the Israeli occupation authorities' respect for, and compliance with, the provisions of that Convention in the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and to undertake the necessary practical measures to ensure the provision of international protection for the Palestinian people under occupation in accordance with the provisions of article 1 and other relevant articles of the Fourth Geneva Convention;

3. Strongly condemns once more the refusal of Israel to apply the Fourth Geneva Convention to Palestine and the Arab territories occupied since 1967 and to their inhabitants, and Israel's policies of ill-treatment and

torture of Palestinian detainees and prisoners in Israeli prisons and concentration camps, and its continued deliberate disregard for the provisions of the Fourth Geneva Convention, in contravention of the resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

4. Strongly condemns Israel for its grave violations of article 49 of the Fourth Geneva Convention, for its continuation of a policy of deportation of Palestinian citizens and their expulsion outside their homeland, as recently happened to the Palestinian citizens Imad Khaled Al-Alami, Fadel Khaled Zuheir Al-Zaamout, Mustafa Yusef Abdallah Al-Lidawi and Mustafa Ahmed Jamil Al-Qanouh, and calls upon Israel to comply with the resolutions of the Security Council, the General Assembly and the Commission on Human Rights which provide for their return to their homeland, and to desist forthwith from this policy;

5. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to submit a report on progress in its implementation to the Commission on Human Rights at its forty-eighth session;

6. Decides to consider the question at its forty-eighth session as a matter of high priority.

28th meeting

15 February 1991

[Adopted by a roll-call vote of 26 to 1,
with 11 abstentions. See chap. IV.]

1991/2. Human rights in the occupied Syrian Arab territory

The Commission on Human Rights,

Deeply concerned by the suffering of the population of the Syrian and other Arab territories occupied by Israel since 1967 and by continued Israeli military occupation and that the human rights of the population continue to be violated,

Recalling Security Council resolution 497 (1981) of 17 December 1981, in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Arab Golan was null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision,

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-EIGHTH SESSION

(27 January-6 March 1992)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1992

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1992

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6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its forty-ninth session;

7. Decides to include in the provisional agenda of its forty-ninth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

27th meeting

14 February 1992

[Adopted by a roll-call vote of 31 to 1,
with 17 abstentions. See chap. IV.]

1992/2. Question of the violation of human rights in the
occupied Arab territories, including Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the relevant Security Council resolutions, in particular resolutions 252 (1968) of 25 May 1968, 267 (1969) of 3 July 1969, 298 (1971) of 25 September 1971, 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980, 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 672 (1990) of 12 October 1990, 694 (1991) of 24 May 1991, and 726 (1992) of 6 January 1992,

Recalling also the General Assembly resolutions on Israeli violations of human rights in occupied Palestine, since 1967 and until now,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, in particular its report of 18 October 1991 (A/46/522),

Expressing its deep concern at the contents of the report (E/CN.4/1991/36) by the Special Rapporteur, Mr. S. Amos Wako, regarding summary or arbitrary executions and the acts committed by Israel in this respect referred to in the report, in particular in paragraphs 290 to 296,

Recalling all its previous resolutions on the subject,

1. Condemns the policies and practices of Israel, which violate the human rights of the Palestinian people in the Palestinian territory occupied by Israel with military force, including Jerusalem, and, in particular, such acts as the opening of fire by the Israeli army and settlers on Palestinian civilians that results in killing and wounding them, as has happened continuously since the eruption of the Palestinian people's intifada against Israeli military occupation; the imposition of restrictive economic measures; the demolition of houses; the expropriation of houses as happened recently in Silwan village; the ransacking of property belonging individually or collectively to private persons; collective punishment; arbitrary and administrative detention of thousands of Palestinians; the confiscation of the property of Palestinians, including their bank accounts; the expropriation of land; the prevention of travel; the closure of universities and schools; the perpetration of crimes of torture in Israeli prisons and detention centres; and the establishment of Jewish settlements in the occupied Palestinian territory;

2. Affirms the right of the Palestinian people to resist the Israeli occupation by all means, in accordance with the relevant United Nations resolutions, consistent with the purposes and principles of the Charter of the United Nations, as has been expressed by the Palestinian people in their brave intifada since December 1987, in legitimate resistance against the Israeli military occupation;

3. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Palestinian and other occupied Arab territories and to respect the bases of international law, the principles of international humanitarian law, and its commitments to the provisions of the Charter and resolutions of the United Nations;

4. Calls upon Israel to withdraw from the Palestinian territory, including Jerusalem, and other occupied Arab territories in accordance with the resolutions of the United Nations and the Commission on Human Rights in this regard;

5. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its forty-ninth session;

6. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

7. Decides to consider the question at its forty-ninth session as a matter of priority.

27th meeting

14 February 1992

[Adopted by a roll-call vote of 30 to 16,
with 3 abstentions. See chap. IV.]

B

The Commission on Human Rights,

Recalling Security Council resolutions related to the applicability of the four Geneva Conventions of 1949 to the Palestinian and other occupied Arab territories and the condemnation by the Security Council of Israel for its refusal to abide by these Conventions, particularly resolutions 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 497 (1981) of 17 December 1981, 592 (1986) of 8 December 1986, 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 672 (1990) of 12 October 1990, 694 (1991) of 24 May 1991 and 726 (1992) of 6 January 1992,

Recalling all relevant General Assembly resolutions on the applicability to the occupied Palestinian territory of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which urge Israel's commitment to and respect for their provisions,

Recalling also the decisions of the International Conference of the Red Cross in respect of the application of the Fourth Geneva Convention in all circumstances,

Recalling further its previous resolutions on this question,

Recalling the different appeals and statements of the International Committee of the Red Cross which point to the continuing violations by the Israeli occupation authorities of the provisions of the Fourth Geneva Convention, particularly article 49 thereof, and which call upon those authorities to respect the provisions of the Convention and abide by them,

Taking into account that the States parties to the Fourth Geneva Convention undertake, in accordance with article 1 thereof, to respect, and ensure respect for, the Convention in all circumstances,

1. Reaffirms that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and that Israel's longstanding refusal to apply the Convention to those territories has led to the perpetration by the Israeli authorities of grave violations of human rights against Palestinian citizens, and calls upon Israel to comply with its international commitments, to respect the Fourth Geneva Convention and to apply it in the occupied Palestinian territory, including Jerusalem;

2. Urges once more all States parties to the Fourth Geneva Convention to make every effort to ensure the Israeli occupation authorities' respect for, and compliance with, the provisions of that Convention in the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and to undertake the necessary practical measures to ensure the provision of international protection for the Palestinian people under occupation, in accordance with the provisions of article 1 and other relevant articles of the Fourth Geneva Convention as well as article 89 of Additional Protocol I to the four Geneva Conventions; also urges the States parties to the Fourth Geneva Convention to act in accordance with article 90 of Additional Protocol I by requesting the fact-finding commission referred to therein to investigate the grave violations of international humanitarian law in the occupied Palestinian territory mentioned in the present resolution;

3. Strongly condemns once more the refusal of Israel to apply the Fourth Geneva Convention to Palestine and the Arab territories occupied since 1967 and to their inhabitants, Israel's policies of perpetrating crimes of torture against Palestinian detainees and prisoners in Israeli prisons and concentration camps and its continued deliberate disregard for the provisions of the Fourth Geneva Convention, in contravention of resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

4. Strongly condemns Israel for its grave violations of article 49 of the Fourth Geneva Convention, for continuing its policy of deporting Palestinian citizens and of expelling them from their homeland, as recently happened to the Palestinian citizens Ihab Mohammad Ali Al-Ashkar, Sami Attiya Zayed Abu Samhadana, Ahmad Hassan Abdullah Youssef, Marwan Hassan Mohammad Afana, Ra'fat Osman Ali El-Najjar, El-Sheikh Ahmad Mohammad Ali El-Nimer Hamdan, Khader Attiya Khader Mohrez, Iyad Elhami Abdelraouf Gouda,

Ghassan Mohammad Soleiman Jarrar, Hassan Abdullah Hassan Sha'ban, Ali Fares Hassan El-Khatib and Omar Nimer Abdelrahman Safi, and calls upon Israel to comply with the resolutions of the Security Council, particularly resolution 726 (1992) of 6 January 1992, of the General Assembly and the Commission on Human Rights on the question;

5. Calls upon Israel to refrain immediately from deporting Palestinian citizens from their homeland, and to allow all those who have been deported since 1967 to return to their homeland without any obstacle or delay;

6. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to report on progress in its implementation by the Government of Israel to the Commission on Human Rights at its forty-ninth session;

7. Decides to consider the question at its forty-ninth session as a matter of high priority.

27th meeting

14 February 1992

[Adopted by a roll-call vote of 31 to 1,
with 17 abstentions. See chap. IV.]

1992/3. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country including his own and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, and 1991/3 of 15 February 1991,

Gravely concerned at the large-scale establishment by the Israeli Government of settlers, including immigrants, in the occupied territories, which may change the physical character and demographic composition of the occupied territories,

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the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fiftieth session;

7. Decides to include in the provisional agenda of its fiftieth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

29th meeting
19 February 1993

[Adopted by a roll-call vote of 29 to 1,
with 17 abstentions. See chap. IV.]

1993/2. Question of the violation of human rights in the occupied Arab territories, including Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and The Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the relevant Security Council resolutions, in particular resolutions 252 (1968) of 25 May 1968, 267 (1969) of 3 July 1969, 298 (1971) of 25 September 1971, 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980, 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 672 (1990) of 12 October 1990, 694 (1991) of 24 May 1991, 726 (1992) of 6 January 1992 and 799 (1992) of 18 December 1992,

Recalling also the General Assembly resolutions on Israeli violations of human rights in occupied Palestine, since 1967 and until now,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968,

Noting with great concern the Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights,

Recalling all its previous resolutions on the subject,

1. Condemns the policies and practices of Israel, which violate the human rights of the Palestinian people in the Palestinian territory occupied by Israel with military force, including Jerusalem, and, in particular, the opening of fire by the Israeli army and settlers on Palestinian civilians that results in killing and wounding them, as has happened continuously since the eruption of the Palestinian people's intifada against the Israeli military occupation; the imposition of restrictive economic measures; the demolition of houses; the expropriation of houses; the ransacking of property belonging individually or collectively to private persons; collective punishment; arbitrary and administrative detention of thousands of Palestinians; the confiscation of property of Palestinians, including their bank accounts; the expropriation of land; the prevention of travel; the closure of universities and schools; the perpetration of crimes of torture in Israeli prisons and detention centres; and the establishment of Jewish settlements in the occupied Palestinian territory;

2. Affirms the right of the Palestinian people to resist the Israeli occupation by all means, in accordance with the relevant United Nations resolutions, consistent with the purposes and principles of the Charter of the United Nations, as has been expressed by the Palestinian people in their brave intifada since December 1987, in legitimate resistance against the Israeli military occupation;

3. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Palestinian and other occupied Arab territories and to respect the bases of international law, the principles of international humanitarian law, and its commitments to the provisions of the Charter and resolutions of the United Nations;

4. Decides to appoint a special rapporteur with the following mandate:

(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories;

5. Calls upon Israel to cooperate with the Special Rapporteur and facilitate his task;

6. Also calls upon Israel to withdraw from the Palestinian territory, including Jerusalem, and other occupied Arab territories in accordance with the resolutions of the United Nations, including those of the Commission, in this regard;

7. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fiftieth session;

8. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

9. Decides to consider the question at its fiftieth session as a matter of priority.

29th meeting

19 February 1993

[Adopted by a roll-call vote of 26 to 16,
with 5 abstentions. See chap. IV.]

B

The Commission on Human Rights,

Recalling Security Council resolutions related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other occupied Arab territories and the condemnation by the Security Council of Israel for its refusal to abide by the Convention, particularly resolutions 446 (1979) of 22 March 1979, 465 (1980) of 1 March 1980, 497 (1981) of 17 December 1981, 592 (1986) of 8 December 1986, 605 (1987) of 22 December 1987, 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 672 (1990) of 12 October 1990, 681 (1990) of 20 December 1990, 694 (1991) of 24 May 1991, 726 (1992) of 6 January 1992 and 799 (1992) of 18 December 1992,

Recalling all relevant General Assembly resolutions on the applicability to the occupied Palestinian territory of the Convention which urge Israel's commitment to and respect for their provisions,

Recalling also the decisions of the International Conference of the Red Cross in respect of the application of the Convention in all circumstances and the statements of the International Committee of the Red Cross which condemn the continuous grave violations by Israel of the provisions of the Convention and its refusal to apply those provisions in the occupied territories,

Taking into account that the States parties to the Convention undertake, in accordance with article 1 thereof, to respect, and ensure respect for, the Convention in all circumstances,

Noting with great concern the report of the Secretary-General (S/25149) submitted to the Security Council, which affirmed the refusal of Israel to comply with the resolutions of the Security Council and recommended that the Security Council take the necessary measures to force Israel to adhere to resolution 799 (1992) and to implement it,

Recalling all its previous resolutions on the subject,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and that Israel's long-standing refusal to apply the Convention to those territories has led to the perpetration by the Israeli authorities of grave violations of human rights against Palestinian citizens, and calls upon Israel to comply with its international commitments, to respect the Convention and to apply it in the occupied Palestinian territory, including Jerusalem;

2. Urges once more all States parties to the Convention to make every effort to ensure the Israeli occupation authorities' respect for and compliance with the provisions of the Convention in the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and to undertake the necessary practical measures to ensure the provision of international protection for the Palestinian people under occupation, in accordance with the provisions of article 1 and other relevant articles of the Convention as well as article 89 of Additional Protocol I to the four Geneva Conventions; also urges the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War to act in accordance with article 90 of Additional Protocol I by requesting the fact-finding commission referred to therein to investigate the grave violations of international humanitarian law in the occupied Palestinian territory mentioned in the present resolution;

3. Strongly condemns once more the refusal of Israel to apply the Convention to Palestine and the Arab territories occupied since 1967 and to their inhabitants, Israel's policies of perpetrating crimes of torture against Palestinian detainees and prisoners in Israeli prisons and concentration camps

and its continued deliberate disregard for the provisions of the Convention, in contravention of resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

4. Strongly condemns Israel for its grave violations of article 49 of the Convention and for continuing its policy of deporting Palestinian citizens and of expelling them from their homeland, as happened to more than four hundred Palestinian citizens on 17 December 1992, and calls upon Israel to comply with the resolutions of the Security Council, particularly resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 672 (1990) of 12 October 1990, 681 (1990) of 20 December 1990, 694 (1991) of 24 May 1991, 726 (1992) of 6 January 1992 and 799 (1992) of 18 December 1992, as well as with the relevant resolutions of the General Assembly and the Commission on Human Rights, and to refrain from such a policy which violates the principles of international law;

5. Calls upon Israel to allow all those who have been deported since 1967 to return to their homeland without delay in implementation of the resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

6. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to report on progress in its implementation by the Government of Israel to the Commission on Human Rights at its fiftieth session;

7. Decides to consider the question at its fiftieth session as a matter of high priority.

29th meeting

19 February 1993

[Adopted by a roll-call vote of 27 to 1,
with 19 abstentions. See chap. IV.]

1993/3. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country, including his own, and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

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6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fifty-first session;

7. Decides to include in the provisional agenda of its fifty-first session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

30th meeting
18 February 1994

[Adopted by a roll-call vote of 25 votes to 1,
with 25 abstentions. See chap. IV.]

1994/3. Question of the violation of human rights in the occupied Arab territories, including Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and The Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the relevant Security Council resolutions,

Recalling also the General Assembly resolutions on Israeli violations of human rights in occupied Palestine, since 1967 and until now,

Recalling further the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Taking note with appreciation of the report (E/CN.4/1994/14) of the Special Rapporteur, Mr. René Felber, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968,

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights,

Welcoming the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, whereby violations of human rights will end through the full withdrawal of Israeli forces from the occupied Palestinian territory,

Recalling all its previous resolutions on the subject,

1. Deeply regrets the continued violations of human rights in the occupied Palestinian territory since the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993;

2. Condemns the continued violations of the human rights of the Palestinian people in the Palestinian territory occupied by Israel with military force, including Jerusalem, and, in particular, the opening of fire by the Israeli army and settlers on Palestinian civilians that results in killing and wounding them; the imposition of restrictive economic measures; the demolition of houses; the expropriation of houses; collective punishment; arbitrary and administrative detention of thousands of Palestinians without trial; the confiscation of property of Palestinians; the expropriation of land; the prevention of travel; the closure of universities and schools; the perpetration of crimes of torture in Israeli prisons and detention centres; and the establishment of Israeli settlements in the occupied Palestinian territory;

3. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Palestinian and other occupied Arab territories and to respect the bases of international law, the principles of international humanitarian law, and its commitments to the provisions of the Charter and resolutions of the United Nations;

4. Also calls upon Israel to withdraw from the Palestinian territory, including Jerusalem, and the other occupied Arab territories in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

5. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-first session;

6. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

7. Decides to consider the question at its fifty-first session as a matter of priority.

30th meeting
18 February 1994

[Adopted by a roll-call vote of 26 to 3,
with 23 abstentions. See chap. IV.]

B

The Commission on Human Rights,

Recalling Security Council resolutions related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other occupied Arab territories, which call for Israel's commitment to them,

Recalling all relevant General Assembly resolutions on the applicability to the occupied Palestinian territory of the Convention which urge Israel's commitment to and respect for their provisions,

Recalling also the decisions of the International Conference of the Red Cross and the International Conference for the Protection of War Victims (Geneva, 30 August - 1 September 1993) in respect of the application of the Convention in all circumstances and the statements of the International Committee of the Red Cross which condemn the continuous serious violations by Israel of the provisions of the Convention and its refusal to apply those provisions in the occupied territories,

Recalling further the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Taking into account that States parties to the Convention undertake, in accordance with article 1 thereof, to respect, and ensure respect for, the Convention in all circumstances,

Recalling all its previous resolutions on the subject,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and that Israel's long-standing refusal to apply the Convention to those territories has led to the perpetration by the Israeli authorities of grave violations of human rights against Palestinian citizens,

and calls upon Israel to comply with its international commitments, to respect the Convention and to apply it in the occupied Palestinian territory, including Jerusalem;

2. Urges once more all States parties to the Convention to make every effort to ensure the Israeli occupation authorities' respect for and compliance with the provisions of the Convention in the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and to undertake the necessary practical measures to ensure the provision of international protection for the Palestinian people under occupation, in accordance with the provisions of article 1 and other relevant articles of the Convention;

3. Strongly condemns once more the refusal of Israel to apply the Convention to Palestine and the Arab territories occupied since 1967 and to their inhabitants, Israel's policies of perpetrating crimes of torture against Palestinian detainees and prisoners in Israeli prisons and detention camps and its continued deliberate disregard for the provisions of the Convention, in contravention of resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

4. Calls upon Israel to allow those who have been deported since 1967 to return to their homeland without delay in implementation of the resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

5. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to report on progress in its implementation by the Government of Israel to the Commission on Human Rights at its fifty-first session;

6. Decides to consider the question at its fifty-first session as a matter of high priority.

30th meeting
18 February 1994

[Adopted by a roll-call vote of 26 to 1,
with 25 abstentions. See chap. IV.]

1994/4. Middle East peace process

The Commission of Human Rights,

Recalling General Assembly resolution 48/58 on the Middle East peace process, adopted on 14 December 1993,

Recalling also the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

COMMISSION ON HUMAN RIGHTS
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(30 January - 10 March 1995)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1995

SUPPLEMENT No. 4



UNITED NATIONS
New York and Geneva, 1995

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE COMMISSION
AT ITS FIFTY-FIRST SESSION

A. Resolutions

1995/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other occupied Arab territories, including Jerusalem,

Recalling also the General Assembly resolutions on Israeli violations of human rights in occupied Palestine, since 1967 and until now,

Recalling further the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Taking note of the report (E/CN.4/1995/19) of the Special Rapporteur, Mr. René Felber, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, including the latest (A/49/511),

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling on Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to

the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem,

Welcoming the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993 and of the following agreement, whereby violations of human rights will end through the full withdrawal of Israeli forces from the occupied Palestinian territory, including Jerusalem,

Recalling all its previous resolutions on the subject, including the latest, resolution 1994/3 of 18 February 1994,

1. Deeply regrets the continued violations of human rights in the occupied Palestinian territory since the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, in particular the continuation of acts of killing and the detention of thousands of Palestinians without trial, the continuation of the extension and the establishment of Israeli settlements, the confiscation of property of Palestinians and the expropriation of their land;

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem;

3. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Palestinian and other occupied Arab territories and to respect the bases of international law, the principles of international humanitarian law, and its commitments to the provisions of the Charter and resolutions of the United Nations;

4. Also calls upon Israel to withdraw from the Palestinian territory, including Jerusalem, and the other occupied Arab territories in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

5. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-second session;

6. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

7. Decides to consider the question at its fifty-second session as a matter of high priority.

29th meeting
17 February 1995

[Adopted by a roll-call vote of 26 to 2,
with 21 abstentions. See chap. IV.]

1995/2. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the population of the occupied Syrian Golan due to the violation of their human rights since the Israeli military occupation of 1967,

Recalling Security Council resolution 497 (1981) of 17 December 1981,

Recalling also all relevant General Assembly resolutions, including the latest, resolution 49/36 D of 9 December 1994, in which the Assembly, inter alia, called upon Israel to put an end to its occupation of the Arab territories,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory,

Reaffirming that the acquisition of territory by force is inadmissible under the principles of international law and under the Charter of the United Nations,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/49/511) and, in this connection, regretting Israel's constant refusal to cooperate with and to receive the Special Committee,

Guided by the relevant provisions of the Charter of the United Nations and the Universal Declaration of Human Rights and with particular reference to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the relevant provisions of the Hague Conventions of 1899 and 1907,

Noting with satisfaction the convening in Madrid of the International Peace Conference on the Middle East on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, with the hope that substantial and concrete progress will be achieved on the Syrian and Lebanese tracks for the realization of a just, comprehensive and lasting peace in the region,

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2. Also calls upon Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, and emphasizes that the displaced persons of the population of the occupied Syrian Golan must be allowed to return to their homes and to recover their properties;

3. Further calls upon Israel to desist from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan and to desist from its repressive measures against them, and from all other practices mentioned in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;

4. Determines that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the occupied Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and have no legal effect;

5. Calls once again upon Member States not to recognize any of the legislative or administrative measures and actions referred to in the present resolution;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fifty-third session;

7. Decides to include in the provisional agenda of its fifty-third session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

34th meeting

11 April 1996

[Adopted by a roll-call vote of 22 votes to 1,
with 29 abstentions. See chap. IV.]

1996/3. Question of the violation of human rights in the
occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other occupied Arab territories, including Jerusalem,

Recalling also the General Assembly resolutions on Israeli violations of human rights in occupied Palestine, since 1967 and until now,

Recalling further the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights in June 1993,

Taking note of the report (E/CN.4/1996/18) of the Special Rapporteur, Mr. Hannu Halinen, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, including the latest (A/50/463),

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling on Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem,

Welcoming anew the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993 and of the following agreement, whereby violations of human rights will end through the full withdrawal of Israeli forces from the occupied Palestinian territory, including Jerusalem,

Recalling all its previous resolutions on the subject, including the latest, resolution 1995/1 of 17 February 1995,

1. Deeply regrets the continued violations of human rights in the occupied Palestinian territory since the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, in particular the continuation of acts of killing and the detention of thousands of Palestinians without trial, the continuation of the extension and the establishment of Israeli settlements, the confiscation of property of Palestinians and expropriation of their land, and calls upon Israel to cease these acts immediately;

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and considers any change in the geographic and demographic status of the city of Jerusalem from its situation prior to the June 1967 war to be illegal and void;

3. Calls upon Israel to cease immediately its policy of enforcing collective punishments, such as demolition of houses and closure of the Palestinian territory, a measure which threatens thousands of Palestinians with hunger and endangers their lives;

4. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Palestinian and other occupied Arab territories and to respect the bases of international law, the principles of international humanitarian law and its commitments to the provisions of the Charter and resolutions of the United Nations;

5. Also calls upon Israel to withdraw from the Palestinian territory, including Jerusalem, and the other occupied Arab territories in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

6. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-third session;

7. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

8. Decides to consider the question at its fifty-third session, as a matter of high priority.

34th meeting

11 April 1996

[Adopted by a roll-call vote of 27 votes to 2,
with 23 abstentions. See chap. IV.]

1996/4. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country, including his own, and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, 1991/3 of 15 February 1991, 1992/3 of 14 February 1992, 1993/3 of 19 February 1993, 1994/1 of 18 February 1994 and 1995/3 of 17 February 1995 in which, inter alia, it reaffirmed the illegality of the Israeli settlements in the occupied territories, and noting that Israel has not fully complied with the provisions of those resolutions,

Welcoming the positive development that originated with the International Peace Conference on the Middle East convened in Madrid on 30 October 1991, including in particular the Declaration of Principles on Interim Self-Government Arrangements signed in Washington by the Government of Israel and the Palestine Liberation Organization on 13 September 1993 as well as the Interim Agreement on the West Bank and the Gaza Strip signed in Washington by the same parties on 28 September 1995, followed by the partial redeployment of the Israeli army from the main Palestinian towns and the democratic election of the Palestinian Council and President of the Palestinian Authority,

Condemning in the strongest terms all acts of terrorism, and calling on the Parties not to allow them to affect the ongoing peace process negatively,

Noting with appreciation the report (E/CN.4/1996/18) submitted by the Special Rapporteur pursuant to resolution 1993/2 A of 19 February 1993, in which he recommends, inter alia, that the confiscation of Palestinian-owned land and the construction or expansion of settlements should be halted immediately,

Noting that the question of the Israeli settlements in the occupied territories will be addressed during the negotiations on the final status of the territories, which will start not later than May 1996, and convinced in this regard that a complete cessation by Israel of its policy of expanding the

E/1997/23
E/CN.4/1997/150

COMMISSION ON HUMAN RIGHTS REPORT ON THE FIFTY-THIRD SESSION

(10 March-18 April 1997)

**ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1997**

SUPPLEMENT No. 3



UNITED NATIONS

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE COMMISSION
AT ITS FIFTY-THIRD SESSION

A. Resolutions

1997/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Palestinian territories, including Jerusalem, and other occupied Arab territories,

Recalling also the General Assembly resolutions on Israeli violations of human rights in the Palestinian occupied territories, since 1967 and until now,

Recalling further the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23),

Taking note of the report (E/CN.4/1997/16) of the Special Rapporteur, Mr. Hannu Halinen, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, including the latest (A/51/99/Add.2),

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem,

Welcoming anew the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993 and of the following agreements, whereby violations of human rights will end through the implementation of these agreements and the full withdrawal of Israeli forces from the occupied Palestinian territories, including Jerusalem,

Recalling all its previous resolutions on the subject, including the latest, resolution 1996/3 of 11 April 1996,

1. Condemns the continued violations of human rights in the occupied Palestinian territories since the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, in particular the continuation of acts of killing, the detention of thousands of Palestinians without trial, the continuation of the confiscation of lands, the extension and the establishment of Israeli settlements, the confiscation of property of Palestinians and expropriation of their land, and calls upon Israel to cease these acts immediately;

2. Also condemns the opening of a tunnel under the Al Aqsa mosque, the establishment of an Israeli settlement on Jabal Abu Ghenaim in occupied Arab Jerusalem, the revocation of identity cards of the citizens of the Palestinian city of Jerusalem and forcing them to live outside their home with the aim of the Judaization of Jerusalem, and calls upon the Government of Israel to close the tunnel and to put an end immediately to these practices;

3. Further condemns the use of torture against Palestinians during interrogation, which the Israeli High Court of Justice has legitimized, and calls upon the Government of Israel to refrain immediately from the current interrogation practices and to work on abolishing the above-mentioned legitimization;

4. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and considers any change in the geographical and demographic status of the city of Jerusalem from its situation prior to the June 1967 war to be illegal and void;

5. Calls upon Israel to cease immediately its policy of enforcing collective punishments, such as demolition of houses and closure of the Palestinian territory, a measure which threatens thousands of Palestinians with hunger and endangers their lives;

6. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Palestinian and other occupied Arab territories and to respect the bases of international law, the principles of international humanitarian law and its commitments to the provisions of the Charter and resolutions of the United Nations;

7. Also calls upon Israel to withdraw from the Palestinian territories, including Jerusalem, and the other occupied Arab territories in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

8. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-fourth session;

9. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

10. Decides to consider the question at its fifty-fourth session, as a matter of high priority.

26th meeting

26 March 1997

[Adopted by a roll-call vote of 25 votes to 1,
with 23 abstentions. See chap. IV.]

1997/2. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the Syrian citizens in the occupied Syrian Golan due to the violation of their fundamental and human rights since the Israeli military occupation of 1967,

Recalling Security Council resolution 497 (1981) of 17 December 1981,

Recalling also all relevant General Assembly resolutions, including the latest, resolution 51/135 of 13 December 1996, in which the Assembly, inter alia, called upon Israel to comply with Security Council resolution 497 (1981), to put an end to its practices violating the rights of the Syrian citizens in the occupied Syrian Golan and to put an end to its occupation of the occupied Syrian Golan,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory,

Reaffirming the principle of non-acquisition of territory by force in accordance with the Charter of the United Nations and the principles of international law,

E/1998/23
E/CN.4/1998/177

COMMISSION ON HUMAN RIGHTS REPORT ON THE FIFTY-FOURTH SESSION

(16 March-24 April 1998)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1998

SUPPLEMENT No. 3



UNITED NATIONS

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE COMMISSION
AT ITS FIFTY-FOURTH SESSION*

A. Resolutions

1998/1. Question of the violation of human rights in the
occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including Jerusalem, and other occupied Arab territories,

Recalling also the General Assembly resolutions on Israeli violations of human rights in the Occupied Palestinian Territory, including Jerusalem, occupied since 1967, and noting Assembly resolution ES-10/4 of 13 November 1997, in which the Assembly reiterated its recommendation that the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War convene a conference on measures to enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, and to ensure its respect in accordance with common article 1 of the four Geneva Conventions,

Recalling further the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23),

Taking note of the report (E/CN.4/1998/17) of the Special Rapporteur, Mr. Hannu Halinen, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

* Titles of agenda items appearing in resolutions and decisions below are those of the agenda of the fifty-fourth session of the Commission on Human Rights.

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, including the latest (A/52/131 and Add.1 and 2),

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967,

Gravely concerned at the stagnation of the peace process because of the contempt of the Government of Israel for the principles on which that process was based, and its refusal to carry out its commitments in line with the agreements it signed with the Palestine Liberation Organization,

Recalling all its previous resolutions on the subject, including the latest, resolution 1997/1 of 26 March 1997,

1. Condemns the continued violations of human rights in the Occupied Palestinian Territory, including East Jerusalem, in particular the continuation of acts of wounding and killing such as that which took place on 10 March 1998 when Israeli occupation soldiers shot dead three Palestinian workers and wounded nine others, one of them seriously, and the subsequent opening of fire on Palestinian civilians after the incidents of the following days, in addition to the detention of thousands of Palestinians without trial, the continuation of the confiscation of Palestinian lands, the extension and the establishment of Israeli settlements thereon, the confiscation of Palestinians' property and expropriation of their land, the demolition of Palestinian homes and the uprooting of fruit trees, and calls upon Israel to cease these acts immediately since these practices constitute a major obstacle in the way of peace;

2. Also condemns the opening of a tunnel under the Al Aqsa mosque, the continuation of the building of an Israeli settlement on Jabal Abu Ghenaim in Occupied East Jerusalem in addition to other settlements in the West Bank, the expropriation of Palestinian homes in Al-Amoud district in Jerusalem, the revocation of identity cards of the citizens of the Palestinian city of Jerusalem and forcing them to live outside their home with the aim of the Judaization of Jerusalem, and calls upon the Government of Israel to close the tunnel and to put an end immediately to these practices;

3. Further condemns the use of torture against Palestinians during interrogation, which the Israeli High Court of Justice has legitimized, and calls upon the Government of Israel to refrain immediately from the current interrogation practices and to work on abolishing the above-mentioned legitimization;

4. Reaffirms that all the Israeli settlements in the Palestinian territories occupied since 1967, including East Jerusalem, are illegal and should be dismantled in order to achieve a just, permanent and comprehensive peace in the region of the Middle East;

5. Also reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical and demographic status of the city of East Jerusalem from its situation prior to the June 1967 war to be illegal and void;

6. Further reaffirms the great importance of the convening of a conference by the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with General Assembly resolution ES-10/4;

7. Calls upon Israel to cease immediately its policy of enforcing collective punishments, such as demolition of houses and closure of the Palestinian territory, measures which constitute flagrant violations of international law and international humanitarian law, endanger the lives of the Palestinians and also constitute a major obstacle in the way of peace;

8. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the bases of international law, the principles of international humanitarian law, its international commitments and the agreements it signed with the Palestine Liberation Organization;

9. Also calls upon Israel to withdraw from the Palestinian territories, including East Jerusalem, and the other Arab territories occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

10. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-fifth session;

11. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

12. Decides to consider this question at its fifty-fifth session under the same agenda item, as a matter of high priority.

20th meeting
27 March 1998

[Adopted by a roll-call vote of 31 votes to 1,
with 20 abstentions. See chap. IV.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTY-FIFTH SESSION

(22 March -30 April 1999)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1999

SUPPLEMENT No. 3



UNITED NATIONS

10. Also notes that the General Assembly has invited the Secretary-General to submit to it, at its fifty-fourth session a report on the implementation of the present resolution.

50th meeting

23 April 1999

[Adopted without a vote. See chap. V.]

1999/5. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories,

Recalling also the General Assembly resolutions on Israeli violations of human rights in the Occupied Palestinian Territory, including East Jerusalem, occupied since 1967,

Recalling further General Assembly resolutions ES-10/3, ES-10/4, ES-10/5 and ES-10/6, in which the Assembly reiterated its recommendation that the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War convene a conference on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure its respect in accordance with the provisions of common article 1 of the four Geneva Conventions,

Recalling the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23),

Taking note of the report (E/CN.4/1999/24) of the Special Rapporteur, Mr. Hannu Halinen, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, including the latest (A/53/136 and Add.1),

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967,

Gravely concerned at the stagnation of the peace process because of the contempt of the Government of Israel for the principles on which that process was based, and its refusal to carry out its commitments in line with the agreements it signed with the Palestine Liberation Organization in Washington, Cairo, Hebron and Wye River,

Recalling all its previous resolutions on the subject, including the latest, resolution 1998/1 of 27 March 1998,

1. Condemns the continued violations of human rights in the Occupied Palestinian Territory, including East Jerusalem, in particular the continuation of acts of wounding and killing perpetrated by Israeli soldiers and settlers against Palestinians, in addition to the detention of thousands of Palestinians without trial, the continuation of the confiscation of Palestinian lands, the extension and the establishment of Israeli settlements thereon, the confiscation of Palestinian property and expropriation of their land, the demolition of Palestinian homes and the uprooting of fruit trees, and calls upon Israel to cease these acts immediately since they constitute grave violations of human rights and of the principles of international law and they also constitute a major obstacle in the way of the peace process;

2. Also condemns the expropriation of Palestinian homes in Al-Amoud district in Jerusalem, the revocation of identity cards of the citizens of the Palestinian city of Jerusalem and forcing them to live outside their homes with the aim of the Judaization of Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;

3. Further condemns the use of torture against Palestinians during interrogation, which the Israeli High Court of Justice had legitimized, and calls upon the Government of Israel to refrain immediately from the current interrogation practices and to work on abolishing the above-mentioned legitimization;

4. Reaffirms that all the Israeli settlements in the Palestinian territory occupied since 1967, including East Jerusalem, are illegal, constitute a flagrant violation of the provisions of the fourth Geneva Convention of 1949 and of the principles of international law, and should be dismantled in order to achieve a just, permanent and comprehensive peace in the region of the Middle East;

5. Also reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to the Palestinian territory and other Arab territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical and demographic status of the city of East Jerusalem from its situation prior to the June 1967 war to be illegal and void;

6. Further reaffirms the great importance of the convening of a conference by the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in accordance with General Assembly resolutions ES-10/3, ES-10/4, ES-10/5 and ES-10/6;

7. Calls upon Israel to cease immediately its policy of enforcing collective punishments, such as demolition of houses and closure of the Palestinian territory, measures which constitute flagrant violations of international law and international humanitarian law, endanger the lives of Palestinians and also constitute a major obstacle in the way of peace;

8. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the bases of international law, the principles of international humanitarian law, its international commitments and the agreements it signed with the Palestine Liberation Organization;

9. Also calls upon Israel to withdraw from the Palestinian territory, including East Jerusalem, and the other Arab territories occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

10. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-sixth session;

11. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

12. Decides to consider this question at its fifty-sixth session under the same agenda item, as a matter of high priority.

50th meeting
23 April 1999

[Adopted by a roll-call vote of 31 votes to 1,
with 21 abstentions. See chap. VIII.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTY-SIXTH SESSION

(20 March – 28 April 2000)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2000

SUPPLEMENT No. 3



UNITED NATIONS

2000/6. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories,

Recalling also the General Assembly resolutions on Israeli violations of human rights in the Occupied Palestinian Territory, including East Jerusalem, occupied since 1967,

Recalling further the provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Taking note of the report (E/CN.4/2000/25) of the Special Rapporteur, Mr. Giorgio Giacomelli, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, including the latest (A/54/325 and A/54/73 and Add.1),

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights, and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967,

Gravely concerned at the stagnation of the peace process because of the contempt of the Government of Israel for the principles on which that process was based, and its refusal to carry out its commitments in line with the agreements it signed with the Palestine Liberation Organization, on the basis of land for peace, in Washington, Cairo, Hebron, Wye River and Sharm el Sheikh,

Recalling all its previous resolutions on the subject, including the latest, resolution 1999/5 of 23 April 1999,

1. *Condemns* the continued violations of human rights in the Occupied Palestinian Territory, including East Jerusalem, in particular the continuation of acts of wounding and killing perpetrated by Israeli soldiers and settlers against Palestinians, in addition to the detention of thousands of Palestinians without trial, the continuation of the confiscation of Palestinian lands, the extension and the establishment of Israeli settlements thereon, the confiscation of Palestinian property and expropriation of their land, the demolition of Palestinian homes and the uprooting of fruit trees, and calls upon Israel to cease immediately these acts, which constitute grave violations of human rights and of the principles of international law and also constitute a major obstacle in the way of the peace process;

2. *Also condemns* the expropriation of Palestinian homes in Jerusalem, the revocation of identity cards of the citizens of the Palestinian city of Jerusalem, the imposition of fabricated and exorbitant taxes with the aim of forcing the Palestinian citizens of Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, preparing in this way the path for the Judaization of Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;

3. *Further condemns* the use of torture against Palestinians during interrogation, as it constitutes a grave breach of the principles of international humanitarian law and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and calls upon the Government of Israel to put an end immediately to the use of such practices;

4. *Reaffirms* that all the Israeli settlements in the Palestinian territory occupied since 1967, including East Jerusalem, are illegal, constitute a flagrant violation of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the principles of international law, and should be dismantled in order to achieve a just, permanent and comprehensive peace in the region of the Middle East;

5. *Also reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to the Palestinian territory and other Arab territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical and demographic status of the city of East Jerusalem from its situation prior to the June 1967 war to be illegal and void;

6. *Calls upon* Israel to cease immediately its policy of enforcing collective punishments, such as demolition of houses and closure of the Palestinian territory, measures which constitute flagrant violations of international law and international humanitarian law, endanger the lives of Palestinians and also constitute a major obstacle in the way of peace;

7. *Calls once more upon* Israel, the occupying Power, to desist from all forms of violation of human rights in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the bases of international law, the principles of international humanitarian law, its international commitments and the agreements it signed with the Palestine Liberation Organization in relation to the peace process;

8. *Also calls upon* Israel to withdraw from the Palestinian territory, including East Jerusalem, and the other Arab territories occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

9. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-seventh session;

10. *Also requests* the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

11. *Decides* to consider this question at its fifty-seventh session under the same agenda item, as a matter of high priority.

52nd meeting

17 April 2000

[Adopted by a roll-call vote of 31 votes to 1,
with 19 abstentions. See chap. VIII.]

2000/7. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the Syrian citizens in the occupied Syrian Golan due to the violation of their fundamental and human rights since the Israeli military occupation of 1967,

Recalling Security Council resolution 497 (1981) of 17 December 1981,

Recalling also all relevant General Assembly resolutions, including the latest, resolution 54/80 of 6 December 1999, in which the Assembly, *inter alia*, called upon Israel to comply with Security Council resolution 497 (1981), to put an end to its practices violating the rights of the Syrian citizens in the occupied Syrian Golan and to put an end to its occupation of the occupied Syrian Golan,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory,

Reaffirming the principle of non-acquisition of territory by force in accordance with the Charter of the United Nations and the principles of international law,

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTH SPECIAL SESSION

(17–19 October 2000)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2000

SUPPLEMENT No. 22



UNITED NATIONS

**I. Draft decision recommended for adoption by
the Economic and Social Council**

**Grave and massive violations of the human rights
of the Palestinian people by Israel**

The Economic and Social Council, taking note of Commission on Human Rights resolution S-5/1 of 19 October 2000, endorses the Commission's decisions:

(a) To establish, on an urgent basis, a human rights inquiry commission, whose membership should be based on the principles of independence and objectivity, to gather and compile information on violations of human rights and acts which constitute grave breaches of international humanitarian law by the Israeli occupying Power in the occupied Palestinian territories and to provide the Commission with its conclusions and recommendations, with the aim of preventing the repetition of the recent human rights violations;

(b) To request the United Nations High Commissioner for Human Rights to undertake an urgent visit to the occupied Palestinian territories to take stock of the violations of the human rights of the Palestinian people by the Israeli occupying Power, to facilitate the activities of the mechanisms of the Commission in implementation of the present resolution, to keep the Commission informed of developments and to report to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session;

(c) To request the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Representative of the Secretary-General on internally displaced persons, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on religious intolerance, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on adequate housing and the Working Group on Enforced or Involuntary Disappearances to carry out immediate missions to the occupied Palestinian territories and to report the findings to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session.

II. Resolution adopted by the Commission at its fifth special session

**S-5/1. Grave and massive violations of the human rights
of the Palestinian people by Israel**

The Commission on Human Rights,

Meeting in special session,

Guided by the purposes and principles of the Charter of the United Nations and the various provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling Security Council resolutions 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980, 672 (1990) of 12 October 1990 and 1073 (1996) of 28 September 1996, and taking note of Council resolution 1322 (2000) of 7 October 2000,

Recalling also its previous resolutions on the situation of human rights in the occupied Palestinian territories, including Jerusalem, the most recent of which was resolution 2000/6 of 17 April 2000,

Taking note of the report of the Special Rapporteur, Mr. Giorgio Giacomelli (E/CN.4/S-5/3), submitted on 17 October 2000, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993,

Condemning the provocative visit to Al-Haram al-Sharif on 28 September 2000 by Ariel Sharon, the Likud party leader, which triggered the tragic events that followed in occupied East Jerusalem and the other occupied Palestinian territories, resulting in a high number of deaths and injuries among Palestinian civilians,

Gravely concerned at the widespread, systematic and gross violations of human rights perpetrated by the Israeli occupying Power, in particular mass killings and collective punishments, such as demolition of houses and closure of the Palestinian territories, measures which constitute war crimes, flagrant violations of international humanitarian law and crimes against humanity,

Taking into account the principles of international law and international humanitarian law, particularly the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 and Additional Protocol I to the Geneva Conventions of 1977, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1990, which prescribe that such officials should, *inter alia*, “minimize damage and injury, and respect and preserve human life” and “ensure that firearms are used only in appropriate circumstances in a manner likely to decrease the risk of unnecessary harm”,

Bearing in mind the outcome of the Sharm el Sheikh summit of 17 October 2000,

1. *Strongly condemns* the disproportionate and indiscriminate use of force in violation of international humanitarian law by the Israeli occupying Power against innocent and unarmed Palestinian civilians, causing the death of 120 civilians, including many children, in the occupied territories, which constitutes a flagrant and grave violation of the right to life and also constitutes a war crime and a crime against humanity;
2. *Calls upon* Israel, the occupying Power, to put an immediate end to any use of force against unarmed civilians and to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention relative to the Protection of Civilian Persons in Time of War;
3. *Calls upon* the international community to take immediate effective measures to secure the cessation of violence by the Israeli occupying Power and to put an end to the ongoing violations of human rights of the Palestinian people in the occupied territories;

4. *Affirms* that the Israeli military occupation in itself constitutes a grave violation of the human rights of the Palestinian people;

5. *Also affirms* that the deliberate and systematic killing of civilians and children by the Israeli occupying authorities constitutes a flagrant and grave violation of the right to life and also constitutes a crime against humanity;

6. *Decides:*

(a) To establish, on an urgent basis, a human rights inquiry commission, whose membership should be based on the principles of independence and objectivity, to gather and compile information on violations of human rights and acts which constitute grave breaches of international humanitarian law by the Israeli occupying Power in the occupied Palestinian territories and to provide the Commission with its conclusions and recommendations, with the aim of preventing the repetition of the recent human rights violations;

(b) To request the United Nations High Commissioner for Human Rights to undertake an urgent visit to the occupied Palestinian territories to take stock of the violations of the human rights of the Palestinian people by the Israeli occupying Power, to facilitate the activities of the mechanisms of the Commission in implementation of the present resolution, to keep it informed of developments and to report to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session;

(c) To request the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Representative of the Secretary-General on internally displaced persons, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on religious intolerance, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on adequate housing and the Working Group on Enforced or Involuntary Disappearances to carry out immediate missions to the occupied Palestinian territories and to report the findings to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session;

(d) To request the High Commissioner to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to ensure the widest possible dissemination of the text of the resolution and to report on its implementation by the Government of Israel to the Commission at its next session;

7. *Decides* to consider this question at its fifty-seventh session under item 8 of its provisional agenda, as a matter of high priority;

8. *Requests* the Economic and Social Council to meet on an urgent basis in order to act on the proposals contained in the present resolution.

*6th meeting
19 October 2000*

[Adopted by a roll-call vote of 19 votes to 16,
with 17 abstentions. See chap. IV.]

III. Organization of the work of the session

1. The Economic and Social Council, in its resolution 1990/48 of 25 May 1990, authorized the Commission on Human Rights to meet exceptionally between its regular sessions, provided that a majority of the members of the Commission so agreed.
2. The Economic and Social Council, by its decision 1993/286 of 28 July 1993, adopted at its substantive session the "Procedure for special sessions of the Commission on Human Rights".
3. By a letter dated 3 October 2000, addressed to the United Nations High Commissioner for Human Rights, the Permanent Representative of Algeria to the United Nations Office at Geneva, on behalf of the Council of Arab Permanent Representatives, Members of the League of Arab States, requested that a special session of the Commission be convened "to discuss the grave and massive violations of the human rights of the Palestinian people by the Israeli occupying Power".
4. Pursuant to Economic and Social Council decision 1993/286, the States members of the Commission were requested, by a note verbale dated 4 October 2000, to indicate their wishes in regard to the request of the Government of Algeria, with a view to ascertaining whether the majority of the members agreed to the holding of a special session. By the deadline on 10 October 2000, the following States members of the Commission had indicated their agreement: Argentina, Bangladesh, Bhutan, Brazil, Burundi, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Luxembourg, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of the Congo, Rwanda, Senegal, Spain, Sri Lanka, Sudan, Swaziland, Tunisia, United Kingdom of Great Britain and Northern Ireland, Venezuela, Zambia.
5. As the majority of the States members were in agreement, the High Commissioner convened the fifth special session of the Commission from 17 to 19 October 2000.

A. Opening and duration of the session

6. The Commission held its fifth special session at the United Nations Office at Geneva from 17 to 19 October 2000. It held six meetings (E/CN.4/S-5/SR.1-6)¹ during the session.

¹ Summary records of each of the meetings are subject to correction. They are considered final with the issuance of a consolidated corrigendum (E/CN.4/S-5/SR.1-6/Corrigendum).

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7. *Decides* to include in the provisional agenda of its fifty-eighth session, as a matter of high priority, the item entitled “Question of the violation of human rights in the occupied Arab territories, including Palestine”.

61st meeting

18 April 2001

[Adopted by a roll-call vote of 29 votes to 2,
with 21 abstentions. See chap. VIII.]

**2001/7. Question of the violation of human rights in the occupied
Arab territories, including Palestine**

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights relating to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the occupied Palestinian territory, including East Jerusalem,

Reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the occupied Palestinian territory, including East Jerusalem,

Recalling the General Assembly resolutions on Israeli violations of human rights in the occupied Palestinian territory, including East Jerusalem, occupied since 1967,

Recalling also the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Welcoming the report of the United Nations High Commissioner for Human Rights (E/CN.4/2001/114),

Welcoming also the report of the Special Rapporteur, Mr. Giorgio Giacomelli (E/CN.4/2001/30), and his report (E/CN.4/S-5/3) submitted to its fifth special session, held from 17 to 19 October 2000,

Welcoming further the report of the Human Rights Inquiry Commission established pursuant to Commission on Human Rights resolution S-5/1 of 19 October 2000 (E/CN.4/2001/121),

Expressing its deep concern at the failure of the Government of Israel to cooperate with the Human Rights Inquiry Commission and its failure to cooperate with other relevant rapporteurs,

Gravely concerned at the deterioration of the situation in the occupied Palestinian territories and by the gross violations of human rights and international humanitarian law, in particular extrajudicial killings, closures, collective punishments, settlements and arbitrary detentions,

Expressing its grave concern at the continuing violence and the resulting deaths and injuries, mostly among Palestinians,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968,

Expressing its grave concern at the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the occupied Palestinian territory, including East Jerusalem, occupied by Israel since 1967,

Convinced that the progress made on all major issues during the last negotiations should form the basis for future talks on permanent status, and that the basis of negotiations, and of a just and lasting peace, must be Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973 and other relevant United Nations resolutions and include the inadmissibility of acquisition of territory by war, the need for every State in the area to be able to live in security and the principle of land for peace,

Recalling all its previous resolutions on the subject, including the latest, resolutions 2000/6 of 17 April 2000 and S-5/1 of 19 October 2000 adopted at its fifth special session,

1. *Expresses its grave concern* at the deterioration of the human rights and humanitarian situation in the occupied Palestinian territories;
2. *Condemns* the disproportionate and indiscriminate recourse to force, which cannot but aggravate the situation and increase an already high death toll, and urges the Government of Israel to make every effort to ensure that its security forces observe international standards regarding the use of force;

3. *Strongly deploras* the practice of so-called “eliminations”, or extrajudicial killings, of certain Palestinians carried out by the Israeli security forces, which are not only a violation of human rights norms and contrary to the rule of law, but are also damaging for the relationship between the parties and therefore obstacles to peace, and urges the Government of Israel to respect international law and cease this practice;

4. *Expresses its grave concern* at the closures of and within the Palestinian territories, which contribute together with other factors to the unrest and violence that have been prevailing in the zone for several months, calls upon the Government of Israel immediately to put an end to the practice of closures and reiterates that collective punishment is prohibited under international law;

5. *Expresses its concern* at the large number of persons, including children, who have been detained during recent months and at the continued detention of some detainees without any criminal charges having been brought against them;

6. *Expresses its grave concern* at the Israeli settlement activities in the occupied territories, including Jerusalem, such as the construction of new settlements and the expansion of existing ones, the expropriation of land, the biased administration of water resources, the construction of roads and house demolitions, all of which violate human rights and international humanitarian law, besides being major obstacles to peace, urges the Government of Israel to implement the relevant United Nations resolutions as well as the recommendation of the Commission regarding the Israeli settlements, and calls on the Israeli security forces to ensure the protection of the population in the occupied territories, including preventing, investigating and prosecuting acts of violence committed by Israeli settlers;

7. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to the Palestinian territory and other Arab territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical and demographic status of the city of East Jerusalem from its situation prior to the June 1967 war to be illegal and void;

8. *Condemns* the expropriation of Palestinian homes in Jerusalem, the revocation of identity cards of the citizens of the Palestinian city of Jerusalem, the imposition of fabricated and exorbitant taxes with the aim of forcing the Palestinian citizens of Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, preparing in this way the path for the Judaization of Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;

9. *Also condemns* the use of torture against Palestinians during interrogation, as it constitutes a grave breach of the principles of international humanitarian law and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and calls upon the Government of Israel to put an end immediately to such practices;

10. *Welcomes* the efforts of the Government of Switzerland, in its capacity as depositary of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, to consult the High Contracting Parties to the Convention on the reconvening of the adjourned Conference of the High Contracting Parties to the Fourth Geneva Convention, and looks forward to their early conclusion on the basis of agreement by a large majority of the Parties and in accordance with the statement adopted on 15 July 1999 by the Conference upon adjournment, with a view to fulfilling the joint obligation of the High Contracting Parties to ensure respect for the Convention and to improve the deteriorating humanitarian situation on the ground;

11. *Calls upon* Israel, the occupying Power, to desist from all forms of violation of human rights in the occupied Palestinian territory, including East Jerusalem, and other occupied Arab territories, and to respect the bases of international law, the principles of international humanitarian law, its international commitments and the agreements it signed with the Palestine Liberation Organization;

12. *Also calls upon* Israel to withdraw from the Palestinian territory, including East Jerusalem, occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

13. *Calls upon* the relevant United Nations organs urgently to consider the best ways to provide the necessary international protection for the Palestinian people until the cessation of the Israeli occupation of its territories;

14. *Welcomes* the recommendations contained in the report of the United Nations High Commissioner for Human Rights and those contained in the report of the Human Rights Inquiry Commission, urges the Government of Israel to implement them and requests the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967, acting as a monitoring mechanism, to follow up on the implementation of those recommendations and to submit reports thereon to the General Assembly at its fifty-sixth session and the Commission at its fifty-eighth session;

15. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-eighth session;

16. *Also requests* the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between the sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab Territories are living under the Israeli occupation;

17. *Decides* to consider this question at its fifty-eighth session under the same agenda item, as a matter of high priority.

61st meeting

18 April 2001

[Adopted by a roll-call vote of 28 votes to 2,
with 22 abstentions. See chap. VIII.]

2001/8. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem,

Recalling its previous resolutions, most recently resolution 2000/8 of 17 April 2000, in which, *inter alia*, it reaffirmed the illegality of the Israeli settlements in the occupied territories,

Expressing its concern regarding the security risks related to the presence of the settlements in the occupied territories,

1. *Welcomes:*

(a) The reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (E/CN.4/S-5/3 and E/CN.4/2001/30) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

(b) The report of the United Nations High Commissioner for Human Rights on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan from 8 to 16 November 2000 (E/CN.4/2001/114);

(c) The report of the Human Rights Inquiry Commission established pursuant to Commission on Human Rights resolution S-5/1 of 19 October 2000 (E/CN.4/2001/121);

2. *Expresses its grave concern:*

(a) At the continuing Israeli settlement activities, including the expansion of the settlements, the installation of settlers in the occupied territories, the expropriation of land, the

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II. Resolutions and decisions adopted by the Commission at its fifty-eighth session

A. Resolutions

2002/1. Situation of human rights in the occupied Palestinian territory

The Commission on Human Rights,

Recalling Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, and taking note of Council resolutions 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, as well as for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

Welcoming the statement of the United Nations High Commissioner for Human Rights on the situation of human rights in the occupied Palestinian territory on 2 April 2002 at its 22nd meeting of the fifty-eighth session,

Gravely concerned at reports of gross, widespread and flagrant violations of human rights in the occupied Palestinian territory, in particular regarding the violation of the right to life, the arrest and detention of civilians, the restrictions on freedom of movement, the disruption of the delivery of humanitarian and medical assistance, the destruction of infrastructure, the restriction on the freedom of the media, the detention of human rights defenders, as well as the disproportionate and indiscriminate use of Israeli military force against the people of Palestine and its leadership,

Noting the specific proposals of the High Commissioner for a visiting mission to be dispatched immediately to the area and for the establishment of an international monitoring presence to deter violations of human rights in the occupied Palestinian territory,

1. *Condemns* the frightening increase in the loss of life, the invasion of Palestinian cities and villages, the arrest and detention of Palestinians, the restrictions on the movement of residents as well as personnel of the International Committee of the Red Cross and the Palestinian Red Crescent Society, medical personnel, human rights defenders and journalists, the refusal of humanitarian access to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, and the serious and systematic destruction of homes, installations and infrastructure in the territory as reported by the High Commissioner;

2. *Endorses* the proposals made by the High Commissioner in her statement;

3. *Requests* the High Commissioner to head a visiting mission that would travel immediately to the area and return expeditiously to submit its findings and recommendations to the current session of the Commission;

4. *Decides* to remain seized of this matter as a matter of high priority.

28th meeting

5 April 2002

[Adopted by a roll-call vote of 44 votes to 2,
with 7 abstentions. See chap. IV.]

2002/2. Strengthening of the Office of the United Nations High Commissioner for Human Rights

The Commission on Human Rights,

Recalling all relevant resolutions of the General Assembly and the Commission, in particular Assembly resolutions 48/141 of 20 December 1993 and 55/234 of 23 December 2000, and Commission resolutions 1998/83 of 24 April 1998, 1999/54 of 27 April 1999 and 2000/1 of 7 April 2000,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis,

Reaffirming also the importance of ensuring universality, objectivity and non-selectivity in the consideration of human rights issues and, in this context, underlining the need for continuing to ensure the implementation of these principles by the United Nations High Commissioner for Human Rights in the fulfilment of her mandate and the activities of her Office,

Recalling that the mandate of the High Commissioner includes promotion and protection of the effective enjoyment by all of all civil, cultural, economic, political and social rights,

Recalling also that the Vienna Declaration and Programme of Action adopted in June 1993 at the World Conference on Human Rights (A/CONF.157/23) recognized the necessity for an adaptation and strengthening of United Nations human rights machinery in accordance with current and future needs in the promotion and protection of human rights,

Encouraging the High Commissioner, within her mandate as set out in General Assembly resolution 48/141, to continue to play an active role in promoting and protecting all human rights,

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recommendations with the aim of resuming negotiations on a political settlement based on Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002), 1402 (2002), 1403 (2002) of 4 April 2002 and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, including the inadmissibility of acquisition of territory by war, the end to the occupation of 1967 and the principle of land for peace, which will allow two States, Israel and Palestine, to live in peace and security and play their full part in the region;

5. *Decides* to continue its consideration of this question at its fifty-ninth session.

*38th meeting
12 April 2002*

[Adopted by a recorded vote of 52 votes to 1.
See chap. VIII.]

2002/8. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as by the provisions of the Universal Declaration of Human Rights,

Recalling Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and taking note of Council resolutions 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, as well as for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

Guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the provisions of Additional Protocol I thereto of 1977 and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights relating to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the occupied Palestinian territory, including East Jerusalem,

Reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the occupied Palestinian territory, including East Jerusalem,

Recalling General Assembly resolutions on Israeli violations of human rights in the occupied Palestinian territory, including East Jerusalem, occupied since 1967,

Recalling particularly General Assembly resolution 37/43 of 3 December 1982 reaffirming the legitimacy of the struggle of peoples against foreign occupation,

Recalling the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Recalling also the report of the United Nations High Commissioner for Human Rights to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114),

Welcoming the report of the Special Rapporteur, Mr. John Dugard (E/CN.4/2002/32),

Expressing its deep concern at the failure of the Government of Israel to cooperate with the Human Rights Inquiry Commission established pursuant to Commission resolution S-5/1 of 19 October 2000 and its failure to cooperate with other relevant rapporteurs, particularly Mr. John Dugard, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

Gravely concerned at the continued deterioration of the situation in the occupied Palestinian territory and at the gross violations of human rights and international humanitarian law, in particular, acts of extrajudicial killing, closures, collective punishments, the persistence in establishing settlements, arbitrary detentions, the besieging of Palestinian towns and villages, the shelling of Palestinian residential districts from warplanes, tanks and Israeli battleships, the conducting of incursions into towns and camps and the killing of men, women and children there as was the case lately in the camps of Jenin, Balata, Khan Younis, Rafah, Ramallah, Gaza, Nablus, Al-Birah, Al-Amari, Jabalia, Bethlehem and Dheisheh,

Expressing its grave concern at the continued violence and the resulting deaths and injuries, mostly among Palestinians, the toll of casualties having so far increased to over 1,200 killed and over 25,000 wounded since 28 September 2000,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968,

Expressing its grave concern at the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the occupied Palestinian territory, including East Jerusalem, occupied by Israel since 1967,

Convinced that the basis of negotiations and of achieving a just and lasting peace should be Security Council resolutions 242 (1967), 338 (1973) and other relevant United Nations resolutions, and include the inadmissibility of acquisition of territory by war, the need for every State in the area to be able to live in security and the principle of land for peace,

Recalling all its previous resolutions on the subject,

1. *Affirms* the legitimate right of the Palestinian people to resist the Israeli occupation in order to free its land and be able to exercise its right of self-determination and that, by so doing, the Palestinian people is fulfilling its mission, one of the goals and purposes of the United Nations;

2. *Strongly condemns* the violations by the Israeli occupation authorities of human rights in the occupied Palestinian territory, including East Jerusalem;

3. *Also strongly condemns* the Israeli occupation of the Palestinian territory as it constitutes an aggression and an offence against humanity and a flagrant violation of human rights;

4. *Further strongly condemns* the war launched by the Israeli army against Palestinian towns and camps, which has resulted so far in the death of hundreds of Palestinian civilians, including women and children;

5. *Strongly condemns* the practice of “liquidation” or “extrajudicial executions” carried out by the Israeli army against Palestinians, a practice which not only constitutes a violation of human rights norms, a flagrant violation of article 3 of the Universal Declaration of Human Rights and of the rule of law, but which is also damaging for the relationship between the parties and therefore constitutes an obstacle to peace, and urges the Government of Israel to respect international law and to cease this practice immediately;

6. *Also strongly condemns* the establishment of Israeli settlements and other related activities in the occupied Palestinian territory, including East Jerusalem, such as the construction of new settlements and the expansion of already existing ones, the expropriation of lands, the biased administration of water resources and the construction of bypass roads, all of which are not only violations of human rights and of international humanitarian law, especially article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention) and Protocol I Additional to the Geneva Conventions which categorized such violations as war crimes, but are also major obstacles to peace, urges the Government of Israel to implement the relevant United Nations resolutions as well as the resolutions of the Commission on Human Rights relative to the Israeli settlements, and affirms that the dismantling of the Israeli settlements constitutes an essential factor for achieving a just, comprehensive and lasting peace in the region;

7. *Condemns* the expropriation of Palestinian homes in Jerusalem, the revocation of identity cards of the citizens of East Jerusalem, the imposition of fabricated and exorbitant taxes with the aim of forcing the Palestinian citizens of Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, preparing in this way the path for the Judaization of Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;

8. *Also condemns* the use of torture against Palestinians during interrogation, as it constitutes a grave violation of the principles of international humanitarian law, and of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is also a violation of article 5 of the Universal Declaration of Human Rights, and calls upon the Government of Israel to put an end immediately to such practices and to bring the perpetrators of these violations to trial;

9. *Strongly condemns* the setting on fire of the Church of the Nativity and the Omar Ibn Al-Khattab mosque in Bethlehem and the shelling with artillery fire of the Al-Baik and Al-Kabir mosques in Nablus;

10. *Also strongly condemns* the offensives of the Israeli army of occupation against hospitals and sick persons and the use of Palestinian citizens as human shields during Israeli incursions into Palestinian areas;

11. *Further strongly condemns* opening of fire by the Israeli army of occupation on ambulances and paramedical personnel and its preventing ambulances and cars of the International Committee of the Red Cross from reaching the wounded and the dead in order to transport them to hospital, thus leaving the wounded bleeding to death in the streets;

12. *Strongly condemns* the refusal by the Israeli army of occupation to allow the burial of dead Palestinians, thus obliging their families to bury the bodies of their loved ones in the available space around their homes and in hospitals;

13. *Expresses its grave concern* at the deterioration of the human rights and humanitarian situation in the occupied Palestinian territory, and particularly at acts of mass killing perpetrated by the Israeli occupying authorities against the Palestinian people;

14. *Expresses its deep concern* at the military siege imposed on the Palestinian territory and the isolation of Palestinian towns and villages from each other through the establishment of military roadblocks that are used as a trap to kill Palestinians, which contribute, together with other factors, to the acts of violence that have been prevailing in the region for over a year and a half, calls upon the Government of Israel to immediately put an end to this practice and immediately lift its military siege of Palestinian towns and villages, and reaffirms that these collective punishments are prohibited under international law and constitute a grave violation of the provisions of the Fourth Geneva Convention and Protocol I Additional to the Geneva Conventions;

15. *Expresses its grave concern* at the restriction of movement imposed on Chairman Yasser Arafat by the Israeli occupying authorities, in violation of articles 9 and 13 of the Universal Declaration of Human Rights;

16. *Expresses its deep concern* at the massive arrests conducted by the Israeli occupying authorities against a large number of Palestinians and also at the continued detention of thousands of Palestinians without any criminal charges having been brought against them, in violation of article 9 of the Universal Declaration of Human Rights and the provisions of the Fourth Geneva Convention in this respect;

17. *Affirms anew* that the demolition by the Israeli occupying forces of over 1,200 houses owned by Palestinian families is a grave violation of articles 33 and 53 of the Fourth Geneva Convention and that levelling farmlands, uprooting trees and destroying the infrastructure of Palestinian society constitute grave violations of the provisions of international humanitarian law and a form of collective punishment against the Palestinian people;

18. *Reaffirms* that the Fourth Geneva Convention is applicable to the Palestinian territory occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical, demographic and institutional status of the city of East Jerusalem from its status prior to the June 1967 war to be illegal and void;

19. *Welcomes* the declaration adopted by the Conference of the High Contracting Parties to the Fourth Geneva Convention, which was held in Geneva on 5 December 2001, and calls upon the High Contracting Parties to follow up on the implementation of the declaration;

20. *Calls upon* Israel, the occupying Power, to desist from all forms of violation of human rights in the occupied Palestinian territory, including East Jerusalem, and other occupied Arab territories, and to respect the principles of international law and international humanitarian law, the Universal Declaration of Human Rights, its international commitments and the agreements it signed with the Palestine Liberation Organization;

21. *Also calls upon* Israel to withdraw from the Palestinian territory, including East Jerusalem, occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

22. *Calls upon* the relevant United Nations organs urgently to consider the best ways to provide the necessary international protection for the Palestinian people until the cessation of the Israeli occupation of its territory;

23. *Welcomes anew* the recommendations contained in the report of the United Nations High Commissioner for Human Rights and those contained in the report of the Human Rights Inquiry Commission (E/CN.4/2001/121), urges the Government of Israel to implement them and requests the Special Rapporteur on the situation of human rights in the

Palestinian territory occupied since 1967, acting as a monitoring mechanism, to follow up on the implementation of these recommendations and to submit reports thereon to the General Assembly at its fifty-seventh session and to the Commission on human rights at its fifty-ninth session;

24. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-ninth session;

25. *Also requests* the Secretary-General to provide the Commission with all United Nations reports issued between the sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

26. *Decides* to consider this question at its fifty-ninth session under the same agenda item, as a matter of high priority.

39th meeting

15 April 2002

[Adopted by a recorded vote of 40 votes to 5,
with 7 abstentions. See chap. VIII.]

2002/9. Combating defamation of religions

The Commission on Human Rights,

Recalling that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling also its resolutions 1999/82 of 30 April 1999, 2000/84 of 26 April 2000 and 2001/4 of 18 April 2001,

Reaffirming that discrimination against human beings on grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations,

Welcoming the designation by the General Assembly of the year 2001 as the United Nations Year of Dialogue among Civilizations,

Recalling the United Nations Millennium Declaration adopted by the General Assembly on 8 September 2000, welcoming the resolve expressed in the Declaration to take measures to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater

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7. *Decides* to include in the provisional agenda of its sixtieth session, as a matter of high priority, the item entitled “Question of the violation of human rights in the occupied Arab territories, including Palestine”.

*48th meeting
15 April 2003*

[Adopted by a recorded vote of 31 to 1,
with 21 abstentions. See chap. VIII.]

**2003/6. Question of the violation of human rights in the
occupied Arab territories, including Palestine**

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as by the provisions of the Universal Declaration of Human Rights,

Recalling Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, as well as for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

Guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (Fourth Geneva Convention), the provisions of Additional Protocol I thereto and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights relating to the applicability of the Fourth Geneva Convention to the occupied Palestinian territory, including East Jerusalem,

Reaffirming the applicability of the Fourth Geneva Convention to the occupied Palestinian territory, including East Jerusalem,

Recalling General Assembly resolutions on Israeli violations of human rights in the occupied Palestinian territory, including East Jerusalem, occupied since 1967,

Recalling particularly General Assembly resolution 37/43 of 3 December 1982 reaffirming the legitimacy of the struggle of peoples against foreign occupation and for self-determination,

Recalling the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Welcoming the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Mr. John Dugard (E/CN.4/2003/30 and Add.1), the report of the Special Rapporteur on adequate housing as a component of an adequate standard of living, Mr. Miloon Kothari (E/CN.4/2003/5/Add.1), and the report of the Special Rapporteur on the right to food, Mr. Jean Ziegler (E/CN.4/2003/54),

Expressing its deep concern at the failure of the Government of Israel to cooperate with the Human Rights Inquiry Commission established pursuant to Commission resolution S-5/1 of 19 October 2000 and its failure to cooperate with other relevant special rapporteurs, particularly Mr. John Dugard,

Gravely concerned at the continued deterioration of the situation in the occupied Palestinian territory and at the gross violations of human rights and international humanitarian law, in particular, acts of extrajudicial killing, closures, collective punishments, the persistence in establishing settlements, arbitrary detentions, the besieging of Palestinian towns and villages, the shelling of Palestinian residential districts from warplanes, tanks and Israeli battleships, the conducting of incursions into towns and camps and the killing of men, women and children there as was the case lately in the camps of Jenin, Balata, Khan Younis, Rafah, Ramallah, Gaza, Nablus, Al-Birah, Al-Amari, Jabalia, Bethlehem and Dheisheh, and in the Al-Daraj and Al-Zaitoun neighbourhoods in the city of Gaza,

Expressing its grave concern at the continued violence and the resulting deaths and injuries, mostly among Palestinians, the toll of casualties having so far increased to over 2,200 killed and over 25,000 wounded since 28 September 2000,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968,

Expressing its grave concern at the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Fourth Geneva Convention to the occupied Palestinian territory, including East Jerusalem, occupied by Israel since 1967,

Convinced that the basis of negotiations and of achieving a just and lasting peace should be Security Council resolutions 242 (1967) and 338 (1973) and other relevant United Nations resolutions, including the principle of the inadmissibility of acquisition of territory by war, the need for every State in the area to be able to live in security and the principle of land for peace,

Recalling all its previous resolutions on the subject, the latest of which is resolution 2002/8 of 15 April 2002,

1. *Reaffirms* the legitimate right of the Palestinian people to resist the Israeli occupation in order to free its land and be able to exercise its right of self-determination, thus fulfilling its mission, which is one of the goals and purposes of the United Nations, in accordance with the Charter;

2. *Strongly condemns* once more the violations by the Israeli occupation authorities of human rights in the occupied Palestinian territory, including East Jerusalem;
3. *Also strongly condemns* the Israeli occupation of the Palestinian territory as it constitutes an aggression and an offence against humanity and a flagrant violation of human rights;
4. *Further strongly condemns* the war launched by the Israeli army against Palestinian towns and camps, which has resulted so far in the death of hundreds of Palestinian civilians, including women and children;
5. *Strongly condemns* anew the practice of “liquidation” or “extrajudicial executions” carried out by the Israeli army against Palestinians, a practice which not only constitutes a violation of human rights norms and a flagrant violation of article 3 of the Universal Declaration of Human Rights and of the rule of law, but which is also damaging for the relationship between the parties and therefore constitutes an obstacle to peace, and urges the Government of Israel to respect international law and to cease this practice immediately;
6. *Also strongly condemns* once again the establishment of Israeli settlements and other related activities in the occupied Palestinian territory, including East Jerusalem, such as the construction of new settlements and the expansion of the already existing ones, the expropriation of lands, the biased administration of water resources and the construction of bypass roads, all of which are not only violations of human rights and of international humanitarian law, especially article 49 of the Fourth Geneva Convention and Protocol I Additional to the Geneva Conventions of 12 August 1949 for the protection of victims of war, according to which such violations constitute war crimes, but are also major obstacles to peace, urges the Government of Israel to implement the relevant United Nations resolutions as well as the resolutions of the Commission on Human Rights relative to the Israeli settlements, and affirms that the dismantling of the Israeli settlements constitutes an essential factor for achieving a just, comprehensive and lasting peace in the region;
7. *Condemns once again* the expropriation of Palestinian homes in Jerusalem and Hebron, the revocation of identity cards of the citizens of East Jerusalem, the imposition of fabricated and exorbitant taxes with the aim of forcing the Palestinian citizens of Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, preparing in this way the path for the Judaization of Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;
8. *Also condemns once again* the use of torture against Palestinians during interrogation, as it constitutes a grave violation of the principles of international humanitarian law, and of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and is also a violation of article 5 of the Universal Declaration of Human Rights, and calls upon the Government of Israel to put an end immediately to such practices and to bring the perpetrators of these violations to trial;
9. *Strongly condemns once more* the offensives of the Israeli army of occupation against hospitals and sick persons and the use of Palestinian citizens as human shields during Israeli incursions into Palestinian areas;

10. *Also strongly condemns once more* the opening of fire by the Israeli army of occupation on ambulances and paramedical personnel and the practice of preventing ambulances and vehicles of the International Committee of the Red Cross from reaching the wounded and the dead in order to transport them to hospital, thus leaving the wounded bleeding to death in the streets;

11. *Expresses its grave concern once more* at the deterioration of the human rights and humanitarian situation in the occupied Palestinian territory, and particularly at acts of mass killing perpetrated by the Israeli occupying authorities against the Palestinian people;

12. *Expresses its deep concern again* at the military siege imposed on the Palestinian territory and the isolation of Palestinian towns and villages from each other through the establishment of military roadblocks that are used as a trap to kill Palestinians, which contribute, together with other factors, to the acts of violence that have been prevailing in the region for two and a half years, calls upon the Government of Israel to immediately put an end to this practice and immediately lift its military siege of Palestinian towns and villages, and reaffirms that these collective punishments are prohibited under international law and constitute a grave violation of the provisions of the Fourth Geneva Convention and Protocol I Additional to the Geneva Conventions;

13. *Expresses its grave concern once again* at the restriction of movement imposed on Chairman Yasser Arafat by the Israeli occupying authorities, in violation of articles 9 and 13 of the Universal Declaration of Human Rights;

14. *Also expresses its deep concern once again* at the massive arrests conducted by the Israeli occupying authorities against about 1,500 Palestinians, without trial and without any criminal charges having been brought against them, in violation of article 9 of the Universal Declaration of Human Rights and the provisions of the Fourth Geneva Convention in this respect;

15. *Affirms anew* that the demolition by the Israeli occupying forces of at least 30,000 Palestinian houses, facilities and property is a grave violation of articles 33 and 53 of the Fourth Geneva Convention and that levelling farmlands, uprooting trees and destroying the infrastructure of Palestinian society constitute grave violations of the provisions of international humanitarian law and a form of collective punishment against the Palestinian people;

16. *Reaffirms* that the Fourth Geneva Convention is applicable to the Palestinian territory occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical, demographic and institutional status of the city of East Jerusalem from its status prior to the June 1967 war to be illegal and void;

17. *Calls once again upon* Israel, the occupying Power, to desist from all forms of violation of human rights in the occupied Palestinian territory, including East Jerusalem, and other occupied Arab territories and to respect the principles of international law and international humanitarian law, the Universal Declaration of Human Rights, its international commitments and the agreements it signed with the Palestine Liberation Organization;

18. *Also calls once again upon* Israel to withdraw from the Palestinian territory, including East Jerusalem, occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

19. *Calls upon* the relevant United Nations organs urgently to consider the best ways to provide the necessary international protection for the Palestinian people until the cessation of the Israeli occupation of its territory;

20. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its sixtieth session;

21. *Also requests* the Secretary-General to provide the Commission with all United Nations reports issued between the sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

22. *Decides* to consider this question at its sixtieth session under the same agenda item, as a matter of high priority.

*48th meeting
15 April 2003*

[Adopted by a recorded vote of 33 votes to 5,
with 15 abstentions. See chap. VIII.]

2003/7. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Recalling its previous resolutions, most recently resolution 2002/7 of 12 April 2002, and taking note of General Assembly resolution 57/126 of 11 December 2002, in which, inter alia, the illegality of the Israeli settlements in the occupied territories was reaffirmed,

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II. Resolutions and decisions adopted by the Commission at its sixtieth session

A. Resolutions

2004/1. Grave situation in the Occupied Palestinian Territory

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of the 1977 Additional Protocol I thereto, and the Hague Convention IV of 18 October 1907 and Annexed Regulations respecting the Laws and Customs of War on Land,

Recalling its previous relevant resolutions, in particular resolution 2003/6 of 15 April 2003, in which it strongly condemned the practice of “liquidation” and “extrajudicial executions” carried out by the Israeli army against Palestinians,

1. *Strongly condemns* the continuing grave violations of human rights in the Occupied Palestinian Territory, in particular the tragic assassination of Sheikh Ahmed Yassin on 22 March 2004, in contravention of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

2. *Notes with grave concern* the implications of such targeted assassinations, liquidation and murder of political leadership by the Israeli occupation forces on the overall situation in the Occupied Palestinian Territory, in particular the possibility of a fresh wave of violence;

3. *Calls upon Israel* to respect to the fullest the principles of international humanitarian law and to desist from all forms of violation of human rights in the Occupied Palestinian Territory;

4. *Decides* to remain actively seized of the matter.

*18th meeting
24 March 2004*

[Adopted by a recorded vote of 31 votes to 2,
with 18 abstentions. See chap. III.]

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(d) To implement the recommendations regarding the settlements made by the United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

(e) To take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing illegal acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians in the occupied territories;

4. *Demands* that Israel stop and reverse the construction of the so-called security fence in the Occupied Palestinian Territory, including in and around East Jerusalem, which is a departure from the Armistice Line of 1949 and is in contradiction to relevant provisions of international law;

5. *Urges* the parties to implement immediately and fully, without modifications, the road map endorsed by the Security Council, with the aim of resuming negotiations on a political settlement which is in accordance with the resolutions of the Council and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security and play their full part in the region;

6. *Decides* to continue its consideration of this question at its sixty-first session.

49th meeting

15 April 2004

[Adopted by a recorded vote of 27 votes to 2,
with 24 abstentions. See chap. VIII.]

2004/10. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations and by the provisions of the Universal Declaration of Human Rights,

Recalling Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

Guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (Fourth Geneva Convention), the provisions of Additional Protocol I thereto of 1977 and the Hague Convention IV, of 18 October 1907, and Annexed Regulations respecting the Laws and Customs of War on Land,

Recalling resolutions of the Security Council, the General Assembly and the Commission on Human Rights relating to the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, since the 5 June 1967 war,

Reaffirming the applicability of the Fourth Geneva Convention to the Palestinian territories occupied since the June 1967 war, including East Jerusalem,

Recalling General Assembly resolutions on Israeli violations of human rights in the Palestinian territories occupied since 1967, including East Jerusalem,

Recalling in particular General Assembly resolution 37/43 of 3 December 1982 reaffirming the legitimacy of the struggle of peoples for independence from foreign domination and foreign occupation and for self-determination, in conformity with international law,

Recalling the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Welcoming the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Mr. John Dugard (E/CN.4/2004/6 and Add.1), and the addendum to the report of the Special Rapporteur on the right to food, Mr. Jean Ziegler (E/CN.4/2004/10/Add.2),

Expressing its deep concern at the failure of the Government of Israel to cooperate with the Human Rights Inquiry Commission established pursuant to Commission resolution S-5/1 of 19 October 2000 and its failure to cooperate with other relevant special rapporteurs, in particular Mr. Dugard,

Gravely concerned at the continued deterioration of the situation in the Occupied Palestinian Territory and at the gross violations of human rights and international humanitarian law, in particular acts of extrajudicial killing, closures, collective punishments, the persistence in establishing settlements, arbitrary detentions, siege of Palestinian towns and villages, the shelling of Palestinian residential neighbourhoods by warplanes, tanks and Israeli battleships, and incursions into towns, villages and camps to kill innocent men, women and children, as was the case in Jenin, Balata, Khan Younis, Rafah, Ramallah, Gaza, Nablus, Al-Birah, Al-Amari, Jabalia, Bethlehem and Dheisheh and in the Al-Daraj and Al-Zaitoun neighbourhoods in the city of Gaza, and also during recent months in Rafah and in Al-Shajai'ia neighbourhood in Gaza, as well as during the last Israeli massacres in the Al-Nusseirat and Al-Burreij refugee camps in the centre of the Gaza Strip on 7 March 2004,

Expressing its grave concern at the continued Israeli aggression and the resulting deaths and injuries, mostly among Palestinians, the toll of casualties having increased to over 2,800 martyrs and over 25,000 wounded since 28 September 2000,

Taking note of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, the last of which was A/58/311,

Expressing its grave concern at the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Fourth Geneva Convention to the Palestinian territories occupied by Israel since 1967, including East Jerusalem,

Convinced that the basis of negotiations and of achieving a just and lasting peace should be Security Council resolutions 242 (1967), 338 (1973) and other relevant United Nations resolutions, including the principle of the inadmissibility of acquisition of territory by war, the need for every State in the area to be able to live in security and the principle of land for peace,

Recalling all its previous resolutions in this respect, the latest of which is resolution 2003/6 of 15 April 2003,

Recalling also the inadmissibility of the acquisition of others' land by force, which constitutes a *jus cogens* in international law,

Gravely concerned at the construction of the Israeli wall inside the Occupied Palestinian Territory, aimed at expropriating further Palestinian lands by force, with all the drastic consequences that this wall will have on the Palestinian community, namely on its social, economic, educational, health and psychological aspects, and which is destroying any possibility of achieving a genuine peace based on the two-State solution, with an independent Palestinian State and an Israeli State,

Affirming that the construction of this wall on the Palestinian territories constitutes a violation of the right of the Palestinian people to self-determination and hinders the exercise by the Palestinian people of this right,

Taking note in this respect of General Assembly resolution ES-10/13 of 21 October 2003,

Taking note of the report of the Secretary-General (A/ES-10/248), which concluded that Israel is not in compliance with the General Assembly's demand that it stop and reverse the construction of the wall in the Occupied Palestinian Territory,

1. *Reaffirms* the legitimate right of the Palestinian people to resist the Israeli occupation in order to free its land and be able to exercise its right to self-determination, in conformity with the goals and purposes stipulated by the Charter of the United Nations;

2. *Strongly condemns* once more the human rights violations of the Israeli occupation authorities in the Occupied Palestinian Territory, including East Jerusalem, since 1967;

3. *Also strongly condemns* the Israeli occupation of the Palestinian territories as being an aggression and an offence against humanity and a flagrant violation of human rights;
4. *Further strongly condemns* the war launched by the Israeli army, particularly since October 2000, against Palestinian towns and camps, which has resulted so far in the death of hundreds of Palestinian civilians, including women and children;
5. *Strongly condemns anew* the practice of “liquidation” or “extrajudicial executions” carried out by the Israeli army against Palestinians, a practice which not only constitutes a violation of human rights norms, a flagrant violation of article 3 of the Universal Declaration of Human Rights and of the rule of law, but which is also damaging for the relationship between the parties and therefore constitutes an obstacle to peace, and urges the Government of Israel to respect international law and immediately to put an end to such practices;
6. *Strongly condemns once again* the establishment of Israeli settlements and other related activities in the Occupied Palestinian Territory, including East Jerusalem, such as the construction of new settlements and the expansion of the existing ones, land confiscation, biased administration of water resources and the construction of bypass roads, which not only constitute grave violations of human rights and international humanitarian law, especially article 49 of the Fourth Geneva Convention and Additional Protocol I thereto, according to which such violations are categorized as war crimes, but are also major obstacles to peace, urges the Government of Israel to implement the relevant United Nations resolutions as well as the resolutions of the Commission on Human Rights relative to the Israeli settlements, and affirms that the dismantling of Israeli settlements constitutes an essential factor for achieving a just, comprehensive and lasting peace in the region;
7. *Condemns once again* the expropriation of Palestinian homes in Jerusalem, Hebron and the rest of the Occupied Palestinian Territory, the revocation of the identity cards of the residents of East Jerusalem and the policy of imposing fabricated and exorbitant taxes with the aim of forcing Palestinians living in Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, with the aim of Judaizing Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;
8. *Also condemns once again* the use of torture against Palestinians during interrogation, as it constitutes a grave violation of the principles of international humanitarian law, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and also of article 5 of the Universal Declaration of Human Rights, and calls upon the Government of Israel to put an end immediately to such practices and to bring the perpetrators of these violations to justice;
9. *Strongly condemns once more* the offensives of the Israeli army of occupation against hospitals and sick persons and the use of Palestinian citizens as human shields during Israeli incursions into Palestinian areas;
10. *Also strongly condemns once more* the Israeli army of occupation’s practices of opening fire on ambulances and paramedical personnel and preventing ambulances and vehicles of the International Committee of the Red Cross from reaching the wounded and the dead in order to transport them to hospital, thus leaving the wounded bleeding to death in the streets;

11. *Strongly condemns* acts of mass killing of Palestinians at the hands of the Israeli occupation authorities, including the killing of children, such as recently took place in Nablus, Gaza, Rafah, Al-Nusseirat and Al-Burreij and which persist to this day;
12. *Also strongly condemns* acts that consist of imposing collective punishments, military siege of Palestinian territories, isolating Palestinian towns and villages from each other by military roadblocks used as a trap to kill Palestinians, demolishing houses and levelling agricultural lands, as these practices contribute, together with other factors, to the acts of violence that have prevailed in the region for over three and a half years, and calls upon the Government of Israel immediately to put an end to these practices and to lift its military siege of Palestinian towns and villages and its military roadblocks, and affirms anew that such collective punishments are prohibited under international law, as they constitute grave violations of the provisions of the Fourth Geneva Convention and Additional Protocol I thereto, and are also war crimes;
13. *Expresses its grave concern once again* at the restriction of the freedom of movement imposed by the Israeli occupation authorities on Yasser Arafat, the democratically elected Palestinian President, in violation of articles 9 and 13 of the Universal Declaration of Human Rights;
14. *Strongly condemns* campaigns of massive arrests conducted by the Israeli occupation authorities to detain thousands of Palestinians without trial and without any criminal charges having been brought against them, in violation of article 9 of the Universal Declaration of Human Rights and of the provisions of the Fourth Geneva Convention in this respect;
15. *Affirms anew* that the demolitions carried out by the Israeli occupying forces of at least 30,000 Palestinian houses, facilities and property constitute grave violations of articles 33 and 53 of the Fourth Geneva Convention and that acts of levelling farmlands, uprooting trees and destroying what is left of the Palestinian infrastructure constitute a form of collective punishment to which Palestinians are subjected, grave violations of the provisions of international humanitarian law and war crimes according to international law;
16. *Affirms anew* that the Fourth Geneva Convention is applicable to the Palestinian territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical, demographic and institutional status of the city of East Jerusalem from its status prior to the June 1967 war to be illegal and void;
17. *Calls once again upon* Israel, the occupying Power, to desist from all forms of human rights violations in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the principles of international law, international humanitarian law, the Universal Declaration of Human Rights, its international commitments and its signed agreements with the Palestine Liberation Organization;
18. *Also calls once again upon* Israel to withdraw from the Palestinian territories occupied since 1967, including East Jerusalem, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

19. *Strongly condemns* the construction of the Israeli wall inside the Occupied Palestinian Territory, in the West Bank, as it constitutes a new Israeli pretext for the forcible confiscation of further Palestinian lands, it endangers the social, economic, cultural, educational, health and psychological aspects of the lives of hundreds of thousands of Palestinians as well as their familial unity, it prevents Palestinians from having access to their natural resources and it constitutes a major obstacle to achieving a just and lasting peace on the basis of the two-State solution, with an independent Palestinian State and Israeli State, the only solution which guarantees peace and stability in the region, and it also prevents Palestinians from exercising their right to self-determination; and calls on Israel immediately to stop the construction of the said wall and to raze what it has already built of this wall inside the Palestinian territories occupied since 1967;

20. *Requests* the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and, in his capacity as a monitoring mechanism, to follow up on the implementation of these recommendations and to report thereon to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session, until the end of the mandate of the Special Rapporteur, as established in Commission resolution 1993/2 A of 19 February 1993;

21. *Calls upon* the relevant United Nations organs urgently to consider the best ways to provide the necessary international protection for the Palestinian people until the end of the Israeli occupation of the Palestinian territories;

22. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its sixty-first session;

23. *Also requests* the Secretary-General to provide the Commission with all United Nations reports issued between the sessions of the Commission that deal with the conditions in which the populations of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

24. *Decides* to consider this question at its sixty-first session under the same agenda item, as a matter of high priority.

49th meeting

15 April 2004

[Adopted by a recorded vote of 31 votes to 7,
with 15 abstentions. See chap. VIII.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE SIXTY-FIRST SESSION

(14 March-22 April 2005)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2005

SUPPLEMENT No. 3



UNITED NATIONS

5. *Demands* that Israel implement the recommendations regarding the settlements made by the then United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

6. *Calls upon* Israel to take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians and Palestinian properties in the Occupied Palestinian Territory, including East Jerusalem;

7. *Demands* that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice;

8. *Urges* the parties to seize the opportunity offered by the current political context to give renewed impetus to the peace process and to implement fully the road map endorsed by the Security Council in resolution 1515 (2003), with the aim of reaching a comprehensive political settlement in accordance with the resolutions of the Council, including resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security;

9. *Decides* to continue its consideration of this question at its sixty-second session.

*49th meeting
14 April 2005*

[Resolution adopted by a recorded vote of 39 votes to 2, with 12 abstentions, as follows:

In favour: Argentina, Armenia, Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, Gabon, Guinea, India, Indonesia, Ireland, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Ukraine, Zimbabwe.

Against: Australia, United States of America.

Abstaining: Canada, Costa Rica, Dominican Republic, Germany, Guatemala, Honduras, Hungary, Italy, Netherlands, Romania, Togo, United Kingdom of Great Britain and Northern Ireland.

See chap. VIII, paras. 125 to 130.]

2005/7. Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

The Commission on Human Rights,

Recalling the applicability of the Geneva Convention relative to the Protection of Civil Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the relevant resolutions of the Security Council and the Commission on Human Rights,

Taking note of the recent reports of the Special Rapporteur of the Commission on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (A/59/256 and E/CN.4/2005/29 and Add.1),

Expressing grave concern about the extrajudicial executions and the use of force by Israel against the Palestinian civil population, inflicting heavy casualties, and the continued targeting of schoolchildren, which led to loss of lives and fatal injuries,

Condemning the denial by Israel of access to hospitals for Palestinian pregnant women, which forces them to give birth at checkpoints under hostile, inhumane and humiliating conditions,

Asserting that the punitive measures imposed by Israel, the occupying Power, on the Palestinian civil population, including collective punishment, border closures and severe restrictions on the movement of people and goods, arbitrary arrests and detentions, destruction of homes and vital infrastructure, including religious, educational, cultural and historical sites, led to a steep deterioration in the socio-economic conditions, perpetuating a dire humanitarian crisis throughout the Occupied Palestinian Territory, including East Jerusalem, and affirming that these punitive measures violate the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Noting the advisory opinion rendered on 9 July 2004 by the International Court of Justice (see A/ES-10/273 and Corr.1) and General Assembly resolution ES-10/15 of 20 July 2004, and reaffirming the principle of the inadmissibility of the acquisition of territory by force,

Noting in particular the Court's reply, especially that the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law,

Welcoming the decision of the Secretary-General to establish a register of damage caused by the construction of the wall and its associated regime in the Occupied Palestinian Territory, including East Jerusalem,

Condemning the continued systematic violations of the human rights of the Palestinian people by Israel, the occupying Power, arising from the settlements, the construction of the wall inside the Occupied Palestinian Territory in departure from the Armistice Line of 1949, the destruction of property and all other actions designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem,

Welcoming the recent free and democratic Palestinian presidential election in the Occupied Palestinian Territory, including East Jerusalem,

Affirming that the obstructive measures taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, during the Palestinian presidential campaign and election, including arbitrary arrest, detention of candidates and denying access to polling stations, constitute a breach of the principles and provisions of international covenants and instruments related to the right to self-determination (see Articles 1 and 55 of the Charter of the United Nations; art. 1 of the International Covenant on Civil and Political Rights and art. 1 of

the International Covenant on Economic, Social and Political Rights; General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948; Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002; Commission resolution 2003/3 of 14 April 2003 and paras. 2 and 3 of Part I of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

Expressing deep concern that thousands of Palestinians, including children, continue to be held in Israeli prisons and detention centres under harsh conditions impairing their well-being, and also expressing deep concern about their ill-treatment, harassment and reports of torture,

Aware of the responsibility of the international community to promote human rights and ensure respect for international law,

Stressing the need for full compliance with the Israeli-Palestinian agreements reached within the context of the Middle East peace process and the implementation of the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict,

Also stressing the necessity for the full implementation of all relevant United Nations resolutions,

1. *Reiterates* that all actions and punitive measures taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and contrary to the relevant resolutions of the Security Council, are illegal and have no validity, and thereby demands that Israel, the occupying Power, comply fully with its provisions and cease immediately all measures and actions taken in violation and in breach of the Convention, including extrajudicial executions;

2. *Condemns* the use of force by the Israeli occupying forces against Palestinian civilians, resulting in extensive loss of life, vast numbers of injuries and massive destruction of homes, properties, agricultural lands and vital infrastructure;

3. *Urges* all Member States signatories to the Fourth Geneva Convention to express the inadmissibility of the ongoing violation of the rights of Palestinian civilians, especially women and children, stipulated in these instruments, and to demand their effective observance by Israel, the occupying Power;

4. *Requests* the United Nations High Commissioner for Human Rights to address the issue of Palestinian pregnant women giving birth at Israeli checkpoints owing to denial of access by Israel to hospitals, with a view to ending this inhumane Israeli practice, and to report thereon to the General Assembly at its sixtieth session and the Commission at its sixty-second session;

5. *Calls upon* Member States to take the necessary measures that fulfil their obligations under the instruments of international human rights law and international humanitarian law to ensure that Israel ceases killing, targeting, arresting and harassing Palestinians, particularly women and children;

6. *Requests* the High Commissioner to demand, in accordance with her mandate, the immediate release of the Palestinian detainees, including women, children and the sick, and the investigation of reported cases of torture, harassment or ill-treatment and the bringing to justice of Israeli officers involved in the abuse of detainees;

7. *Requests* Israel, the occupying Power, to facilitate the forthcoming Palestinian legislative elections in the Occupied Palestinian Territory, including East Jerusalem, and demands that it refrain from all acts that interfere in, obstruct or impede these elections;

8. *Demands* that Israel, the occupying Power, comply with its legal obligations under international law, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice and as demanded in General Assembly resolutions ES-10/15 and ES-10/13 of 21 October 2003, and that it cease the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, dismantle forthwith the structure situated therein, repeal or render ineffective all legislative and regulatory acts relating thereto, and make reparation for all damage caused by the construction of the wall;

9. *Calls for* the boycott of firms involved in the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

10. *Stresses* the need to preserve the territorial integrity of all the Occupied Palestinian Territory and to guarantee the freedom of movement of persons and goods within the Palestinian territory, including the removal of restrictions on movement into and from East Jerusalem, and the freedom of movement to and from the outside world as a sine qua non for resolving the humanitarian crisis throughout the Occupied Palestinian Territory, restoring the livelihoods of the Palestinian people and rebuilding their ravaged institutions and economy;

11. *Requests* the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session, in compliance with his mandate;

12. *Decides* to continue its consideration of this question at its sixty-second session.

*49th meeting
14 April 2005*

[Resolution adopted by a recorded vote of 29 votes to 10, with 14 abstentions, as follows:

In favour: Armenia, Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Ecuador, Egypt, Eritrea, Gabon, Guinea, India, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Qatar, Republic of Korea, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Zimbabwe.

Against: Australia, Canada, Germany, Honduras, Hungary, Italy, Netherlands, Romania, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Costa Rica, Dominican Republic, Ethiopia, Finland, France, Guatemala, Ireland, Japan, Mexico, Paraguay, Peru, Russian Federation, Ukraine.

See chap. VIII, paras. 131 to 135.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-FOURTH SESSION

(6 February - 10 March 1978)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1978

SUPPLEMENT No. 4



UNITED NATIONS

New York, 1978

Taking into account that States parties to the Geneva Conventions of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's refusal to apply fully and effectively the Geneva Convention relative to the Protection of Civilian Persons in Time of War in all its provisions to all the Arab territories occupied since 1967, including Jerusalem;

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;

3. Strongly deplores the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;

4. Calls upon Israel to abide by and respect the obligation arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in all the Arab territories occupied since 1967, including Jerusalem;

5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

2 (XXXIV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 28/

The Commission on Human Rights,

Recalling General Assembly resolutions 1514 (XV), 3236 (XXIX), 32/14, 32/20, 32/40 and 32/42,

Recognizing that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI),

28/ Adopted at the 1440th meeting, on 14 February 1978, by a roll-call vote of 25 in favour, 3 against and 4 abstentions. See chap. VII.

Reaffirming its resolutions 3 (XXXI) and 6 (XXXI),

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (A/32/35),

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

1. Affirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;
2. Reaffirms the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;
3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
4. Urges all States and international organizations to extend their support to the Palestinian people through their representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;
5. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B.

3 (XXXIV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 29/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the importance of its implementation,

Recalling also its resolutions 3 (XXXI) of 11 February 1975 and 9 (XXXII) of 5 March 1976,

Mindful of the different resolutions adopted by the General Assembly on the recruitment and employment of mercenaries against national liberation movements and sovereign States, particularly resolutions 2465 (XXIII) of 20 December 1968, 2708 (XXV) of 14 December 1970 and 3314 (XXIX) of 14 December 1974,

29/ Adopted at the 1440th meeting, on 14 February 1978, by a roll-call vote of 24 in favour, 3 against and 5 abstentions. See chap. VII.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-FOURTH SESSION

(6 February - 10 March 1978)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1978

SUPPLEMENT No. 4



UNITED NATIONS

New York, 1978

Reaffirming its resolutions 3 (XXXI) and 6 (XXXI),

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (A/32/35),

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

1. Affirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;
2. Reaffirms the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;
3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
4. Urges all States and international organizations to extend their support to the Palestinian people through their representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;
5. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B.

3 (XXXIV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 29/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the importance of its implementation,

Recalling also its resolutions 3 (XXXI) of 11 February 1975 and 9 (XXXII) of 5 March 1976,

Mindful of the different resolutions adopted by the General Assembly on the recruitment and employment of mercenaries against national liberation movements and sovereign States, particularly resolutions 2465 (XXIII) of 20 December 1968, 2708 (XXV) of 14 December 1970 and 3314 (XXIX) of 14 December 1974,

29/ Adopted at the 1440th meeting, on 14 February 1978, by a roll-call vote of 24 in favour, 3 against and 5 abstentions. See chap. VII.

Taking into account General Assembly resolution 32/14 of 7 November 1977,

Noting with interest the Declaration and Programme of Action adopted by the International Conference in Support of the Peoples of Zimbabwe and Namibia, held at Maputo in 1977, and the declaration adopted by the World Conference for Action against Apartheid, held at Lagos in August 1977,

Welcoming the declaration adopted by the First Afro-Arab Summit Conference, held at Cairo in March 1977, on this question,

Stressing the importance of the effective realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperatives for the enjoyment of human rights,

Expressing its profound indignation at the continued and serious violations of the human rights of the peoples still under colonial or alien domination or foreign occupation, the continuation of the illegal occupation of Namibia and South Africa's attempts to dismember its territory, the perpetuation of the racist minority régimes in Zimbabwe and South Africa and the denial to the Palestinian people of their inalienable rights,

1. Calls upon all States to implement the resolutions of the United Nations regarding the right to self-determination of peoples under colonial domination or foreign occupation;

2. Reaffirms the legitimacy of the peoples' struggle for independence, territorial integrity and liberation from colonial or alien domination or foreign occupation by all available means, including armed struggle;

3. Reaffirms also the inalienable right of the peoples of Namibia, South Africa and Zimbabwe, of the Palestinian people and of all peoples under colonial or alien domination or foreign occupation to self-determination, national independence, territorial integrity, national unity and sovereignty without external interference;

4. Condemns the practice of using mercenaries against national liberation movements and sovereign States as a criminal act and the mercenaries themselves as criminals, and calls upon the Governments of all countries to enact legislation declaring the recruitment, financing and training of mercenaries in their territory and their transit through it to be punishable offences and prohibiting their nationals from serving as mercenaries, and to inform the Commission of the legislation enacted to that effect;

5. Condemns in particular the policy of those countries which, in disregard of the wishes of the major part of the international community as expressed in numerous United Nations resolutions, maintain political, economic, military or sporting relations with the racist régimes in southern Africa and elsewhere, thereby encouraging them to persist in their suppression of the aspirations of peoples to self-determination and independence;

6. Censures all government policies which do not recognize in practice the right to self-determination and independence of all peoples still under colonial or alien domination or foreign occupation, notably the peoples of southern Africa

and the Palestinian people, and draws attention to the grave responsibility incurred by the authors and promoters of those policies in the eyes of the community of nations and world public opinion;

7. Expresses its appreciation for the material and other forms of assistance which the peoples under colonial or alien domination or foreign occupation continue to receive from Governments, United Nations agencies and intergovernmental and non-governmental organizations, and requests the maximization of this assistance;

8. Decides to continue giving the question "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" priority consideration at its thirty-fifth session.

4 (XXXIV). International Anti-Apartheid Year 30/

The Commission on Human Rights,

Recalling General Assembly resolution 32/105 B by which the Assembly proclaimed the year beginning on 21 March 1978 as International Anti-Apartheid Year,

Bearing in mind the purposes and objectives of the Anti-Apartheid Year,

Aware that gross violations of human rights continue unabated in South Africa, as evidenced in the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1270),

1. Decides to participate actively in the launching of the International Anti-Apartheid Year;

2. Requests the Secretary-General to organize a formal meeting at the United Nations Office at Geneva on 21 March 1978, the day when the Anti-Apartheid Year will be launched at United Nations Headquarters in New York;

3. Decides that the Commission should be represented at the meeting in Geneva by the Chairman of its thirty-fourth session, who should be invited to address the meeting;

4. Requests the Secretary-General to invite the heads of specialized agencies in Geneva to participate in the meeting.

30/ Adopted unanimously at the 1451st meeting, on 22 February 1978.
See chap. IV.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-FIFTH SESSION

(12 February-16 March 1979)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1979

SUPPLEMENT No. 6



UNITED NATIONS

New York, 1979

Taking into account that States parties of the Geneva Conventions of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's refusal to apply fully and effectively the Geneva Convention relative to the Protection of Civilian Persons in Time of War in all its provisions to all the Arab territories occupied since 1967, including Jerusalem;

2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;

3. Strongly deplores the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;

4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in all the Arab territories occupied since 1967, including Jerusalem;

5. Urges once more all States parties of that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

2 (XXXV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 40/

The Commission on Human Rights,

Recalling General Assembly resolutions 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977 and 33/28 of 7 December 1978

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

40/ Adopted at the 1489th meeting, on 21 February 1979, by a roll-call vote of 23 votes to 3, with 5 abstentions. See chap. VII.

Reaffirming its resolutions 3 (XXXI), 6 (XXXI), 2 (XXXIV), and 3 (XXXIV),

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 41/

Bearing in mind further General Assembly resolution 32/40 B of 2 December 1977 on the International Day of Solidarity with the Palestinian People,

Recognizing that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

1. Affirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;
2. Reaffirms the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;
3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
4. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;
5. Requests the Secretary-General to make available to the Commission on Human Rights and to its Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B of 2 December 1977.

3 (XXXV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 42/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the importance of its implementation,

41/ A/32/35

42/ Adopted at the 1489th meeting, on 21 February 1979 by a roll-call vote of 23 votes to 4, with 4 abstentions. See chap. VII.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-FIFTH SESSION

(12 February-16 March 1979)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1979

SUPPLEMENT No. 6



UNITED NATIONS

New York, 1979

Reaffirming its resolutions 3 (XXXI), 6 (XXXI), 2 (XXXIV), and 3 (XXXIV),

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 41/

Bearing in mind further General Assembly resolution 32/40 B of 2 December 1977 on the International Day of Solidarity with the Palestinian People,

Recognizing that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

1. Affirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;
2. Reaffirms the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;
3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
4. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;
5. Requests the Secretary-General to make available to the Commission on Human Rights and to its Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B of 2 December 1977.

3 (XXXV). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 42/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the importance of its implementation,

41/ A/32/35

42/ Adopted at the 1489th meeting, on 21 February 1979 by a roll-call vote of 23 votes to 4, with 4 abstentions. See chap. VII.

Recalling also its resolutions 3 (XXXI) of 11 February 1975, 9 (XXXII) of 5 March 1976 and 3 (XXXIV) of 14 February 1978, and General Assembly resolution 33/24 of 29 November 1978,

Recalling the Declaration made by the Ministers of Foreign Affairs of the Non-Aligned Countries in Belgrade, 1978,

Stressing the importance of the effective realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperatives for the enjoyment of human rights,

Reiterating its profound indignation at the continued and serious violations of human rights of the peoples still under colonial or alien domination or foreign occupation, the continuation of the illegal occupation of Namibia, and South Africa's attempts to disregard the United Nations resolutions on this problem and its solution, the perpetuation of the racist minority régimes in Zimbabwe and South Africa, and the denial to the people of Palestine of their inalienable rights,

1. Calls upon all States to implement fully and faithfully the resolutions of the United Nations regarding the exercise of the right to self-determination by peoples under colonial and alien domination;

2. Reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle;

3. Reaffirms the inalienable right of the peoples of Namibia, Zimbabwe, South Africa and the people of Palestine and of all peoples under alien and colonial domination, to self-determination, national independence, territorial integrity, national unity and sovereignty without external interference;

4. Condemns the practice of using mercenaries against national liberation movements and sovereign States as a criminal act and the mercenaries themselves as criminals, and calls upon the Governments of all countries to enact legislation declaring the recruitment, financing and training of mercenaries in their territory and their transit through it to be punishable offences and prohibiting their nationals from serving as mercenaries, and to inform the Commission of the legislation enacted to that effect;

5. Condemns in particular the policy of those States which, in disregard of the United Nations resolutions, continue to maintain political, economic, military and other relations with the racist régimes in southern Africa and elsewhere thus supporting, protecting and encouraging them to persist in their suppression of the aspirations of peoples for self-determination and independence;

6. Strongly condemns the ever-increasing massacres of innocent and defenceless people, including women and children, by the racist minority régimes of southern Africa in their desperate attempt to thwart the legitimate demands of the people;

7. Demands the immediate release of all persons detained or imprisoned as a result of their struggle for self-determination and independence, full respect for their fundamental individual rights and the observance of article 5 of the Universal Declaration of Human Rights, under which no one shall be subjected to torture or to cruel, inhuman or degrading treatment;

8. Condemns also the policies of those Governments which do not recognize the right to self-determination and independence of all peoples still under colonial and foreign domination and alien subjugation, notably the peoples of southern Africa and the people of Palestine, and draws attention to the grave responsibility incurred by the makers and promoters of such policies in the eyes of the community of nations and world public opinion;

9. Rejects completely and emphatically the so-called "internal settlement" in Zimbabwe;

10. Expresses its appreciation for the material and other forms of assistance which the peoples under colonial or alien domination or foreign occupation receive from friendly Governments in their struggle to achieve their right to self-determination and independence;

11. Decides to continue to give the question "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" priority consideration at its thirty-sixth session.

4 (XXXV). Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights 43/

The Commission on Human Rights,

Guided by the Charter of the United Nations and particularly Articles 1, 55 and 56,

Recalling its resolution 2 (XXXI) in which it decided to keep on its agenda as a standing item with high priority the "Question of the realization of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights", and study of special problems relating to human rights in developing countries,

Recalling also its resolution 4 (XXXIII) in which it recommended that the Economic and Social Council invite the Secretary-General, in co-operation with the United Nations Educational, Scientific and Cultural Organization and other competent specialized agencies, to undertake a study on the international dimensions of the right to development as a human right in relation with other human rights based on international co-operation, including the right to peace, taking into account the requirements of the New International Economic Order and the fundamental human needs, and make this study available for consideration by the Commission on Human Rights at its thirty-fifth session,

43/ Adopted at the 1504th meeting on 2 March 1979 without a vote. See chap. VI.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-SIXTH SESSION

(4 February-14 March 1980)

ECONOMIC AND SOCIAL COUNCIL

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SUPPLEMENT No. 3



UNITED NATIONS

2 (XXXVI). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 4/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978 and 34/65 B of 29 November 1979,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 3 (XXXI) of 11 February 1975, 6 (XXXI) of 21 February 1975, 2 (XXXIV) and 3 (XXXIV) of 14 February 1978 and 2 (XXXV) of 21 February 1979,

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 5/

Bearing in mind further General Assembly resolution 32/40 B, of 2 December 1977, on the International Day of Solidarity with the Palestinian People,

Reaffirming that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

Recalling General Assembly resolution 34/65 B, of 29 November 1979, which reaffirms the declaration contained in paragraph 4 of its resolution 33/28 A of 7 December 1978, that the validity of agreements purporting to solve the problem of Palestine requires that they be within the framework of the United Nations and its Charter and its resolutions on the basis of the full attainment and exercise of the inalienable rights of the Palestinian people, including the right of return and the right to national independence and sovereignty in Palestine, and with the participation of the Palestine Liberation Organization,

Taking note of paragraphs 52 to 55 of the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

1. Affirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;

4/ Adopted at the 1540th meeting, on 14 February 1980, by a roll-call vote of 23 to 8 with 10 abstentions. See chap. VII.

5/ Official records of the General Assembly, Thirty-fourth Session, Supplement No. 35, A/34/35.

2. Reaffirms the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;
3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
4. Notes with concern that the Camp David accords have been concluded outside the framework of the United Nations and without the participation of the Palestine Liberation Organization, the representative of the Palestinian people;
5. Rejects those provisions of the accords which ignore, infringe upon, violate or deny the inalienable rights of the Palestinian people, including the right of return, the right to self-determination and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations, and which envisage and condone continued Israeli occupation of the Palestinian territories and other Arab territories occupied by Israel since 1967;
6. Strongly condemns all partial agreements and separate treaties which constitute a flagrant violation of the rights of the Palestinian people, the principles of the Charter and the resolutions adopted in the various international forums on the Palestinian issue;
7. Declares that the Camp David accords and other agreements have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967;
8. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;
9. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B of 2 December 1977.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-SIXTH SESSION

(4 February-14 March 1980)

ECONOMIC AND SOCIAL COUNCIL

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SUPPLEMENT No. 3



UNITED NATIONS

independence, the sole means of putting an end to the violation of the fundamental rights of the Sarrawi people resulting from the foreign occupation of its territory and of restoring the dignity of that people;

2. Decides to follow closely the developments in this situation in the light of the recommendations of the Organization of African Unity and the General Assembly of the United Nations and to consider the question of Western Sahara within the framework of the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at its thirty-seventh session, as a matter of high priority.

5 (XXXVI). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 10/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling further General Assembly resolutions 2649 (XXV) of 30 November 1970, 2955 (XXVII) of 12 December 1972, 3070 (XXVIII) of 30 November 1973, 3236 (XXIX) of 22 November 1974, 3246 (XXIX) of 29 November 1974, 3382 (XXX) of 10 November 1975, 33/24 of 29 November 1978,

Recalling also its resolutions 3 (XXXI) of 11 February 1975, 9 (XXXIII) of 5 March 1976, 3 (XXIV) of 14 February 1978 and 2 (XXXV) and 3 (XXXV) of 21 February 1979,

Reaffirming the importance of the effective realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperative for the enjoyment of human rights,

Reiterating its profound indignation at the continued and flagrant violations of human rights of the peoples still under colonial and foreign domination and alien subjugation or foreign occupation, the perpetuation of the racist minority régime in South Africa, its illegal occupation of Namibia and persistent attempts to dismember the territory of Namibia, and the denial of the inalienable national rights of the Palestinian people,

1. Calls upon all States to implement fully and faithfully the resolutions of the United Nations concerning the exercise of the right to self-determination by peoples under colonial or alien domination and foreign occupation;

2. Reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle;

10/ Adopted at the 1543rd meeting, on 15 February 1980 by a roll-call vote of 29 to 8, with 4 abstentions. See chap. VII.

3. Reaffirms the inalienable right of the peoples of Namibia, Zimbabwe, South Africa and the Palestinian people and of all peoples under alien and colonial domination, to self-determination, national independence, territorial integrity, national unity and sovereignty without external interference;

4. Emphasises once again that the practice of using mercenaries against national liberation movements and sovereign States constitutes a criminal act and that the mercenaries themselves are criminals, and calls upon Governments to enact legislation declaring the recruitment, financing and training of mercenaries in their territory, and their transit through it, to be punishable offences and prohibiting their nationals from serving as mercenaries, and to report on such legislation to the Secretary-General;

5. Condemns in particular the policy of those States which, in disregard of United Nations resolutions, continue to maintain political, economic, military and other relations with the racist régimes in southern Africa and elsewhere, thus supporting, protecting and encouraging them to persist in their suppression of the aspirations of peoples for self-determination and independence;

6. Strongly condemns the ever-increasing massacres of innocent and defenceless people, including women and children, by the racist minority régimes of southern Africa in their desperate attempts to suppress the legitimate demands of the people;

7. Reiterates its demand for the immediate and unconditional release of all people detained or imprisoned as a result of their struggle for self-determination and independence, full respect for their fundamental rights and the observance of article 5 of the Universal Declaration of Human Rights, under which no one shall be subjected to torture or to cruel, inhuman or degrading treatment;

8. Requests the Government of the United Kingdom of Great Britain and Northern Ireland to take without any delay all necessary measures to guarantee free and fair elections in Southern Rhodesia, which would bring this territory to genuine independence acceptable to the people of Zimbabwe in accordance with the purposes of General Assembly resolution 1514 (XV) of 14 December 1960, as required by the Security Council in its resolution 463 (1980) of 2 February 1980;

9. Reiterates its appreciation for the material and other forms of assistance and support which the peoples under colonial domination and foreign occupation receive from friendly Governments in their struggle to achieve their right to self-determination and independence;

10. Decides to continue to give the question "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" priority consideration at its thirty-seventh session.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-SEVENTH SESSION

(2 February-13 March 1981)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1981

SUPPLEMENT No. 5



UNITED NATIONS

New York, 1981

5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

2 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 5/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978, 34/65 B of 29 November 1979, ES-7/2 of 29 July 1980, 35/169 of 15 December 1980,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 3 (XXXI) of 11 February 1975, 6 (XXXI) of 21 February 1975, 2 (XXXIV) and 3 (XXXIV) of 14 February 1978 and 2 (XXXV) of 21 February 1979 and 2 (XXXVI) of 14 February 1980,

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 6/

Reaffirming that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

Recalling General Assembly resolution 35/169 A of 15 December 1980 which expresses its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security, and that Security Council resolution 242 (1967) of 22 November 1967 does

5/ Adopted at the 1595th meeting, on 11 February 1981, by a roll-call vote of 25 to 9, with 8 abstentions. See Chap. VII.

6/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 35, A/35/35.

not provide for the future and for the inalienable rights of the Palestinian people, the attainment of which is a conditio sine qua non for a just solution of the question of Palestine,

Taking note of paragraphs 59 and 72 of the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;

2. Reaffirms the inalienable right of the Palestinians to return to their homes and property, from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;

3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;

4. Reaffirms its concern that the Camp David accords were concluded outside the framework of the United Nations and without the participation of the Palestine Liberation Organization, the representative of the Palestinian people;

5. Rejects those provisions of the accords which ignore, infringe upon, violate or deny the inalienable rights of the Palestinian people, including the right of return, the right to self-determination and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations, and which envisage and condone continued Israeli occupation of the Palestinian territories and other Arab territories occupied by Israel since 1967;

6. Strongly condemns all partial agreements and separate treaties which constitute a flagrant violation of the rights of the Palestinian people, the principles of the Charter and the resolutions adopted in the various international forums on the Palestinian issue;

7. Declares that the Camp David accords and other agreements have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967;

8. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;

9. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B of 2 December 1977.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-SEVENTH SESSION

(2 February-13 March 1981)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1981

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UNITED NATIONS

New York, 1981

6. Further urges all concerned to co-operate with the Secretary-General and his Special Representative in their efforts to resolve the situation in Afghanistan;

7. Appeals to all States and national and international organizations to extend humanitarian relief assistance, with a view to alleviating the hardship of Afghan refugees, in co-ordination with the United Nations High Commissioner for Refugees;

8. Decides to consider this matter at its thirty-eighth session with high priority under the item entitled "Right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

14 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 37/

The Commission on Human Rights,

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international instruments relating to human rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and resolution 35/119 of 11 December 1980,

Recalling further General Assembly resolutions 2649 (XXV) of 30 November 1970, 2955 (XXVII) of 12 December 1972, 3070 (XXVIII) of 30 November 1973, 3236 (XXIX) of 22 November 1974, 3246 (XXIX) of 29 November 1974, 3382 (XXX) of 10 November 1975, 33/24 of 29 November 1978 and 35/35 of 14 November 1980,

Recalling also its resolutions 3 (XXXI) of 11 February 1975, 9 (XXXII) of 5 March 1976, 3 (XXXIV) of 14 February 1978 and 2 (XXXV) and 3 (XXXV) of 21 February 1979, and 5 (XXXVI) of 15 February 1980,

Reaffirming once again the importance of the effective realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperative for the enjoyment of human rights,

Reiterating its profound indignation at the continued and flagrant violations of human rights of the peoples still under colonial and foreign domination and alien subjugation or foreign occupation, the perpetuation of the racist minority régime in South Africa, its illegal occupation of Namibia and persistent attempts to dismember the territory of Namibia, and the denial of the inalienable national rights of the Palestinian people,

1. Calls upon all States to implement fully and faithfully the resolutions of the United Nations concerning the exercise of the right to self-determination by peoples under colonial or alien domination and foreign occupation;

37/ Adopted at the 1630th meeting, on 6 March 1981, by a roll-call vote of 31 to 8, with 3 abstentions. See chap. VII.

2. Reaffirms once more the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle;
3. Reaffirms the inalienable right of the peoples of Namibia, South Africa and the Palestinian people and of all peoples under alien and colonial domination, to self-determination, national independence, territorial integrity, national unity and sovereignty without external interference;
4. Strongly condemns the ever-increasing massacres of innocent and defenceless people, including women and children, by the racist minority régime of southern Africa in its desperate attempts to suppress the legitimate demands of the people;
5. Condemns South Africa's wanton acts of criminal aggression and flagrant violations of the territorial integrity of the frontline States through military attacks by land and air with the sole aim of destabilizing and weakening these States in their resolve and determination to give their support to the liberation struggle in southern Africa, and requests that some help should be given to the frontline States to buttress their determination;
6. Condemns also the expansionist policy of Israel, and its practices in the region as well as the continuous aggression against the civilian Arab population, in particular the Palestinians, and the destruction of their villages and camps, which constitute serious obstacles to the achievement of self-determination and independence by the Palestinian people;
7. Reaffirms once again that the practice of using mercenaries against national liberation movements and sovereign States constitutes a criminal act and that the mercenaries themselves are criminals, and calls upon Governments to enact legislation declaring the recruitment, financing and training of mercenaries in their territory, and their transit through it, to be punishable offences and prohibiting their nationals from serving as mercenaries, and to report on such legislation to the Secretary-General;
8. Welcomes with satisfaction the convening of the first session of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries;
9. Condemns in particular the policy of those States which, in disregard of United Nations resolutions, continue to maintain political, economic, military and other relations with the racist régime in southern Africa, thus supporting, protecting and encouraging them to persist in their suppression of the aspirations of peoples for self-determination and independence;
10. Demands once more the immediate and unconditional release of all people detained or imprisoned as a result of their struggle for self-determination and independence, full respect for their fundamental rights and the observance of article 5 of the Universal Declaration of Human Rights, under which no one shall be subjected to torture or to cruel, inhuman or degrading treatment;

11. Condemns the sentencing to death, by the South African courts, of freedom fighters of the African National Congress and the South West Africa People's Organization and calls on the South African Government to reprove the sentences in the name of humanitarian considerations;

12. Decides to continue to give the question "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" priority consideration at its thirty-eighth session.

15 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

Assistance to the Central African Republic 38/

The Commission on Human Rights,

Recalling General Assembly resolution 35/87 of 5 December 1980 on assistance for the reconstruction, rehabilitation and development of the Central African Republic,

Considering the development measures to be studied by the United Nations agencies concerned in order to give effect to General Assembly resolution 35/87, and the need to take due account of human rights in the adoption and application of those measures,

Noting with satisfaction that human rights and fundamental freedoms have been restored in the Central African Republic in spite of that country's economic and financial difficulties,

Noting with satisfaction the interest displayed by the Government of the Central African Republic in co-operation by the United Nations to ensure the effective exercise of fundamental rights by citizens,

Welcoming with satisfaction the efforts exerted by the Government and people of the Central African Republic for reconstruction, rehabilitation and development,

1. Requests the Secretary-General to provide advisory services and other forms of appropriate assistance to help the Government of the Central African Republic to continue to guarantee the exercise of human rights and fundamental freedoms in that country;

2. Invites all States, specialized agencies and other United Nations organs, and also humanitarian and non-governmental organizations, to provide co-operation and assistance to the Central African Republic in the human rights field as well as in other fields;

3. Recommends the following draft decision for adoption by the Economic and Social Council:

[For the text see chap. I, sect. B, draft decision 5]

38/ Adopted at the 1631st meeting on 9 March 1981, without a vote. See chap. XI.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE THIRTY-EIGHTH SESSION

(1 February - 12 March 1982)

ECONOMIC AND SOCIAL COUNCIL

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UNITED NATIONS

New York, 1982

2. Declares that the Israeli decision is null and void and without any international legal effect and demands that Israel, the occupying Power, rescind its illegal and pernicious act;

3. Determines that the persistent defiance by Israel of the resolutions and authority of the United Nations and the systematic violations of human rights in the occupied Arab territories, including Palestine, constitute a continuing threat to international peace and security;

4. Calls upon all Member States to apply against Israel the measures referred to in paragraphs 11, 12, 13 and 15 of General Assembly resolution ES-9/1 of 5 February 1982.

1982/3. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 13/

The Commission on Human Rights,

Recalling General Assembly resolutions 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978, 34/65 of 29 November 1979, ES.7/2 of 29 July 1980, 35/169 of 15 December 1980, 36/120 of 10 December 1981 and 36/226 of 17 December 1981,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 2 (XXXVII) of 11 February 1981 and 14 (XXXVII) of 6 March 1981,

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 14/ and especially paragraphs 49 to 72 of that report,

Reaffirming that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions, and expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

Expressing its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security,

13/ Adopted at the 17th meeting on 11 February 1982, by a roll-call vote of 24 to 8, with 10 abstentions. See chap. VII.

14/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 35 (A/36/35).

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State of Palestine;

2. Reaffirms the inalienable right of the Palestinians to return to their homes and property, from which they have been displaced and uprooted by Israel, and calls for their return in the exercise of their right to self-determination;

3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;

4. Reaffirms the basic principle that the future of the Palestinian people can only be decided with its full participation in all efforts, through its representative, the Palestine Liberation Organization;

5. Expresses its strong opposition to all partial agreements and separate treaties which constitute a flagrant violation of the rights of the Palestinian people, the principles of the Charter and the resolutions adopted in the various international forums on the Palestinian issue, as well as the principles of international law, and declares that all agreements and separate treaties have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967, including Jerusalem;

6. Strongly rejects the continuation of the negotiations on the question of "autonomy", within the framework of the "Camp David accords" and declares that these accords have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967;

7. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter and the relevant resolutions of the United Nations;

8. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B of 2 December 1977.

1982/4. Human rights and scientific and technological developments 15/

The Commission on Human Rights,

Noting that scientific and technological progress is one of the decisive factors in the development of society,

15/ Adopted at the 29th meeting on 19 February 1982 by 31 to none, with 12 abstentions. See chap. XIII.

**COMMISSION ON HUMAN RIGHTS
REPORT ON THE THIRTY-NINTH SESSION**

(31 January - 11 March 1983)

**ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1983**

SUPPLEMENT No. 3



**UNITED NATIONS
New York, 1983**

4. Reaffirms its determination that all provisions of the Hague Convention of 1907 and the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 14/ continue to apply to the Syrian territory occupied by Israel since 1967, and calls upon parties thereto to respect their obligations under these instruments in all circumstances,

5. Determines once more that continued occupation of the Syrian Golan Heights since 1967 and its effective annexation by Israel on 14 December 1981, as well as the inhuman treatment of the Syrian population, constitute a grave violation of the Universal Declaration of Human Rights, the Geneva Convention and the relevant United Nations resolutions,

6. Strongly deplores the negative vote of a permanent member of the Security Council which prevented the Council from adopting against Israel, under chapter VII of the Charter of the United Nations, the "appropriate measures" referred to in resolution 497 (1981), adopted unanimously by the Security Council

7. Calls upon Israel, the occupying Power, to rescind forthwith its decision of 14 December 1981 to impose its laws, jurisdiction and administration on the Syrian Golan Heights, and firmly emphasizes the overriding necessity of the total and unconditional withdrawal by Israel from all Palestinian and Syrian territories occupied since 1967, including Jerusalem, which is an essential prerequisite for the establishment of a comprehensive and just peace in the Middle East,

8. Decides to place on the provisional agenda of its fortieth session as a matter of high priority the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

1983/5 The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 15/

The Commission on Human Rights,

Recalling General Assembly resolutions 181 (II) of 29 November 1947, 194 (III) of 11 December 1948, 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978, 34/65 of 29 November 1979, ES-7/2 of 29 July 1980, 35/169 of 15 December 1980, 36/120 of 10 December 1981, 36/226 of 17 December 1981, ES-1/9 of 24 September 1982 and 37/86 of 10/20 December 1982,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolution 1982/3 of 11 February 1982,

14/ United Nations, Treaty Series, vol. 75, p 287

15/ Adopted at the 22nd meeting, on 15 February 1983, by a roll-call vote of 26 to 7, with 10 abstentions See chap VII

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 16/ and especially paragraphs 49 to 77 of that report,

Emphasizing once more that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions, and expressing its grave concern that Israel has prevented the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law,

Expressing its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security, as has been tragically illustrated by the Israeli invasion of Lebanon,

Welcoming the Arab peace plan adopted at the Twelfth Arab Summit Conference, held at Fez, Morocco, on 25 November 1981 and 9 September 1982,

1. Condemns Israel's continued occupation of the Palestinian and other Arab territories, including Jerusalem, in violation of the Charter of the United Nations, the principles of international law and the relevant resolutions of the United Nations, and demands the immediate, unconditional and total withdrawal of Israel from all these occupied territories,

2. Condemns Israel's aggression and practices against the Palestinian people in the occupied Palestinian territories and outside these territories, particularly Palestinians in Lebanon, as a result of the Israeli invasion of Lebanon which claimed the lives of thousands of Lebanese and Palestinian civilians,

3. Condemns in the strongest terms the large-scale massacre of Palestinian civilians in the Sabra and Shatila refugee camps for which the responsibility of the Israeli Government has been established,

4. Decides that the massacre was an act of genocide,

5. Requests the General Assembly to declare 17 September a day to commemorate the memory of the victims of Sabra and Shatila,

6. Expresses its grave concern that, until a just and equitable solution to the problem of Palestine has been implemented, the Palestinian people will be exposed to grave dangers such as the appalling massacre perpetrated in the Sabra and Shatila refugee camps,

7. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State of Palestine,

8. Reaffirms the inalienable right of the Palestinians to return to their homes and property, from which they have been displaced and uprooted by Israel, and calls for their return in the exercise of their right to self-determination

16/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 35 (A/36/35).

9. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations,

10. Reaffirms the basic principle that the future of the Palestinian people can only be decided with its full participation in all efforts, through its representative, the Palestine Liberation Organization

11. Rejects all partial agreements and separate treaties in so far as they violate the inalienable rights of the Palestinian people and contradict the principles of just and comprehensive solutions to the Middle East problem to ensure the establishment of a just peace in the area, in accordance with the principles of the Charter of the United Nations and with relevant United Nations resolutions

12. Strongly rejects the plan of "autonomy" within the framework of the "Camp David accords" and declares that these accords have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967,

13. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter and the relevant resolutions of the United Nations,

14. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Division for Palestinian Rights

1983/4. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 17/

The Commission on Human Rights,

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international instruments relating to human rights,

Recalling General Assembly resolutions 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, 2621 (XXV) of 12 October 1970, containing the programme of action for the full implementation of the Declaration, and 35/118 of 11 December 1980, containing the Plan of Action for the Full Implementation of the Declaration,

Recalling further General Assembly resolutions 2649 (XXV) of 30 November 1970, 2955 (XXVII) of 12 December 1972, 3070 (XXVIII) of 30 November 1973, 3236 (XXIX) of 22 November 1974, 3246 (XXIX) of 29 November 1974, 3382 (XXX) of 10 November 1975, 33/24 of 29 November 1978, 35/35 of 14 November 1980, 36/68 of 1 December 1981, 36/76 of 4 December 1981 and 37/35 of 23 November 1982,

17/ Adopted at the 22nd meeting, on 15 February 1983, by a roll-call vote of 31 to 7, with 4 abstentions. See chap. VII

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTIETH SESSION

(6 February-16 March 1984)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1984

SUPPLEMENT No. 4



UNITED NATIONS

New York, 1984

2. Calls for the immediate withdrawal of the foreign troops from Afghanistan;
3. Further calls for a political settlement of the situation in Afghanistan on the basis of the withdrawal of foreign troops and full respect for the independence, sovereignty, territorial integrity and non-aligned status of Afghanistan and strict observance of the principle of non-intervention and non-interference;
4. Affirms the right of the Afghan refugees to return to their homes in safety and honour;
5. Urges all concerned to work towards a settlement which would ensure that the Afghan people determine their destiny free from outside interference and which would enable the Afghan refugees to return to their homes;
6. Expresses its appreciation and support for the efforts and constructive steps taken by the Secretary-General, especially the diplomatic process initiated by him, in the search for a solution to the problem;
7. Requests the Secretary-General to continue these efforts with a view to promoting a political solution, in accordance with the provisions of the relevant General Assembly resolutions;
8. Urges all concerned to continue to co-operate with the Secretary-General in his efforts to promote a political solution in respect of the situation in Afghanistan;
9. Appeals to all States and national and international organizations to extend humanitarian relief assistance, with a view to alleviating the hardship of Afghan refugees, in co-ordination with the United Nations High Commissioner for Refugees;
10. Decides to consider this matter at its forty-first session with high priority under the agenda item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation."

1984/11. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 41/

The Commission on Human Rights,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947, 194 (III) of 11 December 1948, 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 A and B of 2 December 1977, 32/42 of 7 December 1977, 33/28 A to C of 7 December 1978, 34/65 A to D of 29 November and 12 December 1979, ES-7/2 of 29 July 1980, 35/169 A to E of 15 December 1980, 36/120 A to F of 10 December 1981, 36/226 A and B of 17 December 1981, ES-7/9 of 24 September 1982, 37/86 A to E of 10 and 20 December 1982 and 38/58 A to E of 13 December 1983,

41/ Adopted at the 34th meeting, on 29 February 1984, by a roll-call vote of 28 to 7, with 8 abstentions. See chap. IX.

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 1982/3 of 11 February 1982 and 1983/3 of 15 February 1983,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

Emphasizing once more that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions, and expressing its grave concern that Israel has prevented the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law and in disregard of the will of the international community,

Expressing its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security, as has been tragically illustrated by Israel's invasion and continued occupation of Lebanon,

Welcoming the Arab peace plan adopted by the Twelfth Arab Summit Conference, held at Fez, Morocco, on 9 September 1982,

Noting with satisfaction the outcome of the proceedings of the International Conference on the Question of Palestine held at Geneva from 29 August to 7 September 1983,

Gravely concerned at the agreements on strategic co-operation between the United States of America and Israel signed on 30 November 1981, as well as the agreements recently concluded in this respect, which would encourage and support Israeli policies of aggression and expansion,

1. Condemns Israel's continued occupation of the Palestinian and other Arab territories, including Jerusalem, in violation of the Charter of the United Nations, the principles of international law and the relevant resolutions of the United Nations, and demands the immediate, unconditional and total withdrawal of Israel from all these occupied territories;
2. Condemns Israel's aggression and practices against the Palestinian people in the occupied Palestinian territories and outside those territories, particularly against Palestinians in Lebanon, as a result of the Israeli invasion of Lebanon which claimed the lives of thousands of Lebanese and Palestinian civilians;
3. Strongly condemns anew Israel's responsibility for the large-scale massacre in the Sabra and Shatila refugee camps, which constituted an act of genocide, and expresses its grave concern that, until a just and equitable solution to the problem of Palestine has been implemented, the Palestinian people will be exposed to grave dangers such as the appalling massacre perpetrated in the Sabra and Shatila refugee camps;
4. Reaffirms the inalienable right of the Palestine people to self-determination without external interference and the establishment of a fully independent and sovereign State of Palestine;

5. Reaffirms the inalienable right of the Palestinians to return to their homes and property, from which they have been uprooted by force, and calls for their return and the exercise of their right to self-determination;
6. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
7. Reaffirms the basic principle that the future of the Palestinian people can only be decided with its full participation in all efforts, through its legitimate and sole representative, the Palestine Liberation Organization;
8. Reaffirms its rejection of all partial agreements and separate treaties in so far as they violate the inalienable rights of the Palestinian people and contradict the principles of just and comprehensive solutions to the Middle East problem that ensure the establishment of a just peace in the area, in accordance with the principles of the Charter of the United Nations and with relevant United Nations resolutions;
9. Strongly rejects the plan of "autonomy" within the framework of the "Camp David accords" and declares that these accords have no validity in determining the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967;
10. Denounces the agreements on strategic co-operation between the United States of America and Israel signed on 30 November 1981, as well as the agreements recently concluded in this respect, which encourage Israel to persist in its policies and practices of aggression and expansion in the Palestinian and other Arab territories occupied since 1967, including Jerusalem, and which undermine efforts aimed at establishing a comprehensive and just peace in the Middle East and endanger peace in the region;
11. Endorses the Geneva Declaration on Palestine adopted by the International Conference on the Question of Palestine, 42/ and welcomes the call for convening an international peace conference on the Middle East under the auspices of the United Nations, in which all parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, the Union of Soviet Socialist Republics and the United States of America, as well as other concerned States, participate on an equal footing and with equal rights;
12. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter and the relevant resolutions of the United Nations;
13. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Division for Palestinian Rights.

42/ Report of the International Conference on the Question of Palestine, Geneva, 29 August-7 September 1983 (United Nations publication, Sales No. E.83.I.21), part one, chap. I, sect. A.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-FIRST SESSION

(4 February-15 March 1985)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1985

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1985

1985/4. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 19/

The Commission on Human Rights,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947, 194 (III) of 11 December 1948, 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 A and B of 2 December 1977, 32/42 of 7 December 1977, 33/28 A to C of 7 December 1978, 34/65 A to D of 29 November and 12 December 1979, ES-7/2 of 29 July 1980, 35/169 A to E of 15 December 1980, 36/120 A to F of 10 December 1981, 36/226 A and B of 17 December 1981, ES-7/9 of 24 September 1982, 37/86 A to E of 10 and 20 December 1982, 38/58 A to E of 13 December 1983 and 39/49 A to D of 11 December 1984,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 1982/3 of 11 February 1982, 1983/3 of 15 February 1983 and 1984/11 of 29 February 1984,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

Emphasizing once more that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions, and expressing its grave concern that Israel has prevented the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law and in disregard of the will of the international community,

Expressing its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security, as has been tragically illustrated by Israel's invasion and continued occupation of Lebanon,

Welcoming the Arab peace plan adopted by the Twelfth Arab Summit Conference, held at Fez, Morocco, on 9 September 1982,

Noting with satisfaction the outcome of the proceedings of the International Conference on the Question of Palestine held at Geneva from 29 August to 7 September 1983,

Gravely concerned at the agreements on strategic co-operation between the United States of America and Israel signed on 30 November 1981, as well as the agreements recently concluded in that respect, which would encourage and support Israeli policies of aggression and expansion,

19/ Adopted at the 32nd meeting, on 26 February 1985, by a roll-call vote of 29 to 7, with 7 abstentions. See chap. IX.

1. Condemns Israel's continued occupation of the Palestinian and other Arab territories, including Jerusalem, in violation of the Charter of the United Nations, the principles of international law and the relevant resolutions of the United Nations, and demands the immediate, unconditional and total withdrawal of Israel from all those occupied territories;
2. Condemns Israel's aggression and practices against the Palestinian people in the occupied Palestinian territories and outside those territories, particularly against Palestinians in Lebanon, as a result of the Israeli invasion of Lebanon which claimed the lives of thousands of Lebanese and Palestinian civilians;
3. Strongly condemns anew Israel's responsibility for the large-scale massacre in the Sabra and Shatila refugee camps, which constituted an act of genocide, and expresses its grave concern that, until a just and equitable solution to the problem of Palestine has been implemented, the Palestinian people will be exposed to grave dangers such as the appalling massacre perpetrated in the Sabra and Shatila refugee camps;
4. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State of Palestine;
5. Reaffirms the inalienable right of the Palestinians to return to their homes and property, from which they have been uprooted by force, and calls for their return and the exercise of their right to self-determination;
6. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
7. Reaffirms the basic principle that the future of the Palestinian people can only be decided with its full participation in all efforts, through its legitimate and sole representative, the Palestine Liberation Organization;
8. Reaffirms its rejection of all partial agreements and separate treaties in so far as they violate the inalienable rights of the Palestinian people and contradict the principles of just and comprehensive solutions to the Middle East problem that ensure the establishment of a just peace in the area, in accordance with the principles of the Charter of the United Nations and with relevant United Nations resolutions;
9. Strongly rejects the plan for "autonomy" within the framework of the "Camp David accords" and declares that these accords have no validity in determining the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967;
10. Reaffirms its support for the Geneva Declaration on Palestine adopted by the International Conference on the Question of Palestine, ^{20/} and welcomes the call to convene an international peace conference on the Middle East under the auspices of the United Nations, in which all parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, the Union of Soviet Socialist Republics and the United States of America, as well as other concerned States, participate on an equal footing and with equal rights;

^{20/} Report of the International Conference on the Question of Palestine, Geneva, 29 August-7 September 1983 (United Nations publication, Sales No. E.83.I.21), part I, chap. I, sect. A.

11. Expresses its deep regret at the negative reaction of the United States of America and Israel towards the above-mentioned international conference and calls upon the United States and Israel to reconsider their attitude, so as to facilitate the convening of the conference under the auspices of the United Nations and with the participation of the Palestine Liberation Organization on an equal footing with all parties concerned in the Arab-Israeli conflict;

12. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter and the relevant resolutions of the United Nations;

13. Requests the Secretary-General to make available to the Commission on Human Rights all information pertaining to the implementation of this resolution;

14. Decides to place on the provisional agenda of its forty-second session as a matter of priority the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

1985/5. Question of Western Sahara 21/

The Commission on Human Rights,

Having considered in depth the question of Western Sahara,

Recalling the inalienable right of all peoples to self-determination and independence in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Reaffirming all resolutions of the United Nations on the question of Western Sahara, particularly General Assembly resolution 39/40 of 5 December 1984,

Recalling resolution AHG/RES.104 (XIX) on Western Sahara, 22/ adopted unanimously by the Assembly of Heads of State and Government of the Organization of African Unity at its nineteenth ordinary session, held at Addis Ababa from 6 to 12 June 1983,

Taking note of the report of the Implementation Committee on Western Sahara adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its twentieth ordinary session, 23/

21/ Adopted at the 32nd meeting, on 26 February 1985, by a roll-call vote of 30 to none, with 12 abstentions. See chap. IX.

22/ See A/38/312, annex.

23/ A/39/680, annex.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-SECOND SESSION

(3 February-14 March 1986)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1986

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1986

necessary conditions for a peaceful and fair referendum for self-determination of the people of Western Sahara, a referendum without any administrative or military constraints, under the auspices of the Organization of African Unity and the United Nations;

4. Welcomes the efforts of the current Chairman of the Organization of African Unity and the Secretary-General of the United Nations to achieve a just and definitive solution to the question of Western Sahara;

5. Welcomes also the invitation by the General Assembly to the current Chairman of the Organization of African Unity and the Secretary-General of the United Nations to exert every effort to persuade the two parties to the conflict, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro, to negotiate, in the shortest possible time, in conformity with Organization of African Unity resolution AHG/Res.104 (XIX) and General Assembly resolution 40/50, the terms of a cease-fire and the modalities for organizing the said referendum;

6. Expresses its satisfaction at the determination of the United Nations to co-operate fully with the Organization of African Unity with a view to implementing the relevant decisions of that organization, in particular resolution AHG/Res.104 (XIX);

7. Decides to follow the development of the situation in Western Sahara and to consider this question within the framework of the agenda item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at its forty-third session, as a matter of high priority.

1986/22. Situation in occupied Palestine 72/

The Commission on Human Rights,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947, which called for the establishment of a Palestinian State in Palestine, 194 (III) of 11 December 1948, 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 A and B of 2 December 1977, 32/42 of 7 December 1977, 33/28 A to C of 7 December 1978, 34/65 A to D of 29 November and 12 December 1979, ES-7/2 of 29 July 1980, 35/169 A to E of 15 December 1980, 36/120 A to F of 10 December 1981, 36/226 A and B of 17 December 1981, ES-7/9 of

72/ Adopted at the 50th meeting, on 10 March 1986, by a roll-call vote of 28 to 8, with 7 abstentions. See chap. IX, para. 179.

24 September 1982, 37/86 A to E of 10 and 20 December 1982, 38/58 A to E of 13 December 1983, 39/49 A to D of 11 December 1984 and 40/96 A to D of 12 December 1985,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 1982/3 of 11 February 1982, 1983/3 of 15 February 1983, 1984/11 of 29 February 1984 and 1985/4 of 26 February 1985,

Recalling Security Council resolution 573 (1985) of 4 October 1985,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

Emphasizing once more the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions, and expressing its grave concern that Israel continues to prevent the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law and in disregard of the will of the international community and of United Nations resolutions,

Expresses its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security, as has been tragically illustrated by Israel's invasion and continued occupation of part of Lebanon, in addition to its continued occupation of Palestinian and other Arab territories,

Welcoming once again the Arab peace plan adopted by the Twelfth Arab Summit Conference, held at Fez, Morocco, on 9 September 1982,

Reiterating its grave concern at the agreements on strategic co-operation between the United States of America and Israel signed on 30 November 1981, as well as the agreements recently concluded in that respect, which would encourage and support Israeli policies of aggression, expansion and continued occupation of Palestinian and other Arab territories,

Reaffirming its support for the outcome of the proceedings of the International Conference on the Question of Palestine held at Geneva in 1983,

1. Strongly condemns Israel, the occupying Power, for its non-compliance with the relevant resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

2. Condemns Israel's continued occupation of the Palestinian and other Arab territories, including Jerusalem, in violation of the Charter of the

United Nations, the principles of international law and the relevant resolutions of the United Nations, and demands the immediate, unconditional and total withdrawal of Israel from all those occupied territories, because the Israeli occupation of the Palestinian territories constitutes the major obstacle hindering the exercise of the right to self-determination by the Palestinian people;

3. Condemns Israel's aggression and practices against the Palestinian people in the occupied Palestinian territories and outside those territories, particularly against Palestinians in Lebanon, as a result of the Israeli invasion of Lebanon which claimed the lives of thousands of Lebanese and Palestinian civilians;

4. Strongly condemns the Israeli armed aggression on Tunisia and on offices of the Palestine Liberation Organization in Tunisia on 1 October 1985;

5. Strongly condemns anew Israel's responsibility for the large-scale massacre in the Sabra and Shatila refugee camps, which constituted an act of genocide, and expresses its grave concern that, until a just and equitable solution to the problem of Palestine has been implemented, the Palestinian people will be exposed to grave dangers, such as the appalling massacre perpetrated in the Sabra and Shatila refugee camps in September 1982;

6. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of their independent and sovereign State on their national soil in accordance with General Assembly resolutions;

7. Reaffirms the inalienable right of the Palestinians to return to their homes and property, from which they have been uprooted by force, and calls for their return and the exercise of their right to self-determination in accordance with the principles of international law and General Assembly resolutions;

8. Affirms the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions;

9. Reaffirms the basic principle that the future of the Palestinian people can only be decided with its full participation, through its legitimate and sole representative, the Palestine Liberation Organization, in all efforts and international conferences concerning the question of Palestine and the future of the Palestinian people;

10. Reaffirms its rejection of all partial agreements and separate treaties in so far as they violate the inalienable rights of the Palestinian people and contradict the principles of just and comprehensive solutions to

the Middle East problem that ensure the establishment of a just peace in the area, in accordance with the principles of the Charter of the United Nations and with relevant United Nations resolutions;

11. Reiterates its strong rejection of any plan for "autonomy" which would constitute flagrant disregard of the inalienable right of the Palestinian people to self-determination without external interference, in accordance with the provisions of the Charter of the United Nations and with relevant United Nations resolutions;

12. Reaffirms its support for the Geneva Declaration on Palestine adopted by the International Conference on the Question of Palestine, 73/ and affirms its support for the call to convene an international peace conference on the Middle East, in accordance with the provisions of General Assembly resolution 38/58 C, and appeals to all States to make further constructive efforts towards the convening of such a conference without delay, with a view to achieving a just peace in the region;

13. Expresses its deep regret at the negative reaction of the United States of America and Israel towards the above-mentioned international conference and calls upon the United States and Israel to reconsider their attitude towards the question of peace in the area, so as to facilitate the convening of the conference under the auspices of the United Nations and with the participation of the Palestine Liberation Organization on an equal footing with all parties concerned in the Arab-Israeli conflict, as well as of the Union of Soviet Socialist Republics and the United States of America;

14. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter of the United Nations and with relevant United Nations resolutions;

15. Requests the Secretary-General to make available to the Commission on Human Rights all information pertaining to the implementation of the present resolution;

16. Decides to place on the provisional agenda of its forty-third session as a matter of priority the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

73/ Report of the International Conference on the Question of Palestine, Geneva, 29 August-7 September 1983 (United Nations publication, Sales No. E.83.I.21), part 1, chap. I, sect. A.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-SECOND SESSION

(3 February-14 March 1986)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1986

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1986

The Commission on Human Rights,

1. Condemns Israel for its continued occupation of the Palestinian territories, including Jerusalem, and of other Arab territories in violation of relevant United Nations resolutions and of the provisions of international law;
2. Strongly condemns Israeli policies and practices of terrorist action perpetrated against the Palestinian inhabitants of the occupied territories, such as killing, detention and torture, deportation, and confiscation and annexation of land, which constitute grave violations of the Charter of the United Nations, the Universal Declaration of Human Rights and all relevant United Nations resolutions;
3. Condemns Israel for its persistence in developing the colonization of these territories which aims at changing the demographic composition, the institutional structure and the status of the occupied territories, including Jerusalem;
4. Reaffirms that such measures as are described in the foregoing paragraphs constitute grave violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, 103/ and of The Hague Convention IV of 1907, 104/ and that they are null and void with regard to international law;
5. Calls upon Israel to withdraw immediately from the occupied Palestinian territories, including Jerusalem, in order to restore to the Palestinian people their inalienable national rights, and from all the other occupied Arab territories.

102/ Adopted at the 52nd meeting, on 11 March 1986, by a roll-call vote of 28 to 6, with 5 abstentions. See chap. XIX, para. 497.

103/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

104/ Carnegie Endowment for International Peace, The Hague Conventions of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-THIRD SESSION

(2 February-13 March 1987)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1987

SUPPLEMENT No. 5



UNITED NATIONS

New York, 1987

4. Welcomes the efforts of the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity and the Secretary-General of the United Nations to promote a just and definitive solution of the question of Western Sahara, in conformity with General Assembly resolution 40/50;

5. Welcomes also the invitation by the General Assembly to the current Chairman of the Organization of African Unity and the Secretary-General of the United Nations to exert every effort to persuade the two parties to the conflict, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro, to negotiate, in the shortest possible time, in conformity with Organization of African Unity resolution AHG/Res.104 (XIX) and General Assembly resolutions 40/50 and 41/16, the terms of a cease-fire and the modalities for organizing the said referendum;

6. Joins in the appeal by the General Assembly to the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro to display the political will necessary to implement Organization of African Unity resolution AHG/Res.104 (XIX) and General Assembly resolutions 40/50 and 41/16;

7. Expresses its satisfaction at the determination of the United Nations to co-operate fully with the Organization of African Unity with a view to implementing the relevant decisions of that organization, in particular resolution AHG/Res.104 (XIX);

8. Decides to follow the development of the situation in Western Sahara and to consider this question within the framework of the agenda item entitled, "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at its forty-fourth session, as a matter of high priority.

28th meeting

19 February 1987

[Adopted by a roll-call vote of 27 to none, with
15 abstentions. See chap. IX.]

1987/4. Situation in occupied Palestine

The Commission on Human Rights,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947, which called for the establishment of a Palestinian State in Palestine, 194 (III) of 11 December 1948, 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 A and B of 2 December 1977, 32/42 of 7 December 1977, 33/28 A to C of 7 December 1978, 34/65 A to D of 29 November and 12 December 1979, ES-7/2 of 29 July 1980, 35/169 A to E of 15 December 1980, 36/120 A to F of 10 December 1981, 36/226 A and B of 17 December 1981, ES-7/9 of 24 September 1982, 37/86 A to E of 10 and 20 December 1982, 38/58 A to E of 13 December 1983, 39/49 A to D of 11 December 1984, 40/96 A to D of 12 December 1985 and 41/43 A to D of 2 December 1986,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its previous resolutions in this regard, and most recently resolution 1986/22 of 10 March 1986,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian people,

Emphasizing once more the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions, and expressing its grave concern that Israel continues to prevent the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law, United Nations resolutions and the will of the international community,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which constitutes the core of the Arab-Israeli conflict,

Reiterating its grave concern at the military, economic and political support given by some States to Israel which encourages and strengthens policies pursued by Israel based on aggression, expansion and continued occupation of Palestinian and other Arab territories,

Recalling Israel's brutal practices and crimes of genocide against the Palestinian people, and its acts of physical liquidation aimed at eliminating the question of Palestine and hindering the exercise by the Palestinian people of their right to self-determination, as exhibited in the Sabra and Shatila massacres in September 1982,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of their independent and sovereign State on their national soil in accordance with the Charter of the United Nations and General Assembly resolutions;
2. Reaffirms the inalienable right of the Palestinians to return to their homeland Palestine and their property, from which they have been uprooted by force;
3. Affirms the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions;
4. Reaffirms the right of the Palestine Liberation Organization, in its capacity as the sole legitimate representative of the Palestinian people, to full participation in all efforts and international conferences concerning the question of Palestine and the future of the Palestinian people;

5. Reaffirms its support for the call to convene an international peace conference on the Middle East, in accordance with the provisions of General Assembly resolution 38/58 C and other relevant General Assembly resolutions, and appeals to all States to make further constructive efforts towards the convening of such a conference;

6. Expresses again its deep regret at the negative attitude of some States, which is hindering the convening of the international peace conference, and calls upon these States to reconsider their attitude towards the question of peace in the Middle East;

7. Strongly condemns Israel for its continued occupation of the Palestinian and other Arab territories, which violates the Charter of the United Nations, the principles of international law and the relevant resolutions of the Security Council, the General Assembly and the Commission on Human Rights and constitutes the major obstacle hindering the exercise of the right to self-determination by the Palestinian people;

8. Strongly condemns Israel for its non-compliance with the relevant resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

9. Calls upon Israel to comply with its obligations under the Charter of the United Nations and withdraw from the Palestinian and Arab territories which it has occupied since 1967;

10. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support and assistance to the Palestinian people through their representative, the Palestine Liberation Organization, in their struggle to restore their rights in accordance with the Charter of the United Nations and with relevant United Nations resolutions;

11. Requests the Secretary-General to make available to the Commission on Human Rights, prior to the convening of its forty-fourth session, all information pertaining to the implementation of the present resolution;

12. Requests the Secretary-General to transmit the present resolution to the Government of Israel with a view to its implementation and to report thereon to the Commission at the forty-fourth session;

13. Decides to place on the provisional agenda of its forty-fourth session as a matter of high priority the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider, in the context of this item, the situation in occupied Palestine.

28th meeting
19 February 1987

[Adopted by a roll-call vote of 29 to 6, with
7 abstentions. See chap. IX.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-FOURTH SESSION

(1 February-11 March 1988)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1988

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1988

12. Decides to place on the provisional agenda of its forty-fifth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

19th meeting

15 February 1988

[Adopted by a roll-call vote of 31 to 1, with
11 abstentions. See chap. IV.]

1988/3. Situation in occupied Palestine

The Commission on Human Rights,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948 as well as all other resolutions which confirmed and defined the inalienable rights of the Palestinian people, and notably their right to self-determination without foreign interference,

Recalling Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

Emphasizing once more the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions, and expressing its grave concern that Israel continues to prevent the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law, United Nations resolutions and the will of the international community,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which constitutes the core of the Arab-Israeli conflict,

Reiterating its grave concern at the military, economic and political support given by some States to Israel which encourages and strengthens policies pursued by Israel based on aggression, expansion and continued occupation of Palestinian and other Arab territories,

Recalling Israel's brutal practices and crimes of genocide against the Palestinian people, and its acts of physical liquidation aimed at eliminating the question of Palestine and hindering the exercise by the Palestinian people

of their right to self-determination, as exhibited in the Sabra and Shatila massacres in September 1982, the continuous air raids on Palestinian camps in Lebanon and the crimes currently being committed by Israel in killing, wounding, detaining, torturing and deporting Palestinians,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of their independent and sovereign State on their national soil in accordance with the Charter of the United Nations and General Assembly resolutions;

2. Reaffirms the inalienable right of the Palestinians to return to their homeland Palestine and their property, from which they have been uprooted by force;

3. Reaffirms the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions, and affirms that the uprising of the Palestinian people against the Israeli occupation since 8 December 1987 is a form of legitimate resistance, an expression of their rejection of occupation and a consolidation of their unity under the leadership of the Palestine Liberation Organization;

4. Reaffirms the right of the Palestine Liberation Organization, in its capacity as the sole legitimate representative of the Palestinian people, to full participation in all efforts and international conferences concerning the question of Palestine and the future of the Palestinian people;

5. Reaffirms its support for the call to convene an international peace conference on the Middle East, to be attended by the permanent members of the Security Council and the parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, on an equal footing, in accordance with the provisions of General Assembly resolution 38/58 C of 13 December 1983 and other relevant General Assembly resolutions, and appeals to all States to make further constructive efforts towards the convening of such a conference;

6. Expresses again its deep regret at the negative attitude of some States, which is hindering the convening of the international peace conference, and calls upon these States to reconsider their attitude towards the question of peace in the Middle East;

7. Strongly condemns Israel for its continued occupation of the Palestinian and other Arab territories, which violates the Charter of the United Nations, the principles of international law and the relevant resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

8. Calls upon Israel to comply with its obligations under the Charter of the United Nations and withdraw from the Palestinian and Arab territories which it has occupied since 1967;

9. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support and assistance to the Palestinian people through their representative, the Palestine Liberation Organization, in their struggle to restore their rights in accordance with the Charter of the United Nations and with relevant United Nations resolutions;

10. Requests the Secretary-General to make available to the Commission on Human Rights, prior to the convening of its forty-fifth session, all information pertaining to the implementation of the present resolution;

11. Requests the Secretary-General to transmit the present resolution to the Government of Israel with a view to its implementation and to report thereon to the Commission at its forty-fifth session;

12. Decides to place on the provisional agenda of its forty-fifth session as a matter of high priority the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider, in the context of this item, the situation in occupied Palestine.

29th meeting
22 February 1988

[Adopted by a roll-call vote of 30 to 4, with
8 abstentions. See chap. IX.]

1988/4. Situation in Afghanistan

The Commission on Human Rights,

Bearing in mind that one of the fundamental purposes of the United Nations set forth in the Charter of the United Nations is to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

Recalling its resolutions 3 (XXXVI) of 14 February 1980, 13 (XXXVII) of 6 March 1981, 1982/14 of 25 February 1982, 1983/7 of 16 February 1983, 1984/10 of 29 February 1984, 1985/3 of 26 February 1985, 1986/23 of 10 March 1986 and 1987/5 of 19 February 1987,

Further recalling resolution ES-6/2 of 14 January 1980, adopted by the General Assembly at its sixth emergency special session,

Also recalling General Assembly resolutions 35/37 of 20 November 1980, 36/34 of 18 November 1981, 37/37 of 29 November 1982, 38/29 of 23 November 1983, 39/13 of 15 November 1984, 40/12 of 13 November 1985, 41/33 of 5 November 1986 and 42/15 of 10 November 1987 on the situation in Afghanistan which, inter alia, reaffirmed the right of the Afghan people to

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UNITED NATIONS

resolution AHG/Res.104 (XIX) and General Assembly resolutions 40/50 of 2 December 1985, 41/16 of 31 October 1986, 42/78 of 4 December 1987 and 43/33 of 22 November 1988;

12. Expresses its satisfaction at the determination of the United Nations to co-operate fully with the Organization of African Unity with a view to implementing the relevant decisions of that organization, in particular resolution AHG/Res.104 (XIX);

13. Recalls that the General Assembly has requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara as a matter of priority and to report thereon to the General Assembly at its forty-fourth session;

14. Recalls that the General Assembly has invited the Secretary-General of the Organization of African Unity to keep the Secretary-General of the United Nations informed of the progress achieved in the implementation of the decisions of the Organization of African Unity relating to Western Sahara;

15. Recalls that the General Assembly has invited the Secretary-General to follow the situation in Western Sahara closely with a view to the implementation of Assembly resolution 43/33 and to report thereon to the Assembly at its forty-fourth session;

16. Decides to follow the development of the situation in Western Sahara and to consider this question within the framework of the agenda item "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at its forty-sixth session, as a matter of high priority.

51st meeting

6 March 1989

[Adopted by a roll-call vote of 24 to none, with
17 abstentions. See chap. IX.]

1989/19. Situation in occupied Palestine

The Commission on Human Rights,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference,

Recalling Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions, and expressing its grave concern at Israel's persistence in preventing the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law, United Nations resolutions and the will of the international community,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which constitutes the core of the Arab-Israeli conflict,

Reiterating its grave concern at the military, economic and political support given by some States to Israel, which encourages and supports Israel in its aggressive and expansionist policies and its continued occupation of Palestinian and other Arab territories,

Taking note of the decision taken on 15 November 1988 at Algiers by the Palestine National Council, declaring the establishment of the State of Palestine,

Taking into account the statement of Mr. Yasser Arafat, Chairman of the Executive Committee of the Palestine Liberation Organization, to the General Assembly on 13 December 1988 in Geneva,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of its independent sovereign State on their national soil in accordance with the Charter of the United Nations and resolutions adopted by the General Assembly since 1947;

2. Welcomes with great satisfaction the declaration of the establishment of the State of Palestine as an exercise by the Palestinian people of a fundamental, inalienable right, and considers the decisions of the Palestine National Council of 15 November 1988 a prerequisite for the establishment of a just and lasting peace in the Middle East;

3. Reaffirms the inalienable right of the Palestinians to return to their homeland Palestine, in accordance with General Assembly resolution 194 (III) of 11 December 1948 and subsequent relevant resolutions;

4. Reaffirms the right of the Palestinian people to recover their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions, and affirms that the intifadah of the Palestinian people against the Israeli occupation since 8 December 1987 is a form of legitimate resistance and an expression of their rejection of the occupation;

5. Reaffirms its support for the call to convene an effective international peace conference on the Middle East, to be attended by the permanent members of the Security Council and the parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, under the auspices of the United Nations, in accordance with the resolutions of the General Assembly and the Security Council, and to guarantee the inalienable national rights of the Palestinian people, in particular their right to self-determination;

6. Calls for intensified international efforts to induce the parties concerned in the conflict to respond to the Palestinian peace initiative and to expedite the convening of the international peace conference on the Middle East;

7. Strongly condemns Israel for its continued occupation of the Palestinian and other Arab territories in violation of the Charter of the United Nations, the principles of international law and the relevant resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

8. Calls upon Israel to comply with its obligations under the Charter of the United Nations and to withdraw from the Palestinian and Arab territories which it has occupied since 1967;

9. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support and assistance to the Palestinian people through their representative, the Palestine Liberation Organization, in their struggle to recover their rights and to liberate their land from Israeli occupation, in accordance with the Charter of the United Nations and with the relevant United Nations resolutions;

10. Requests the Secretary-General to make available to the Commission on Human Rights, prior to the convening of its forty-sixth session, all information pertaining to the implementation of the present resolution;

11. Requests the Secretary-General to transmit the present resolution to the Government of Israel with a view to its implementation and to report thereon to the Commission at its forty-sixth session;

12. Decides to place on the provisional agenda of its forty-sixth session, as a matter of high priority, the item "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider, in the context of this item, the situation in occupied Palestine.

51st meeting

6 March 1989

[Adopted by a roll-call vote of 31 to 1, with 11 abstentions. See chap. IX.]

1989/20. Situation in Kampuchea

The Commission on Human Rights.

Recalling its resolutions 29 (XXXVI) of 11 March 1980, 11 (XXXVII) of 6 March 1981, 1982/13 of 25 February 1982, 1983/5 of 15 February 1983, 1984/12 of 29 February 1984, 1985/12 of 27 February 1985, 1986/25 of 10 March 1986, 1987/6 of 19 February 1987 and 1988/6 of 22 February 1988 and Economic and Social Council decisions 1981/154 of 8 May 1981, 1982/143 of 7 May 1982, 1983/155 of 27 May 1983, 1984/148 of 24 May 1984, 1985/155 of 30 May 1985, 1986/146 of 23 May 1986, 1987/155 of 29 May 1987 and 1988/143 of 27 May 1988,

Recalling that all its resolutions reaffirm the inherent and inalienable right of the people of Kampuchea to fundamental freedoms and human rights, in particular the right to self-determination,

Recalling once again General Assembly resolutions 34/22 of 14 November 1979, 35/6 of 22 October 1980, 36/5 of 21 October 1981, 37/6 of 28 October 1982, 38/3 of 27 October 1983, 39/5 of 30 October 1984, 40/7 of 5 November 1985, 41/6 of 21 October 1986, 42/3 of 14 October 1987 and 43/19 of 3 November 1988, which called, inter alia, for an end to armed intervention, the total withdrawal of foreign forces from Kampuchea and urgent recourse to a negotiated peaceful settlement, particularly in the context of these resolutions,

Further recalling General Assembly resolutions 36/5, 37/7, 38/3, 39/5, 40/7, 41/6, 42/3 and 43/19, which reaffirmed the conviction that, to bring about a durable peace in South-East Asia, there was an urgent need for the international community to find a comprehensive political solution to the Kampuchean problem that would provide for the withdrawal of all foreign forces and ensure respect for the sovereignty, independence, territorial integrity and neutral and non-aligned status of Kampuchea, as well as the right of the Kampuchean people to self-determination free from outside interference,

Emphasizing, in particular, General Assembly resolution 36/5, in which the Assembly approved the report of the International Conference on Kampuchea, which embraced the four cardinal elements of negotiations for a comprehensive political settlement of the Kampuchean problem,

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UNITED NATIONS

New York, 1990

11. Decides to consider the question at its forty-seventh session under the agenda item "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

28th meeting
16 February 1990

[Adopted without a vote. See chap. IX.]

1990/6. Situation in occupied Palestine

The Commission on Human Rights,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference,

Recalling Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions, and expressing its grave concern at Israel's persistence in preventing the Palestinian people by force from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law, United Nations resolutions and the will of the international community,

Recalling that military aggression by the forces of any State against the territory of another State constitutes an offence against the peace and security of mankind,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which constitutes the core of the Arab-Israeli conflict,

Reiterating its grave concern at the military, economic and political support given by some States to Israel, which encourages and supports Israel in its aggressive and expansionist policies and its continued occupation of Palestinian and other Arab territories,

1. Reaffirms that the Israeli occupation of Palestine constitutes a gross violation of human rights and an offence against the peace and security of mankind;

2. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of their independent sovereign State on their national soil in accordance with the Charter of the United Nations and resolutions adopted by the General Assembly since 1947;

3. Reaffirms the inalienable right of the Palestinians to return to their homeland, Palestine, in accordance with General Assembly resolution 194 (III) and subsequent relevant resolutions;

4. Reaffirms the right of the Palestinian people to recover their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions, and affirms that the intifadah of the Palestinian people against the Israeli occupation since 8 December 1987 is a form of legitimate resistance and an expression of their rejection of the occupation;

5. Reaffirms its support for the call to convene an effective international peace conference on the Middle East, with the participation of the permanent members of the Security Council and the parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, under the auspices of the United Nations, in accordance with the resolutions of the General Assembly and the Security Council, and to guarantee the inalienable national rights of the Palestinian people, in particular their right to self-determination;

6. Strongly condemns Israel for its continued occupation of the Palestinian territories, which constitutes the main obstacle to the exercise by the Palestinian people of their national rights, foremost of which is their right to free self-determination on their national soil;

7. Calls upon Israel to comply with its obligations under the Charter of the United Nations and to withdraw from the Palestinian and other Arab territories which it has occupied since 1967, in accordance with the relevant United Nations resolutions;

8. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support and assistance to the Palestinian people through their representative, the Palestine Liberation Organization, in their struggle to recover their rights and to liberate their land from Israeli occupation, in accordance with the Charter of the United Nations and with the relevant United Nations resolutions;

9. Requests the Secretary-General to make available to the Commission on Human Rights, prior to the convening of its forty-seventh session, all information pertaining to the implementation of the present resolution;

10. Requests the Secretary-General to transmit the present resolution to the Government of Israel with a view to its implementation, and to report thereon to the Commission at its forty-seventh session;

11. Decides to include in the provisional agenda of its forty-seventh session, as a matter of high priority, the item "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider, in the context of this item, the situation in occupied Palestine.

29th meeting
19 February 1990

[Adopted by 30 votes to 1, with 10 abstentions
See chap. IX.]

1990/7. Use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination

The Commission on Human Rights,

Bearing in mind the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples, as well as scrupulous respect for the principle of the non-use of force or of the threat of the use of force in international relations, enshrined in the Charter of the United Nations and developed in the Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)),

Reaffirming the legitimacy of the struggle of peoples and their liberation movements for their independence, territorial integrity, national unity and liberation from colonial domination, apartheid and foreign intervention and occupation, and that their legitimate struggle can in no way be considered as or equated with mercenary activities,

Deeply concerned about the increasing menace that the activities of mercenaries represent for all States, particularly African, Central American and other developing States,

Recognizing that the use of mercenaries is a threat to international peace and security,

Recognizing also that the activities of mercenaries are contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impede the process of the self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination,

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ECONOMIC AND SOCIAL COUNCIL

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SUPPLEMENT No. 2



UNITED NATIONS

10. Invites the Secretary-General of the Organization of African Unity to keep the Secretary-General of the United Nations informed of the progress achieved in the implementation of the decisions of the Organization of African Unity relating to Western Sahara;

11. Invites the Secretary-General to follow the situation in Western Sahara closely with a view to the implementation of General Assembly resolution 45/21 and to report thereon to the Assembly at its forty-sixth session;

12. Decides to follow the development of the situation in Western Sahara and to consider the question at its forty-eighth session, as a matter of high priority, under the agenda item "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

28th meeting
15 February 1991

[Adopted without a vote. See chap. IX.]

1991/6. Situation in occupied Palestine

The Commission on Human Rights.

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially resolution 37/86 E of 20 December 1982,

Recalling Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations and the relevant United Nations resolutions,

Expressing its grave concern at the persistence of Israel in preventing by force the Palestinian people from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law, United Nations resolutions and the will of the international community, which has affirmed those rights in its different resolutions,

Recalling that military aggression by the forces of any State against the territory of another State constitutes an offence against the peace and security of mankind,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which constitutes the core of the Arab-Israeli conflict,

Reiterating its grave concern at the military, economic and political support given by some States to Israel, which encourages and supports Israel in its aggressive and expansionist policies and its continued occupation of Palestinian and other Arab territories,

1. Reaffirms that the Israeli occupation of Palestine constitutes a gross violation of human rights and an offence against the peace and security of mankind;

2. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and to the establishment of their independent sovereign State on their national soil in accordance with the Charter of the United Nations and resolutions adopted by the General Assembly since 1947;

3. Reaffirms the inalienable right of the Palestinians to return to their homeland, Palestine, in accordance with General Assembly resolution 194 (III) and subsequent relevant resolutions;

4. Reaffirms the right of the Palestinian people to recover their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions, and affirms that the intifada of the Palestinian people against the Israeli occupation since 8 December 1987 is a form of legitimate resistance against the Israeli military occupation of Palestine and an expression of the Palestinian people's rejection of the occupation and an affirmation of their unshakeable desire for liberation and for the exercise of their inalienable national rights on their national soil;

5. Reaffirms its support for the call to convene an effective international peace conference on the Middle East, with the participation of the permanent members of the Security Council and the parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, under the auspices of the United Nations, in accordance with the resolutions of the General Assembly and the Security Council, and to guarantee the inalienable national rights of the Palestinian people, in particular their right to self-determination;

6. Strongly condemns Israel for its continued occupation of the Palestinian territory, which constitutes the main obstacle to the exercise by the Palestinian people of their national rights, foremost of which is their right to free self-determination on their national soil;

7. Calls upon Israel to comply with its obligations under the Charter of the United Nations and to withdraw from the Palestinian and other Arab territories which it has occupied since 1967, including Jerusalem, in accordance with the relevant United Nations resolutions;

8. Urges all States, United Nations organs, the specialized agencies and other international organizations to extend their support and assistance to the Palestinian people through their representative, the Palestine Liberation Organization, in their struggle to recover their rights and to liberate their land from Israeli occupation, in accordance with the Charter of the United Nations and with the relevant United Nations resolutions;

9. Requests the Secretary-General to make available to the Commission on Human Rights, prior to the convening of its forty-eighth session, all information pertaining to the implementation of the present resolution;

10. Requests the Secretary-General to transmit the present resolution to the Government of Israel with a view to its implementation, and to report to the Commission at its forty-eighth session on the extent of achieving that aim;

11. Decides to include in the provisional agenda of its forty-eighth session, as a matter of high priority, the item "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item.

28th meeting

15 February 1991

[Adopted by 29 votes to 1, with
12 abstentions. See chap. IX.]

1991/7. Use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination

The Commission on Human Rights,

Recalling the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples, as well as the principle of scrupulously refraining in international relations from the threat or use of force as developed in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)),

Recognizing that mercenaries are used for activities which violate these principles,

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(27 January-6 March 1992)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1992

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1992

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UN Doc. E/1992/22/Supp.2

Taking into account the need to create the stable environment required for progress in the negotiation process following the Peace Conference on the Middle East convened in Madrid on 30 October 1991,

Convinced that the halting by Israel of its policy of settlement would constitute a meaningful contribution to the creation of that environment,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Regrets that the Government of Israel has not complied with the provisions of Commission on Human Rights resolutions 1990/1 and 1991/3;

3. Urges the Government of Israel to abstain from installing settlers, including immigrants, in the occupied territories.

27th meeting

14 February 1992

[Adopted by 45 votes to none, with
1 abstention. See chap. IV.]

1992/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Noting Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external

interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People which, from 1976 to 1991, have been submitted to the Security Council through the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and the provisions of the International Covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world,

Expressing its grave concern at the persistence of Israel in preventing by force the Palestinian people from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law, United Nations resolutions and the will of the international community, which has affirmed and recognized those rights,

Recalling that the military occupation by the armed forces of a State of the territory of another State constitutes an act of aggression and a crime against the peace and security of mankind, according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which has constituted the core of the Arab-Israeli conflict since 1948,

Reiterating its grave concern at the military, economic and political support given by some States to Israel, which encourages and supports Israel in its aggressive and expansionist policies, its continued occupation of Palestinian and other Arab territories and the Judaization of Palestine by establishing Jewish settlements and settling Jewish immigrants therein,

Affirming that the directing of the immigration of Jews in an organized manner to Israel constitutes support to Israel's settlement policy in the occupied Palestinian territory and an obstacle to the exercise by the Palestinian people of their right to self-determination,

1. Reaffirms that the Israeli occupation of Palestine constitutes a gross violation of human rights and an act of aggression against the peace and security of mankind;

2. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and to the establishment of their independent sovereign State on their national soil, in accordance with the Charter of the United Nations and resolutions adopted by the General Assembly since 1947;

3. Reaffirms also the inalienable right of the Palestinians to return to their homeland, Palestine, in accordance with General Assembly resolution 194 (III) and subsequent relevant resolutions;

4. Reaffirms further the right of the Palestinian people to recover their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions, and affirms that the intifada of the Palestinian people against the Israeli occupation since 8 December 1987 is a form of legitimate resistance against the military occupation of Palestine and an expression of the Palestinian people's rejection of the occupation and an affirmation of their unshakeable desire for liberation and for the exercise of their inalienable national rights on their national soil;

5. Reaffirms its support for the call to convene an effective international peace conference on the Middle East, with the participation of the permanent members of the Security Council and the parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, under the auspices of the United Nations, in accordance with the relevant resolutions of the General Assembly and the Security Council, and to guarantee the inalienable national rights of the Palestinian people, in particular their right to self-determination without external interference;

6. Expresses its great interest in the current process of negotiations, which began in Madrid on 30 October 1991, between the parties to the conflict to resolve the problem of Palestine and of the Middle East; affirms the necessity of this process being based on international legitimacy, on the principles of international law and on the United Nations resolutions concerning the inalienable rights of the Palestinian people, at the forefront of which is their right to self-determination, so that the process results in a just solution leading to a just and permanent peace in the Middle East; also affirms that any attempt to achieve a peaceful solution in the region which is not based on the principles of international law and the United Nations resolutions regarding the Israeli occupation of Palestine and other Arab territories and the right of the Palestinian people to self-determination free from external interference will not ensure the achievement of a just, permanent and comprehensive peace in the Middle East;

7. Strongly condemns Israel for its continued occupation of the Palestinian territory, which constitutes the main obstacle to the exercise by the Palestinian people of their national rights, the foremost of which is their right to free self-determination on their national soil;

8. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law and to withdraw from the Palestinian and other Arab territories which it has occupied since 1967 by military force, including Jerusalem, in accordance with the relevant United Nations resolutions;

9. Urges all States, United Nations organs, the specialized agencies and other international organizations to extend their support and assistance to the Palestinian people through their sole legitimate representative, the Palestine Liberation Organization, in their struggle to recover their rights and to liberate their land from Israeli occupation, in accordance with the Charter of the United Nations and with the relevant United Nations resolutions;

10. Requests the Secretary-General to transmit the present resolution to the Government of Israel and to all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its forty-ninth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

11. Decides to include in the provisional agenda for its forty-ninth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

27th meeting

14 February 1992

[Adopted by a roll-call vote of 31 to 2,
with 17 abstentions. See chap. IX.]

1992/5. Situation in Afghanistan

The Commission on Human Rights,

Recalling its resolutions 1989/23 of 6 March 1989, 1990/5 of 16 February 1990 and 1991/4 of 15 February 1991,

Bearing in mind that one of the fundamental purposes of the United Nations set forth in the Charter is to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

Reaffirming the purposes and principles of the Charter of the United Nations and the obligation of all States to refrain in their international relations from the threat or use of force against the sovereignty, territorial integrity and political independence of any State,

Noting the conclusion at Geneva, on 14 April 1988, of the Agreements on the Settlement of the Situation Relating to Afghanistan (S/19835, annex I),

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UNITED NATIONS
New York, 1993

Recalling its resolutions 1990/1 of 16 February 1990, 1991/3 of 15 February 1991 and 1992/3 of 14 February 1992, which, inter alia, reaffirmed the illegality of the Israeli settlements in the occupied territories,

Gravely concerned at the large-scale establishment by the Israeli Government of settlers, including immigrants, in the occupied territories, which may change the physical character and demographic composition of the occupied territories,

Taking into account the need to create the stable environment required for progress in the negotiation process following the Peace Conference on the Middle East convened in Madrid on 30 October 1991,

Convinced that a complete cessation by Israel of its policy of settlement would constitute a meaningful contribution to the creation of that environment,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

2. Regrets that the Government of Israel has not fully complied with the provisions of Commission on Human Rights resolutions 1990/1, 1991/3 and 1992/3;

3. Urges the Government of Israel to abstain from installing settlers, including immigrants, in the occupied territories.

29th meeting
19 February 1993

[Adopted by a roll-call vote of 46 to 1. See chap. IV.]

1993/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Noting Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People which, from 1976 to 1992, have been submitted to the Security Council through the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world,

Expressing its grave concern at the persistence of Israel in preventing by force the Palestinian people from enjoying their inalienable rights, in particular their right to self-determination, in defiance of the principles of international law, the relevant United Nations resolutions and the will of the international community, which has affirmed and recognized those rights,

Recalling that the military occupation by the armed forces of a State of the territory of another State constitutes an act of aggression and a crime against the peace and security of mankind, according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which has constituted the core of the Arab-Israeli conflict since 1948,

Reiterating its grave concern at the military, economic and political support given by some States to Israel, which would encourage and support Israel in its policies based on aggression, expansion and continued occupation of Palestinian and other Arab territories and the Judaization of the occupied territory by establishing Jewish settlements and settling Jewish immigrants therein,

Affirming that the directing of the immigration of Jews in an organized manner to Israel constitutes support for Israel's settlement policy in the occupied Palestinian territory and an obstacle to the exercise by the Palestinian people of their right to self-determination,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;

2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law and to withdraw from the Palestinian and other Arab territories which it has occupied since 1967 by military force, including Jerusalem, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right of self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and to all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fiftieth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda for its fiftieth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

29th meeting

19 February 1993

[Adopted by a roll-call vote of 27 to 1,
with 19 abstentions. See chap. IX.]

1993/5. Use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination

The Commission on Human Rights,

Recalling the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the sovereign equality, political independence and territorial integrity of States and the self-determination of peoples, as well as the need for scrupulous respect for the principle of the non-use of force or threat of the use of force in international relations as developed in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)),

Recognizing that mercenaries are used for activities which violate these principles,

Alarmed at the continuing trend of unlawful international activities involving mercenaries in the perpetration of violent actions inimical to the constitutional order of States,

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UNITED NATIONS
New York and Geneva, 1994

Stressing that the achievement of a comprehensive and lasting settlement of the Middle East conflict will constitute a significant contribution to the strengthening of international peace and security, and is an indispensable condition for the furthering of human rights in the region,

Recalling the convening of the International Peace Conference on the Middle East at Madrid on 30 October 1991, on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and the subsequent bilateral negotiations, as well as the meetings of the multilateral working groups, and noting with satisfaction the broad international support for the peace process,

Noting the continuing positive participation of the United Nations as a full extraregional participant in the work of the multilateral working groups,

Bearing in mind the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization in Washington, D.C., on 13 September 1993,

1. Stresses the importance of, and need for, achieving a comprehensive, just and lasting peace in the Middle East;

2. Emphasizes that the achievement of such a peace is vital for the full implementation of human rights in the area;

3. Welcomes the peace process started at Madrid and supports the subsequent bilateral negotiations;

4. Expresses its full support for the achievements of the peace process thus far, in particular the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization, and the Agreement between Israel and Jordan on the Common Agenda, which constitute an important initial step in achieving a comprehensive, just and lasting peace in the Middle East, and urges all parties to implement agreements reached;

5. Considers that an active United Nations role in the Middle East peace process and in assisting in the implementation of the Declaration of Principles can make a positive contribution.

30th meeting
18 February 1994

[Adopted by a roll-call vote of 48 to 2,
with 2 abstentions. See chap. IX.]

1994/5. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous

respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights, and in particular part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Noting Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People which, from 1976 to 1993, have been submitted to the Security Council through the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world,

Expressing its grave concern at the persistence of Israel in preventing by force the Palestinian people from enjoying their inalienable rights, in particular their right to self-determination,

Recalling that the foreign occupation by the armed forces of a State of the territory of another State constitutes an obstacle and a grave violation

of human rights according to part I, paragraph 30 of the Vienna Declaration and Programme of Action, and an act of aggression and a crime against the peace and security of mankind, according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which has constituted the core of the Arab-Israeli conflict since 1948,

Welcoming the Declaration of Principles on Interim Self-Government Arrangements signed by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, aimed at enabling the Palestinian people to achieve their national rights and, principally, their right to self-determination free of external intervention,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;

2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law and to withdraw from the Palestinian and other Arab territories which it has occupied since 1967 by military force, including Jerusalem, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right of self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and to all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-first session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda for its fifty-first session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

30th meeting
18 February 1994

[Adopted by a roll-call vote of 26 to 1,
with 25 abstentions. See chap. IX.]

1994/6. Question of Western Sahara

The Commission on Human Rights,

Having considered the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the

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UNITED NATIONS
New York and Geneva, 1995

3. Urges the Government of Israel to abstain fully from installing any settlers in the occupied territories and to prevent any new installation of settlers in these territories.

29th meeting
17 February 1995

[Adopted by a roll-call vote of 46 votes to 1,
with 3 abstentions. See chap. IV.]

1995/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights, and in particular part I, paragraphs 2 and 3, relating to the right to self-determination of all peoples and especially those subject to foreign occupation,

Noting Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard, including the latest, resolution 1994/5 of 18 February 1994,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People which, from 1976 to 1994, have been submitted to the Security Council through the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world,

Recalling that the foreign occupation by the armed forces of a State of the territory of another State constitutes an obstacle to and a grave violation of human rights according to part I, paragraph 30, of the Vienna Declaration and Programme of Action, and an act of aggression and a crime against the peace and security of mankind, according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Welcoming the Declaration of Principles on Interim Self-Government Arrangements signed by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, aimed at enabling the Palestinian people to achieve their national rights and, principally, their right to self-determination free of external intervention,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;

2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the Palestinian territories, including Jerusalem, and the other Arab territories which it has occupied since 1967 by military force, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right to self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and to all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-second session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda of its fifty-second session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

29th meeting
17 February 1995

[Adopted by a roll-call vote of 27 votes to 1,
with 22 abstentions. See chap. IX.]

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(18 March-26 April 1996)

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OFFICIAL RECORDS, 1996

SUPPLEMENT NO. 3



UNITED NATIONS

settlements, which may change the physical character and demographic composition of the occupied territories, would greatly facilitate those negotiations,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Reiterates its request to the Government of Israel to comply fully with the provisions of Commission resolutions 1990/1, 1991/3, 1992/3, 1993/3, 1994/1 and 1995/3;

3. Urges the Government of Israel to abstain from installing any settlers in the occupied territories and to prevent any new installation of settlers in these territories.

34th meeting

11 April 1996

[Adopted by 49 votes to 1, with 3 abstentions.
See chap. IV.]

1996/5. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights, and in particular Part I, paragraphs 2 and 3, relating to the right to self-determination of all peoples and especially those subject to foreign occupation,

Recalling Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling also General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard, including the latest, resolution 1995/4 of 17 February 1995,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People which, from 1976 to 1995, have been submitted to the Security Council through the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world,

Recalling that the foreign occupation by the armed forces of a State of the territory of another State constitutes an obstacle to and a grave violation of human rights according to Part I, paragraph 30, of the Vienna Declaration and Programme of Action, and an act of aggression and a crime against the peace and security of mankind, according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Welcoming the Declaration of Principles on Interim Self-Government Arrangements signed by the Government of Israel and the Palestine Liberation Organization in Washington on 13 September 1993, aimed at enabling the Palestinian people to achieve their national rights and, principally, their right to self-determination free of external intervention,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;

2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the Palestinian territory, including Jerusalem, and the other Arab territories which it has occupied since 1967 by military force, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right to self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-third session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda of its fifty-third session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

34th meeting

11 April 1996

[Adopted by a roll-call vote of 28 votes to 1,
with 23 abstentions. See chap. VII.]

1996/6. Question of Western Sahara

The Commission on Human Rights,

Having considered the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling its earlier resolutions, the latest of which is resolution 1995/7 of 17 February 1995,

Recalling also the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro to the proposals of the Secretary-General of the United Nations and the then Chairman of the Assembly of Heads of State and Government of the Organization of African Unity, in the framework of their joint mission of good offices,

Recalling further Security Council resolutions 621 (1988) of 20 September 1988, 658 (1990) of 27 June 1990, 690 (1991) of 29 April 1991, 725 (1991) of 31 December 1991, 809 (1993) of 2 March 1993 and 907 (1994) of 29 March 1994 relating to the question of Western Sahara,

Recalling with satisfaction the entry into force of the cease-fire in Western Sahara on 6 September 1991, in accordance with the proposal of the Secretary-General accepted by both parties,

Noting the adoption by the Security Council of resolutions 973 (1995) of 13 January 1995, 995 (1995) of 26 May 1995, 1002 (1995) of 30 June 1995, 1017 (1995) of 22 September 1995, 1033 (1995) of 22 December 1995 and 1042 (1996) of 31 January 1996,

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(10 March-18 April 1997)

**ECONOMIC AND SOCIAL COUNCIL
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SUPPLEMENT No. 3



UNITED NATIONS

(b) The recent step towards the further implementation of the relevant agreements, through the signing of the Protocol concerning the Redeployment in Hebron;

(c) The report (E/CN.4/1997/16) submitted by the Special Rapporteur pursuant to Commission resolution 1993/2 A of 19 February 1993;

2. Expresses its deep concern

(a) At the Israeli settlement activities, including the expansion of settlements, the installation of settlers in the occupied territories, the expropriation of land, the demolition of houses, the confiscation of property, the expulsion of local residents and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, since they are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and are a major obstacle to peace;

(b) At and strongly condemns all acts of terrorism, whilst calling upon all parties not to allow any acts of terrorism to affect the ongoing peace process negatively;

3. Calls upon the Government of Israel

(a) To comply fully with the provisions of previous Commission resolutions on the subject, most recently resolution 1996/4 of 11 April 1996;

(b) To cease completely its policy of expanding the settlements and related activities in the occupied territories, including East Jerusalem;

(c) To forgo and prevent any new installation of settlers in the occupied territories;

(d) To address the question of the Israeli settlements in the occupied territories during the negotiations on the final status of the territories, which are due to resume within two months after implementation of the Protocol concerning the Redeployment in Hebron.

26th meeting

26 March 1997

[Adopted by a roll-call vote of 47 votes to 1,
with 2 abstentions. See chap. IV.]

1997/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of

International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right to self-determination of all peoples and especially those subject to foreign occupation,

Recalling Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling also General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard, including the latest, resolution 1996/5 of 11 April 1996,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People submitted to the Security Council and the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a jus cogens in international law,

Recalling that the foreign occupation by the armed forces of a State of the territory of another State constitutes an obstacle to and a grave violation of human rights according to Part I, paragraph 30, of the Vienna Declaration and Programme of Action, and an act of aggression and a crime against the peace and security of mankind according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Welcoming the Declaration of Principles on Interim Self-Government Arrangements signed by the Government of Israel and the Palestine Liberation Organization in Washington on 13 September 1993, and the following agreements aimed at enabling the Palestinian people to achieve their national rights and, principally, their right to self-determination free of external intervention,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;

2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the Palestinian territories, including Jerusalem, and the other Arab territories which it has occupied since 1967 by military force, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right to self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-fourth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda of its fifty-fourth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

26th meeting

26 March 1997

[Adopted by a roll-call vote of 28 votes to 1,
with 21 abstentions. See chap. VII.]

1997/5. Question of Western Sahara

The Commission on Human Rights,

Having considered the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling its earlier resolutions, the latest of which is resolution 1996/6 of 11 April 1996,

Recalling also the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro to the proposals of the Secretary-General of

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(16 March-24 April 1998)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1998

SUPPLEMENT No. 3



UNITED NATIONS

1998/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right to self-determination of all peoples and especially those subject to foreign occupation,

Recalling Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling also General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard, including the latest, resolution 1997/4 of 26 March 1997,

Bearing in mind the continued reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People submitted to the Security Council and the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a jus cogens in international law,

Recalling that the foreign occupation by the armed forces of a State of the territory of another State constitutes an obstacle to and a grave violation of human rights according to Part I, paragraph 30, of the Vienna Declaration and Programme of Action, and an act of aggression and a crime against the peace and security of mankind according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Affirming that the peace process, which aims to achieve a just, comprehensive and lasting peace, aims at the same time to enable the Palestinian people to achieve their national rights and, principally, their right to self-determination free of external intervention as a basic condition for establishing the long-sought peace,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;

2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law, and to withdraw from the Occupied Palestinian Territory, including East Jerusalem, and the other Arab territories which it has occupied since 1967 by military force, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right to self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-fifth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda of its fifty-fifth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

20th meeting

27 March 1998

[Adopted by a roll-call vote of 34 votes to 1,
with 18 abstentions. See chap. VII.]

1998/5. Question of Western Sahara

The Commission on Human Rights,

Having considered in depth the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

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(22 March -30 April 1999)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1999

SUPPLEMENT No. 3



UNITED NATIONS

12. Declares that advisory services and technical cooperation provided at the request of Governments with a view to developing national capacities in the field of human rights constitute one of the most efficient and effective means of promoting and protecting all human rights and democracy;

13. Emphasizes the need for an increase in the allocation of resources from within the United Nations regular budget for advisory services and technical cooperation in the field of human rights;

14. Notes with interest the increase in the number of human rights field presences throughout the world and encourages the High Commissioner to consider their further improvement in cooperation with other relevant components of the United Nations system;

15. Welcomes the open-ended informal briefings provided by the Office of the United Nations High Commissioner for Human Rights and takes note with appreciation of these opportunities to discuss openly all aspects of the work of the Office while reiterating the need to analyse the effectiveness of field presences, and requests the High Commissioner to submit a separate report containing a comprehensive assessment of field presences to the Commission at its fifty-sixth session;

16. Invites the High Commissioner to continue to provide information on cooperation with other United Nations bodies and with Governments and invites her to make available information concerning agreements with States and other United Nations bodies and their implementation, in an open and transparent manner, as appropriate;

17. Calls upon the Office of the United Nations High Commissioner for Human Rights to seek ways and means by which voluntary funds can be used to provide support to all mechanisms of the Commission;

18. Invites the High Commissioner to submit information pursuant to the present resolution in her annual report to the Commission;

19. Decides to consider the implementation of the present resolution at its fifty-sixth session under the relevant agenda item.

56th meeting

27 April 1999

[Adopted without a vote. See chap. IV.]

1999/55. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States

in Accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also its previous resolutions in this regard, the latest of which is its resolution 1998/4 of 27 March 1998,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a jus cogens in international law,

1. Reaffirms the continuing and unqualified Palestinian right to self-determination, including the option of a State, and looks forward to the early fulfilment of this right;

2. Requests the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-sixth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

3. Decides to include in the provisional agenda of its fifty-sixth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

56th meeting

27 April 1999

[Adopted by a roll-call vote of 44 votes to 1,
with 8 abstentions. See chap. V.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTY-SIXTH SESSION

(20 March – 28 April 2000)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2000

SUPPLEMENT No. 3



UNITED NATIONS

14. *Requests* the Special Rapporteur to consult States, intergovernmental and non-governmental organizations in the implementation of the current resolution and to report, with specific recommendations, his findings on the use of mercenaries to undermine the right to self-determination to the Commission at its fifty-seventh session;

15. *Decides* to consider at its fifty-seventh session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the same agenda item.

35th meeting

7 April 2000

[Adopted by a roll-call vote of 35 votes to 11,
with 5 abstentions. See chap. V.]

2000/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also its previous resolutions in this regard, the latest of which is its resolution 1999/55 of 27 April 1999,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and

declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law,

1. *Reaffirms* the permanent and unqualified Palestinian right to self-determination, including the option of a State, and looks forward to the early fulfilment of this right;
2. *Requests* the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to disseminate it on the widest possible scale and to make available to the Commission, prior to the convening of its fifty-seventh session, all information pertaining to the implementation of the present resolution by the Government of Israel;
3. *Decides* to include in the provisional agenda of its fifty-seventh session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

35th meeting

7 April 2000

[Adopted by a roll-call vote of 44 votes to 1,
with 6 abstentions. See chap. V.]

2000/5. The right to development

The Commission on Human Rights

Guided by the Charter of the United Nations, expressing in particular the determination to promote social progress and better standards of life in larger freedom as well as to employ international mechanisms for the promotion of the economic and social advancement of all peoples,

Recalling that the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986 confirmed that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals, who make up nations,

Noting that the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of all fundamental human rights,

Recognizing that the Declaration on the Right to Development constitutes an integral link between the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action adopted in June 1993 (A/CONF.157/23) through its elaboration of a holistic vision integrating economic, social and cultural rights with civil and political rights,

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(19 March - 27 April 2001)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2001

SUPPLEMENT No. 3



UNITED NATIONS

7. *Reaffirms* the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan;

8. *Also reaffirms* its support for further efforts of the Secretary-General for the organization and the supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum on self-determination of the people of Western Sahara that is impartial and free of all constraints, in conformity with Security Council resolutions 658 (1990) and 690 (1991), in which the Council approved the settlement plan for Western Sahara;

9. *Recalls* the relevant Security Council resolutions, including resolutions 1131 (1997) of 29 September 1997, 1238 (1999) of 14 May 1999, 1263 (1999) of 13 September 1999 and 1292 (2000) of 29 February 2000, and takes note of Council resolutions 1301 (2000) of 31 May 2000, 1309 (2000) of 25 July 2000, 1324 (2000) of 30 October 2000 and 1342 (2001) of 27 February 2001;

10. *Notes* that the General Assembly has requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara, bearing in mind the positive ongoing implementation of the settlement plan, and to report thereon to the Assembly at its fifty-sixth session;

11. *Also notes* that the General Assembly has invited the Secretary-General to submit to it, at its fifty-sixth session, a report on the implementation of Assembly resolution 55/141.

*43rd meeting
6 April 2001*

[Adopted without a vote.
See chap. V.]

2001/2. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and reaffirming the need for scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also its previous resolutions in this regard, the latest of which is its resolution 2000/4 of 7 April 2000,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law, and a basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including its right to establish its sovereign and independent Palestinian State, and looks forward to the early fulfilment of this right;

2. *Requests* the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to disseminate it on the widest possible scale and to make available to the Commission, prior to the convening of its fifty-eighth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

3. *Decides* to include in the provisional agenda of its fifty-eighth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

*43rd meeting
6 April 2001*

[Adopted by a roll-call vote of 48 votes to 2,
with 2 abstentions. See chap. V.]

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTY-EIGHTH SESSION

(18 March-26 April 2002)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2002

SUPPLEMENT No. 3



UNITED NATIONS

2002/3. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and reaffirming the need for the scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and taking note of Council resolutions 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002,

Recalling further its previous resolutions in this regard, the latest of which is its resolution 2001/2 of 6 April 2001,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law and a basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East,

Welcoming and endorsing the Arab peace initiative based on the proposals of Crown Prince Abdullah of Saudi Arabia,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to establish their sovereign and independent Palestinian State, and looks forward to the early fulfilment of this right;

2. *Requests* the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to disseminate it on the widest possible scale and to make available to the Commission, prior to the convening of its fifty-ninth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

3. *Decides* to include in the provisional agenda of its fifty-ninth session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

*37th meeting
12 April 2002*

[Adopted by a recorded vote of 52 votes to 1.
See chap. V.]

2002/4. Question of Western Sahara

The Commission on Human Rights,

Having considered in depth the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Taking note of General Assembly resolution 56/69 of 10 December 2001,

Recalling its resolution 2001/1 of 6 April 2001,

Recalling also the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro to the proposals of the Secretary-General of the United Nations and the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in the context of their joint mission of good offices,

Recalling further Security Council resolutions 658 (1990) of 27 June 1990 and 690 (1991) of 29 April 1991, in which the Council approved a settlement plan for Western Sahara,

Reaffirming the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan,

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REPORT ON THE FIFTY-NINTH SESSION

(17 March-24 April 2003)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2003

SUPPLEMENT No. 3



UNITED NATIONS

2003/3. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and reaffirming the need for the scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002,

Recalling further its previous resolutions in this regard, the latest of which is its resolution 2002/3 of 12 April 2002,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law and a basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to establish their sovereign and independent Palestinian State, and looks forward to the early fulfilment of this right;

2. *Requests* the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to disseminate it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its sixtieth session, all information pertaining to the implementation of the present resolution by the Government of Israel;

3. *Decides* to include in the provisional agenda of its sixtieth session the item entitled “The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation” and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

47th meeting

14 April 2003

[Adopted by a recorded vote of 51 votes to 1,
with 1 abstention. See chap. V.]

2003/4. Combating defamation of religions

The Commission on Human Rights,

Recalling that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling also its resolutions 1999/82 of 30 April 1999, 2000/84 of 26 April 2000, 2001/4 of 18 April 2001 and 2002/9 of 15 April 2002,

Reaffirming that discrimination against human beings on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations,

Convinced that religious and cultural diversity in the globalizing world needs to be used as a vehicle for complementary creativity and dynamism and not as a rationale for a new ideological and political confrontation,

Recalling the United Nations Millennium Declaration, adopted by the General Assembly on 8 September 2000, welcoming the resolve expressed in the Declaration to take measures to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies, and looking forward to its effective implementation at all levels, including in the context of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12),

Welcoming the proclamation by the General Assembly in its resolution 56/6 of 9 November 2001 of the Global Agenda for Dialogue among Civilizations and invites States, the organizations and bodies of the United Nations system, within existing resources, other international and regional organizations and civil societies to contribute to the implementation of the Programme of Action contained in that resolution,

Welcoming also the progress achieved in the follow-up to the Durban Declaration and Programme of Action,

COMMISSION ON HUMAN RIGHTS

REPORT ON THE SIXTIETH SESSION

(15 March-23 April 2004)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2004

SUPPLEMENT No. 3



UNITED NATIONS

2004/3. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and reaffirming the need for the scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002,

Recalling further its previous resolutions in this regard, the latest of which is resolution 2003/3 of 14 April 2003,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law and a basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to establish their sovereign and independent Palestinian State, and looks forward to the early fulfilment of this right;

2. *Requests* the Secretary-General to transmit the present resolution to the Government of Israel and all other Governments, to disseminate it on the widest possible scale and to make available to the Commission, prior to the convening of its sixty-first session, all information pertaining to the implementation of the present resolution by the Government of Israel;

3. *Decides* to include in the provisional agenda of its sixty-first session the item entitled “The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation” and to consider the situation in occupied Palestine under that agenda item, as a matter of high priority.

44th meeting

8 April 2004

[Adopted by a recorded vote of 52 votes to 1.

See chap. V.]

2004/4. Question of Western Sahara

The Commission on Human Rights,

Having considered in depth the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Taking note of General Assembly resolution 58/109 of 9 December 2003,

Recalling its resolution 2003/1 of 14 April 2003,

Recalling also all resolutions of the General Assembly, the Security Council and the Commission on Human Rights on the question of Western Sahara,

Recalling further Security Council resolutions 658 (1990) of 27 June 1990 and 690 (1991) of 29 April 1991, in which the Council approved the settlement plan for Western Sahara,

Recalling Security Council resolutions 1359 (2001) of 29 June 2001 and 1429 (2002) of 30 July 2002, and taking note of resolution 1495 (2003) of 31 July 2003, in which the Council indicated its support for the peace plan for self-determination of the people of Western Sahara as an optimum political solution on the basis of agreement between the two parties,

Taking note of the responses of the parties and neighbouring States to the Personal Envoy of the Secretary-General concerning the peace plan, contained in the report of the Secretary-General (S/2003/565 and Corr.1),

Reaffirming the responsibility of the United Nations towards the people of Western Sahara,

Noting with satisfaction the entry into force of the ceasefire in accordance with the proposal of the Secretary-General, and stressing the importance that it attaches to the maintenance of the ceasefire as an integral part of the settlement plan,

COMMISSION ON HUMAN RIGHTS

REPORT ON THE SIXTY-FIRST SESSION

(14 March-22 April 2005)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 2005

SUPPLEMENT No. 3



UNITED NATIONS

II. Resolutions and decisions adopted by the Commission at its sixty-first session and Chairperson's statements that the Commission agreed on by consensus at that session

A. RESOLUTIONS

2005/1. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and reaffirming the need for the scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Guided further by the provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), and in particular Part I, paragraphs 2 and 3, relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination,

Recalling also Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002,

Recalling further its previous resolutions in this regard, the latest of which is resolution 2004/3 of 8 April 2004,

Reaffirming the right of the Palestinian people to self-determination in accordance with the provisions of the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world, as it is a *jus cogens* in international law and a basic condition for achieving a just, lasting and comprehensive peace in the region of the Middle East,

1. *Reaffirms* the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and to establish their sovereign and independent State;
2. *Reaffirms* its support for the solution of two States living side by side in peace and security, Israel and a viable, democratic, sovereign and territorially contiguous Palestine;
3. *Urges* all Member States and relevant bodies of the United Nations system to support and assist the Palestinian people in the early realization of their right to self-determination;
4. *Decides* to include in the provisional agenda of its sixty-second session the item entitled “The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation” and to consider the situation in occupied Palestine under that agenda item.

*38th meeting
7 April 2005*

[Resolution adopted by a recorded vote of 49 votes to 1, with 2 abstentions, as follows:

In favour: Argentina, Armenia, Australia, Bhutan, Brazil, Canada, China, Congo, Cuba, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against: United States of America.

Abstaining: Burkina Faso, Costa Rica.

See chap. V, paras. 73 to 78.]

2005/2. The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The Commission on Human Rights,

Recalling all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling also the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Convention of the Organization of African Unity on the Elimination of Mercenarism in Africa, as well as the African Union,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, territorial integrity of States, self-determination of peoples, the non-use of force or threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

COMMISSION ON HUMAN RIGHTS
REPORT ON THE FORTY-SIXTH SESSION

(29 January-9 March 1990)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1990

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1990

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE
COMMISSION AT ITS FORTY-SIXTH SESSION

A. Resolutions

1990/1. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2 of the Universal Declaration of Human Rights, everyone has the right to leave any country including his own and to return to his country,

Affirming that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to all Palestinian and Arab territories occupied by Israel since 1967, including Jerusalem,

Seriously concerned at the recent suggestions that immigrants to Israel may be settled in the occupied territories,

1. Affirms that the settling of Israeli civilians in the occupied territories is illegal and contravenes the relevant provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War,

2. Calls upon the Government of Israel to refrain from settling immigrants in the occupied territories.

28th meeting
16 February 1990

[Adopted by a roll-call vote of 42 to none,
with 1 abstention. See chap. IV.]

1990/2. Question of violations of human rights in occupied Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-SEVENTH SESSION

(28 January-8 March 1991)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1991

SUPPLEMENT No. 2



UNITED NATIONS

1991/3. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2 of the Universal Declaration of Human Rights, everyone has the right to leave any country including his own and to return to his country,

Reaffirming that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolution 1990/1 of 16 February 1990,

Gravely concerned at the large-scale establishment, by the Israeli Government, of settlers, including immigrants, in the occupied territories which is liable to change the physical character and the demographic composition of the occupied territories,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Regrets that the Government of Israel did not comply with the provisions of Commission on Human Rights resolution 1990/1;

3. Urges the Government of Israel to abstain from installing settlers, including immigrants, in the occupied territories.

28th meeting

15 February 1991

[Adopted by 38 votes to none, with
1 abstention. See chap. IV.]

1991/4. Situation in Afghanistan

The Commission on Human Rights,

Recalling its resolutions 1989/23 of 6 March 1989 and 1990/5 of 16 February 1990,

Bearing in mind that one of the fundamental purposes of the United Nations set forth in the Charter is to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FORTY-EIGHTH SESSION

(27 January-6 March 1992)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1992

SUPPLEMENT No. 2



UNITED NATIONS

New York, 1992

657 20 1992
UN Doc. E/1992/22/Supp.2

Ghassan Mohammad Soleiman Jarrar, Hassan Abdullah Hassan Sha'ban, Ali Fares Hassan El-Khatib and Omar Nimer Abdelrahman Safi, and calls upon Israel to comply with the resolutions of the Security Council, particularly resolution 726 (1992) of 6 January 1992, of the General Assembly and the Commission on Human Rights on the question;

5. Calls upon Israel to refrain immediately from deporting Palestinian citizens from their homeland, and to allow all those who have been deported since 1967 to return to their homeland without any obstacle or delay;

6. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to report on progress in its implementation by the Government of Israel to the Commission on Human Rights at its forty-ninth session;

7. Decides to consider the question at its forty-ninth session as a matter of high priority.

27th meeting

14 February 1992

[Adopted by a roll-call vote of 31 to 1,
with 17 abstentions. See chap. IV.]

1992/3. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country including his own and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, and 1991/3 of 15 February 1991,

Gravely concerned at the large-scale establishment by the Israeli Government of settlers, including immigrants, in the occupied territories, which may change the physical character and demographic composition of the occupied territories,

Taking into account the need to create the stable environment required for progress in the negotiation process following the Peace Conference on the Middle East convened in Madrid on 30 October 1991,

Convinced that the halting by Israel of its policy of settlement would constitute a meaningful contribution to the creation of that environment,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Regrets that the Government of Israel has not complied with the provisions of Commission on Human Rights resolutions 1990/1 and 1991/3;

3. Urges the Government of Israel to abstain from installing settlers, including immigrants, in the occupied territories.

27th meeting

14 February 1992

[Adopted by 45 votes to none, with
1 abstention. See chap. IV.]

1992/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Noting Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external

COMMISSION ON HUMAN RIGHTS
REPORT ON THE FORTY-NINTH SESSION

(1 February-12 March 1993)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1993

SUPPLEMENT No. 3



UNITED NATIONS
New York, 1993

and its continued deliberate disregard for the provisions of the Convention, in contravention of resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

4. Strongly condemns Israel for its grave violations of article 49 of the Convention and for continuing its policy of deporting Palestinian citizens and of expelling them from their homeland, as happened to more than four hundred Palestinian citizens on 17 December 1992, and calls upon Israel to comply with the resolutions of the Security Council, particularly resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 672 (1990) of 12 October 1990, 681 (1990) of 20 December 1990, 694 (1991) of 24 May 1991, 726 (1992) of 6 January 1992 and 799 (1992) of 18 December 1992, as well as with the relevant resolutions of the General Assembly and the Commission on Human Rights, and to refrain from such a policy which violates the principles of international law;

5. Calls upon Israel to allow all those who have been deported since 1967 to return to their homeland without delay in implementation of the resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

6. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to report on progress in its implementation by the Government of Israel to the Commission on Human Rights at its fiftieth session;

7. Decides to consider the question at its fiftieth session as a matter of high priority.

29th meeting

19 February 1993

[Adopted by a roll-call vote of 27 to 1,
with 19 abstentions. See chap. IV.]

1993/3. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country, including his own, and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, 1991/3 of 15 February 1991 and 1992/3 of 14 February 1992, which, inter alia, reaffirmed the illegality of the Israeli settlements in the occupied territories,

Gravely concerned at the large-scale establishment by the Israeli Government of settlers, including immigrants, in the occupied territories, which may change the physical character and demographic composition of the occupied territories,

Taking into account the need to create the stable environment required for progress in the negotiation process following the Peace Conference on the Middle East convened in Madrid on 30 October 1991,

Convinced that a complete cessation by Israel of its policy of settlement would constitute a meaningful contribution to the creation of that environment,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

2. Regrets that the Government of Israel has not fully complied with the provisions of Commission on Human Rights resolutions 1990/1, 1991/3 and 1992/3;

3. Urges the Government of Israel to abstain from installing settlers, including immigrants, in the occupied territories.

29th meeting
19 February 1993

[Adopted by a roll-call vote of 46 to 1. See chap. IV.]

1993/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTIETH SESSION

(31 January - 11 March 1994)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1994

SUPPLEMENT No. 4



UNITED NATIONS
New York and Geneva, 1994

II. RESOLUTIONS AND DECISIONS ADOPTED BY THE COMMISSION
AT ITS FIFTIETH SESSION

A. Resolutions

1994/1. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country, including his own, and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, 1991/3 of 15 February 1991, 1992/3 of 14 February 1992 and 1993/3 of 19 February 1993 which, inter alia, reaffirmed the illegality of the Israeli settlements in the occupied territories,

Gravely concerned at the establishment by the Israeli Government of settlers in the occupied territories, which may change the physical character and demographic composition of the occupied territories,

Welcoming the positive development which originated with the International Peace Conference on the Middle East, convened at Madrid on 30 October 1991, including in particular the Declaration of Principles on Interim Self-Government Arrangements signed by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, as well as all the efforts for the creation of a peaceful and stable environment in the Middle East,

Noting the report (E/CN.4/1994/14) submitted by the Special Rapporteur pursuant to resolution 1993/2A of 19 February 1993 and referring to information provided to him on confiscation of land by the Israeli authorities before and after the signing of the Declaration of Principles on 13 September 1993,

Convinced that a complete cessation by Israel of its policy of settlement would constitute, especially at the present stage of the process, a meaningful contribution to the creation of a peaceful and stable environment,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Regrets that the Government of Israel has not fully complied with the provisions of Commission on Human Rights resolutions 1990/1, 1991/3, 1992/3 and 1993/3;

3. Urges the Government of Israel to abstain from installing any settlers in the occupied territories.

30th meeting
18 February 1994

[Adopted by a roll-call vote of 49 to 1,
with 1 abstention. See chap. IV.]

1994/2. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the population of the Syrian and other Arab territories occupied by Israel since 1967 and the continued Israeli military occupation, and that the human rights of the population continue to be violated,

Recalling Security Council resolution 497 (1981) of 17 December 1981, in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan was null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision,

Recalling General Assembly resolutions 36/226 B of 17 December 1981, ES-9/1 of 5 February 1982, 37/88 E of 10 December 1982, 38/79 F of 15 December 1983, 39/95 F of 14 December 1984, 40/161 F of 16 December 1985, 41/63 F of 3 December 1986, 42/160 F of 8 December 1987, 43/21 of 3 November 1988, 43/58 F of 6 December 1988, 44/2 of 6 October 1989, 45/74 F of 11 December 1990, 46/47 F of 9 December 1991, 47/70 F of 14 December 1992 and 48/41 D of 10 December 1993,

Recalling also General Assembly resolution 3414 (XXX) of 5 December 1975 and other relevant resolutions in which the Assembly, inter alia, demanded the immediate, unconditional and total withdrawal of Israel from the Arab territories occupied since 1967,

Recalling further General Assembly resolution 3314 (XXIX) of 14 December 1974, in which it defined an act of aggression,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory,

Reaffirming that the acquisition of territory by force is inadmissible under the principles of international law and under the Charter of the United Nations and the relevant resolutions of the Security Council and the General Assembly, and that all territories thus occupied by Israel must be returned,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian

COMMISSION ON HUMAN RIGHTS

REPORT ON THE FIFTY-FIRST SESSION

(30 January - 10 March 1995)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1995

SUPPLEMENT No. 4



UNITED NATIONS
New York and Geneva, 1995

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country, including his own, and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, 1991/3 of 15 February 1991, 1992/3 of 14 February 1992, 1993/3 of 19 February 1993 and 1994/1 of 18 February 1994 which, inter alia, reaffirmed the illegality of the Israeli settlements in the occupied territories,

Gravely concerned at the continued establishment by the Israeli Government and at its allowing the establishment of settlers in the occupied territories, which may change the physical character and demographic composition of the occupied territories,

Welcoming the positive development which originated with the International Peace Conference on the Middle East, convened in Madrid on 30 October 1991, including in particular the Declaration of Principles on Interim Self-Government Arrangements signed in Washington by the Government of Israel and the Palestine Liberation Organization on 13 September 1993 and the subsequent Agreement on the Gaza Strip and the Jericho Area, signed in Cairo by the same parties on 4 May 1994, as well as all their continuing efforts for the creation of a peaceful and stable environment in the Middle East,

Noting the report (E/CN.4/1995/19) submitted by the Special Rapporteur pursuant to resolution 1993/2 A of 19 February 1993, in which he refers, inter alia, to the continued resort to expropriation and to the expansion of existing settlements,

Convinced that a complete cessation by Israel of its policy of expanding the settlements would constitute, especially at the present stage of the peace process, a meaningful contribution to the creation of a peaceful and stable environment,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Regrets that the Government of Israel has not fully complied with the provisions of Commission on Human Rights resolutions 1990/1, 1991/3, 1992/3, 1993/3 and 1994/1;

3. Urges the Government of Israel to abstain fully from installing any settlers in the occupied territories and to prevent any new installation of settlers in these territories.

29th meeting
17 February 1995

[Adopted by a roll-call vote of 46 votes to 1,
with 3 abstentions. See chap. IV.]

1995/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights, and in particular part I, paragraphs 2 and 3, relating to the right to self-determination of all peoples and especially those subject to foreign occupation,

Noting Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard, including the latest, resolution 1994/5 of 18 February 1994,

COMMISSION ON HUMAN RIGHTS
REPORT ON THE FIFTY-SECOND SESSION

(18 March-26 April 1996)

ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1996

SUPPLEMENT NO. 3



UNITED NATIONS

8. Decides to consider the question at its fifty-third session, as a matter of high priority.

34th meeting

11 April 1996

[Adopted by a roll-call vote of 27 votes to 2,
with 23 abstentions. See chap. IV.]

1996/4. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country, including his own, and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, 1991/3 of 15 February 1991, 1992/3 of 14 February 1992, 1993/3 of 19 February 1993, 1994/1 of 18 February 1994 and 1995/3 of 17 February 1995 in which, inter alia, it reaffirmed the illegality of the Israeli settlements in the occupied territories, and noting that Israel has not fully complied with the provisions of those resolutions,

Welcoming the positive development that originated with the International Peace Conference on the Middle East convened in Madrid on 30 October 1991, including in particular the Declaration of Principles on Interim Self-Government Arrangements signed in Washington by the Government of Israel and the Palestine Liberation Organization on 13 September 1993 as well as the Interim Agreement on the West Bank and the Gaza Strip signed in Washington by the same parties on 28 September 1995, followed by the partial redeployment of the Israeli army from the main Palestinian towns and the democratic election of the Palestinian Council and President of the Palestinian Authority,

Condemning in the strongest terms all acts of terrorism, and calling on the Parties not to allow them to affect the ongoing peace process negatively,

Noting with appreciation the report (E/CN.4/1996/18) submitted by the Special Rapporteur pursuant to resolution 1993/2 A of 19 February 1993, in which he recommends, inter alia, that the confiscation of Palestinian-owned land and the construction or expansion of settlements should be halted immediately,

Noting that the question of the Israeli settlements in the occupied territories will be addressed during the negotiations on the final status of the territories, which will start not later than May 1996, and convinced in this regard that a complete cessation by Israel of its policy of expanding the

settlements, which may change the physical character and demographic composition of the occupied territories, would greatly facilitate those negotiations,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Reiterates its request to the Government of Israel to comply fully with the provisions of Commission resolutions 1990/1, 1991/3, 1992/3, 1993/3, 1994/1 and 1995/3;

3. Urges the Government of Israel to abstain from installing any settlers in the occupied territories and to prevent any new installation of settlers in these territories.

34th meeting

11 April 1996

[Adopted by 49 votes to 1, with 3 abstentions.
See chap. IV.]

1996/5. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right to self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights, and in particular Part I, paragraphs 2 and 3, relating to the right to self-determination of all peoples and especially those subject to foreign occupation,

E/1997/23
E/CN.4/1997/150

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(10 March-18 April 1997)

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void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and have no legal effect;

5. Calls once again upon Member States not to recognize any of the legislative or administrative measures and actions referred to in the present resolution;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fifty-fourth session;

7. Decides to include in the provisional agenda of its fifty-fourth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

26th meeting

26 March 1997

[Adopted by a roll-call vote of 26 votes to 1,
with 23 abstentions. See chap. IV.]

1997/3. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem,

Recalling its previous resolutions, most recently resolution 1996/4 of 11 April 1996, in which, inter alia, it reaffirmed the illegality of the Israeli settlements in the occupied territories,

1. Welcomes

(a) The positive developments that originated with the International Peace Conference on the Middle East convened in Madrid on 30 October 1991, including in particular the Declaration of Principles on Interim Self-Government Arrangements signed in Washington by the Government of Israel and the Palestine Liberation Organization on 13 September 1993 as well as the Interim Agreement on the West Bank and the Gaza Strip signed in Washington by the same parties on 28 September 1995;

(b) The recent step towards the further implementation of the relevant agreements, through the signing of the Protocol concerning the Redeployment in Hebron;

(c) The report (E/CN.4/1997/16) submitted by the Special Rapporteur pursuant to Commission resolution 1993/2 A of 19 February 1993;

2. Expresses its deep concern

(a) At the Israeli settlement activities, including the expansion of settlements, the installation of settlers in the occupied territories, the expropriation of land, the demolition of houses, the confiscation of property, the expulsion of local residents and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, since they are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and are a major obstacle to peace;

(b) At and strongly condemns all acts of terrorism, whilst calling upon all parties not to allow any acts of terrorism to affect the ongoing peace process negatively;

3. Calls upon the Government of Israel

(a) To comply fully with the provisions of previous Commission resolutions on the subject, most recently resolution 1996/4 of 11 April 1996;

(b) To cease completely its policy of expanding the settlements and related activities in the occupied territories, including East Jerusalem;

(c) To forgo and prevent any new installation of settlers in the occupied territories;

(d) To address the question of the Israeli settlements in the occupied territories during the negotiations on the final status of the territories, which are due to resume within two months after implementation of the Protocol concerning the Redeployment in Hebron.

26th meeting

26 March 1997

[Adopted by a roll-call vote of 47 votes to 1,
with 2 abstentions. See chap. IV.]

1997/4. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of

E/1998/23
E/CN.4/1998/177

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(16 March-24 April 1998)

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1998/3. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem,

Recalling its previous resolutions, most recently resolution 1997/3 of 26 March 1997, in which, inter alia, it reaffirmed the illegality of the Israeli settlements in the occupied territories,

1. Welcomes the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/1998/17);

2. Expresses its grave concern

(a) At the Israeli settlement activities, including the expansion of the settlements, the installation of settlers in the occupied territories, the expropriation of land, the demolition of houses, the confiscation of property, the expulsion of local residents and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, since they are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and are a major obstacle to peace;

(b) At and strongly condemns all acts of terrorism, whilst calling upon all parties not to allow any acts of terrorism to affect the ongoing peace process negatively;

3. Calls upon the Government of Israel

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 1997/3;

(b) To match its stated commitment to the peace process with concrete actions to fulfil its obligations and cease completely its policy of expanding the settlements and related activities in the occupied territories, including East Jerusalem;

(c) To forgo and prevent any new installation of settlers in the occupied territories.

20th meeting

27 March 1998

[Adopted by 51 votes to 1. See chap. IV.]

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(22 March -30 April 1999)

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SUPPLEMENT No. 3



UNITED NATIONS

1999/7. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem,

Recalling its previous resolutions, most recently resolution 1998/3 of 27 March 1998, in which, inter alia, it reaffirmed the illegality of the Israeli settlements in the occupied territories,

1. Welcomes:

(a) The Wye River Memorandum of 23 October 1998 and calls for the full implementation of the Memorandum, as well as of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip of 28 September 1995 and other related agreements;

(b) The report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/1999/24) and expresses its regret at the lack of cooperation on the part of the Government of Israel with the Special Rapporteur;

2. Expresses its grave concern:

(a) At the Israeli settlement activities and their increase since the signing of the Wye River Memorandum, including the expansion of the settlements, the installation of settlers in the occupied territories, the expropriation of land, the demolition of houses, the confiscation of property, the expulsion of local residents and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem and, since they are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and are a major obstacle to peace;

(b) At and strongly condemns all acts of terrorism, whilst calling upon all parties not to allow any acts of terrorism to affect the ongoing peace process negatively;

3. Urges the Government of Israel:

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 1998/3 of 27 March 1998;

(b) To match its stated commitment to the peace process with concrete actions to fulfil its obligations and cease completely its policy of expanding the settlements and related activities in the occupied territories, including East Jerusalem;

(c) To forgo and prevent any new installation of settlers in the occupied territories;

4. Decides to continue its consideration of this question at its fifty-sixth session.

50th meeting

23 April 1999

[Adopted by a roll-call vote of 50 votes to 1,
with 2 abstentions. See chap. VIII.]

1999/8. Human rights in Cuba

The Commission on Human Rights,

Reaffirming the obligation of all Member States to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and in the Universal Declaration of Human Rights,

Mindful that Cuba is a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child,

Reasserting the Commission's obligation to promote and protect human rights on the basis of the universal nature of the Declaration, in all countries of the world, independently from other bilateral or regional issues affecting the country in question,

Expressing its concern at the continued violation of human rights and fundamental freedoms in Cuba, such as freedom of expression, association and assembly and rights associated with the administration of justice, despite the expectations raised by some positive steps taken by the Government of Cuba in the past few years,

Considering the urgent need to adopt the necessary measures to ensure full respect for human rights in Cuba and to contribute to developing a more pluralistic society and a more efficient economy, and considering also the willingness of the international community to assist therein,

1. Welcomes the fact that the Government of Cuba has taken the first steps towards the opening of society for religious institutions, and expects that Cuban citizens will be granted the right to freedom of religion and belief;

2. Encourages the Government of Cuba to continue to allow thematic special rapporteurs to visit Cuba;

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5. *Calls once again upon* Member States not to recognize any of the legislative or administrative measures and actions referred to above;

6. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fifty-seventh session;

7. *Decides* to include in the provisional agenda of its fifty-seventh session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

52nd meeting

17 April 2000

[Adopted by a roll-call vote of 31 votes to 1,
with 19 abstentions. See chap. VIII.]

2000/8. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem,

Recalling its previous resolutions, most recently resolution 1999/7 of 23 April 1999, in which, *inter alia*, it reaffirmed the illegality of the Israeli settlements in the occupied territories,

1. *Welcomes:*

(a) The Sharm el Sheikh memorandum of 4 September 1999, while noting with concern the delays in its implementation, and calls for the full implementation of the memorandum, as well as of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip of 28 September 1995 and other related agreements;

(b) The report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (E/CN.4/2000/25) and hopes that the Government of Israel will cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Expresses its grave concern:*

(a) At the continuing Israeli settlement activities, in spite of the Government's moratorium on new construction permits, including the expansion of the settlements, the installation of settlers in the occupied territories, the expropriation of land, the demolition of houses, the confiscation of property, the expulsion of local residents and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, since all these actions are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and are a major obstacle to peace;

(b) At and strongly condemns all acts of terrorism, whilst calling upon all parties not to allow any acts of terrorism to affect the ongoing peace process negatively;

3. *Urges the Government of Israel:*

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 1999/7 of 23 April 1999;

(b) To match its stated commitment to the peace process with concrete actions to fulfil its obligations and cease completely its policy of expanding the settlements and related activities in the occupied territories, including East Jerusalem;

(c) To forgo and prevent any new installation of settlers in the occupied territories;

4. *Decides to continue its consideration of this question at its fifty-seventh session.*

52nd meeting

17 April 2000

[Adopted by a roll-call vote of 50 votes to 1,
with 1 abstention. See chap. VIII.]

2000/9. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights

The Commission on Human Rights,

Guided by the principles relating to economic, social and cultural rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling its previous resolutions on the realization of economic, social and cultural rights, including resolution 1998/33 of 17 April 1998, in which it decided, inter alia, as part of

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UNITED NATIONS

17. *Decides* to consider this question at its fifty-eighth session under the same agenda item, as a matter of high priority.

61st meeting

18 April 2001

[Adopted by a roll-call vote of 28 votes to 2,
with 22 abstentions. See chap. VIII.]

2001/8. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem,

Recalling its previous resolutions, most recently resolution 2000/8 of 17 April 2000, in which, *inter alia*, it reaffirmed the illegality of the Israeli settlements in the occupied territories,

Expressing its concern regarding the security risks related to the presence of the settlements in the occupied territories,

1. *Welcomes:*

(a) The reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (E/CN.4/S-5/3 and E/CN.4/2001/30) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

(b) The report of the United Nations High Commissioner for Human Rights on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan from 8 to 16 November 2000 (E/CN.4/2001/114);

(c) The report of the Human Rights Inquiry Commission established pursuant to Commission on Human Rights resolution S-5/1 of 19 October 2000 (E/CN.4/2001/121);

2. *Expresses its grave concern:*

(a) At the continuing Israeli settlement activities, including the expansion of the settlements, the installation of settlers in the occupied territories, the expropriation of land, the

demolition of houses, the confiscation of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, since all these actions are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and are a major obstacle to peace;

(b) At and strongly condemns all acts of terrorism and violence;

(c) At the closures of and within the Palestinian territories which contribute, together with other factors, to the unrest and violence that have been prevailing in the zone for several months;

3. *Urges* the Government of Israel:

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 2000/8 of 17 April 2000;

(b) To take concrete actions to fulfil its obligations and cease completely its policy of expanding the settlements and related activities in the occupied territories, including East Jerusalem;

(c) To forgo and prevent any new installation of settlers in the occupied territories;

(d) To implement the recommendations regarding the settlements made by the High Commissioner in her report, including to ensure that the Israeli security forces protect Palestinians from violence perpetrated by Israeli settlers;

4. *Urges* the parties to create the conditions which will allow the resumption of the peace process, building on the full implementation of previous agreements and the progress that was made on all major issues during the last negotiations between the Government of Israel and the Palestinian Authority, in order to find a just and lasting peace based on Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973 and other relevant United Nations resolutions, including the inadmissibility of acquisition of territory by war, the need for every State in the area to be able to live in security, and the principle of land for peace;

5. *Decides* to continue its consideration of this question at its fifty-eighth session.

*61st meeting
18 April 2001*

[Adopted by a roll-call vote of 50 votes to 1,
with 1 abstention. See chap. VIII.]

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5. *Calls once again upon* Member States not to recognize any of the legislative or administrative measures and actions referred to above;

6. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission at its fifty-ninth session;

7. *Decides* to include in the provisional agenda of its fifty-ninth session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

37th meeting

12 April 2002

[Adopted by a recorded vote of 34 votes to 1,
with 18 abstentions. See chap. VIII.]

2002/7. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Recalling its previous resolutions, most recently resolution 2001/8 of 18 April 2001, and taking note of General Assembly resolution 56/61 of 10 December 2001, in which, inter alia, the illegality of the Israeli settlements in the occupied territories was reaffirmed,

Expressing its concern regarding the security threats related to the presence of the settlements in the occupied territories, as expressed in the report of the Sharm el-Sheikh Fact-Finding Committee (the Mitchell Report),

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2002/32) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Expresses its grave concern:*

(a) At the dramatic escalation of the Israeli-Palestinian conflict, which has led to a spiral of anger, hatred and further violence, and to increased suffering for both Israelis and Palestinians;

(b) At the continuing Israeli settlement activities, including the expansion of the settlements, the installation of settlers in the occupied territories, the expropriation of land, including agricultural land, the demolition of houses, the confiscation or destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, since all these actions are illegal, constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and are a major obstacle to peace;

(c) At and strongly condemns all acts of violence, including all acts of terror, provocation, incitement and destruction, in particular the indiscriminate terrorist attacks over the past weeks, killing and injuring civilians;

(d) At the closures of and within the Palestinian territories and the restriction of the freedom of movement of the Palestinians, which contribute, together with other factors, to the intolerable level of violence that has been prevailing in the zone for more than a year;

3. *Urges the Government of Israel:*

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 2001/8;

(b) To reverse its settlement policy in the occupied territories, including East Jerusalem, and to stop the expansion of existing settlements, including "natural growth" and related activities;

(c) To prevent any new installation of settlers in the occupied territories;

(d) To implement the recommendations regarding the settlements made by the United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

(e) To take and implement measures, including confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians in the occupied territories;

4. *Urges the parties to implement immediately Security Council resolutions 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002, and calls for the Israeli and Palestinian sides and their leaders to cooperate in the implementation of the Palestinian-Israeli security work plan (Tenet ceasefire plan) and the Mitchell Report*

recommendations with the aim of resuming negotiations on a political settlement based on Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002), 1402 (2002), 1403 (2002) of 4 April 2002 and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, including the inadmissibility of acquisition of territory by war, the end to the occupation of 1967 and the principle of land for peace, which will allow two States, Israel and Palestine, to live in peace and security and play their full part in the region;

5. *Decides* to continue its consideration of this question at its fifty-ninth session.

*38th meeting
12 April 2002*

[Adopted by a recorded vote of 52 votes to 1.
See chap. VIII.]

2002/8. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as by the provisions of the Universal Declaration of Human Rights,

Recalling Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and taking note of Council resolutions 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, as well as for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

Guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the provisions of Additional Protocol I thereto of 1977 and the Hague Convention IV of 1907,

Recalling the resolutions of the Security Council, the General Assembly and the Commission on Human Rights relating to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War to the occupied Palestinian territory, including East Jerusalem,

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18. *Also calls once again upon* Israel to withdraw from the Palestinian territory, including East Jerusalem, occupied since 1967, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;

19. *Calls upon* the relevant United Nations organs urgently to consider the best ways to provide the necessary international protection for the Palestinian people until the cessation of the Israeli occupation of its territory;

20. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its sixtieth session;

21. *Also requests* the Secretary-General to provide the Commission with all United Nations reports issued between the sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

22. *Decides* to consider this question at its sixtieth session under the same agenda item, as a matter of high priority.

*48th meeting
15 April 2003*

[Adopted by a recorded vote of 33 votes to 5,
with 15 abstentions. See chap. VIII.]

2003/7. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Recalling its previous resolutions, most recently resolution 2002/7 of 12 April 2002, and taking note of General Assembly resolution 57/126 of 11 December 2002, in which, inter alia, the illegality of the Israeli settlements in the occupied territories was reaffirmed,

Expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution to the conflict, and therefore threatens the long-term security of Palestinians as well as Israelis,

Expressing its concern also regarding the security threats related to the presence of the settlements in the occupied territories, as expressed in the report of the Sharm el-Sheikh Fact-Finding Committee (the Mitchell Report),

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2003/30 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Expresses its grave concern* at:

(a) The continuation, at an escalated level, of the Israeli-Palestinian conflict, which has led to a seemingly endless spiral of hatred and violence and to increased suffering for both Israelis and Palestinians;

(b) The continuing Israeli settlement activities, including the illegal installation of settlers in the occupied territories and related activities, such as the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War; settlements are a major obstacle to peace and to the creation of an independent, viable, sovereign and democratic Palestinian State in accordance with Security Council resolution 1397 (2002) of 12 March 2002;

(c) And strongly condemns all acts of violence, including indiscriminate terrorist attacks killing and injuring civilians, provocation, incitement and destruction;

(d) The closures of and within the Palestinian territories and the restriction of the freedom of movement of the Palestinians, including the extensive curfews imposed on the West Bank cities for long periods of time, which contribute, together with other factors, to the intolerable level of violence that has been prevailing in the zone for more than two years, have caused an extremely precarious humanitarian situation for the civilian population and have a negative impact on the enjoyment of economic and social rights in the Palestinian territories, affecting in particular the most vulnerable groups of the population;

(e) The construction of the so-called security fence in the Palestinian territories, including in and around East Jerusalem;

3. *Urges* the Government of Israel:

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 2002/7;

(b) To reverse its settlement policy in the occupied territories, including East Jerusalem, and, as a first step towards their dismantlement, to stop immediately the expansion of existing settlements, including “natural growth” and related activities;

(c) To prevent any new installation of settlers in the occupied territories;

(d) To stop the construction of the so-called security fence in the Palestinian territories, including in and around East Jerusalem, and other illegal activities, such as confiscation of land or demolition of houses, that it entails;

(e) To implement the recommendations regarding the settlements made by the United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

(f) To take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing illegal acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians in the occupied territories;

4. *Urges* the parties to cooperate in the early and unconditional implementation, without modifications, of the “road map” endorsed by the “Quartet”* with the aim of resuming negotiations on a political settlement, which is in accordance with the resolutions of the Security Council and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security and play their full part in the region;

5. *Decides* to continue its consideration of this question at its sixtieth session.

48th meeting

15 April 2003

[Adopted by a recorded vote of 50 votes to 1,
with 2 abstentions. See chap. VIII.]

2003/8. Human rights situation of the Lebanese detainees in Israel

The Commission on Human Rights,

Recalling the report of the Secretary-General on the implementation of Security Council resolutions 425 (1978) and 426 (1978) of 19 March 1978 (S/2000/460), in particular paragraphs 7, 8, 12, 14, 16, 17, 21 and 48, endorsed by the Council (S/PRST/2000/18),

* United States of America, the European Union, the Russian Federation and the United Nations.

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2. *Also calls upon* Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, and emphasizes that the displaced persons of the population of the occupied Syrian Golan must be allowed to return to their homes and to recover their properties;

3. *Further calls upon* Israel to desist from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan and to desist from its repressive measures against them, and from all other practices mentioned in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;

4. *Determines* that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the occupied Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and have no legal effect;

5. *Calls once again upon* Member States not to recognize any of the legislative or administrative measures and actions referred to above;

6. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission at its sixty-first session;

7. *Decides* to include in the provisional agenda of its sixty-first session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

*49th meeting
15 April 2004*

[Adopted by a recorded vote of 31 votes to 1,
with 21 abstentions. See chap. VIII.]

2004/9. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Recalling its previous resolutions, most recently resolution 2003/7 of 15 April 2003, and taking note of General Assembly resolution 58/98 of 9 December 2003, in which, inter alia, the illegality of the Israeli settlements in the occupied territories was reaffirmed,

Welcoming the presentation to the parties by the Quartet* of the road map to a permanent two-State solution to the Israeli-Palestinian conflict (S/2003/529, annex) and noting the call for a freeze on settlement activity, and taking note of the proposals for an Israeli withdrawal from the Gaza Strip, which could represent a significant step towards the implementation of the road map, provided that it took place in the context of the road map; it was a step towards a two-State solution; it did not involve a transfer of settlement activity to the West Bank; there was an organized and negotiated handover of responsibility to the Palestinian Authority; and Israel facilitated the rehabilitation and reconstruction of Gaza,

Gravely concerned at the widespread violations of human rights and international humanitarian law which continue to result from the occupation of the Occupied Palestinian Territory,

Concerned in particular that the route marked out for the so-called security fence under construction by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, could prejudice future negotiations and make the two-State solution physically impossible to implement and would cause further humanitarian and economic hardship to the Palestinians,

Expressing its concern at the failure of the Government of Israel to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

Also expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution to the conflict, and therefore threatens the long-term security of Palestinians as well as Israelis,

Further expressing its concern regarding the security threats related to the presence of the settlements in the occupied territories, as expressed in the report of the Sharm el-Sheikh Fact-Finding Committee (the Mitchell Report),

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2004/6 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Expresses its grave concern* at:

(a) The continuation, at an escalated level, of the Israeli-Palestinian conflict, which has led to a seemingly endless spiral of hatred and violence and to increased suffering for both Israelis and Palestinians;

* The European Union, the Russian Federation, the United Nations and the United States of America.

(b) The continuing illegal Israeli settlement activities in the occupied territories and related activities, such as the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, settlements are a major obstacle to peace and to the creation of an independent, viable, sovereign and democratic Palestinian State in accordance with Security Council resolution 1397 (2002) of 12 March 2002;

(c) And strongly condemns all acts of violence, including indiscriminate terrorist attacks killing and injuring civilians, provocation, incitement and destruction, and urges the Palestinian Authority to demonstrate concretely its determination in the fight against terrorism and extremist violence;

(d) The continuing high level of casualties on both sides, particularly civilians, and, while recognizing Israel's right to self-defence in the face of terrorist attacks against its citizens, urges the Government of Israel to exert maximum effort to avoid civilian casualties and to put a halt to extrajudicial killings, which are contrary to international law;

(e) The continued closures of and within the Palestinian territories and the restriction of the freedom of movement of the Palestinians, including the extensive curfews imposed on the West Bank cities for long periods of time, which contribute, together with other factors, to the intolerable level of violence that has prevailed in the zone for more than three years, have caused an extremely precarious humanitarian situation for the civilian population and have had a negative impact on the enjoyment of economic and social rights in the Palestinian territories, affecting in particular the most vulnerable groups of the population;

(f) The continued construction of the so-called security fence in the Palestinian territories, including in and around East Jerusalem;

(g) The route marked out for the so-called security fence in the occupied West Bank and the envisaged departure of the route from the Armistice Line of 1949 which could prejudice future negotiations and make the two-State solution physically impossible to implement, and the creation of a closed zone between the so-called security fence and the Armistice Line and the consequent humanitarian and economic hardship for the Palestinians, thousands of whom are being cut off from essential services, land and water resources;

3. *Urges* the Government of Israel:

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 2003/7;

(b) To reverse its settlement policy in the occupied territories, including East Jerusalem, and, as a first step towards their dismantlement, to stop immediately the expansion of existing settlements, including "natural growth" and related activities;

(c) To prevent any new installation of settlers in the occupied territories;

(d) To implement the recommendations regarding the settlements made by the United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

(e) To take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing illegal acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians in the occupied territories;

4. *Demands* that Israel stop and reverse the construction of the so-called security fence in the Occupied Palestinian Territory, including in and around East Jerusalem, which is a departure from the Armistice Line of 1949 and is in contradiction to relevant provisions of international law;

5. *Urges* the parties to implement immediately and fully, without modifications, the road map endorsed by the Security Council, with the aim of resuming negotiations on a political settlement which is in accordance with the resolutions of the Council and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security and play their full part in the region;

6. *Decides* to continue its consideration of this question at its sixty-first session.

49th meeting

15 April 2004

[Adopted by a recorded vote of 27 votes to 2,
with 24 abstentions. See chap. VIII.]

2004/10. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations and by the provisions of the Universal Declaration of Human Rights,

Recalling Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

Guided by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

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9. *Decides* to consider this issue at its sixty-second session under the same agenda item.

*49th meeting
14 April 2005*

[Resolution adopted by a recorded vote of 46 to none, with 4 abstentions, as follows:

In favour: Argentina, Armenia, Bhutan, Brazil, Burkina Faso, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Kenya, Malaysia, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Romania, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against: None.

Abstaining: Australia, Canada, Japan, United States of America.

See chap. VI, paras. 94 to 98.]

2005/6. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

The Commission on Human Rights,

Guided by the principles of the Charter of the United Nations, and affirming the inadmissibility of the acquisition of territory by force,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Recalling relevant resolutions of the Commission, the Security Council and the General Assembly, most recently General Assembly resolution 59/123 of 10 December 2004 in which it reaffirmed, inter alia, the illegality of the Israeli settlements in the occupied territories,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem and the Syrian Golan, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Considering that the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the Geneva Conventions of 12 August 1949,

Noting the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (see A/ES-10/273 and Corr.1), and its conclusion that “the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law”,

Taking note of General Assembly resolution ES-10/15 of 20 July 2004,

Recalling its attachment to the implementation by both parties of their obligations under the Quartet* road map to a permanent two-State solution to the Israeli-Palestinian conflict (S/2003/529, annex), which was endorsed by the Security Council in resolution 1515 (2003) of 19 November 2003, and noting in particular the road map’s call for a freeze on all settlement activity,

Expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution,

Noting the potential of the announced withdrawals by Israel, the occupying Power, from the Gaza Strip and from certain parts of the northern West Bank, which can represent a step towards the implementation of the Quartet road map and a two-State solution, provided that they take place within the context of the road map and that they should not involve transfer of settlement activity to the West Bank, that there should be an organized and negotiated handover of responsibility to the Palestinian Authority and that Israel should facilitate the rehabilitation and reconstruction of the Gaza Strip,

Expressing grave concern about the continuing construction, contrary to international law, by Israel of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, and expressing its concern in particular about the route of the wall in departure from the Armistice Line of 1949, which could prejudge future negotiations and make the two-State solution physically impossible to implement and which is causing the Palestinian people further humanitarian hardship,

Deeply concerned that the wall’s route has been traced in such a way as to include the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem,

Expressing its concern at the failure of the Government of Israel to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2005/29 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

* The United States of America, the Russian Federation, the European Union and the United Nations.

2. *Welcomes* the understandings by both parties at the summit held in Sharm El Sheikh, Egypt, on 8 February 2005, to stop all acts of violence as well as the positive steps taken by them in fulfilment of these understandings and urges them to enhance a new spirit of cooperation and to promote an atmosphere conducive to the establishment of peace and coexistence;

3. *Expresses its grave concern* at:

(a) The continuing Israeli settlement and related activities, in violation of international law, including the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem and the Syrian Golan, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, and in particular article 49 of that Convention; settlements are a major obstacle to the establishment of a just and comprehensive peace and to the creation of an independent, viable, sovereign and democratic Palestinian State;

(b) The new construction plan by the Government of Israel announced on 21 March 2005 for a project of 3,500 additional housing units in Maale Adumim and the planned expansion of two other settlement blocks in the West Bank, and deplores the negative impact of these plans on the confidence between the two parties at a time when a genuine window of opportunity exists to relaunch the peace process, as the continuation of settlement activities by Israel, the occupying Power, would be a violation of international humanitarian law, the relevant United Nations resolutions and Israeli commitments in the context of the road map;

(c) The continued closures of and within the Occupied Palestinian Territory and the restriction of the freedom of movement of people and goods, including the extensive curfews imposed for long periods of time, which do not contribute to restoring confidence and reinforcing the ongoing dialogue between the two parties, and have caused an extremely precarious humanitarian situation for the civilian population as well as impaired the economic and social rights of the Palestinian people;

(d) The continued construction, contrary to international law, of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem;

4. *Takes note with satisfaction* of the resumption of the dialogue between the parties and the steps forward taken, and urges the Government of Israel:

(a) To reverse the settlement policy in the occupied territories, including East Jerusalem and the Syrian Golan and, as a first step towards their dismantlement, to stop immediately the expansion of the existing settlements, including “natural growth” and related activities;

(b) To prevent any new installation of settlers in the occupied territories;

5. *Demands* that Israel implement the recommendations regarding the settlements made by the then United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

6. *Calls upon* Israel to take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians and Palestinian properties in the Occupied Palestinian Territory, including East Jerusalem;

7. *Demands* that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice;

8. *Urges* the parties to seize the opportunity offered by the current political context to give renewed impetus to the peace process and to implement fully the road map endorsed by the Security Council in resolution 1515 (2003), with the aim of reaching a comprehensive political settlement in accordance with the resolutions of the Council, including resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security;

9. *Decides* to continue its consideration of this question at its sixty-second session.

*49th meeting
14 April 2005*

[Resolution adopted by a recorded vote of 39 votes to 2, with 12 abstentions, as follows:

In favour: Argentina, Armenia, Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, Gabon, Guinea, India, Indonesia, Ireland, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Ukraine, Zimbabwe.

Against: Australia, United States of America.

Abstaining: Canada, Costa Rica, Dominican Republic, Germany, Guatemala, Honduras, Hungary, Italy, Netherlands, Romania, Togo, United Kingdom of Great Britain and Northern Ireland.

See chap. VIII, paras. 125 to 130.]

2005/7. Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

The Commission on Human Rights,

Recalling the applicability of the Geneva Convention relative to the Protection of Civil Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the relevant resolutions of the Security Council and the Commission on Human Rights,

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and calls upon Israel to comply with its international commitments, to respect the Convention and to apply it in the occupied Palestinian territory, including Jerusalem;

2. Urges once more all States parties to the Convention to make every effort to ensure the Israeli occupation authorities' respect for and compliance with the provisions of the Convention in the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and to undertake the necessary practical measures to ensure the provision of international protection for the Palestinian people under occupation, in accordance with the provisions of article 1 and other relevant articles of the Convention;

3. Strongly condemns once more the refusal of Israel to apply the Convention to Palestine and the Arab territories occupied since 1967 and to their inhabitants, Israel's policies of perpetrating crimes of torture against Palestinian detainees and prisoners in Israeli prisons and detention camps and its continued deliberate disregard for the provisions of the Convention, in contravention of resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

4. Calls upon Israel to allow those who have been deported since 1967 to return to their homeland without delay in implementation of the resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

5. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to report on progress in its implementation by the Government of Israel to the Commission on Human Rights at its fifty-first session;

6. Decides to consider the question at its fifty-first session as a matter of high priority.

30th meeting
18 February 1994

[Adopted by a roll-call vote of 26 to 1,
with 25 abstentions. See chap. IV.]

1994/4. Middle East peace process

The Commission of Human Rights,

Recalling General Assembly resolution 48/58 on the Middle East peace process, adopted on 14 December 1993,

Recalling also the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Stressing that the achievement of a comprehensive and lasting settlement of the Middle East conflict will constitute a significant contribution to the strengthening of international peace and security, and is an indispensable condition for the furthering of human rights in the region,

Recalling the convening of the International Peace Conference on the Middle East at Madrid on 30 October 1991, on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and the subsequent bilateral negotiations, as well as the meetings of the multilateral working groups, and noting with satisfaction the broad international support for the peace process,

Noting the continuing positive participation of the United Nations as a full extraregional participant in the work of the multilateral working groups,

Bearing in mind the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization in Washington, D.C., on 13 September 1993,

1. Stresses the importance of, and need for, achieving a comprehensive, just and lasting peace in the Middle East;

2. Emphasizes that the achievement of such a peace is vital for the full implementation of human rights in the area;

3. Welcomes the peace process started at Madrid and supports the subsequent bilateral negotiations;

4. Expresses its full support for the achievements of the peace process thus far, in particular the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization, and the Agreement between Israel and Jordan on the Common Agenda, which constitute an important initial step in achieving a comprehensive, just and lasting peace in the Middle East, and urges all parties to implement agreements reached;

5. Considers that an active United Nations role in the Middle East peace process and in assisting in the implementation of the Declaration of Principles can make a positive contribution.

30th meeting

18 February 1994

[Adopted by a roll-call vote of 48 to 2,
with 2 abstentions. See chap. IX.]

1994/5. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous

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5. Also decides that the Special Rapporteur, in carrying out his mandate, shall seek and receive credible and reliable information from Governments, specialized agencies and intergovernmental and non-governmental organizations;

6. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance;

7. Requests the Special Rapporteur to report to the Commission at its fifty-second session on his activities;

8. Urges all States to cooperate with the Special Rapporteur in the fulfilment of his mandate;

9. Decides to consider at its fifty-second session the question of the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination under the agenda item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation";

10. Recommends the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 1]

29th meeting
17 February 1995

[Adopted by a roll-call vote of 34 votes to 1,
with 15 abstentions. See chap. IX.]

1995/6. Middle East peace process

The Commission on Human Rights,

Recalling its resolution 1994/4 of 18 February 1994, Subcommission on Prevention of Discrimination and Protection of Minorities resolution 1994/13 of 25 August 1994, General Assembly resolutions 49/88 of 16 December 1994 and 48/58 of 14 December 1993, and Economic and Social Council resolution 1994/29 of 27 July 1994,

Recalling also the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Stressing that the achievement of a comprehensive, just and lasting settlement of the Middle East conflict will constitute a significant contribution to strengthening international peace and security, and is a critical condition for the furthering of human rights in the region,

Recalling the convening of the International Peace Conference on the Middle East in Madrid on 30 October 1991, on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973,

and the subsequent bilateral negotiations, as well as the meetings of the multilateral working groups, and noting with satisfaction the broad international support for the peace process,

Noting the continuing positive participation of the United Nations as a full extraregional participant in the work of the multilateral working groups,

Bearing in mind the Declaration of Principles on Interim Self-Government Arrangements, signed by Israel and the Palestine Liberation Organization in Washington, D.C. on 13 September 1993, and the subsequent Agreement on the Gaza Strip and the Jericho Area, signed by the Government of Israel and the Palestine Liberation Organization in Cairo on 4 May 1994,

Also bearing in mind the Agreement between Israel and Jordan on the Common Agenda, signed in Washington, D.C. on 14 September 1993, the Washington Declaration, signed by Jordan and Israel on 25 July 1994, the 29 August 1994 agreement on the preparatory transfer of powers and responsibilities, and the Jordan-Israel Treaty of Peace of 26 October 1994,

1. Stresses the importance of, and need for, achieving a comprehensive, just and lasting peace in the Middle East;
2. Emphasizes that the achievement of such a peace is vital to the full implementation of human rights in the area;
3. Welcomes the peace process started in Madrid and supports the subsequent bilateral negotiations;
4. Also welcomes the establishment of the Palestinian Authority and its positive efforts to develop sound governance based on the will of the Palestinian people and democratic procedures;
5. Calls upon the Centre for Human Rights to make available, on request, its programme of advisory services and technical assistance to the Palestinian Authority, and invites Governments to contribute to the programme;
6. Expresses its full support for the achievements of the peace process thus far, in particular the Declaration of Principles on Interim Self-Government Arrangements, signed by Israel and the Palestine Liberation Organization, the subsequent Agreement on the Gaza Strip and the Jericho Area, signed by the Government of Israel and the Palestine Liberation Organization, the representative of the Palestinian people, the 29 August 1994 agreement on the preparatory transfer of powers and responsibilities, the Agreement between Israel and Jordan on the Common Agenda, the Washington Declaration signed by Jordan and Israel on 25 July 1994, and the Jordan-Israel Treaty of Peace of 26 October 1994, which constitute important steps in achieving a comprehensive, just and lasting peace in the Middle East, and urges all parties to implement the agreements reached;

7. Encourages the continuation of negotiations on the implementation of the next stage of the Declaration of Principles.

29th meeting
17 February 1995

[Adopted by a roll-call vote of 50 votes. See chap. IX.]

1995/7. Question of Western Sahara

The Commission on Human Rights,

Having considered the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling its earlier resolutions, the latest of which is resolution 1994/6 of 18 February 1994,

Recalling also the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y Río de Oro to the proposals of the Secretary-General of the United Nations and the current Chairman of the Conference of Heads of State and Government of the Organization of African Unity, in the framework of their joint mission of good offices,

Also recalling Security Council resolutions 621 (1988) of 20 September 1988, 658 (1990) of 27 June 1990, 690 (1991) of 29 April 1991, 725 (1991) of 31 December 1991, 809 (1993) of 2 March 1993 and 907 (1994) of 29 March 1994 relating to the question of Western Sahara,

Recalling with satisfaction the entry into force of the cease-fire in Western Sahara on 6 September 1991, in accordance with the proposal of the Secretary-General accepted by both parties,

Taking note of the adoption of resolution 973 (1995) by the Security Council on 13 January 1995,

Taking note of the statement made by the President of the Security Council on 29 July 1994,

Welcoming the appointment of Mr. Erik Jensen as Deputy Special Representative of the Secretary-General for Western Sahara and the progress made, under his guidance, by the Identification Commission of the United Nations Mission for the Referendum in Western Sahara,

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1996/7. Middle East peace process

The Commission on Human Rights,

Recalling its resolutions 1994/4 of 18 February 1994 and 1995/6 of 17 February 1995, General Assembly resolutions 49/88 of 16 December 1994 and 50/21 of 12 December 1995, and Economic and Social Council resolutions 1994/29 of 27 July 1994 and 1995/52 of 28 July 1995,

Recalling also the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights,

Stressing that the achievement of a comprehensive, just and lasting settlement of the Middle East conflict will constitute a significant contribution to strengthening international peace and security, and is a critical condition for the furthering of human rights in the region,

Recalling the convening of the International Peace Conference on the Middle East in Madrid on 30 October 1991, on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and the subsequent bilateral negotiations, as well as the meetings of the multilateral working groups, and noting with satisfaction the broad international support for the peace process,

Noting the continuing positive participation of the United Nations as a full extraregional participant in the work of the multilateral working groups,

Bearing in mind the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization in Washington, D.C. on 13 September 1993, the Agreement on the Gaza Strip and the Jericho Area, signed by the Government of Israel and the Palestine Liberation Organization in Cairo on 4 May 1994, and the Interim Agreement on the West Bank and the Gaza Strip signed by the Government of Israel and the Palestine Liberation Organization in Washington, D.C. on 28 September 1995,

Also bearing in mind the Agreement between Israel and Jordan on the Common Agenda, signed in Washington, D.C. on 14 September 1993, the Agreement on the Preparatory Transfer of Powers and Responsibilities signed by the Government of Israel and the Palestine Liberation Organization on 29 August 1994, and the Jordan-Israel Treaty of Peace of 26 October 1994,

Recalling the Declaration on Measures to Eliminate International Terrorism annexed to General Assembly resolution 49/60, in which the Assembly declared that acts, methods and practices of terrorism constituted a grave violation of the purposes and principles of the United Nations, and might pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bodies of society,

1. Stresses the importance of, and the need for, achieving a comprehensive, just and lasting peace in the Middle East;

2. Emphasizes that the achievement of such a peace is vital to the full implementation of human rights in the area;
3. Welcomes the peace process started in Madrid and supports the subsequent bilateral negotiations;
4. Also welcomes the establishment of the Palestinian Authority and its positive efforts to develop sound governance based on the will of the Palestinian people and democratic procedures;
5. Further welcomes the elections for the Palestinian Interim Self-Governing Authority held on 20 January 1996 which provide a democratic basis for the establishment of Palestinian institutions;
6. Supports the declaration adopted at the Summit of Peacemakers held at Sharm El Sheikh, Egypt, on 13 March 1996, which had as its objectives enhancing the peace process, promoting security and combating terrorism, and condemns terrorist attacks in the Middle East which seek to undermine the peace process and which have caused loss of life and injuries;
7. Calls upon the Centre for Human Rights to make available, on request, its programme of advisory services and technical assistance to the Palestinian Authority, and invites Governments to contribute to the programme;
8. Expresses its full support for the achievements of the peace process thus far, in particular the Declaration of Principles on Interim Self-Government Arrangements, signed on 13 September 1993 by the Government of Israel and the Palestine Liberation Organization, the representative of the Palestinian people, the subsequent Agreement on the Gaza Strip and the Jericho Area, signed on 4 May 1994 by the Government of Israel and the Palestine Liberation Organization, their 29 August 1994 Agreement on the Preparatory Transfer of Powers and Responsibilities, the Interim Agreement on the West Bank and the Gaza Strip, of 28 September 1995, the Agreement between Israel and Jordan on the Common Agenda, of 14 September 1993, the Washington Declaration, signed by Jordan and Israel on 25 July 1994, and the Jordan-Israel Treaty of Peace of 26 October 1994, which constitute important steps in achieving a comprehensive, just and lasting peace in the Middle East, and urges all parties to implement the agreements reached;
9. Encourages the continuation of negotiations on the implementation of the next stage of the Declaration of Principles on Interim Self-Government Arrangements.

34th meeting

11 April 1996

[Adopted without a vote. See chap. VII.]

E/1997/23
E/CN.4/1997/150

COMMISSION ON HUMAN RIGHTS REPORT ON THE FIFTY-THIRD SESSION

(10 March-18 April 1997)

**ECONOMIC AND SOCIAL COUNCIL
OFFICIAL RECORDS, 1997**

SUPPLEMENT No. 3



UNITED NATIONS

1997/6. Middle East peace process

The Commission on Human Rights,

Recalling its resolution 1996/7 of 11 April 1996,

Recalling also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23),

Recalling further the convening of the International Peace Conference on the Middle East in Madrid on 30 October 1991, on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and the subsequent bilateral negotiations, as well as the meetings of the multilateral working groups, and noting with satisfaction the broad international support for the peace process,

Noting the continuing positive participation of the United Nations as an extraregional participant in the work of the multilateral working groups,

Recalling the Declaration on Measures to Eliminate International Terrorism annexed to General Assembly resolution 49/60 of 9 December 1994, in which the Assembly declared that acts, methods and practices of terrorism constituted a grave violation of the purposes and principles of the United Nations, and might pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bodies of society,

1. Stresses the importance of, and the need for, achieving a comprehensive, just and lasting peace in the Middle East;

2. Emphasizes that the achievement of such a peace is vital to the full implementation of human rights in all areas;

3. Welcomes the peace process started in Madrid and supports the subsequent bilateral negotiations;

4. Also welcomes the Protocol concerning the Redeployment in Hebron of 17 January 1997 signed by the Government of Israel and the Palestine Liberation Organization, and the subsequent redeployment of Israeli troops from parts of Hebron;

5. Further welcomes the release of female Palestinian prisoners from Israeli detention as a confidence-building measure;

6. Calls upon all parties to protect the human rights and well-being of all detained persons under their control;

7. Supports the declaration adopted at the Summit of Peacemakers held at Sharm El Sheik, Egypt, on 13 March 1996, which had as its objectives enhancing the peace process, promoting security and combating terrorism, and condemns terrorist attacks in the Middle East which seek to undermine the peace process and which have caused loss of life and injuries;

8. Calls upon all parties to work to advance a free civil society, under the rule of law;

9. Calls upon the Centre for Human Rights to continue to make available, on request, its programme of advisory services and technical assistance to the Palestinian Authority, and invites Governments to continue to contribute to the programme;

10. Expresses its full support for the achievements of the peace process thus far, in particular the Declaration of Principles on Interim Self-Government Arrangements, signed on 13 September 1993 by the Government of Israel and the Palestine Liberation Organization, the representative of the Palestinian people, the subsequent Agreement on the Gaza Strip and the Jericho Area, signed on 4 May 1994 by the Government of Israel and the Palestine Liberation Organization, their 29 August 1994 Agreement on the Preparatory Transfer of Powers and Responsibilities, the Interim Agreement on the West Bank and the Gaza Strip, of 28 September 1995, the Protocol concerning the Redeployment in Hebron signed on 17 January 1997, the Agreement between Israel and Jordan on the Common Agenda, of 14 September 1993, the Washington Declaration, signed by Jordan and Israel on 25 July 1994, and the Jordan-Israel Treaty of Peace of 26 October 1994, which constitute important steps in achieving a comprehensive, just and lasting peace in the Middle East, and urges all parties to implement the agreements reached;

11. Encourages the continuation of negotiations on the implementation of the next stage of the Declaration of Principles on Interim Self-Government Arrangements.

26th meeting

26 March 1997

[Adopted without a vote. See chap. VII.]

1997/7. Human rights and unilateral coercive measures

The Commission on Human Rights,

Recalling the purposes and principles of the Charter of the United Nations,

Reaffirming the pertinent principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32 which declares that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights,

Recognizing the universal, indivisible, interdependent and interrelated character of all human rights and, in this regard, reaffirming the right to development as an integral part of all human rights,

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28 January 1994

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COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 4 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE

Report on the human rights situation in the Palestinian
territories occupied since 1967, submitted by
Mr. René Felber, Special Rapporteur, pursuant to
Commission on Human Rights resolution 1993/2 A

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INTRODUCTION

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A, dated 19 February 1993 and entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

2. In paragraph 4 of resolution 1993/2 A, the Commission decided to appoint a special rapporteur with the following mandate:

"(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories."

3. Further to consultations with the Bureau, on 13 September 1993 the Chairman of the Commission on Human Rights appointed Mr. René Felber (Switzerland) as Special Rapporteur.

4. At its 44th plenary meeting, held on 28 July 1993, the Economic and Social Council adopted decision 1993/253, in which it approved Commission resolution 1993/2 A.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

5. Once his mandate was confirmed, the Special Rapporteur set out to examine the many documents prepared by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, specialized agencies such the International Labour Office (ILO) and the World Health Organization (WHO), and non-governmental organizations, particularly reports by the International Commission of Jurists (ICJ) and Amnesty International.

6. The announcement in late August 1993 of a forthcoming agreement between the Israeli Government and the Palestine Liberation Organization (PLO) raised the hopes of the entire international community and the signature of the Declaration of Principles on Interim Self-Government Arrangements in Washington on 13 September 1993 prompted many Governments to express their support for the peace process thus embarked on and also brought promises of material help for the territories acceding to autonomy.

7. Needless to say, these major political developments could not fail to influence the Special Rapporteur's approach to his work. The political process initiated between the PLO and Israel was not to be hampered by unilaterally condemning one side or the other, thus providing fuel for Israeli

and Palestinian opponents of the project. It was clear that only Jericho and the Gaza Strip were covered by the arrangements of 13 September 1993 and that the remainder of the occupied territories would see no change in status. Moreover, the agreement would not actually enter into force until after special negotiations were held between the signatories.

8. Accordingly, these were the new circumstances the Special Rapporteur had to take into account, but they did not make him, any more than the persons with whom he spoke, think that he should give up his mandate.

9. The Special Rapporteur therefore contacted the permanent representatives of the countries directly concerned, politically and geographically, with the situation in Palestine. All were agreed on the need to start on the work connected with his mandate.

10. The same questions that stemmed from the new circumstances were raised in the course of talks in Geneva with the representatives of the non-governmental organizations, Amnesty International and the International Commission of Jurists, as well as with a delegation of the International Committee of the Red Cross at the Committee's headquarters. Everyone concluded that the mandate should be continued, while bearing in mind the new political developments.

11. To discharge his mandate, it was essential for the Special Rapporteur to be able to visit Palestine in person and, consequently, for him to obtain the authorization of the Israeli Government to do so. He thought it pointless simply to visit the neighbouring countries, Jordan, Egypt or the Syrian Arab Republic, and to redo the work of conducting inquiries and gathering evidence, something the members of the General Assembly's Special Committee have been doing with remarkable perseverance over the past 25 years. Their work is no sense to be challenged; it is set out in reports which remain a highly important source of information.

12. On 17 September 1993, the Special Rapporteur wrote to Mr. Shimon Peres, Israel's Minister for Foreign Affairs, to inform him of his point of view, his personal support for the peace process, and the need to fulfil his mandate. He emphasized the importance and the dimension of human rights throughout Palestine, including the parts of Palestine that were to become autonomous in the near future.

13. On 6 October 1993, the Special Rapporteur reminded the Minister of that letter when he was able to approach him briefly in Lisbon. He said that he was ready to meet him as soon as possible during one of his forthcoming visits to Europe.

14. In his reply of 27 October 1993, Mr. Peres informed the Special Rapporteur that he was ready to meet him in Europe in the near future. It was decided later that an opportunity would be afforded when an Israeli delegation came to the Davos Symposium in late January 1994.

15. In fact, the Special Rapporteur still had no authorization or invitation to go to Israel and the occupied territories in order to discharge his mandate.

16. On 9 December 1993, the Special Rapporteur, accompanied by the Special Procedures Chief of the Centre for Human Rights, was received by Mr. Yasser Arafat in Tunis. The head of the PLO, while acknowledging of course the obvious change at the political level, also called for the Special Rapporteur's mandate to be maintained. He spoke of the arrangements he had made for respect for human rights in the future autonomous regions.

17. Lastly, in the last week of December, Ambassador Itzhak Lior, Permanent Representative of Israel to the International Organizations in Geneva, telephoned the Special Rapporteur and told him that Mr. Shimon Peres, Minister for Foreign Affairs, was inviting him personally to go to Jerusalem, where he would be free to visit the occupied territories.

18. Early in the new year, weighing up the fact that a possible visit could only be a short one if it was to be made before the start of the session of the Commission on Human Rights, the Special Rapporteur quickly evaluated the circumstances and concluded that the Israeli offer should be taken up promptly. Mr. Ibrahim Fall, Assistant-Secretary-General for Human Rights, encouraged that view. The visit was organized in a few days and the Special Rapporteur arrived in Jerusalem on 18 January 1994, together with a staff member of the Centre for Human Rights and a United Nations interpreter.

19. The Special Rapporteur and his team, accommodated in Jerusalem, had the logistical support of the United Nations Truce Supervision Organization (UNTSO), whose headquarters was made available to them throughout their stay, together with two vehicles and two security guards who also acted as drivers. It was thus possible to arrange the programme flexibly.

20. It is important to emphasize that the Israeli Ministry of Foreign Affairs, except for talks with representatives of the Israeli authorities, played absolutely no part in organizing the Special Rapporteur's stay and never required him to be accompanied by members of the Israeli forces. He was therefore the first person with an official mandate from the Commission on Human Rights to be able to visit the occupied territories and talk freely with persons he had contacted in advance.

21. After being welcomed by Ambassador Johanan Bein, Deputy Director-General of the Ministry of Foreign Affairs and by Mrs. Erella Hadar, Director of the Ministry's Human Rights Department, the Special Rapporteur was received in Tel Aviv on 19 January by Colonel Ahaz Ben-Ari, who is head of the International Law Section of the military judicial authorities and in charge of monitoring application of the law in the occupied territories. The Israeli view that making the inhabitants of the occupied territories subject to Israeli military law was thus amply explained to the Special Rapporteur.

22. The Special Rapporteur continued his visit in Tel Aviv with talks with General Freddy Zach, Deputy Coordinator of the Civilian Administration in the territory. From him, too, the Special Rapporteur heard a general statement about the problems of the Administration and the role that the army plays in it, as well as a brief outline of what is to happen after Gaza and Jericho become autonomous. Both persons interviewed were very receptive to his questions and their answers were very comprehensive and detailed.

23. On the same day, the Special Rapporteur talked with Mr. Yossi Beilin, the Deputy Minister for Foreign Affairs, in Jerusalem. Mr. Beilin spoke of the Israeli Government's readiness to bring the negotiations to a successful conclusion, saying that the tension between the occupying troops and the Palestinian population was a clear sign that an occupier, regardless of the reasons advanced to justify his presence, would never be anything but an intruder and even an enemy, and that the Middle East stood in need of peace and security.

24. The second political interview took place on Thursday, 20 January 1994, with Mr. Shimon Peres, Minister for Foreign Affairs. The major interest of this meeting lay in the view of the whole region's future, as conceived by Mr. Peres, who pointed to the Middle East's development potential and the need to assign less funds to the army and set them aside for investment that will foster development.

25. Still on 20 January, the Special Rapporteur visited Ramallah to meet representatives of six Palestinian non-governmental organizations who were joined by a representative of B'tselem an Israeli non-governmental organization. The main points raised in the course of the talks were often identical to those raised in the reports by the Special Committee.

26. Above all, the Special Rapporteur raised the problem of political prisoners (detained in Israel) and military decrees, the problem of the Palestinians' right to ownership, confiscation of land, the serious issue of penalties or steps taken against Palestinians being commensurate with the offence committed, and also the question of sealing houses or rooms.

27. The question which causes most concern with regard to the future is still the burning issue of the existence of Israeli settlements in the Palestinian territories.

28. The Special Rapporteur also met Mrs. Hanan Ashrawi, who is to deal personally with human rights questions in Palestine and will shortly set up a committee. All the Palestinians with whom the Special Rapporteur spoke expressed the hope that the Special Rapporteur's mandate would be continued and that he would also visit the territories of the Gaza Strip and Jericho after they become autonomous.

29. The Special Rapporteur spent Friday, 21 January 1994 visiting Gaza. With the help of the officers of UNTSO based in Gaza, he passed through the Israeli military control points to reach the town of Gaza, which he toured with the local representative of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

30. It is necessary to have visited Gaza in order to appreciate exactly what an occupation means and to get a very clear sense of the tension existing in the town and throughout the surrounding territory. That tension is naturally felt by all the representatives of the international and charitable organizations working in the region. A certain weariness was particularly evident in the pessimistic comments of Mr. Raji Sourani, Director of the Gaza Centre for Rights and the Law, who met the Special Rapporteur in Gaza to tell him of his concerns.

31. Quite clearly, a longer visit would permit a more detailed study of the issues raised. Accordingly, the Special Rapporteur hopes to be able to organize a longer stay in Palestine to obtain further specific information and also to put these questions in person to the Israeli authorities.

II. MAJOR CONCERNS REGARDING THE HUMAN RIGHTS
SITUATION SINCE SEPTEMBER 1993

32. The following paragraphs contain a brief summary of the main concerns regarding the observance of human rights in the occupied Palestinian territories since the signing of the Declaration of Principles on Interim Self-Government Arrangements on 13 September 1993, as explained to the Special Rapporteur.

33. These questions were discussed with the representatives of the Israeli authorities and with Palestinians with whom the Special Rapporteur spoke during his recent mission. They will continue to receive his attention when he undertakes a more detailed analysis of the problems involved.

Observance of the right to life and physical integrity

34. The number of incidents resulting in the loss of Palestinian and Israeli lives in the occupied territories has not declined since the signing of the above-mentioned agreement.

35. The Palestinians killed by Israeli forces in the occupied territories since September 1993 are thought to have been the victims of extrajudicial executions or of the use of unnecessary force out of proportion to the circumstances. This loss of human life is said to have been caused by soldiers, the frontier police and infiltration units while making arrests, at road blocks or checkpoints, during exchanges of fire with the army, or in the course of attacks on Israeli soldiers or civilians. According to the information available to the Special Rapporteur, 45 Palestinians died in this way between 13 September and 31 December 1993.

36. The Israelis killed by Palestinians are reported to have been shot, stabbed or run over by vehicles. Some of them are said to have died in road accidents after stones had been thrown at their vehicles. Vehicles have also been loaded with explosives for suicide operations. A number of Israeli soldiers and civilians are also reported to have been deliberately killed after being taken prisoner. Organizations such as Hamas (Islamic resistance movement), the Islamic Jihad, the Popular Front for the Liberation of Palestine (PFLP) and the Democratic Front for the Liberation of Palestine (DFLP) are reported to have claimed responsibility for a number of these murders. More than 20 Israelis have died in this way since September 1993.

37. Since the signing of the September agreement, there have been further reports of Palestinians being killed by other Palestinians as a result of interfactional disputes or because they were suspected of collaborating with the Israeli authorities, or because of "moral offences" linked with drug trafficking. Thirty-three such cases were reported between 13 September and 31 December 1993.

38. Concerns regarding the torture and ill-treatment of Palestinians being held in detention were expressed by a number of informants. Most of the

reports concerned persons subjected to interrogation. All allegations of torture and ill-treatment should be rapidly and thoroughly investigated by independent judicial bodies and the persons identified as responsible prosecuted. Interrogation guidelines should be consistent with the absolute prohibition of the use of torture or ill-treatment.

Acts of violence

39. The Special Rapporteur is particularly concerned by the violence among opponents of the peace agreement on both sides, particularly members of the Hamas movement and Israeli settlers. Although it is difficult to ascertain who triggered the wave of violence, reports received by the Special Rapporteur suggest that it was started by members of the Hamas movement when the agreement was announced and involved mainly the use of incendiary bombs. This is said to have provoked a violent reaction from settlers, who are reported to have burned tires to block roads. They are also reported to have attacked Palestinian houses and to have damaged or destroyed vehicles, as well as beating up civilians in the street and firing shots. The Special Rapporteur was informed that the rules applied by settlers concerning the use of firearms are less stringent than those enforced in the army.

40. Both Israeli and Palestinian authorities should, as a matter of priority, take measures to contain this violence, which may pose the most serious threat to the peace process. The Israeli authorities in particular should ensure that the army exercises restraint in responding to outbreaks of violence. It was stated repeatedly that the army did not intervene to prevent such outbreaks and even that it protected the settlers involved. Given the new situation, the extremely complex question of settlements and the behaviour of their inhabitants should be examined carefully. The Palestinian police to be deployed in the autonomous areas should also be on the alert for such incidents and intervene to prevent them. The Special Rapporteur noted with concern a number of reports of an increase in the quantities of weapons and munitions being smuggled into the territories.

Situation of prisoners

41. The Special Rapporteur was informed that 617 Palestinian detainees had been released immediately following the signing of the agreement. A second group of 101 individuals was reported to have been released at the beginning of 1994. The Special Rapporteur also learnt that about 11,700 persons remained in prison in the occupied territories and in Israel, 4,500 of them in central prisons and the remainder in military prison camps. During his recent mission, the Special Rapporteur was informed that the conditions of detention had not improved significantly, despite the promises made by the Israeli prison authorities following the reported strike by more than 5,000 prisoners at the end of 1992. The practice of placing prisoners in solitary confinement is reported to have continued. Special concern was expressed regarding the access of Palestinian doctors to prisoners in need of urgent medical care.

42. In view of the new climate of understanding, it is essential to review the situation of all Palestinian prisoners and expedite their release. One priority should be the release of all political detainees accused or found guilty of non-violent political offences and of persons imprisoned without a fair trial, particularly those tried by military tribunals before the introduction of the right of appeal. In addition, all persons under

administrative detention - 356 at the end of 1993 - should be released if they did not participate in acts of violence. Cases of prisoners who cannot be released and did not receive a fair trial should be reviewed by the courts.

Demolition of houses

43. The totally arbitrary demolition of houses, very often by way of collective punishment, has long been a major source of concern. The Special Rapporteur was informed that this practice had declined significantly since the signing of the agreement. A number of houses were reported to have been destroyed or damaged, however, during raids in search of armed men. The sealing of houses or accommodation belonging to persons suspected of security offences would seem to have continued.

Confiscation of land and expansion of settlements

44. The Special Rapporteur was informed that the Israeli authorities customarily confiscated an average of 2,000 to 3,000 dunums of land each month before the signing of the September 1993 agreement and that, since October 1993, 17,000 dunums of land had been confiscated, seven times more than before. He was also informed that one of the major problems of the Arab population in the territories was the registration of land.

III. PRELIMINARY CONCLUSIONS

45. In examining the human rights situation in the occupied Palestinian territories, account must be taken of a basic factor referred to by most of the persons with whom the Special Rapporteur spoke during his mission, both Palestinian and Israeli, namely, the continued decline of the standard of living during more than 25 years of occupation. This concern must be a main focus of efforts to improve the human rights situation in the occupied Palestinian territories. During his conversation with the Special Rapporteur, the Israeli Minister for Foreign Affairs said that raising the standard of living should be the top priority. Mrs. Hanan Ashrawi also emphasized this aspect by stressing the interdependence of the economic development of the territories and the enjoyment of human rights by their inhabitants.

46. Nevertheless, this observation can in no way absolve the Israeli Government from applying all the international principles of human rights and humanitarian law espoused by the State of Israel, as well as the relevant principles of customary law. In addition, these principles should also be observed by the Palestinians, regardless of the fact that they have not formally subscribed to the treaties in question.

47. For the reasons given in section I, this report is only of a preliminary nature and is inevitably incomplete in that the Special Rapporteur did not have time to conduct more extensive first hand inquiries on the spot. The Commission will appreciate the fact that, despite the severe constraints which circumstances imposed on him, he has endeavoured to seize every opportunity that presented itself in forming his opinion. The Special Rapporteur, in accordance with the wishes expressed by all the Palestinians with whom he spoke, is ready to continue his work and to visit the territories at the earliest opportunity, taking account also of current political developments.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE

Report on the human rights situation in the Palestinian
territories occupied since 1967, submitted by
Mr. René Felber, Special Rapporteur, pursuant to
Commission on Human Rights resolution 1993/2 A

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Introduction

1. Subsequent to his brief visit in January 1994, which was the subject of a brief report, the Special Rapporteur went to Israel and the occupied territories, as well as to Gaza and Jericho, from 16 to 27 October 1994. He was accompanied by a staff member of the Centre for Human Rights and an interpreter from the United Nations Office at Geneva. Thanks are due to the United Nations Special Coordinator in the Occupied Territories, Mr. T.E. Larsen, who helped organize the visit and the team's travel in the various parts of the territories, and the Minister for Foreign Affairs of Israel, who facilitated the Special Rapporteur's work by agreeing to requests to visit certain reserved areas (prisons) and allowed the mission complete freedom of movement.

2. A few important points should be made here:

(a) The Special Rapporteur of the Commission on Human Rights remains the only holder of an official mandate authorized to travel freely in Israel and the occupied territories;

(b) The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, whose mandate was given to it by the United Nations General Assembly, has never been authorized to enter the territories and again this year was not able to enter Gaza or Jericho. Testimony has always been collected in the neighbouring countries: Egypt, Jordan and Syria;

(c) Testimony collected by the Special Committee in April and May 1994 is reflected in report A/49/511, submitted to the General Assembly. The report is accompanied by the Special Committee's conclusions;

(d) On 26 August 1994, the Special Rapporteur met at the Palais des Nations in Geneva with the three members of the Special Committee, who were holding a working meeting;

(e) The Special Rapporteur has agreed that the Special Committee's report should be included in the file. He will not resume hearing witnesses, since that has already been done; he of course reserves the right to hear any one who may be able to help him fulfil his mandate, but will not establish a list of witnesses.

3. Finally, it should be emphasized that the Declaration of Principles, the successive agreements signed at Washington and Cairo between Israel and the PLO and the achievement of autonomy in the Gaza Strip and Jericho have altered the political situation in the occupied territories. The peace process that has begun is considered irreversible, and the Israeli authorities are naturally replying to all the remarks addressed to them and all criticisms of non-respect for human rights in the occupied territories. It is to be hoped that the pursuit of the process will bring solutions to the problems raised; no other steps should be planned in the meantime.

4. The bloody attack in Tel Aviv on Wednesday, 19 October 1994, took place during the Special Rapporteur's visit. It was preceded by the abduction of

Corporal Wachsmann and the Israeli army's failed attempt to free the young soldier. A few weeks earlier, an exchange of fire in a pedestrian street in West Jerusalem had left several people, including the two attackers, dead. Such events naturally strengthen the position of Israelis who oppose the peace process and increase the anger and pressure on the Government of all those in favour of harsh and violent repression.

5. In the words of the directors of Betzelem, the Israeli Information Centre on Human Rights in the Occupied Territories, the balance between the desire to enforce human rights and to reach a peaceful solution between Israelis and Palestinians, and the punitive policy towards all Arabs living in the occupied territories is extremely fragile. Attacks such as those that occurred during our visit lead automatically to a popular reaction in favour of repression. We must admit that, although we were never afraid, during our entire visit we noted an almost palpable tension in Israel, as well as in the occupied territories and Gaza.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

Monday, 30 May 1994 Geneva, meeting of Special Rapporteurs of the
Tuesday, 31 May 1994 Commission on Human Rights

Friday, 26 August 1994 Geneva, talks with members of the Special
Committee

17-25 October 1994 Programme of work in Israel and in the occupied
territories

Monday, 17 October 1994

Tel Aviv

Meeting with Brigadier-General A.-S. Ramot, Deputy Coordinator of General Government Operations in Judea, Samaria and the Gaza district;

Meeting with Colonel David Yahav, head of the International Law Section, Office of the Military Judge Advocate General.

Jerusalem

Talks with Mr. David Libai, Minister of Justice;

Talks with Mrs. Hanan Ashrawi, head of the Executive Committee of the independent Palestinian Committee for Citizens' Rights.

Tuesday, 18 October 1994

Gaza

Meeting with Mr. T.E. Larsen, United Nations Special Coordinator in the Occupied Territories;

Meeting with President Yasser Arafat;

Meeting with Mr. Raji Sourani and other members of the Gaza Centre for Rights and Law;

Meeting with Mr. Haidar Abdel Shafi.

Wednesday, 19 October 1994

Meeting with General A. Overkill and staff members of the office of the United Nations Special Coordinator for the Occupied Territories, concerning the training of units of the Palestinian police;

Meeting with Mr. Freih Abu Middein, Minister of Justice in the Palestinian Authority;

Meeting with Major General Nasser Youssef, head of the Palestinian Police Force;

Thursday, 20 October 1994

Jerusalem

Meeting with Mr. Andreas Wigger, head of the International Committee of the Red Cross delegation in Tel Aviv, and Mr. Darcy Christen, head of the International Committee of the Red Cross sub-delegation in Jerusalem.

Ramallah

Talks with Mr. Ahmad Sayyad, director of the Mandela Institute for Political Prisoners;

Talks with Mr. Fateh Azzam and members of the Al Haq human rights organization;

Visit to a ransacked home and a home whose entrances were sealed off.

Tel Aviv

Talks with Mr. Shimon Peres, Minister for Foreign Affairs of Israel.

Friday, 21 October 1994

Negev desert

Meeting with Colonel Lex Gez, commander of Ansar III "Ketziot" detention camp;

Visit to the detention camp;

Unsupervised interviews with nine prisoners.

Sunday, 23 October 1994

Jerusalem

Luncheon-meeting with Mr. Yossi Beilin, Deputy Minister for Foreign Affairs of Israel.

Monday, 24 October 1994

Jerusalem

Meeting with Mr. Yizhar Be'er, Executive Director, and Mr. Yuval Ginbar, researcher, at Betzelem, Israeli Information Centre for Human Rights in the Occupied Territories;

Meeting with Mr. Khader Shkirat, director of the Land and Water Establishment for Studies and Legal Services.

Tuesday, 25 October 1995

Hebron

Meeting with Mr. Eric Marquet and staff members of the ICRC office in Hebron and with Mr. Zahi Jaradat, staff member of Al Haq, in Hebron;

Meeting with Mr. Mustafa Abdel-Nabi Natshe, mayor of Hebron;

Tour of the city with Dr. Zraya, municipal councillor;

Tour of the prison in Dahariya (near Hebron).

Jerusalem

Meeting with Mrs. Erella Hadar, Director of the Human Rights Department, Israeli Ministry of Foreign Affairs.

II. HUMAN RIGHTS VIOLATIONS

A. People

6. Rather than discuss a series of specific cases, we shall make some observations based on testimony collected by several non-governmental organizations and the Special Committee, which were brought to our attention through the reports that have been circulated.

7. We would like to point out, however, that whenever a former prisoner was brought before us, the problem of lengthy interrogations under unacceptable conditions (seated on a chair with no back, hands tied behind the back, etc.) was mentioned. Some witnesses mentioned the smallness of the cells in which they were held during the interrogations, with their hands tied to rings set in the ceiling. Intense psychological pressures are brought to bear; one released prisoner told us that in order to make him confess, his interrogators brought in his pregnant sister, who was on the verge of giving birth, and

threatened to rape her if he did not cooperate. Interrogations and their attendant suffering can last for up to 30 days in some cases, even if the person is later found innocent.

8. On 21 October 1994, we visited the military detention camp at Ketziot in the Negev desert. Opened in 1988, temporarily, to relieve the overcrowding in the West Bank prisons, it is still operating, after being enlarged five times. Its total capacity was 7,500 prisoners. We observed that several sections had been closed, bringing the number of occupants down to 853 prisoners, including 85 administrative detainees.

9. This prison should be closed rapidly. However, its commander told us that new prisoners were sent there for short periods of detention.

10. The location of the Ketziot camp, in the Negev desert in Israeli territory, is in itself an infringement of the Fourth Geneva Convention, which prohibits holding prisoners in a country other than their own.

11. The remoteness of the camp makes it particularly difficult to visit prisoners. A monthly visit by two adults and two children per prisoner is authorized. Some families have to travel an entire day to reach the camp. Since most visitors are women, the obligatory search before the visit becomes a serious problem if it is conducted by soldiers. The Muslim world does not tolerate such practices, which challenge their traditions and rules.

12. When temporary measures become long-term, unbearable situations are created. Prisoners are housed in army tents which have a short life span and do not stand up to desert conditions.

13. The prisoners are young: when we visited, the average age in the camp was determined to be 25-26 years. What can we say about these men, who are subjected to temperatures approaching 40 degrees centigrade during the day and 0 degrees at night?

14. They are held in a camp enclosed by wire netting and surrounded by an embankment on which vehicles can be driven, so that the camp resembles a huge bowl.

15. Since the prisoners inevitably talk with each other all day long, in certain circumstances discussions automatically become political meetings. The most influential prisoners quickly impose their points of view and we can state that under such conditions, the camp is in fact a training centre for the war against the Israeli occupiers. Sad proof of this was given to us by the camp commander, who told us that the latest attacks by Palestinians had been carried out by individuals released from Ketziot shortly (a few months) before: the automatic rifle attack in the pedestrian street in Jerusalem, the abduction of Corporal Wachsmann and his subsequent execution during the failed release attempt by an Israeli commando group and, finally, the bloody suicide attack carried out by a young Palestinian in a city bus in Tel Aviv on 19 October 1994.

16. At our request, we were able to meet and speak with a group of nine prisoners, unsupervised by Israeli guards. Most of them spoke about the

visiting system, mentioned above, and said how difficult it was to bear detention under the conditions prevailing in the Ketziot camp. Several complained of not receiving proper treatment when sick: the camp's military doctor was frequently changed and cases were not followed up. There are frequent skin infections due to the lack of hygiene in the camp, and the harsh conditions of detention often cause back problems. Dental care is not provided, and it is difficult to get serious cases transferred to hospitals. The food is the same as that given to the soldiers in charge of the camp. Meals are prepared by cooks chosen from among the prisoners.

17. We had drawn up a list of eight prisoners whom we wished to meet; the camp commander granted our request immediately and assembled seven of them (the eighth had been released earlier), who were spontaneously joined by two more.

18. The following are the prisoners whom we met at Ansar III Ketziot:

Mr. Samir Mohammed El Aloul;

Mr. Abed El Rahman Mahmoud Jumaah;

Mr. Mahmoud Ismail Atweh;

Mr. Khadr Mahmoud Abbas;

Mr. Nizar Awadhallah;

Mr. Wajih Eid;

Mr. Ahmed Qatalmish

and two prisoners whose names were unfortunately not noted.

19. It should be mentioned that 85 prisoners in the Ketziot camp are administrative detainees. They have served their sentences and are being kept in detention for a six-month period, renewable three times, because they are considered dangerous. Mr. Ahmed Qatalmish had just been given a third six-month detention period a few days before our visit.

20. We would like to acknowledge the open-mindedness of the camp commander, Colonel Lex Gez, who replied straightforwardly to all our questions, authorized us to tour the camp and immediately granted our request to meet a group of prisoners whose names had been given to him when we arrived.

21. Our 25 October 1994 visit to the prison in Dahariya, near Hebron, was a further illustration of the prisoners' difficult conditions of detention. The communal rooms house 30 or so prisoners on straw mattresses. The only light enters through small openings at the top of a wall four metres high. The fact that detention here is brief does not make up for the overcrowding and lack of basic hygiene.

22. Both prisons are visited regularly by representatives of the International Committee of the Red Cross.

23. We deliberately fixed on the prisoners issue, for that was the problem that the representatives of non-governmental organizations whom we met in the occupied territories always mentioned as being in their view the problem to be dealt with first, in particular with regard to political prisoners.

24. Another problem directly involving the prisoners is the hindrance to freedom of movement. After every attack - and we wish to make it clear that we are not condoning bloody terrorist acts - collective punitive measures are taken by Israel. In general, the territories and autonomous areas are sealed off, preventing Palestinian workers from going to their jobs in Israel and thus depriving them of their only income.

25. This method disrupts Israel's agriculture and, in particular, the construction industry, leading the Government to authorize the hiring of foreign workers, especially Thais.

26. The full effect of these measures can be gauged when it is realized that over 20,000 Palestinians from the Gaza Strip work outside the autonomous territory. We met them on the afternoon of 19 October 1994, when they were being sent home without being told how long the measure against them would last, after the Tel Aviv attack, which was in fact committed by a terrorist who was not from Gaza.

27. Collective punishment has serious consequences, even if, according to one of the people in the Ministry of Foreign Affairs with whom we spoke, it ensures the safety of the Palestinian workers who might be victims of acts of revenge in Israel.

28. Sealing off the territories and the Gaza Strip also prevents students from that tiny region from attending schools in the West Bank.

29. This lack of freedom of movement is also felt on a general level by the fact that the Palestinians do not hold passports and are therefore only able to travel on the basis of documents issued specially for each case by the Israeli authorities.

30. Commercial restrictions were decreed in Hebron after the massacre in the Mosque of Abraham inside the Tomb of the Patriarchs on 25 February 1994. Besides the fact that the Mosque was closed, which prevented the Muslims from visiting their traditional place of worship, it was decided to protect the small settlement inside the old city by closing the central market in Hebron. Farmers and market gardeners are now forced to sell their products in an improvised marketplace on a city roundabout where the traffic flow is necessarily continuous, in an area smaller than that of the traditional marketplace. The closing of the market automatically led to the closing of the shops surrounding it, because they had lost all their customers.

31. In order to protect the settlers in the centre of the city (some 40 to 50 people), a powerful military control system is constantly maintained. The streets leading to the Israeli houses are closed off by concrete blocks and those needed for the movement of the settlers themselves or for access to the Palestinians' homes are strictly controlled by armed soldiers. No Palestinian cars are allowed into this area, and its inhabitants must make

lengthy and unnecessary detours to go home. Children going to and from school are subjected to the same controls as if they were living in the closed-off area.

32. There is much provocation and harassment of Palestinians by settlers: stone-throwing, burning of cars, broken windows, etc.

33. The people of Hebron are weary, and the inhabitants who can no longer stand the attacks on their homes, especially when they are located near the Kiryat Arba settlement are abandoning their houses. But the Israeli authorities do not permit new construction within the city. Houses built without a permit, and permits are issued sparingly, are demolished. We cannot avoid feeling that all efforts are focused on preventing normal life in Hebron and fostering an "Israelization" of the city by causing its inhabitants to leave.

34. It need hardly be added that Hebron has become a particularly sensitive point in the territories and that violence - leading, of course, to harsh repression - could erupt in the city at any time.

35. To complete this part of the report dealing with direct violations of individuals, emphasis should be placed on the insecurity that prevails in the occupied territories from a legal point of view. In addition to the Israeli legislation, numerous orders issued by the military authorities administering the territories are in force. Rules differ from one community to another and one region to another according to the commanders who issued them and the events or disturbances that have occurred in each place; they often remain in force even if the original cause has disappeared.

B. Water

36. In a region like the one covered by the occupied territories and the Gaza Strip, the importance of water reserves and public water supply can well be imagined. With a few exceptions (Bethlehem, Ramallah), water supply is controlled by the Israelis.

37. Water consumption is governed by a quota system: the Palestinians receive 120 m³ per year per inhabitant, while the Israeli settlers receive 600 m³ per year per inhabitant. The price of water is set at \$1.60 per m³ for the Palestinians and \$0.60 for the settlements.

38. Annual water reserves are estimated to be approximately 600 million m³, 100 to 120 million m³ of which are allocated to the Palestinians; the rest is under the control of the Israeli administration which makes it available to the settlements (not exclusively).

39. Before autonomy, Gaza had access to approximately 20 million m³ of water per year; this quota has been reduced to 10 million m³. It should be emphasized that most Palestinians do not have running water.

40. Some of our questions concerning the water supply were met with the reply that there was nothing to prevent the Palestinians from drilling wells. However, the maximum drilling depth is 100 m. Since the settlements can drill

wells as deep as 500 m below ground, those drillings have a better chance of reaching water and interfere with water catchment at lesser depths.

41. This information was supplied to us by the director of the Land and Water Establishment for Studies and Legal Services, Mr. Khadr Shkeirat, who is working to defend the land and water rights of the Palestinians.

C. Land

42. Although everyone now agrees that the policy of establishing new Israeli settlements in the occupied territories has come to an end, everyone in the areas we visited also agreed that the existing settlements were expanding.

43. Methods for occupying land belonging to Palestinians have in all likelihood changed today: the perimeters of certain settlements (Hebron) are extended and trees on the neighbouring Palestinian lands are uprooted to increase the settlements' surface area. Practically no action is taken on legal complaints, and the guilty parties are never thwarted.

44. Land is expropriated in order to build roads to facilitate access to the settlements, linking them to each other and avoiding the Palestinian communities. Expropriations are made for reasons of the public interest (to open quarries, for example). Lands are confiscated in order to establish "protected natural areas". It is noticeable that these areas, like the two quarries we were shown, which required 1 million m² of land, are located on the boundary line between two settlements, thus forming an extensive control area.

45. The Palestinians are generally opposed to the confiscation of their lands and therefore reject the compensation they are offered. Cases brought before the courts only lead to confirmation of what is planned or has already been carried out and the setting of compensation.

46. During our first visit in January 1994, our attention was drawn to the question of the destruction of houses in which terrorists were hiding or might hide. This method of repression no longer appears to be used, or in any case not systematically. The effects of another method, however, that of sealing houses, are still being felt today.

47. In Ramallah, we saw a house whose entrances had been sealed since 1990 and whose occupants are still living in a small, flimsy, makeshift shed, in front of the building. Young children only know their house by its facade and closed doors. It is obvious that no one is in a position to decide when and how the house should be reopened and restored to its owners. No rules have been established in this area, and the entire family continues to be punished, while a new decision cannot be obtained.

48. In the same town, a family was awakened on Wednesday, 19 October 1994 at 2 a.m. by a group of officers (four or five according to the occupants' testimony) using a megaphone to order all the occupants of the house outside. They were there to arrest a suspect, who turned out to be one of the family's children, a young student. Leaving the family outside, the group of officers went into the house and systematically ransacked all the rooms: arm chairs, sofas, and beds were ripped open, cupboards emptied and their contents strewn

on the ground, the kitchen destroyed, appliances ripped out and broken, food containers overturned, including the olive jars which were emptied out on the terrace, school notebooks and textbooks torn apart. To crown this glorious military feat, one of the men defecated in the hall and threw his excrement on one of the beds. These events occurred over seven hours before the Tel Aviv attack on the same day and can in no way be considered an act of revenge.

49. We immediately reported this case to one of the Israelis with whom we were dealing, who said that while he regretted it, it demonstrated - if any demonstration was needed - that, despite orders and despite the difficult peace process, soldiers of an occupying army could always commit abuses, for fun or out of hatred, and that such abuses stirred up hatred against them and all the occupiers.

III. SITUATION IN GAZA

50. It has to be admitted that after a few months of autonomy, the situation in the Gaza Strip is quite confused and the Palestinian authority is collapsing under a host of problems.

51. Security is in the hands of the Palestinian police force, under the command of Major-General Nasser Youssef. This hastily-formed force appears to have been accepted by the population, despite the fact that the men composing it come from outside the region. On-the-spot training is provided by officers of the Norwegian and Swedish police, in cooperation with the Centre for Human Rights.

52. Turning soldiers into policemen is not a simple matter, and the new police officers must first and foremost receive instruction on citizens' rights, the limits of police action and human rights in general. General Youssef hopes that a police school will be established using foreign experts. No financing for this project is yet available.

53. Freedom of expression is guaranteed, and no distinction is made between supporters or opponents of the peace process or the Palestinian authority. The next step is to guarantee freedom of the press.

54. The fact that the population possesses weapons makes security control difficult; weapons possession will necessarily have to be controlled. This serious problem will have to be settled through the adoption of a law currently under study, according to information we received from Mr. Freih Abu Meddein, who is responsible for justice in the Palestinian authority.

55. Tensions between the Palestinian authority and its political opposition are considerable, and police operations are always extremely delicate. The opposition regularly infringes the rules laid down, for example by organizing unauthorized demonstrations, with no possibility of intervention. There is always a high risk of confrontation. It is likewise difficult to apply the agreement with Israel, which stipulates that the Palestinian police forces must act at the request of the Israelis and follow certain procedures, as part

of a mutual assistance arrangement. Such difficulties can in no way be considered as excuses, and everyone in Gaza regrets the lack of clear legislation.

56. Mrs. Hanan Ashrawi - whose organization has its headquarters in Jerusalem - is even asking for unification of the legislation for all the occupied territories and autonomous areas. History, the military occupation and its decrees and the recent autonomy have all left their mark on the legal rules governing the entire region, but have not led to a clarification or unification of them.

57. This issue cannot be resolved without the holding of free elections in the autonomous areas, which would set up an authority empowered to legislate. Nevertheless, in the agreements the Israeli authorities reserved the right to oppose certain provisions or laws if it found them to be a threat to Israel's security!

58. The autonomous territories also need help in the training of judges.

59. All the military decrees issued during the 27 years of occupation are potentially repealable, but that cannot be done without Israel's agreement.

60. Although the intifada stopped when the Gaza Strip and Jericho attained autonomy - i.e. with the first effects of the peace process that grew out of the Oslo and Cairo agreements - and despite the withdrawal of the Israeli occupying troops from Gaza, 450 soldiers remain there to protect the Israeli settlements in the territory.

61. As regards infrastructures, everything must be rebuilt or built, in particular in Gaza City: roads, sewerage, water supply system, etc., are in a pitiful state. The magnificent beaches must be cleaned if tourism is to be developed one day.

62. The 20,000 to 30,000 workers with jobs in Israel remain a problem. The unemployment rate is currently at 60 per cent, and the reconstruction of Gaza, whose financing is not definite, will not absorb all of the unemployed.

63. In order to meet its own needs, the Palestinian authority will have to set up or reorganize a public administration capable of collecting taxes. Such a disadvantaged population will certainly provide too little tax revenue to cover the needs of the political authority, even if they are accurately estimated.

64. In the economic sphere, the situation in Gaza is particularly disturbing. The land in the region is poor, predominantly sand, and exports practically non-existent. Nearly all products consumed in Gaza come from Israel. Development is conceivable only with heavy support from abroad.

65. Although most of the people we visited favour peace, the precariousness of their situation, the slow pace of change and their receding hopes for a better life are producing bitterness that cannot fail in the long term to be dangerous for stability throughout the region.

IV. CONCLUSIONS AND RECOMMENDATIONS

66. Our assessment of the situation in the occupied territories and the autonomous area of Gaza, together with the facts and testimony we collected (which, of course, it was not possible to verify in detail) were communicated to the Israeli authorities when we met with ministers and members of their staff.

67. The peace process initiated in 1993 presupposes that the parties pursuing the negotiations will have the will to make their decisions irreversible. This should eventually lead to an expansion of Palestinian autonomy in the territories and to the Palestinians taking over the management and administration of certain sectors (education, health, etc.).

68. At the same time, bilateral solutions are being sought for the establishment of peace and new relations between the States of the Middle East. The recent agreement with the Kingdom of Jordan is indicative of the Israelis' desire to eliminate the state of war between Israel and its neighbours.

69. All the positive steps that have been taken cannot be ignored. It has to be acknowledged, however, that human rights will have the most chance of being enforced once the process has been completed. Therefore, it is the international community's duty to support that process, and also to provide those involved in it with strong material support. Otherwise, the hopes raised will turn into disappointment tinged with anger, and the attack-repression cycle will resume throughout the country.

70. There remain two sensitive points with which we have not dealt in this report: Jerusalem and the settlements.

71. Regarding the first point, the Palestinian reactions to the Jordan-Israel agreement and the position taken by H.M. King Hussein demonstrate, if any proof is needed, how particularly sensitive this issue is.

72. As regards the Israeli settlements in the occupied territories and in Gaza, it is not necessary to be a prophet to say that they will necessarily be an extremely delicate point in the negotiation of relations between Israel and its Palestinian neighbours. The settlements' status will have to be defined clearly, and the problem of their security cannot ultimately be resolved by maintaining specialized troops in territories that have regained their autonomy and still less so in the event of independence.

73. Even if the large majority of people whom we met acknowledge that the entire country has always had Jews and Muslims living side by side, the current situation, if not redefined, must inevitably lead to painful confrontations. We had already emphasized this problem in our very brief report of 28 January 1994.

74. It is for the international community to support the process and the negotiations now under way, encourage a successful outcome and facilitate the

implementation of the agreements reached. Then and then only can we conceive of new relations between Israelis and Palestinians, in which human rights will naturally be taken into account.

75. Since the territories were occupied, the Special Committee appointed by the General Assembly is charged with monitoring respect for human rights in that part of the world. It has never been authorized to enter Israel or the territories in order to fulfil its mandate. It has prepared its reports by hearing witnesses outside the territories. Neither the General Assembly nor the Commission on Human Rights have been able to persuade Israel to change its attitude towards the Committee.

76. Neither the General Assembly nor the Commission has had any particular success in the area of enforcement of human rights in the occupied territories. No specific measures have been taken, and political condemnation is not proving effective. International public opinion is similar to Israeli public opinion: it regards security as taking precedence over human rights, and every terrorist attack brings out this feeling anew. Reading this report will not lead to a rapid or appreciable change in the situation in the occupied territories.

77. We draw the conclusion that only States, through bilateral or multilateral relations, are in a position to influence the Israeli Government or even the negotiators in the peace process. The same States also have the possibility of participating actively in the success of the projects undertaken, through financial and technical assistance to the autonomous regions. Let us cease to think, in contradiction with what the history of mankind, and especially recent centuries, has taught us, that the military occupation of a territory by a foreign army is compatible with human rights as we conceive them today and as they have been defined.

78. The solution of course lies in the establishment of normal peaceful relations between States, to guarantee the existence and security of each of them.

79. That does not mean that we should stop denouncing human rights violations or intervening in countries where human rights are under threat. But if the solution to the problem lies elsewhere than in simply reporting facts through the publication of a report, then let us change our method.

80. It is in this spirit that we submit this report, which naturally concludes with a proposal to do away with our services, and even to do away with appointing a Special Rapporteur in the occupied territories altogether. A report may soothe consciences, but its effectiveness should be measured by the impact of the points it makes and by how seriously they are taken by those to whom they are addressed.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE

Report on the situation of human rights in the Palestinian territories
occupied since 1967, submitted by Mr. Hannu Halinen, Special Rapporteur,
pursuant to Commission on Human Rights resolution 1993/2 A

I. INTRODUCTION

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A, of 19 February 1993, entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".
2. In paragraph 4 of that resolution, the Commission decided to appoint a special rapporteur with the following mandate:

"(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

"(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

"(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories."

3. At its 44th plenary meeting, on 28 July 1993, the Economic and Social Council adopted decision 1993/253, in which it approved Commission resolution 1993/2 A.

4. On 13 September 1993, the Chairman of the Commission on Human Rights appointed Mr. René Felber (Switzerland) as Special Rapporteur. Mr. Felber presented reports to the Commission at its fiftieth and fifty-first sessions (E/CN.4/1994/14 and E/CN.4/1995/19 respectively). After presenting his second report to the Commission, Mr. Felber resigned as Special Rapporteur on 9 February 1995.

5. In a letter dated 18 April 1995, the Chairman of the Commission on Human Rights at its fifty-first session, after consultations with the Bureau, informed the Assistant Secretary-General for Human Rights of his decision to appoint Mr. Hannu Halinen (Finland) as Special Rapporteur. The appointment of the Special Rapporteur has been brought to the attention of the Government of Israel by the Chairman of the Commission on Human Rights.

6. In keeping with the general philosophy guiding the approach of the special rapporteurs of the Commission on Human Rights to the discharge of their mandates, the Special Rapporteur did not see his role as accusatory, but rather as having the objective of establishing a meaningful and constructive dialogue with all the parties concerned in overcoming problems having to do with issues relating to his mandate.

7. In embarking on his mandate, the Special Rapporteur was aware of the important political developments in the peace process between Israel and the Palestine Liberation Organization (PLO) that were initiated by the signing of the Declaration of Principles on Interim Self-government Arrangements in Washington on 13 September 1993. The political process was enhanced further by the signing in Cairo, on 4 May 1994, of the Israel-PLO Agreement on the Gaza Strip and Jericho Area, which was followed by the establishment of the Palestinian Authority there. The signing on 28 September 1995 in Washington of the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip broadened Palestinian self-government in the West Bank and marked the end of the first stage of negotiations between Israel and the PLO. In pursuance of the Interim Agreement, elections for the Palestinian Council were held on 20 January 1996.

8. In a letter addressed to the Minister for Foreign Affairs of Israel, the Special Rapporteur stated that he believed that the exercise of his mandate should help to contribute to the peace process that began with the signing of the historic agreements in Washington and Cairo. In order to carry out his mandate in the most impartial and objective manner, he thought it extremely important to know the views of the Israeli authorities in order to enable him to present a comprehensive report to the Commission on Human Rights based on the most up-to-date and accurate information available. As an initial step, he requested to meet with the Permanent Representative of Israel to the United Nations Office at Geneva and asked to benefit from the cooperation of the Government of Israel with a view to carrying out a visit to Israel and the occupied territories. A letter with similar content was sent to the Permanent Representative of Israel.

9. On 14 November 1995, the Permanent Representative of Israel addressed a letter to the Chairman of the Commission on Human Rights, expressing the serious reservations of the Government of Israel about the Special Rapporteur's mandate. The letter stated that, unlike the mandates of all other "geographical" special rapporteurs, which are on a one-year basis and subject to renewal, the mandate in resolution 1993/2 A was open-ended. The Permanent Representative expressed the view that, at a time when the Middle East peace process was advancing and the Palestinian Authority taking full responsibility for self-government in the West Bank, in addition to Gaza and Jericho, it was inconceivable that the Special Rapporteur's mandate should remain unchanged. In the light of the above, the Special Rapporteur was informed that Israel was not in a position to receive him.

10. The Special Rapporteur regrets the lack of cooperation on part of the Government of Israel regarding his mandate for certain reasons of principle, whereas the objective of the Special Rapporteur is to be helpful in addressing problems whose existence not even Israel denies and suggesting solutions to them by establishing a constructive dialogue with all sides aimed at overcoming them.

11. The Special Rapporteur met with representatives of non-governmental organizations and received written information from Governments, intergovernmental and non-governmental organizations as well as individuals.

12. The Special Rapporteur availed himself of the opportunity afforded when a Palestinian delegation came to the meeting of the World Economic Forum in Davos at the beginning of February 1996 to meet with the President of the Palestinian Authority, Yasser Arafat. On that occasion, Mr. Arafat invited the Special Rapporteur to visit Gaza.

13. Given the proximity of the upcoming session of the Commission on Human Rights, the Special Rapporteur decided to carry out a short visit to Gaza from 2 to 4 March 1996, together with a staff member from the Centre for Human Rights of the United Nations Secretariat.

14. During his visit to Gaza, the Special Rapporteur met with the President of the Palestinian Authority, Mr. Arafat, and discussed issues relating to his mandate. He also availed himself of the opportunity of being in Gaza to acquaint himself with the situation there. The Special Rapporteur met with the Ministers of Economy, Planning and International Cooperation, Health, Labour and Social Affairs of the Palestinian Authority as well as with a number of newly elected members of the Palestinian Council. He also met with the Presidential Adviser on Human Rights as well as with representatives of non-governmental and humanitarian organizations. In addition, the Special Rapporteur met with Mr. Terje Larsen, United Nations Special Coordinator in the Occupied Territories.

15. The Special Rapporteur wishes to express his appreciation to Mr. Arafat and the Palestinian Authority for the cooperation extended to him in the course of the mission.

16. The Special Rapporteur expresses his sincere gratitude to the United Nations Special Coordinator in the Occupied Territories and the staff of his Office for the most efficient logistical and other support provided to the mission at very short notice.

II. PRINCIPAL CONCERNS REGARDING THE SITUATION OF HUMAN RIGHTS

17. As indicated above, the Special Rapporteur was unable to visit Israel and the totality of the Palestinian territories occupied since 1967. Although the Special Rapporteur received valuable information relating to his mandate during the short visit to Gaza, he believes it is not sufficient to write of a comprehensive and balanced report. His report is therefore based not entirely on the type of information that could have been obtained during extensive and detailed first-hand inquiries in the course of a comprehensive visit to the area but to a considerable extent on written and oral information received from Governments as well as intergovernmental, non-governmental and humanitarian organizations. The report is therefore of necessity incomplete in view of the constraints imposed on the Special Rapporteur.

18. The peace process, which began with the signing of the Declaration of Principles in 1993, has brought important political changes in the occupied territories and has enhanced the understanding between Palestinians and Israelis. It has gained further momentum with the recent signing of the Interim Agreement, which includes positive elements as far as human rights are concerned and bodes well for the future. The subsequent elections for the Palestinian Council, as an expression of democracy in action, have been organized on schedule and are considered by the international observers an accurate reflection of the wishes of the Palestinian electorate. Article XIX of the Interim Agreement entitled "Human rights and the rule of law" states that "Israel and the Council shall exercise their powers and responsibilities pursuant to this Agreement with due regard to internationally accepted norms and principles of human rights and the rule of law". The completion of the peace process is the best way to ensure respect for human rights and the rule of law. However, the promotion of human rights and democracy is crucial to the success of the peace process. Guaranteeing these standards should not be viewed as compromising the peace process.

19. Despite the positive developments cited above and the transfer of certain powers and responsibilities to the Palestinian Authority, it ought to be recalled that the Israeli occupation continues to be legally in force during the transition period. Israel therefore continues to be bound by the requirements of humanitarian law, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.

20. The Special Rapporteur has visited Gaza and finalized the present report at a particularly difficult time for both Israelis and Palestinians. A series of 4 suicide bomb attacks in Israel (2 in Jerusalem, 1 in Ashkelon and 1 in Tel Aviv) in the space of 9 days has resulted in the death of some 60 persons, while hundreds have been wounded. The Special Rapporteur condemns acts of violence and terror constituting violations of human rights perpetrated by extremists who are adversaries of peace. The Special Rapporteur expresses his

sincere condolences to the families of the innocent victims of criminal terrorist acts. The peace process has led to substantive advances in relations between the Israeli and Palestinian peoples and is a clear manifestation of their desire for peace. Terrorism creates a security situation that undermines the peace process. Acts of terrorism often lead to the adoption of countermeasures that violate human rights and humanitarian law. These measures involve harsh repression and punitive policy against Palestinians living in the occupied territories. When applied indiscriminately to a large portion of the Palestinian population, such countermeasures may lead to an escalation of tension, which in turn may contribute to the strengthening of the position of those who use violence to oppose the peace process. The Special Rapporteur regrets the collective measures taken against the Arab population of the occupied territories in this context. During his visit to Gaza, the Special Rapporteur was able to observe on 4 March 1996 demonstrations against violence and in favour of peace.

21. The following paragraphs contain a brief summary of the principal concerns regarding the situation of human rights in the territories covered by the Special Rapporteur's mandate.

Closure and other measures related to security incidents

22. The first measure imposed on the occupied territories after terrorist incidents in Israel is usually their complete closure, which seals the Gaza Strip and West Bank from each other as well as East Jerusalem and Israel. This policy amounts to collective punishment, in violation of article 33 of the Fourth Geneva Convention of 1949, and results in the severe restriction of the freedom of movement of the inhabitants of the occupied territories. The Special Rapporteur was informed by the Palestinian Authority that, since the transfer of power to the Palestinian Authority in 1994, the Gaza Strip has been subjected to more than 150 days of total closure. Fears have been expressed that the current closure imposed on Gaza on 25 February 1996 may last until the Israeli elections at the end of May. On several occasions, Gaza has been described to the Special Rapporteur as a large prison in such circumstances. It has also been reported that the 465 towns and villages still under Israeli control in the West Bank have been declared closed military areas. The Special Rapporteur was informed that Palestinians required three different permits in order to be able to travel between Gaza and the West Bank. The problem is compounded further by the fact that the arrangements for safe passages between Palestinian autonomous areas foreseen by the peace agreements have not been implemented, although the West Bank and Gaza Strip are considered one territorial unit.

23. The restrictions on the freedom of movement resulting from closures have serious consequences for the health of the population of the occupied territories. Since hospitals in Gaza do not provide tertiary care and lack advanced diagnostic tools, closures affect both patients and health workers. Israeli human rights organizations have requested that special permits be issued for medical personnel. Denial of access to medical services, mostly provided by medical institutions in East Jerusalem, is especially serious for cardiac and cancer patients. The problem of oxygen may also become

particularly acute as there is no oxygen station in Gaza. The Special Rapporteur was informed of the case of a woman who died on 27 February 1996 when the ambulance transporting her out of the Gaza Strip was delayed at the Erez checkpoint for five hours.

24. Closures have a particularly adverse effect on the already fragile economic situation and lead to further deterioration in living conditions, especially in the Gaza Strip. The Special Rapporteur was informed that the losses for the Palestinian economy resulting from the closure may equal or even exceed contributions from donor countries. With every closure, the permits of Palestinian labourers working in Israel are automatically cancelled. Unemployment in the Gaza Strip rises to more than 80 per cent during complete closures. In addition, some 80 per cent of commercial transactions in Gaza involve the Israeli economy. The economic situation was described to the Special Rapporteur as a time bomb.

25. Freedom of education is also affected by the closures. It has been reported, for example, that on 11 March 1996 a senior Israeli Defence Force (IDF) officer ordered all students from Gaza registered at West Bank colleges and universities to report immediately to the Israeli Civil Administration office, following which they would be returned to the Gaza Strip. A number of educational institutions are reported to have been raided and/or closed. The Special Rapporteur was informed that the closure currently imposed on the occupied territories has resulted in the shortage of a number of basic commodities, including food, especially in the Gaza Strip.

26. Closures weaken further the already fragile Palestinian institutions, which are suffering from the adverse effects of the occupation and require the establishment or reconstruction of the civil, political, economic, social and cultural infrastructure. Closures severely disrupt all aspects of the daily lives of Palestinians living under direct Israeli rule and those living in the self-rule areas.

27. The recent suicide bomb attacks in Israel by Palestinian extremists opposed to the peace process have prompted the Israeli authorities to intensify a number of measures against the Palestinian population of the occupied territories that remains under its rule. In addition to the closure, another immediate effect of the security incidents were the mass arrests of persons suspected of affiliation with the Hamas and Islamic Jihad movements, which are believed to be extrajudicial in nature. Arrests have reportedly also been made on the basis of family connections to perpetrators of security attacks. A number of houses belonging to the families of persons who carried out bomb attacks have been sealed and one has been demolished. Other demolitions have been foreseen. Also, a curfew was imposed on the community near Hebron from where two of the suicide bombers originated. It is believed that the recent wave of arrests will entail increased use of administrative detention without charge or trial, whose maximum period was extended in 1995 from six months to one year, renewable. The security concerns of both Israel and the Palestinian Authority have placed overwhelming pressure on the Palestinian Authority to maintain order and the security of both parties in areas under its control. Over 600 arrests are reported to have taken place in

areas under the control of the Palestinian Authority. It has been reported that alleged Islamic activists have been arrested extrajudicially on a massive scale. It has also been reported that the Palestinian Authority has arrested family members of wanted persons who could not be located.

Prisoners and detainees

28. In view of the mass arrests that have been carried out in the wake of the recent suicide bomb attacks in Israel, fears have been expressed that both Israel and the Palestinian Authority may be subjecting detainees to torture and ill-treatment. In Israel, many of the persons arrested are reported to be held incommunicado for long periods, during which secret internal guidelines for interrogation may be applied by the General Security Service (GSS). The Special Rapporteur was informed that GSS systematically uses interrogation methods that constitute torture and ill-treatment. Such methods of interrogation have been described as including sleep deprivation, hooding, beating, position abuse and violent shaking that provokes potentially fatal movements of the head. Since October 1994, these guidelines, which allow for "a moderate measure of physical pressure" as well as psychological pressure, have allowed for harsher interrogation methods. Exceptional dispensations of this nature were prolonged on 22 January 1996. The practices described above violate articles 27 (1), 31 and 32 of the Fourth Geneva Convention. The Special Rapporteur has received disturbing information that persons arrested in the areas controlled by the Palestinian Authority have also been subjected to torture and mistreatment, in contravention of internationally recognized human rights standards. Human rights violations were not denied by the representatives of the Palestinian Authority with whom the Special Rapporteur met. In fact, existing problems were very openly discussed in those meetings.

29. It has been reported that there are currently some 3,500 Palestinian prisoners in Israeli detention facilities. Many have been transferred from prisons in the occupied territories to Israel, in violation of article 49 of the Fourth Geneva Convention. Within the framework of the implementation of the peace agreements between Israel and the PLO, 889 prisoners were released in October 1995 and some 950 were released in January 1996 prior to the elections for the Palestinian Council. However, 29 female prisoners continue to be detained in Israeli detention centres, in contravention of the Interim Agreement. The Special Rapporteur was informed that a large number of those released were common law prisoners and those nearing the end of their sentence.

Land confiscation and settlements

30. The Special Rapporteur's attention was drawn to the continued policy of confiscation of Palestinian-owned land in spite of the peace process and in breach of article 49 of the Fourth Geneva Convention. The expropriated land is used mostly for the expansion of existing Israeli settlements and the building of bypass roads around them, which cantonizes Arab population areas in the occupied territories. The Special Rapporteur was informed that Israel still controls some 40 per cent of land in the Gaza Strip in and around the settlements and the military installations maintained for their protection. The presence of settlements raises tension in the area and leads to outbursts of violence.

III. CONCLUSIONS AND RECOMMENDATIONS

31. The continuation of the peace process is the best guarantee that human rights in the area covered by the Special Rapporteur's mandate will be respected. The Special Rapporteur is of the opinion that he can contribute constructively to the peace process and the establishment of democracy in the areas covered by his mandate by facilitating concrete steps aimed at improving the situation of human rights.

32. A new situation has been engendered by the peace process, where Israelis and Palestinians move from confrontation to reconciliation. Only dialogue can ensure true and lasting peace in the region, for which the cooperation of both parties is essential. Democracy, peaceful relations and respect for human rights and humanitarian law are conducive to the exploitation of the Middle East's development potential that can result in prosperity for all the peoples of the region. Economic development is also essential for political stability and peace.

33. The Special Rapporteur strongly condemns acts of violence aimed at derailing the peace process. The perpetrators of such acts should be condemned by the international community as a whole in no uncertain terms. No one has the right to condone the arbitrary killing of innocent victims, and the Special Rapporteur expresses sympathy with their families. While measures preventing such criminal acts are necessary, so are measures preventing violations of human rights. In addressing their security concerns, Israel and the Palestinian Authority should bear in mind the human rights consequences of their security policy: the measures undertaken have to be compatible with respect for human rights. The halting of terrorism cannot be carried out at the expense of human rights. The terrorist attacks and the measures taken to counter them are no doubt setbacks in this context. Reconciliation is, regrettably, not yet irreversible. A way out of the vicious circle of violence and repression has to be found. Upholding law and order should not in any way replace strict adherence to the rule of law.

34. Israel should reconsider its policy of full-scale closure and other indiscriminate measures amounting to collective punishment imposed on the occupied territories. When applying measures that restrict the enjoyment of human rights, the principles of necessity and proportionality should be taken into consideration.

35. The confidence-building measures described in article XVI of the Interim Agreement, involving the release of Palestinian detainees and prisoners, including women, should be implemented without delay.

36. The use of torture, whether by Israelis or Palestinians, should be absolutely prohibited. Allegations of torture should be investigated by independent judicial organs and those responsible prosecuted. As recommended by the United Nations Committee against Torture, an immediate end should be put to current interrogation practices and all victims of such practices should be granted access to appropriate rehabilitation and compensation

measures. It recommended that interrogation procedures be published in full so that they are both transparent and seen to be consistent with the standards of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

37. All persons placed in administrative detention by the Government of Israel should be brought to a fair trial or released. Trials should be held in conformity with international standards for fairness, with due process safeguards.

38. The confiscation of Palestinian-owned land and the construction or expansion of settlements should be halted immediately.

39. Human rights violations perpetrated in areas under the control of the Palestinian Authority have not been denied by its representatives and have been referred to in discussions. The protection and promotion of human rights is a general responsibility. It is essential that the Special Rapporteur be able to study and report about the situation of human rights in a comprehensive, forward-looking and action-oriented way. The situation on the ground, particularly vis-à-vis the peace process, has to be reflected appropriately in the mandate of the Special Rapporteur. The Special Rapporteur expresses satisfaction that this fact has been understood by the Palestinian Authority, which has promised him full cooperation in reviewing the mandate accordingly. The Special Rapporteur cannot be effective in his work without the full cooperation of the Government of Israel. The responsibility of improving the human rights situation in the West Bank and Gaza Strip lies with both Israel and the Palestinian Authority, which should apply all the principles of human rights and humanitarian law. Israel, as the occupying Power, continues to have special obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.

40. The Special Rapporteur invites the Commission on Human Rights to consider amending his mandate in accordance with the foregoing.

41. In view of the complexity of applicable laws in areas under the Palestinian Authority, it would be important that the international legal standards enshrined in international human rights instruments be incorporated into domestic legislation by the newly elected Palestinian Council.

42. The complex situation in the Middle East highlights the need for the establishment of a new human rights culture. Human rights are an integral part of democracy and development as well as of peace and security. Broadening the awareness and understanding of human rights is a major task, particularly in times of high tension and deep suspicion. There is no alternative, however. Without respect for human rights, there can be no lasting peace, no sustainable development or democracy. The Centre for Human Rights and the Special Rapporteur are prepared to make their contribution, together with other organizations and partners. Donor countries and agencies have responded commendably in supporting the peace process. This process is now challenged in an unprecedented way and it is in need of all the support it can obtain. The United Nations Special Coordinator in the Occupied

Territories and his Office are doing admirable work in mobilizing and organizing international support for Palestinians. The Centre for Human Rights should accelerate the implementation of programmes of advisory services and technical assistance to complement the work of the Special Coordinator.

43. Exceptional circumstances require new approaches. Instead of repeating accusations over and over again, an attempt should be made to create a concrete, action-oriented human rights strategy for the Palestinian territories. This would require the support of all partners and in particular the full participation of both Israel and the Palestinian Authority. The fact needs to be stated that there are violations of human rights by both sides. It appears indispensable that the role of the Special Rapporteur be reviewed so as to enable him to make a more action-oriented contribution to the protection and promotion of human rights in the area. This would entail addressing human rights problems in a comprehensive and integrated manner with a view to finding the most effective ways and means to prevent their escalation and to advance overall respect for human rights.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE

Report on the situation of human rights in the Palestinian territories
occupied since 1967, submitted by Mr. Hannu Halinen, Special Rapporteur,
pursuant to Commission on Human Rights resolution 1993/2 A

Introduction

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A of 19 February 1993, entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine". In paragraph 4 of that resolution, the Commission decided to appoint a special rapporteur.
2. At its 44th plenary meeting, on 28 July 1993, the Economic and Social Council adopted decision 1993/253, in which it approved Commission resolution 1993/2 A.
3. The former Special Rapporteur, Mr. René Felber (Switzerland), presented reports to the Commission at its fiftieth and fifty-first sessions (E/CN.4/1994/14 and E/CN.4/1995/19 respectively). He resigned as Special Rapporteur on 9 February 1995. The current Special Rapporteur, Mr. Hannu Halinen (Finland), was appointed in April 1995 by the Chairman of the Commission on Human Rights and presented a report to the Commission at its fifty-second session (E/CN.4/1996/18).
4. The Special Rapporteur continues to believe that his role is not an accusatory one, but rather has the objectives of establishing a meaningful and constructive dialogue with all the parties concerned and helping to overcome problems having to do with human rights concerns in the area.

5. The Special Rapporteur is aware that he is called upon to exercise his mandate in the context of the important political developments in the peace process between Israel and the Palestine Liberation Organization (PLO) which follow the signing of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (the so-called Oslo II Agreement) in 1995, the elections in January 1996 for the Palestinian Council, the elections in Israel in May 1996 and, more recently, the signing of the Protocol Concerning the Redeployment in Hebron on 15 January 1997. He believes that the exercise of his mandate, which is to prevent violations of human rights and improve the overall human rights situation, should help to contribute to the peace process.

6. During the period under review, the Special Rapporteur met with representatives of Governments, intergovernmental and non-governmental organizations and received written information from intergovernmental and non-governmental organizations as well as from individuals. The Special Rapporteur is of the opinion that contacts with the representatives of the Israeli authorities and a greater possibility for visits in the area would have helped him even further to exercise his mandate in the most impartial and objective manner.

7. Since the last session of the Commission on Human Rights and on the basis of the discussions that took place there, the Special Rapporteur availed himself of every opportunity afforded to him to hold both formal and informal discussions on issues related to his mandate, in Geneva, New York and the Middle East. Before submitting his report to the Commission, the Special Rapporteur decided to carry out a short visit to the occupied Palestinian territories from 23 to 27 January 1997, together with a staff member from the Centre for Human Rights. He visited Gaza, Ramallah and Jericho. In the course of 1996, the Special Rapporteur received an invitation from the League of Arab States to visit its headquarters in Cairo. The Special Rapporteur travelled to Cairo on 28 and 29 January 1997. During the year, he also had the occasion to meet informally with the representatives of the Government of Israel.

8. During his visit to Gaza, the Special Rapporteur met with the President of the Palestinian Authority, Mr. Yasser Arafat, and discussed issues relating to his mandate. The Special Rapporteur also met with the Speaker of the Palestinian Council and with the Chief Justice of the Palestinian Authority. He availed himself of the opportunity to acquaint himself with the situation in Gaza. In addition, the Special Rapporteur met with Mr. Peter Hansen, the United Nations Special Coordinator in the Occupied Territories, a.i. and Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. In Jericho, the Special Rapporteur met with the Minister for Local Government of the Palestinian Authority. During his visit to Gaza and Ramallah, the Special Rapporteur met with representatives of United Nations agencies, non-governmental and humanitarian organizations.

9. At the invitation of the League of Arab States, the Special Rapporteur met in Cairo with the Secretary-General of the League, Mr. Ahmed Esmat Abdel Meguid. Mr. Said Kamal, the head of the Palestinian Affairs Department of the League of Arab States, was also present. The Special Rapporteur took

advantage of his presence in Cairo to meet with representatives of the Ministry for Foreign Affairs of Egypt. He met with Mr. Said El Masri, Assistant Minister for Foreign Affairs, as well as other senior officials from the Ministry for Foreign Affairs.

10. The Special Rapporteur wishes to express his appreciation to Mr. Arafat and the Palestinian Authority for the cooperation extended to him in the course of the mission.

11. The Special Rapporteur expresses his sincere gratitude to the High Commissioner/Centre for Human Rights and to the United Nations Special Coordinator in the Occupied Territories and the staff of their offices in Gaza for the most efficient logistical and other support provided to the mission.

I. PRINCIPAL CONCERNS REGARDING THE SITUATION OF HUMAN RIGHTS

12. The Special Rapporteur would like to draw attention to the fact that today, human rights are an integral building block of both basic pillars on which the United Nations rests, namely, peace and economic and social development. Consequently, human rights should be promoted and protected in maintaining and strengthening peace and security and advancing social and economic development. Lasting peace cannot be achieved without respect for human rights. Without peace, violations of human rights are more systematic and serious.

13. The Special Rapporteur would like to point out that security is not just a military concept. It is largely dependent on economic and social well-being. Human security is not just about weapons; it is even more about human dignity. Human rights, along with humanitarian assistance and election monitoring, have become an integral part of maintaining peace and security. It should be recognized that one of the basic reasons for the creation of societies is to improve the conditions of humanity; to set human beings at the centre of collective concerns.

14. On a global scale, political and security issues, human rights, humanitarian affairs, social and economic development and democracy are linked inextricably. A comprehensive, coordinated and flexible approach has to be found in considering all these elements in the context of Israeli-Palestinian relations.

15. During the period under consideration, the peace process has gone through a very fragile phase. In particular following the conclusion of the Hebron accords, most of the hopes and expectations attached to the peace process have gained new impetus. Terrorist incidents such as those which overshadowed the mission of the Special Rapporteur a year ago have largely been avoided, but the danger that such acts may be committed in the future remains. The real test of the process is yet to come with the beginning of the negotiations on the so-called permanent status issues.

16. In his previous report, the Special Rapporteur indicated that the completion of the peace process was the best way to ensure respect for human rights and the rule of law. However, the promotion of human rights and democracy was crucial to the success of the peace process. Guaranteeing those

standards should not be viewed as compromising the peace process. Both the Declaration of Principles on Interim Self-Government Arrangements signed in 1993 and the Interim Agreement of 1995 include important references as far as human rights are concerned. Furthermore, the permanent status negotiations, if and when they achieve the goals expected of them, are clearly instrumental for the solving of many of the gravest human rights problems.

17. Human rights cannot be set aside, however, to await the outcome of the negotiations. Despite substantial steps taken by both Israel and the Palestinian Authority to improve the human rights situation, serious human rights violations continue to occur in the area. The root cause of the violations, the Israeli occupation of the Palestinian territories, remains legally in force during the transition period. Therefore, international humanitarian law, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, remains fully applicable to and binding on Israel.

18. International human rights law and international humanitarian law provide the legal basis for the consideration of the human rights situation. The peace process, on the other hand, is by nature a political process. Without it, respect for human rights would be inconceivable. While reflecting the political will of the people, it is also a necessary precondition for the promotion and protection of human rights. It is indispensable, however, that the relationship between human rights and the peace process be discussed and further clarified. In the view of the Special Rapporteur, the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip leaves a great deal open to interpretation with respect to human rights, particularly as concerns the strengthening of the rule of law. Since human rights are not the raison d'être for the Agreement or for the upcoming negotiations, a comprehensive solution to this question can hardly be expected. Therefore, the peace process cannot prejudice the exercise of human rights in the Palestinian territories in the future. For that, the contribution of and interaction with the Palestinian Authority and the Palestinian Legislative Council are essential. The full implementation by both Israel and the Palestinian Authority of international human rights law, as embodied in the International Covenants on Human Rights and other international human rights instruments, is the guarantee for the respect of human rights. A reminder about this fact is not contrary, but rather complementary to the peace process.

19. The following paragraphs contain a brief summary of the principal concerns regarding the situation of human rights in the Palestinian territories occupied since 1967. The only purpose of the Special Rapporteur in drawing attention to these concerns is related to the respect for human rights; they should not be read as accusatory, but rather in the context of finding ways to overcome them. Since the Special Rapporteur was unable to visit Israel officially, his report contains less first-hand information than he would have hoped to be able to present. He met informally, however, with senior officials from the Ministry for Foreign Affairs of Israel who informed the Special Rapporteur that their principal preoccupation still concerned the mandate, notably its duration, and the desire that it be placed on an equal

footing with the mandates of other country-oriented Special Rapporteurs. The Special Rapporteur feels strongly that the more contacts and discussions he has, the more helpful his work.

20. During his brief visit to Gaza and parts of the West Bank, the Special Rapporteur was able to obtain valuable written and oral information from intergovernmental, non-governmental and humanitarian organizations. Although incomplete, the report reflects the insight which the Special Rapporteur has managed to gain despite the constraints cited above. As he visited both the West Bank and Gaza Strip, the Special Rapporteur was able to observe how the human rights concerns were prioritized by the inhabitants of the different parts of the occupied territories.

21. The issue of settlements is emerging as the greatest preoccupation of the inhabitants of the occupied territories, especially in the West Bank. The confiscation of Palestinian land and settlement activity violate articles 53 and 49 respectively of the Fourth Geneva Convention. The settlement question came to the fore after the lifting on 2 August 1996 by the then newly elected Government of Israel of the freeze on settlement activity imposed in 1992 by the former Labour administration. In practical terms, this meant that new settlements could be built and the existing ones expanded. There are currently 144 settlements in the Gaza Strip and the West Bank, inhabited by more than 140,000 Israeli settlers.

22. Settlement expansion presupposes the confiscation of Arab-owned land in the occupied territories. At present, settlement expansion is being carried out on recently confiscated land as well as on land that was expropriated from Palestinians some 10 to 15 years ago. Much of it is prime agricultural land, including olive groves and pastures. The uprooting of olive trees and the dumping of waste from settlements on Palestinian-owned land have caused considerable environmental degradation, as has the diversion of fresh water from the Gaza Strip to Israel as the water used by the inhabitants of Gaza becomes increasingly salty and unfit for use in agriculture. Recently, the expansion of the Maaleh Adumim settlement has given rise to repeated forcible expulsions from its vicinity of members of the Jahalin bedouin tribe. Apart from the expansion of settlements, large tracts of land have been expropriated for the construction of bypass roads linking the various settlements and the settlements with Israel. It has been reported that much wider strips of land than necessary, sometimes up to 250 metres wide, have been cleared and bulldozed for this purpose. In addition, no construction is allowed within 150 metres of a bypass road.

23. During the period under review, settler violence, particularly in Hebron, has been observed repeatedly. On 1 January 1997, a settler wearing an Israeli Defence Forces uniform opened fire on Palestinians with live ammunition in the Old City of Hebron, wounding six persons. Violent clashes took place in September 1996 between Israeli soldiers and Palestinian civilians as well as members of the Palestinian police in the wake of Palestinian protests against the opening of an entrance to the Western Wall Tunnel in the Moslem Quarter of Jerusalem's Old City located beneath the Al Aqsa Mosque compound. It has been reported that excessive and indiscriminate force was used by the Israeli forces against civilians, including live ammunition and heavy weaponry such as tanks, armed personnel

carriers and helicopter gunships. Some 65 Palestinians and 15 Israeli soldiers were killed and an estimated 1,600 persons wounded. It has been alleged that snipers were used as well and that the majority of those killed or wounded were shot in the head or upper part of the body, showing an intention to kill or cause serious bodily injury in contravention of article 27 of the Fourth Geneva Convention. Wilful killing or causing of serious bodily injury are considered as grave breaches of the Convention under article 147. Medical workers were reportedly also fired at, in violation of articles 20, 21 and 24 of Protocol II Additional to the Geneva Conventions.

24. In paragraphs 22 to 27 of his previous report (E/CN.4/1996/18), the Special Rapporteur described the effects of the closure imposed by the Israeli authorities on the occupied territories in the wake of security incidents which took place in February and March 1996. The closure remains the principal human rights concern of the inhabitants of the Gaza Strip. The Special Rapporteur was informed that closure of the Gaza Strip was imposed for 287 days in 1996. The effects of the closure were felt all the more in view of the fact that the "safe passages" for the movement of persons, vehicles and goods between the Gaza Strip and the West Bank, which comprise a single territorial unit under article XXXI (8) of the Oslo II Agreement, have not been opened to date. A complete "internal" closure of the occupied territories, which places under virtual town arrest the inhabitants of some 465 localities populated by Palestinians in areas of the West Bank which are under Israeli control, was applied for 10 days for the second time in 1996 after the violent clashes in September. Closures amount to collective punishment in violation of article 33 of the Fourth Geneva Convention. Their most obvious effect is the severe restriction of the right to liberty of movement enshrined in article 12 of the International Covenant on Civil and Political Rights.

25. Closures have continued to have a devastating impact on the already fragile Palestinian economy, maintaining unemployment at an estimated 40 per cent in the Gaza Strip and 30 per cent in the West Bank. The right to work is protected under article 39 of the Fourth Geneva Convention. The closure has restricted the movement of products, giving rise to losses estimated at millions of dollars. The Special Rapporteur is convinced that Palestinian economic development contributes to reducing the threat of violence and terrorism. He welcomes the steps which have been taken to ease the closure. The Special Rapporteur welcomes the decision of the Israeli authorities to increase to 55,000 the number of work permits issued to Palestinian labourers allowing them to work in Israel, and calls for further increases in the near future. Further rapid progress should be made including the free movement of goods and the opening of the Gaza airport, port and the safe passages. Improved living conditions and effective socio-economic development for the Palestinians are crucial elements for a sustainable improvement of the human rights situation.

26. The deterioration of the situation of women in the occupied territories has been reported as one of the "hidden" effects of the closure. Another adverse effect of the closure on the social fabric in the territories has been a reported pronounced increase in the rate of divorce. The closure and related problems are conducive to accumulating stress among the people, thereby affecting the mental well-being of some segments of the population.

27. The closure has continued to have a detrimental effect on the health situation of the population in the occupied territories in general, especially in Gaza, and a shortage of medical supplies has been reported. The supply and transport of medical supplies and other relief items are protected by articles 23, 55 and 59 of the Fourth Geneva Convention. At least 10 persons are believed to have died in 1996 for lack of a permit or as a result of delays at border crossings giving access to better equipped medical facilities in the West Bank, in Jerusalem or in Israel, including at least 7 pregnant women; this contravenes article 16 of the Fourth Geneva Convention.

28. The closure has had a serious impact on education since 1,200 Gazan students are still not able to attend classes at the educational institutions in the West Bank where they are enrolled. Many have already lost an entire academic year. Their situation amounts to collective punishment, prohibited by article 33 of the Fourth Geneva Convention, and deprives them of the enjoyment of the right of everyone to education enshrined in article 13 of the International Covenant on Economic, Social and Cultural Rights. Education was also disrupted severely during the total closure, particularly in the West Bank.

29. It is estimated that some 1,000 Palestinians were arrested after the terrorist incidents which took place in Israel in February and March 1996, an estimated 100 of whom were placed in administrative detention. Eight homes belonging to the families of those thought to be involved in the security incidents were demolished, in contravention of article 53 of the Fourth Geneva Convention. It has been reported that 75 per cent of the persons arrested were subsequently released without charges. After the withdrawal and redeployment of the Israeli army from the major Palestinian cities in the West Bank in 1995, all Palestinian prisoners were transferred from the occupied territories to Israel, in violation of articles 49 and 76 of the Fourth Geneva Convention. It is estimated that some 3,700 Palestinians are currently detained in Israeli prisons. There are at present approximately 250 Palestinians in administrative detention, including 7 minors whose administrative detention has been extended recently, in contravention of articles 37 and 40 of the Convention on the Rights of the Child. Numerous administrative prisoners have had their administrative detention period extended several times, including Shawan Jabarin, a staff member of the Al-Haq human rights organization, in violation of article 78 of the Fourth Geneva Convention. The Special Rapporteur welcomes the release of 31 female Palestinian prisoners on 11 February 1997. He also welcomes the closing of the Ketziot military detention camp in the Negev desert in May 1996.

30. A development regarding the treatment of Palestinian detainees which has given rise to considerable international concern is the permission granted to the General Security Service by the Israeli High Court of Justice regarding the use of force in the interrogation of suspects in connection with security matters such as the prevention of terrorist attacks. It should be recalled that the guidelines for interrogation contained in the report of the Landau Commission allowing for the use of "moderate physical pressure" were already deemed completely unacceptable by the United Nations Committee against Torture. The General Security Service had been authorized by an interministerial committee since October 1994 to apply "special measures" relating to physical pressure which are believed to amount to aggravated forms

of torture. Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides for no derogation from the freedom from torture enshrined in article 7 of the International Covenant on Civil and Political Rights, even in cases of threat of war and other public emergencies. One interrogation method, which has already resulted in the death of one detainee, is violent shaking of the head which may result in brain haemorrhaging or permanent incapacitation. The High Court rulings in January and November 1996 lifting the interim injunctions prohibiting the use of physical force by the General Security Service in the interrogation of detainees amount to its sanctioning of torture and ill-treatment. Persons are also believed to have died as a result of torture and ill-treatment in detention centres under the control of the Palestinian Authority due to the overwhelming pressure reportedly placed on the Authority to deal with its own and Israeli security concerns. Detainee Yousef Al-Baba died on 1 February 1997 in Nablus under suspicious circumstances.

31. Palestinian residents of East Jerusalem are reportedly increasingly being treated by the Israeli authorities as resident aliens, i.e. foreigners: through the Interior Ministry's policy regarding the issuing of identity cards, the Palestinians' residency status in the city is being altered. It should be recalled that Palestinians from other parts of the occupied territories are not allowed to enter Jerusalem, which has reportedly resulted in the destruction of its economy and vital links, in particular with the West Bank from which it has been legally separated by Israel. The lack of housing and job opportunities has forced many of its residents to seek employment outside the city's municipal boundaries as established by the Israeli authorities, which is used by the same authorities as a justification for the revocation of Palestinians' identity cards on the grounds that Jerusalem is no longer their "centre of life". These measures have also affected those Jerusalemites studying abroad. Some persons have been expelled when they reached 16 years of age. Women from Jerusalem married to non-Jerusalemites have reportedly not been allowed into the city and family reunification has become much more difficult. It is estimated that some 60,000 to 80,000 identity cards of Jerusalemites living outside the Israeli-imposed city boundaries have been revoked.

II. CONCLUSIONS AND RECOMMENDATIONS

32. Despite the grave concerns reported to the Special Rapporteur, satisfaction should be expressed that both Israel and the Palestinian Authority are showing concern and making continuous efforts to advance the respect for human rights. An overall deterioration of the human rights situation, therefore, has largely been avoided and determined steps in the right direction have been taken, particularly concerning the release of prisoners and the advancement of the Palestinian economy.

33. The Government of Israel is functioning in an open and democratic environment. It is thus exposed to criticism and pressure, both national and international. The Special Rapporteur is convinced that isolating or singling out the Israeli Government in international forums would not be conducive to improvements in Israel's human rights record. The consistent building up of awareness in the country about international human rights standards and the participation of the society at all levels in implementing those standards are

to be further encouraged. The free press and an active non-governmental organization community contribute in a significant manner to the ongoing domestic discussion. What is crucial, however, is the role of the Government in this context. The duty of the international community is to convince the Government, not in a confrontational and accusatory way, but in the spirit of compromise and mutual understanding, that cooperation, be it bilateral, with regional organizations or with the United Nations, is in its best interest. What is at stake is the building of confidence and trust between Israelis and Palestinians. At stake to the same extent is the building of trust and confidence between the Israeli Government and the world community.

34. It should be recalled that the mandate of the Special Rapporteur, as contained in paragraph 4 of Commission on Human Rights resolution 1993/2 A, is:

"(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

"(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

"(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories."

35. During informal contacts with representatives of the Israeli Government, the Special Rapporteur was informed repeatedly that the Government would cooperate fully with the Special Rapporteur as soon as Israel is placed on an equal footing with other countries subjected to the scrutiny of a special rapporteur. The Special Rapporteur has no reason to doubt the sincerity of the Israeli Government in this respect.

36. In his report to the Commission on Human Rights at its fifty-second session, the Special Rapporteur pointed out that it appeared indispensable that the role of the Special Rapporteur should be reviewed so as to enable him to make a more action-oriented contribution to the protection and promotion of human rights in the area. The report noted further that the Special Rapporteur could not be effective in his work without the full cooperation of the Government of Israel. The responsibility for improving the human rights situation in the West Bank and Gaza Strip lies with both Israel and the Palestinian Authority, which should apply all the principles of human rights and humanitarian law. Israel, as the occupying Power, continues to have special obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. On that basis, the Special Rapporteur invited the Commission on Human Rights to consider amending his mandate.

37. It is clear that the mandate of the Special Rapporteur as adopted some four years ago is in some ways obsolete and exceptional; it does not refer at all to the peace process; it does not authorize the Special Rapporteur to

study and recommend constructive human rights and humanitarian programmes to prevent violations or remedy their aftermath; it limits itself to Israel's violations only in the occupied territories; and, unlike all other mandates, its duration is open-ended. However, it is equally clear that the root cause of the violations, the occupation, is an exceptional situation, and can consequently warrant a certain exceptional consideration.

38. The Special Rapporteur notes with satisfaction the recent decision by the Government of Israel to release all Palestinian women prisoners. It is hoped that this would lead to the early release of other prisoners, as already stipulated in the so-called Oslo Agreements. For the Government of Israel, measures taken with respect to the Palestinian prisoners in Israel would undoubtedly be the clearest way to convey its sincerity in building up a relationship of trust with the Palestinian Authority.

39. Reports of practices amounting to torture during interrogation by Israeli security officials continue to give cause for concern. The exercise of physical and psychological pressure allowed recently by the High Court of Israel in conjunction with interrogation procedures is contradictory to the standards enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and cannot be accepted. All allegations of torture should be investigated by independent judicial bodies. Those found guilty should not enjoy impunity. The recommendation by the United Nations Committee against Torture to put an immediate end to current interrogation practices and grant access to appropriate rehabilitation and compensation measures to the victims of such practices should be implemented without further delay.

40. A large number of persons remain in administrative detention where they have been placed by the Government of Israel. In some cases, detention has been extended for years. All such detainees should be brought to a fair trial or released.

41. The settlements are in contradiction to the Geneva Conventions as well as the human rights of the Palestinian people. The Government of Israel should not wait for the outcome of the negotiations regarding the peace process but should rather deal with this highly sensitive issue as early as possible. No new settlements should be built, no existing ones expanded and no bypass roads or security areas should be established without consulting the indigenous population.

42. Measures taken by the Israeli Government to increase the freedom of movement are to be welcomed. Steps such as increasing the number of work permits issued to Palestinians, which will help to enhance the Palestinian economy, are clearly conducive to the alleviation of many human rights problems. The closure and other indiscriminate measures amounting to collective punishment imposed on the inhabitants of the occupied territories should be discontinued.

43. It should be noted that as long as the occupation continues, the Palestinian Authority has no responsibility based on international law to respect obligations of human rights and humanitarian law, since formally it cannot be a party to any relevant agreements or conventions. Therefore, it is

all the more noteworthy that the Palestinian Authority is making consistent efforts to act already at this stage in accordance with those agreements and conventions.

44. The Palestinian Authority is facing a comprehensive nation-building programme. The Palestinian society has decided to embark on a path leading to democracy, good governance, the rule of law and respect for human rights. International support is not only badly needed but can be an effective and even instrumental contribution to nation-building, thereby helping to prevent conflicts in the future. The international response, notably from the donor community, has been commendable. The Special Rapporteur is looking forward to the same excellent cooperation with Mr. Chinmaya Gharekhan, the United Nations Special Coordinator in the Occupied Territories appointed recently by the Secretary-General, as he enjoyed with his predecessor, Mr. Terje Roed Larsen. The recent opening of the office of the High Commissioner/Centre for Human Rights in Gaza is a significant step towards the promotion of human rights in the area.

45. The Special Rapporteur had the opportunity to visit the office of the High Commissioner/Centre for Human Rights in Gaza established on the basis of an agreement with the Palestinian Authority for the implementation of a technical cooperation programme. The office is responsible for implementing a multi-component programme focusing on institution-building in the area of the rule of law, including support to law reform efforts, strengthening the system for the administration of justice, cooperation with national human rights institutions, support to non-governmental organizations and formulation of a national plan of action for human rights. Implementation of the programme has commenced in cooperation with key government ministries, law enforcement agencies, the Palestinian Independent Commission for Citizen's Rights and Palestinian non-governmental organizations. The Special Rapporteur is pleased to report that full cooperation has been extended to the High Commissioner/Centre for Human Rights by the Palestinian authorities in this regard. The Special Rapporteur considers continued cooperation as an essential aspect of the development efforts currently under way in Palestinian areas under self-rule, and as an important means of improving human rights protection in those areas. He welcomes the commitment of the Palestinian authorities to make it a success.

46. The Palestinian Authority cooperates fully with the international community. This cooperation is the best guarantee that those few human rights concerns attributed to the Palestinian Authority - cases of torture, administrative detention and restrictions on the freedom of the press and opinion - can be duly solved.

47. One of the key elements of the post-Hebron agenda has to be the prevention of violent conflicts. The cause of conflicts often lies in the violation of human rights which, in turn, generates tension that can lead to outbursts of violence. Crucial in preventing crises is the increased accountability of Governments and administrative structures as well as respect for human rights and the rule of law.

48. Violations of human rights touch the very heart of the people affected. Building up the trust and confidence necessary for sustainable peace in the

area is difficult, if not impossible, without determined efforts to suppress those violations. The peace process, while addressing itself to the root cause of violations, the foreign occupation, provides the best framework and guarantee for eradicating human rights problems in the area. Therefore, the Special Rapporteur calls for the full implementation of the Interim Agreement of 1995.

49. Since human rights concerns go beyond the scope of the peace process as such, they need to be considered on their own merits, and in a comprehensive manner. Globally, the key forum for this discussion is the Commission on Human Rights. The Commission, instead of repeating old accusations, should engage in a profound discussion about the ways and means of addressing the human rights situation in a constructive and forward-looking manner. The Special Rapporteur is confident that the Commission, while considering further improvements in its working methods, will find a more forward-looking and businesslike approach for the discussion of the human rights situation in the Middle East. This is all the more important because ignoring relevant developments or setting conditions for their consideration would not be conducive to the ultimate aim, the improvement of the human rights situation.

50. The understanding of the fact that Israelis and Palestinians are going to have to live together is gradually gaining ground. The understanding of the human rights issues in that context and what to do to deal with them still need to be worked out. This entails more contacts and discussions, more transparency, more participation at all levels, more publicity, but also more confidential approaches, meetings and seminars. The Special Rapporteur, while noting with satisfaction an increasing number of bilateral, regional and international efforts in this regard, would encourage more concerted action by relevant parties to focus on human rights in the context of the peace process.

51. We all know what the problems are. We cannot solve them by attacking each other but by sitting down together, analysing them objectively and finding the trust and confidence to overcome them.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Report on the situation of human rights in the Palestinian territories
occupied since 1967, submitted by Mr. Hannu Halinen, Special Rapporteur,
pursuant to Commission on Human Rights resolution 1993/2 A

Introduction

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A of 19 February 1993, entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine". In paragraph 4 of that resolution, the Commission decided to appoint a special rapporteur. The resolution was approved by the Economic and Social Council in decision 1993/253 of 28 July 1993.

2. In paragraph 4 of the resolution, the Commission decided to appoint a special rapporteur with the following mandate:

"(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

"(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

"(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories."

3. The former Special Rapporteur, Mr. René Felber (Switzerland), presented reports to the Commission at its fiftieth and fifty-first sessions (E/CN.4/1994/14 and E/CN.4/1995/19, respectively). The current Special Rapporteur, Mr. Hannu Halinen (Finland), presented reports to the Commission at its fifty-second and fifty-third sessions (E/CN.4/1996/18 and E/CN.4/1997/16, respectively).
4. The Special Rapporteur wishes to reiterate the belief that his role is not an accusatory one, but rather has the objectives of establishing a meaningful and constructive dialogue with all the parties concerned and helping overcome problems having to do with human rights concerns in the area. He believes that the exercise of his mandate should prevent violations of human rights and improve the overall human rights situation.
5. During the period under review, the Special Rapporteur met with representatives of Governments, intergovernmental and non-governmental organizations and individuals and received written information from intergovernmental and non-governmental organizations as well as individuals. The Special Rapporteur regrets the lack of cooperation on the part of the Government of Israel. The cooperation of all Governments with international mechanisms is important. In this case it would clearly be in the interest not only of respect for human rights but also of the Government itself.
6. Since the last session of the Commission on Human Rights, the Special Rapporteur availed himself of every opportunity afforded to him to hold both formal and informal discussions on issues related to his mandate, in Geneva, Brussels and the Middle East. Before submitting his report to the Commission, the Special Rapporteur decided to carry out a visit to the occupied Palestinian territories, Israel, Jordan and Egypt from 12 to 22 January 1998, together with a staff member from the Office of the High Commissioner for Human Rights. He visited Jerusalem, Gaza, Hebron, Ramallah, Jericho, Tel Aviv, Amman and Cairo.
7. The Special Rapporteur met in Hebron with the President of the Palestinian Authority, Mr. Yasser Arafat, and discussed issues relating to his mandate. In Gaza, the Special Rapporteur met with Mr. Kamal El-Sharafi, Chairman of the Committee of Oversight and Human Rights of the Palestinian Legislative Council; Mr. Riyad Al-Zanoun, Minister of Health of the Palestinian Authority; Mr. Nabeel Shaath, Minister of Planning and International Cooperation of the Palestinian Authority, and Mr. Said Modalall, Director-General of Employment at the Ministry of Labour of the Palestinian Authority. In Jericho, the Special Rapporteur met with Mr. Saeb Erekat, the Minister for Local Government of the Palestinian Authority. In Ramallah, the Special Rapporteur met with Mrs. Hanan Ashrawi, Minister of Higher Education of the Palestinian Authority. While in Gaza, the Special Rapporteur met with Mr. Peter Hansen, the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), and with Mr. Francis Dubois, Deputy Special Coordinator, Office of the United Nations Special Coordinator in the Occupied Territories (UNSCO). During his visit to the area, the Special Rapporteur met with representatives of United Nations agencies, national and international humanitarian and non-governmental organizations as well as with private individuals.

8. In Jordan, the Special Rapporteur met in Amman with Mr. Ibrahim Badran, Director-General of the Department of Palestinian Affairs, and with Mr. Rajab Sukayri, Director of the Department of International Organizations at the Ministry for Foreign Affairs. While in Amman, the Special Rapporteur also met with Mr. Jorgen Lissner, United Nations Resident Coordinator and Resident Representative of the United Nations Development Programme.

9. In Egypt, the Special Rapporteur met in Cairo with Mr. Amr Moussa, the Minister for Foreign Affairs of Egypt; Mrs. Naila Gabr, Deputy Assistant Foreign Minister for Human Rights; Mr. Gehad Madi, Deputy Assistant Foreign Minister for International Legal Affairs; and with Mr. Mohamed Nosrat, Deputy Assistant Foreign Minister for Palestinian Affairs. While in Cairo, the Special Rapporteur also met with Mr. Esmat Abdel Meguid, the Secretary-General of the League of Arab States. Mr. Said Kamal, the head of the Palestinian Affairs Department of the League of Arab States, was also present. The Special Rapporteur also met with Mr. Nadir Hadj-Hammou, Deputy Resident Representative, United Nations Development Programme.

10. In October 1997, the Special Rapporteur carried out a brief visit to the occupied Palestinian territories in order to acquaint himself with the situation of Palestinian children.

11. In December 1997, the Special Rapporteur attended a conference entitled "Human Rights and the Final Status Issues" in Gaza City.

12. The Special Rapporteur wishes to express his appreciation to Mr. Arafat and the Palestinian Authority for the kind cooperation extended to him in the course of his mission. The Special Rapporteur also wishes to extend his appreciation to Mr. Amr Moussa and the Government of Egypt as well as to the Jordanian authorities for the kind cooperation extended to him during his mission.

13. The Special Rapporteur expresses his sincere gratitude to the High Commissioner for Human Rights and to the United Nations Special Coordinator in the Occupied Territories and the staff of their offices in Gaza for the most efficient logistical and other support provided to the mission.

I. PRINCIPAL CONCERNS REGARDING THE SITUATION OF HUMAN RIGHTS

14. There is a deepening sense of frustration among the people in the Middle East vis-à-vis the peace process. This is understandable, since the success of the process is connected to its results. Also, the Special Rapporteur in his reports has expressed his support for the peace process, stressing that the permanent status negotiations, if and when satisfactorily concluded, would solve many of the gravest human rights problems in the area. There is an urgent need for the revival of the peace process.

15. Yet, the peace process is not an end in itself but just a framework - albeit the main one - in searching for peace. It needs to be reiterated that lasting peace cannot be achieved without respect for human rights. Promotion and protection of human rights is part and parcel of maintaining and

strengthening peace and security and advancing social and economic development. It is in this context that the Special Rapporteur draws attention to the main features of the human rights situation in the area.

16. Terrorism can never be tolerated. Abhorrent acts of terrorism can only destroy the prospects for a just and durable peace. During the period under consideration, terrorist incidents and threats of such incidents once again increased. Measures to prevent terrorism, including training and education, are necessary. But they have to be carried out under all circumstances within the rule of law and respect for human rights.

17. International human rights law and international humanitarian law continue to provide the legal basis for the consideration of the human rights situation. Despite steps taken by both Israel and the Palestinian Authority to improve their record, serious human rights violations occur persistently. It needs to be reiterated that the Israeli occupation of the Palestinian territories, which is the root cause of the violations, remains legally in force, including during the transition period. International humanitarian law, particularly the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, remains therefore fully applicable to and binding on the Government of Israel.

18. Palestinian economic development is a prerequisite for political stability, and therefore the best guarantee of security for Israel, both in the short and the long term. The Palestinians, in exercising their right to economic development, have to have open trade access to the outside world, including Israel. The international community has fully understood the significance of the removal of obstacles to Palestinian economic development. The declining indicators of the Palestinian economy, however, are a clear sign that development is reversing, constituting a growing threat to security.

19. The following paragraphs contain a brief summary of the principal concerns regarding the situation of human rights in the Palestinian territories occupied since 1967. The reason why the Special Rapporteur draws attention to these concerns is to foster respect for human rights; they should not be read as accusatory, but rather in the context of finding ways to overcome them. The report contains less first-hand information than the Special Rapporteur would have hoped to present owing to the lack of a possibility to visit Israel officially. The Special Rapporteur is convinced that more contacts and discussions would enable him to fulfil his mandate in an even more objective and impartial manner.

20. The Special Rapporteur wishes to recall that during his visits to Gaza, East Jerusalem and parts of the West Bank, he was able to obtain valuable written and oral information from intergovernmental, non-governmental and humanitarian organizations as well as from individuals. It has contributed to the insight into the situation which the Special Rapporteur has managed to gain despite the constraints cited above.

21. One of the most serious and persistent sources of concern and tension in the occupied territories brought to the attention of the Special Rapporteur is the approximately 3,500 Palestinian prisoners detained in Israeli prisons and detention centres, in violation of articles 49 and 76 of the Fourth Geneva

Convention. It will be recalled that the Oslo Accords called for the release of Palestinian detainees. Their conditions of detention are reportedly not in keeping with international standards and include poor quality of food in insufficient quantities, inadequate medical treatment and violent suppression of prisoners' protests by the prison authorities. Numerous detainees were reportedly denied access to an attorney as well as family visits. The Special Rapporteur's attention was drawn to the treatment of mentally ill prisoners who are sometimes treated as healthy or placed in solitary confinement, which aggravates their condition. The Special Rapporteur was informed that it is estimated that some 100,000 Palestinians have been in prison since the beginning of the occupation. At present, there are seven female Palestinian prisoners.

22. The number of administrative detainees has risen significantly during the period under review. There are currently some 500 Palestinian administrative detainees. The majority of the detainees have had their detention renewed, many of them more than once. The Special Rapporteur was informed that the detention order of one particular detainee, who has spent 5½ years in jail, has been renewed 12 times. Children under 18 have also been placed in administrative detention, in violation of article 37 (b) of the Convention on the Rights of the Child which Israel ratified in 1991.

23. The Special Rapporteur was informed about the issuing of a new military order in September 1997 allowing Israeli forces to arrest persons in Area A under the jurisdiction of the Palestinian Authority which includes the Gaza Strip. For the first time since 1994, there is an administrative detainee from the Gaza Strip.

24. There are reportedly up to 1,200 persons held in administrative detention by the Palestinian Authority. Allegedly, a total of 14 detainees have died while in detention. The complex legal system, lack of legislation and insufficient training and education have contributed to this situation.

25. The treatment of Palestinian detainees held on suspicion of alleged security offences during the period of interrogation is cause for serious concern. The administrative guidelines followed by the Israeli General Security Service as defined in the confidential Landau Commission Report permit the exercise of "moderate physical pressure" which amounts to torture. They have been endorsed on several occasions by Israel's High Court of Justice, on a case-by-case basis. Methods of interrogation include hooding, sleep and food deprivation, position abuse, exposure to very loud music and extremes of cold and heat as well as violent shaking of the prisoner which leaves no visible traces but can lead to permanent incapacitation or death. In 1997, the United Nations Committee against Torture indicated that such interrogation methods constituted breaches of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Israel in 1991. International law absolutely prohibits torture and no exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. The Committee recommended that any methods of interrogation that are in conflict with the provisions of articles 1 and 16 of the Convention cease immediately.

26. The Special Rapporteur was told that torture and ill-treatment of Palestinian detainees in Israeli prisons and detention centres were so systematic that people did not fully realize what kind of treatment they were being subjected to.

27. The Special Rapporteur's attention was drawn to the situation of former prisoners who have undergone torture during their incarceration. They suffered from psychosocial consequences such as chronic post-traumatic stress, depression, paranoia, social avoidance and anxiety. Many behaved in a violent manner with their wives and children. It is estimated that some 50,000 children in the Gaza Strip suffered from such behaviour which was reflected in contact disorders such as inability to relate to parents, teachers and other children. It is estimated that 38 per cent of such children aged between 6 and 12 suffer from moderate to severe post-traumatic stress disorder. These emotional disorders have long-term effects, make children more aggressive, disobedient and violent, affect their dignity and lower their self-esteem. It is believed that the hatred of children towards the treatment meted out to their fathers as well as to the families visiting prisoners by the Israeli authorities will itself be perpetuated later on by those same children.

28. The Special Rapporteur was informed that all prisoners tortured in 1997 suffered from mental problems. Some had neurological and orthopaedic problems as well.

29. Torture and ill-treatment in the detention centres under the control of the Palestinian Authority have reportedly continued due to the pressure said to be placed on the Authority to deal with its own and Israeli security concerns.

30. The Special Rapporteur met in Gaza with a number of former detainees and with the mothers and relatives of Palestinian prisoners. He was informed about the economic and social hardships suffered by the prisoners' families, especially if they were the principal breadwinners, which also negatively affected family cohesion. The relatives complained of frequent transfers of prisoners in Israel which made family visits even more difficult. The Special Rapporteur was told that some 100 prisoners did not receive family visits at all because they do not have living close relatives or because the relatives eligible to visit them could not obtain security clearance. After often humiliating searches, relatives would be allowed in groups of 10 at a time to spend 45 minutes with the prisoners. The Special Rapporteur was informed that 55 per cent of Palestinian prisoners in Israeli jails belonged to the Fatah movement.

31. The Special Rapporteur was informed that more than 50 per cent of the Palestinian population is under 15 years of age. The situation of children cannot be separated from the overall situation of human rights in the occupied territories. The occupation has had and continues to have detrimental effects on the development of children who have been conditioned by the situation of violence and have become victims of social, economic and psychological circumstances. Many Palestinian children are described as "growing up before their time". It is estimated that one third of those killed during the intifada were children. Children have continued to suffer in confrontations between Palestinians and the Israeli Defence Forces: some 70 per cent of

persons injured during the clashes which broke out in Hebron in June 1997 were children. The occupation has also led to a virtual dismantling of the social infrastructure. The weakening of the family structure has led to a rise in juvenile delinquency.

32. The Special Rapporteur was told that there were currently between 70 and 90 Palestinian children in Israeli prisons. They were reportedly subjected to the same treatment as adults, including during interrogation. Some are reported to have been denied access to lawyers and family visits. It has been reported that children have also been placed in administrative detention and that there are currently some five to seven child administrative detainees, some of whom have had their detention orders renewed. The Special Rapporteur was alerted to the fact that detention of children alters their value systems and may have grave repercussions on their future psychological well-being.

33. The Special Rapporteur was informed about the vulnerable position of women in Palestinian society, which was very often rooted in traditions as well as the attitudes of both secular and religious leaders and for which blame could not be placed on the Israeli occupation. Owing to the application of the prevailing laws, their position was described as difficult in cases of divorce and child custody, early marriage, as well as in relation to offences regarding honour. In addition, women and girls are often the first victims of domestic violence as wives and daughters of former prisoners suffering from psychological disorders, or of workers unable to go to Israel and provide income for their families. Suicide rates among women are said to be on the rise.

34. The Vienna Declaration and Programme of Action confirmed the human rights of women and of the girl child to be an inalienable, integral and indivisible part of universal human rights. Furthermore, it set as priority objectives of the international community the full and equal participation of women in political, civil, economic, social and cultural life, as well as the eradication of all forms of discrimination on grounds of sex. The principle of equality is inherent in the Universal Declaration of Human Rights. The Declaration also refers specifically to the family and marriage (article 16), owning property (article 17), motherhood and childhood (article 25), and equal access to (also higher) education (article 26). The principles enshrined in both documents are relevant in the Palestinian territories and intensified work is needed to fully implement them.

35. An increase in malnutrition has been registered among pregnant women and pre-school age children who are suffering from iron and iodine deficiencies which can cause slow mental development.

36. The Special Rapporteur was informed that the situation in the occupied territories had worsened in a number of areas since the signing of the Oslo Accords and that there was no more trust in the peace process. One of the principal causes of this deterioration was the repeated closures of the occupied territories, which constitutes collective punishment of the population, in particular after security incidents such as those which took place in Israel in March and July 1997. The impact of the closing of borders between Israel and the occupied territories has been aggravated by the

so-called internal closures of Palestinian agglomerations as well as of international borders with Jordan and Egypt. The Special Rapporteur was told that there were 77 days of closure of the occupied territories in 1997. Closures have severely restricted the freedom of movement of Palestinians between parts of the occupied territories as well as their access to Jerusalem. For example, the internal closure of Bethlehem for more than one month caused a 50 per cent decline in the number of births taking place in medical facilities there.

37. The closures have led to a further deterioration of the economic situation and a rise in unemployment. The persistently high unemployment has resulted in the increased incidence of child labour and a concomitant decline in the importance accorded to education. The dropout rate has risen significantly. The Special Rapporteur was informed that 25 per cent of the children who entered the labour force were the sole breadwinners in their families. The lack of income and inability to buy food during the closures of the occupied territories have reportedly led many Palestinian families to eat only one meal a day and significantly reduce their intake of protein. Some 56 per cent of families were forced to borrow money during the closure in order to buy food. The reduced protein intake has resulted in a greater incidence of rickets and anaemia in children. The Special Rapporteur was told that the average worker supported 7 to 10 persons, a number which sometimes rose to 20 during the closures of the occupied territories.

38. It should be recalled that the safe passages between parts of the occupied territories foreseen under the Oslo Accords have not been implemented to date although the Gaza Strip and West Bank constitute a single territorial unit under that agreement. The Special Rapporteur's attention was drawn to the particular hardships faced by the inhabitants of the Gaza Strip during the closures of the occupied territories by the Israeli authorities: only persons with work permits are allowed to leave Gaza which is not the case with the inhabitants of the West Bank. The Gaza Strip has been described by Palestinians as a large prison.

39. In addition to employment, closures have continued to have a negative impact on the overall economic situation in the occupied territories, especially in the Gaza Strip. Factories have been closed for lack of raw materials and access to export markets and construction has come to a halt. Nevertheless, the Special Rapporteur was informed that although agricultural produce from Gaza could not be exported to Israel for alleged security reasons, this did not affect the products of branches of Israeli companies in Gaza.

40. The Special Rapporteur's attention was drawn to the problem of fishermen in Gaza which affects an estimated 5,000 families. In addition to being allowed to fish only 12 miles from shore instead of the 20 miles stipulated in the Oslo Accords, fishermen complained that the Israeli forces consider the sea as a border-crossing and impose a ban on fishing during closures of the occupied territories. The Special Rapporteur was told that Israeli forces often harassed and fired at fishermen, detained them for long periods, shot at or sunk their boats and destroyed their nets.

41. Closures have a particularly adverse cumulative effect on children. The Special Rapporteur was told that post-traumatic effects were easier to document than the hidden effects of the closure. He was given the example of curfews which were frequently imposed on the occupied territories in the past and which adversely affected the relationship of small children with their parents. The current situation was described as being worse than before the peace process. The situation of the population in the occupied territories was described as an "addiction to trauma", with the breaking point very near.

42. The closure has also resulted in the destruction of the image of authority figures such as headmasters or teachers who have on occasion been arrested in a humiliating way by the Israeli forces when their permits had expired. Gazan schools also suffer from overcrowding: children have to go to school in two shifts, sometimes up to 59 in a single class. Numerous children are said to have left school owing to their families' deteriorating economic situation and reportedly work in factories, as street vendors, or collect old newspapers.

43. The Special Rapporteur's attention was drawn to the fact that a number of children in rural areas of the West Bank as well as in Area A have been killed by landmines left by the Israeli army in military training areas.

44. The Special Rapporteur was informed that there were no deaths of Palestinians at Israeli checkpoints or at border-crossings and that there were no major problems with the passage of medicine. Permits were automatically issued to medical staff in the occupied territories who make up 64 per cent of the personnel of hospitals serving Palestinians in East Jerusalem. However, the problem of patients whose treatment was delayed remained. The Special Rapporteur's attention was drawn to the delay in transporting Palestinian patients from East Jerusalem to other medical facilities since the Israeli ambulances waited for an escort before entering that part of the city. On the other hand, Palestinian ambulances are reported rarely to obtain the permission of the Israeli Health Ministry to install siren and radio systems, for security reasons.

45. The Special Rapporteur was informed that the Israeli Parliament was to adopt a law that would deny compensation to Palestinian victims who were injured or surviving family members of those who were killed during the intifada. The reason given by the Israeli authorities is that the deaths were caused by activities linked to war; this amounts to considering the Palestinian civilian population as combatants. Compensation is the only way victims of human rights violations are able to obtain redress and for many it is the only way for victims to pay for the medical treatment needed for their injuries. In addition to widening the scope of what constitutes combatant activity, the adoption of such a law would further reduce the accountability of Israeli security forces for human rights violations perpetrated against the civilian population of the occupied territories. Articles 7 and 8 (concerning equal protection of the law and effective remedy) of the Universal Declaration should be recalled in this connection.

46. Possibly the single most preoccupying factor which has exacerbated the situation of human rights in the occupied Palestinian territories is the increased construction and expansion of Israeli settlements and bypass roads.

A turning point in this regard was the decision by the Israeli Government on 26 February 1997 to construct a settlement on Jabal Abu Ghneim in East Jerusalem, to be called Har Homa. Construction work on the settlement - the first new settlement to be built since the lifting of the freeze imposed on new settlement construction by the previous Labour Government - began on 18 March 1997. (In any case, despite the so-called freeze, a 43 per cent expansion in settlement activity was reported during the Labour Government.) Together with the recent announcement of plans to build a Jewish settlement in the Ras El Amud neighbourhood of East Jerusalem, Har Homa would complete the chain of Israeli settlements surrounding East Jerusalem, thereby preventing Palestinian territorial continuity. It has been alleged that the construction of at least seven new settlements had begun since the current Israeli Government took office. The Special Rapporteur was also informed about the opening of new stone quarries, in particular since the signing of the Oslo Accords, which caused considerable environmental damage in the occupied Palestinian territories.

47. The expansion and building of settlements and bypass roads implies confiscation of substantial areas of Palestinian-owned land. The Special Rapporteur was informed, however, that approximately 25 per cent of the housing units in existing settlements were unoccupied. The master plans of settlements were reportedly reviewed every three to five years. The Special Rapporteur was informed that the Israeli authorities had plans for greater Jerusalem that included annexing to the city the ring of settlements surrounding it, encompassing territory up to the city of Ramallah, and expanding further the Maaleh Adumim settlement. If expanded, Maaleh Adumim would have an area of some 60 square kilometres, making the settlement larger than Tel Aviv, although it houses only 20,000 inhabitants. The Bedouins living around Jerusalem have been particularly affected by land confiscation. It is estimated that more than 15,000 Bedouins are threatened with eviction from sites which they currently inhabit, without even being given alternative sites in which to settle by the Israeli Civil Administration. The Special Rapporteur was told that the current policy of eviction and land confiscation would ultimately render Area C and, gradually, Area B empty of Arabs. The Israeli settlement policy was described as a well-planned tool of annexation which would lead to a "Bantustanization" of Palestinian territory into territorially unconnected enclaves. During his visit to the Gaza Strip, the Special Rapporteur was able to visit the Mawasi area near Khan Younis which is cut off from that city and is completely surrounded by settlements.

48. In its resolution ES-10/2 of 25 April 1997, the General Assembly condemned the construction by Israel of a new settlement in Jabal Abu Ghneim to the south of occupied East Jerusalem, and reaffirmed that Israeli settlements in all the territories occupied by Israel since 1967 were illegal and an obstacle to peace. It called for the cessation of all forms of assistance and support for illegal Israeli activities in the occupied Palestinian territory, including Jerusalem, in particular settlement activities.

49. In his report submitted in accordance with General Assembly resolution ES-10/2, the Secretary-General stated that, demographically, the establishment of this settlement would have a significant effect on further advancing the forced alteration of the religious and ethnic composition of

occupied East Jerusalem. In addition, he indicated that, economically, the establishment of a settlement on the site was expected to have damaging effects on an already devastated Palestinian economy in the occupied territories, as the broader Palestinian economy would feel the immediate effects of the resulting separation of the economic hub of East Jerusalem from the towns and agricultural areas of the rest of the West Bank (see A/ES-10/6-S/1997/494, chap. III).

50. In its resolution ES-10/3 of 15 July 1997, the General Assembly condemned the failure of the Government of Israel to comply with the demands made by the Assembly at its tenth emergency special session. It reiterated that all illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory, especially settlement activity, and the practical results thereof could not be recognized irrespective of the passage of time. The Assembly recommended to Member States that they actively discourage activities which directly contributed to any construction or development of Israeli settlements in the occupied Palestinian territory, including Jerusalem, and demanded that Israel make available to Member States the necessary information about goods produced or manufactured in the illegal settlements in the occupied Palestinian territory, including Jerusalem.

51. The confiscation by the Israeli authorities of the identity cards of Palestinian Jerusalemites continues. This policy is said to have begun in 1993 and has reportedly been intensified since the signing of the Oslo Accords. It is estimated that up to 15,000 identity cards may have been confiscated so far. Israeli officials have reportedly officially recognized in March 1997 for the first time that the confiscation of Palestinian identity cards in Jerusalem was taking place and that some 1,467 cards were confiscated by May 1997. It should be recalled that Palestinians are considered as residents, not as citizens of Jerusalem, unless they officially take Israeli citizenship. The policy concerns Palestinians who have lived outside Jerusalem or abroad for more than seven years, those who live outside the city's official municipal boundaries, as well as Palestinians with dual citizenship, but is not applied to the Jewish inhabitants of Jerusalem. It is estimated that some 60,000 to 80,000 Palestinians might be considered by the Israeli authorities as living outside the municipal boundaries of Jerusalem.

52. In order to retain their residency rights in Jerusalem, Palestinian inhabitants have to prove that the city is their "centre of life" by presenting rent slips, electricity and water bills, tax returns and birth certificates to the municipal authorities, even if Jerusalem is their city of origin. Persons unable to present proof are reportedly not eligible for health insurance and their children cannot attend government schools. The situation has been aggravated by the introduction of the requirement by the Israeli authorities that both parents of a newborn child be residents of Jerusalem for the child to be legally registered. The Special Rapporteur was informed that there are currently some 5,000 newborn children who are not registered because their parents do not meet the required criteria. In addition, a child born in the West Bank to parents who are both residents of Jerusalem may not be registered in that city. The lack of automatic registration of children has engendered serious health problems. It has been

reported that children have died because of the refusal of Israeli health-care institutions to treat them when they were told that the children did not have insurance.

53. Children in Jerusalem are said to not be part of either the Palestinian or Israeli national structure which represents a considerable problem for their sense of identity. Administratively, they belong to the Israeli system where they are not treated on an equal footing with Israeli children. It has been reported that there has been an increase in child labour among Jerusalemites who have complete access to Israel. The children, some of whom are reportedly as young as 12 and constitute cheap labour, are hired on an informal basis in factories, as agricultural and construction workers or in restaurants. The Special Rapporteur was informed that the dropout rate in schools in Jerusalem was much higher than in the West Bank. The uncertainty about their residency rights is reported to have had deep psychological effects on children. The worsening economic situation and decline in family income, especially in Jerusalem's Old City, have given rise to hyperactive children or those who are slow learners.

54. The Special Rapporteur's attention was drawn to the taxation system in East Jerusalem where the Palestinian population was described as paying a 25 per cent contribution to the municipal budget but receive only 5 per cent of the services in return. It is estimated that some 15 per cent of Jerusalem's Palestinian residents do not have proper sanitation.

55. The Special Rapporteur was informed about the arnona, i.e. the municipal real estate tax paid on the basis of the surface area owned or rented and which is often higher than the rent paid for particular premises. He was told that this tax was one of the "silent" ways in which the Israeli authorities were transferring Arab inhabitants out of Jerusalem since few shopkeepers had the money to pay the arnona. Since some 90 per cent of the customers in East Jerusalem come from the West Bank, many shops have had to close for lack of income as a result of the closures imposed on the occupied territories.

56. The situation of the Arab population of East Jerusalem is compounded further by a 35 per cent rate of unemployment. It is estimated that some 40 per cent of Arab Jerusalemites live below the poverty line. The difficult economic and social situation, lack of adequate housing, as well as house demolitions, which have been described as leading to a "quiet deportation" of Arab Jerusalemites, have in 1996 made the Jewish population of East Jerusalem a majority for the first time. It should also be recalled that since 1967, 64 per cent of East Jerusalem's territory, more than 70 square kilometres, has been confiscated.

57. The policies described above were described as "quiet deportation", "apartheid" and "ethnic expulsion". They were also said to be making native Jerusalemites stateless persons and foreigners in their own homeland.

58. A serious source of preoccupation has been the increase in the number of house demolitions in the occupied territories. In 1997, the number of Palestinian-owned houses demolished in East Jerusalem was said to be greater than the number demolished during the intifada. In August 1997 alone, 19 houses were demolished in Jerusalem. The Special Rapporteur was informed

that 60 per cent of the Palestinian population does not have adequate housing. In October 1997, the Special Rapporteur visited the so-called "Steadfastness Camp" at Al Samud in Jerusalem which is inhabited by some 500 persons from the city whose houses have been demolished and who do not wish to leave the city's official municipal boundaries.

59. The Special Rapporteur was informed of the seven phases, each one requiring an official stamp by the competent authority, through which Palestinians in Jerusalem and other parts of the occupied territories had to pass in order to obtain building permits. Building permits are reportedly not issued if a single stamp is missing.

60. A total of 80 houses owned by Arabs were demolished in East Jerusalem since the signing of the Oslo Accords in 1993. Some 118 houses were demolished in 1997 in the West Bank for lack of building permits while 7 were demolished for security reasons. An estimated 574 houses were demolished in the occupied territories since the current Israeli Government took office and eight new bypass roads have been built. The Special Rapporteur was informed that some 50,000 trees were uprooted in the occupied territories in 1997.

61. The Special Rapporteur was informed about the situation of Palestinian workers. Palestinian workers are hired as casual, day labourers and not salaried workers in Israel. There are currently some 50,000 workers from the West Bank and Gaza who have permits to work in Israel.

62. In view of the total dependence of the Palestinian economy on that of Israel as a result of the occupation and the high rates of unemployment in all parts of the occupied territories, Palestinian workers have no choice but to seek employment in Israel. As a result of the closure, Israeli employers have increasingly resorted to hiring foreign workers to substitute for Palestinians. It is estimated that there are currently some 80,000 to 90,000 legally employed foreign workers in Israel. The total number of foreign workers in Israel, including illegal ones, is estimated at some 200,000.

63. The Special Rapporteur was informed that Palestinian workers receive minimum wages in Israel but at times end up receiving less than the minimum wage, which reportedly amounts to approximately one half or one third of the wages earned by Israelis for the same work. The Special Rapporteur's attention was drawn to the fact that only some 70 per cent of workers with permits actually went to work in Israel. He was informed about the phenomenon of a network of "permit brokers" who sell three-month permits to Palestinians and who allegedly work in collusion with employers. When an employer does not want to pay a Palestinian worker, it is reported that they call the authorities at the Israeli checkpoint and claim that the person has never turned up for work. When caught by the authorities, the permits of these workers are confiscated and they have to pay a fine.

64. The Special Rapporteur was informed about an incident in which settlers brought dogs to attack Palestinian workers waiting by the side of the road. Seven persons were reportedly injured. The Israeli Defence Forces did not intervene.

65. The Special Rapporteur was informed that most Palestinians had lost faith in the peace process and that Israeli occupation of the occupied territories and its policies and practices were thwarting the development of Palestinian civil society, while waiting for it to implode. The Special Rapporteur was told that Palestinians were feeling frustration from four sources: lack of employment and, consequently, income and other social and economic factors; human rights violations perpetrated by Israel; violations perpetrated by the Palestinian Authority; and frustration stemming from the perceived inability of the United Nations to improve their plight. On the other hand, he was told that as far as Palestinians were concerned, the Israeli public was only interested in bombings and car thefts but was unaware of the real situation prevailing in the occupied territories.

II. CONCLUSIONS AND RECOMMENDATIONS

66. The overall assessment of the human rights situation in the occupied territories again remains disturbing. Some positive developments can be recognized, particularly regarding work permits and certain other economic measures as well as treatment of medical cases. The main concerns related to the Israeli Government - as described above - stay, however, unchanged. The Palestinian Authority and the Legislative Council have continued their work towards the building of civil society and rule of law. In addition to some concerns mentioned before, further efforts need to be made regarding transparency and accountability, functioning of the judiciary, as well as freedom of the press and opinion.

67. There are references - however few in number and short in substance - to human rights and the rule of law in the so-called Oslo agreements. Their implementation, or at least an ongoing follow-up discussion on their contents, is first and foremost in the hands of the parties themselves. This discussion has still to be commenced. There are two reasons for this: firstly, the peace process itself is undergoing severe difficulties and secondly, the examination and implementation of the human rights clauses in the interim agreements has not even begun. The international community, and particularly the Commission on Human Rights, has the responsibility to consider, in a holistic and action-oriented manner, the human rights situation in the area, with a view to encouraging the parties to engage themselves in a discussion on human rights.

68. During the cold war Europe was divided into two blocs. In the early 1970s a dialogue between the blocs was initiated, which led in 1975 to the signing of the Final Act of the Conference on Security and Cooperation in Europe at a summit meeting of 35 Heads of State. Later developments, including the fall of the Berlin wall and the end of the cold war, would have been unthinkable without the CSCE process initiated in Helsinki. What is the secret of the success of the CSCE (which today is called the Organization for Security and Cooperation in Europe, OSCE) and could it contribute to the quest for peace in the Middle East?

69. The CSCE Final Act consists of three parts ("Baskets"): security, economic relations and human rights. At the same time, the backbone of the Final Act was the list of 10 principles: 1. Sovereign equality, respect for the rights inherent in sovereignty; 2. Refraining from the threat or use of

force; 3. Inviolability of frontiers; 4. Territorial integrity of States; 5. Peaceful settlement of disputes; 6. Non-intervention in internal affairs; 7. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief; 8. Equal rights and self-determination of peoples; 9. Cooperation among States; 10. Fulfilment in good faith of obligations under international law. These principles adopted almost a quarter of a century ago have retained their validity and importance in international relations even today.

70. At the outset the various parties were almost diametrically opposed on the issues regarding the Baskets. In the preparatory as well as the follow-up phases of the Final Act it became clear that progress required the acceptance of these components and principles as a whole. Security was supported by agreeing on concrete confidence-building measures, which in turn was made possible by agreeing on steps in the economic and human dimensions. Today, the interrelationship and interdependence of these elements is taken as fact and forms the basis for the ongoing deliberations among the now 53 OSCE countries.

71. In his previous reports, the Special Rapporteur has indicated that the completion of the peace process is the best way to ensure respect for human rights and the rule of law, adding, however, that "the promotion of human rights and democracy was crucial to the success of the peace process" (E/CN.4/1997/16, para. 16). The peace process, while addressing itself to the root cause of violations, the foreign occupation, still provides a framework and a guarantee for the eradication of human rights problems in the area. The peace process is in need of revival. The question is, can that happen without a more comprehensive approach? The cornerstone of sustainable peace are security, democracy, development and human rights. Without considering them together, a lasting peace is hardly attainable. With regard to human rights in particular, the early launching of a dialogue, based on facts and in this wider context, is, in the final analysis, in the interest of all parties to the conflict. Accordingly, the answer of the Special Rapporteur to the above question is an unqualified yes: the CSCE concept can be used as an example in helping to untie the knots binding parties in the Middle East, but only if the human dimension is added to the security-related and economic dimensions of the search for peace.

72. The mandate of the Special Rapporteur, as it stands, is exceptional. It puts Israel in a different position compared to other countries subjected to the scrutiny of a special rapporteur. The mandate prejudices the outcome of the investigation. The consideration of the human rights situation in the area on the basis of the mandate is limited only to Israel's violations of international law. And the mandate, unlike all the other mandates under the Commission on Human Rights, is not reviewed periodically. The main reason given for the unique mandate is the foreign occupation, which is said to constitute a unique situation in the world.

73. It has been the consistent view of the Special Rapporteur that the mandate has to be reviewed. The only reason for amending the mandate is the respect for human rights; the Special Rapporteur has to have a sufficiently broad mandate to contribute to achieving that goal. To that effect the Special Rapporteur - as an independent expert - needs to be given equal treatment with other special rapporteurs.

74. As far as the review of the mandate is concerned, the matter is in the hands of the Commission. An early consideration is to be hoped for. Meanwhile, the Special Rapporteur, the parties concerned and the Commission on Human Rights have to decide what is the best and most effective way to proceed in preventing human rights violations and improving the respect for human rights. There are basically three choices: to continue under the present mandate and follow it strictly; to consider the human rights situation broadly, exploiting all avenues in attempting to improve it; or to quit. In considering each of these alternatives one has to ask the question: What effect would it have on the human rights situation?

75. The position of the Special Rapporteur is clear: every effort has to be made to increase awareness of all aspects of human rights in order to find, together, solutions to the prevailing problems. If the mandate is imperfect in certain ways, giving up is not the answer. Widening mutual understanding and widening the common ground is the answer.

76. Full credit is to be given to the Palestinian Authority and people for their openness in discussing the human rights situation and for the cooperation extended to the Special Rapporteur. Some serious human rights concerns exist in the Palestinian society, partly based on the occupation, partly on their own. The Palestinian Authority has never referred to the mandate as a restriction in their discussions concerning the overall human rights situation in the occupied territories. On the contrary, there is a broad willingness on the part of the Authority and the Legislative Council, supported enthusiastically by the non-governmental organizations and the Palestinian people, to discuss human rights problems in a transparent manner and to find concrete ways to manifest their de facto respect for international human rights and humanitarian law. Towards that end, all contributions and support by the international community to the Palestinians in orienting their society towards democracy and rule of law are highly appreciated.

77. The Government of Israel has so far refused to receive the Special Rapporteur for reasons connected with the mandate. Israel is already an established society with a free press and other democratic structures. As such, Israel also should have the courage to look beyond the mandate, to cooperate fully with the international human rights mechanisms and to participate actively in the substantive debate in this respect.

78. The United Nations Commission on Human Rights, as the leading international body on human rights, could certainly improve its methods of work, including its agenda and the mandate of the Special Rapporteur. The human rights situation in the Middle East, however, cannot wait for the outcome of the already lengthy deliberations in this context. The human rights situation, furthermore, cannot be held hostage to the political discussions on the ground. The clear and unequivocal mandate of the Commission - which the Special Rapporteur strongly supports - is to conduct an in-depth human rights debate regarding the occupied territories, and on that basis find ways and means to improve the situation. From the debate so far it appears that the emphasis in a large number of contributions has been on the political situation. This limits the scope of the debate and demonstrates an incomplete understanding of the need for human rights to be considered in the

broader context. It is therefore indispensable that the significance of human rights and their interrelationship with other topics referred to in the discussion be further clarified.

79. The consideration of the human rights situation in the occupied territories would also greatly benefit from the discussion of other items on the agenda of the Commission on Human Rights. In the interest of achieving substantive improvement of the human rights situation, it is not conceivable to separate the item from other relevant subsequent items on the agenda. This is, undoubtedly, at the same time a question of principle, one concerning better and more efficient interaction between all items on the agenda, as well as between all parts of the United Nations human rights mechanisms in general. The consideration of the question of the Middle East, which now is as a separate country situation the first substantive item on the agenda, requires urgent attention in this respect.

80. The General Assembly at its tenth emergency session recommended (resolution ES-10/4) that the High Contracting Parties to the Fourth Geneva Convention convene a conference on measures to enforce the Convention in the occupied territories. The recommendation was to be followed up by a meeting of experts to discuss matters of a procedural and logistical nature giving due regard to the actual situation in the occupied territories relative to the Fourth Geneva Convention, as well as the legal and political implications of the conference, keeping in mind the obligations of Israel and other States parties under this Convention.

81. In his report to the Commission on Human Rights in 1997, the Special Rapporteur indicated that he was able to visit and acquaint himself with the work of the office of the High Commissioner for Human Rights in Gaza, which opened in November 1996. This technical cooperation programme, entitled "Support for the Rule of Law in Palestine", is funded under the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights and has two international staff members and three local staff. The programme has been well received and has generated considerable enthusiasm among its beneficiaries. The Palestinian Authority has requested that it be expanded and has already included it in the Palestinian Development Plan for 1998-2000. It provides technical assistance and advisory services to the Palestinian Authority through projects focused on institution-building in the area of the rule of law such as: the establishment of a legal framework consistent with human rights standards; the development of an official human rights policy; and the strengthening of national structures for promoting and protecting human rights with special focus on the administration of justice through training for police, prison officials, judges, prosecutors and lawyers, as well as assisting the Palestinian Authority in formulating a national plan of action for human rights in Gaza and the West Bank.

82. The Special Rapporteur welcomes the expanding cooperation programmes and projects with some regional organizations and individual donors in the human rights field. The small office of the High Commissioner for Human Rights is spearheading United Nations efforts in this regard. However, since within the United Nations human rights are increasingly considered in the wider context with peace and security as well as economic and social development, and

accordingly are to be incorporated in all activities throughout the Organization, the overall contribution of the United Nations system can be expected to grow.

83. Building a civil society under occupation is a major challenge. All steps aimed at strengthening the democratic structures, including the multiparty system, should be supported. Since the peace process started and because of the closures, "people to people" contacts have undertaken a dramatic change. The concept is still viable, however, and can in the future lead to positive changes in public opinion and at the decision-making level. Meanwhile, the non-governmental organizations on both sides continue to work actively to increase awareness of the situation and identify measures to improve it.

84. In this fiftieth year of the Universal Declaration of Human Rights it should be recalled that most of the articles of the Declaration are highly relevant for the human rights situation in the occupied territories. They should be revisited by the parties concerned, not in the interest of looking for reasons for attacking the others but in the solemn spirit of the preamble of the Declaration.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE

Report on the situation of human rights in the Palestinian territories occupied since 1967, submitted by Mr. Hannu Halinen, Special Rapporteur, pursuant to Commission on Human Rights resolution 1993/2 A

Introduction

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A of 19 February 1993, in which it decided to appoint a special rapporteur with the following mandate:

"(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

"(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

"(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories."

2. The former Special Rapporteur, Mr. René Felber (Switzerland), presented reports to the Commission at its fiftieth and fifty-first sessions (E/CN.4/1994/14 and E/CN.4/1995/19 respectively). The current Special Rapporteur, Mr. Hannu Halinen (Finland), presented reports to the Commission at its fifty-second, fifty-third and fifty-fourth sessions (E/CN.4/1996/18, E/CN.4/1997/16 and E/CN.4/1998/17, respectively).

3. The Special Rapporteur once again wishes to reiterate the belief that his role is not an accusatory one, but rather has the objectives of establishing a meaningful and constructive dialogue with all the parties concerned and helping overcome problems having to do with human rights concerns in the area. He continues to believe that the exercise of his mandate should prevent violations of human rights and improve the overall human rights situation.

4. During the period under review, the Special Rapporteur met with representatives of Governments, intergovernmental, non-governmental organizations and individuals and received written information from intergovernmental and non-governmental organizations as well as individuals. The Special Rapporteur should once again like to reiterate his regret at the lack of cooperation on the part of the Government of Israel, which he continues to believe would be clearly in the interest not only of respect for human rights but also of the Government itself.

5. Since the last session of the Commission on Human Rights, the Special Rapporteur availed himself of every opportunity afforded to him to hold both formal and informal discussions on issues related to his mandate, in Geneva, Brussels, the Middle East and other venues. Before submitting his report to the Commission, the Special Rapporteur decided to carry out a visit to the occupied Palestinian territories, Israel and Egypt from 3 to 12 January 1999, together with a staff member from the Office of the High Commissioner for Human Rights. He visited Jerusalem, Gaza, Ramallah, Jericho, Tel Aviv, and Cairo.

6. The Special Rapporteur met in Ramallah with the President of the Palestinian Authority, Mr. Yasser Arafat, and discussed issues relating to his mandate. Also in Ramallah, he met with Mr. Nabeel Shaath, Minister of Planning and International Cooperation of the Palestinian Authority, and with Mrs. Hanan Ashrawi, Member of the Palestinian Legislative Council. In Jericho, the Special Rapporteur met with Mr. Saeb Erekat, the Minister for Local Government of the Palestinian Authority. In Gaza, the Special Rapporteur met with Mr. Kamal El-Sharafi, Chairman of the Committee of Oversight and Human Rights of the Palestinian Legislative Council; as well as with Dr. Haider Abdel Shafi, Commissioner-General of The Palestinian Independent Commission for Citizens' Rights. While in Gaza, the Special Rapporteur met with Mrs. Soha Arafat, President of the Palestinian High Council for Motherhood and Childhood, as well as with Mr. Chinmaya Gharekhan, the United Nations Special Coordinator in the Occupied Territories. In Jerusalem, the Special Rapporteur met with Mr. Feisal Hussein. During his visit to the area, the Special Rapporteur met with representatives of United Nations agencies, national and international humanitarian organizations, with representatives of a large number of Palestinian and Israeli non-governmental organizations, academic institutions as well as with private individuals.

7. In June 1998, the Special Rapporteur attended a conference in Jerusalem entitled "Fifty Years of Human Rights Violations".

8. In Egypt, the Special Rapporteur met in Cairo with Mr. Amr Moussa, the Minister for Foreign Affairs of Egypt, and Mrs. Naila Gabr, Deputy Assistant

Foreign Minister for Human Rights. While in Cairo, the Special Rapporteur also met with Mr. Ahmed Esmat Abdel Meguid, the Secretary-General of the League of Arab States, and Mr. Said Kamal, the head of the Palestinian Affairs Department of the League of Arab States. In addition, he met with Mr. Edmund Cain, United Nations Resident Coordinator, and Mr. Nadir Hadj-Hammou, Deputy Resident Representative, United Nations Development Programme.

9. The Special Rapporteur wishes to express his appreciation to Mr. Arafat and the Palestinian Authority for the kind cooperation extended to him in the course of his mission. The Special Rapporteur also wishes to extend his appreciation to Mr. Amr Moussa and the Government of Egypt as well as to the League of Arab States.

10. The Special Rapporteur expresses his sincere gratitude to the High Commissioner for Human Rights and to the United Nations Special Coordinator in the Occupied Territories and the staff of their offices in Gaza for the most efficient logistical and other support provided to the mission.

I. PRINCIPAL CONCERNS REGARDING THE SITUATION OF HUMAN RIGHTS

11. Despite encouraging steps agreed upon at Wye Plantation in October 1998, the process leading to a lasting peace remains stalled. Some positive developments can be recognized in the alleviation of human rights concerns in the area. However, the threat of further human rights violations has increased in a tangible way due to frustration linked to the non-implementation of the agreed processes, on the one hand, and heightened political tension on the other.

12. The Special Rapporteur reaffirms once again that sustainable peace cannot be achieved without respect for human rights. The promotion and protection of human rights is an indispensable part of maintaining and strengthening peace and security as well as advancing social and economic development. A piecemeal approach to peace is not viable; only a comprehensive peace covering the economic, social and security interests of both sides can guarantee a lasting solution. Human rights are universal, indivisible, interdependent and interrelated. This approach, adopted by the international community at the World Conference on Human Rights, applies also to peace. The old axiom, Si vis pacem, para bellum (If you want peace, prepare yourself for war.), can no longer offer either side an acceptable justification, in terms of purely military considerations. A wider concept of security - as discussed and formulated in other regions of the world - is required to establish the basis for the search for peace between Israelis and Palestinians.

13. To understand the inherent interrelationship between human rights and peace and security requires trust on both sides in future peaceful coexistence between the two peoples, based on equal human values. Instead of imposing unilateral acts on the other partner, a determined quest by both sides for confidence-building measures is urgently needed. Confidence is not built by breaking agreements or acquiescing to situations that cause frustration. In the long run, an effective fight against terrorism is unthinkable without trust and confidence between the parties.

14. The foundation of peace and security is firmly established in international law. Strict adherence, *de facto* and *de jure*, to international human rights law and international humanitarian law is the prerequisite for creating trust and strengthening security in the wider sense. The Israeli occupation of the Palestinian territories is the root cause of human rights violations in the area. The occupation remains legally in force during the transition period. International humanitarian law, and particularly the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is therefore fully applicable to and binding on the Government of Israel.

15. The United Nations General Assembly, in its resolution ES-10/3 recommended that the High Contracting Parties to the Fourth Geneva Convention convene a conference on measures to enforce the Convention in the occupied Palestinian Territory, including Jerusalem, and to ensure its respect in accordance with their obligations under article 1. This recommendation was reiterated in resolutions ES-10/4 and ES-10/5. It is necessary to proceed on the path suggested by the General Assembly as soon as possible, for two main reasons: first, at a time of complex political processes there is a need to reaffirm the legal status of the occupied territories until the end of the occupation; second, the human rights and humanitarian concerns as described below are in themselves a *raison d'être* for re-establishing the applicability of the Convention in general, as well as with respect to the concrete situations in question.

16. Notwithstanding steps taken to improve the Palestinian economy - such as shorter periods of closures, increased number of work permits, the opening of the Gaza airport and discussions on the seaport and industrial park - there are still no signs of sustained economic growth. Too many factors remain which create obstacles in the pursuit of, *inter alia*, open access to markets, fair competition rules and taxation procedures, as well as private and public sector investments. The disproportional dependence of the occupied territories on the Israeli trade and economy does not allow healthy economic development for the Palestinians. To let Palestinians exercise their right to economic development would inevitably contribute to enforcing political stability and security for both Israelis and Palestinians.

17. The following paragraphs contain a brief summary of the principal concerns regarding the situation of human rights in the Palestinian territories occupied since 1967. The Special Rapporteur wishes to reiterate that the reason he draws attention to these concerns is to foster respect for human rights. They should therefore not be read as being accusatory, but rather in the context of finding ways to overcome these concerns. The report once again contains less first-hand information than the Special Rapporteur would have hoped to present owing to the lack of a possibility to visit Israel officially. He remains convinced that more contacts and discussions would enable him to fulfil his mandate in an even more objective and impartial manner.

18. The Special Rapporteur wishes to recall that during his visits to Gaza, East Jerusalem, parts of the West Bank and Israel, he was able to obtain valuable written and oral information from intergovernmental, non-governmental and humanitarian organizations as well as from individuals. He made a point

of meeting the main Israeli non-governmental organizations in order to ensure that his sources of information were as wide and accurate as possible in light of the constraints cited above.

19. Violations of human rights in the occupied Palestinian territories have continued during the period under review, to a large extent along the same lines as in the past. During his recent visit to the area, the Special Rapporteur was able to gain insight into the human rights issues currently giving rise to the greatest preoccupation among the Palestinian population. These concerns have been exacerbated by the unilateral suspension by Israel on 2 December 1998 of the implementation of the Wye River Memorandum. Several interlocutors told the Special Rapporteur that human rights violations actually stemmed from the peace agreements and that the Palestinian population was currently living in a vacuum as far as protection of their human rights was concerned. He was told that Israel was violating human rights in the name of security. Nevertheless, human rights were, more than before, being seen by some as the vehicle to advance the peace process.

20. The occupation was viewed as being more forceful after the beginning of the peace process. The Special Rapporteur was told that before the peace process, the majority of human rights violations were individual, whereas they had become more collective in nature. The general human rights situation in areas under the control of the Palestinian Authority had deteriorated since the signing of the Wye River Memorandum. People thought that the situation was better without the peace process. Other sources informed the Special Rapporteur that not much had changed in the pattern of human rights violations, but rather in their scope.

21. The expansion of existing Israeli settlements and the building of new ones, as well as bypass roads connecting the settlements between themselves and with Israel, is currently the source of greatest concern in the occupied territories. In addition, the bypass roads disrupt the demographic continuity of the Arab environment. Ten bypass roads are said to have been built in the occupied territories in 1998. The attendant confiscation of Palestinian-owned land and the destruction of their agricultural infrastructure is further exacerbating tensions in the occupied territories. The Special Rapporteur was told that for the first time, farmers in some areas were prevented by the Israeli authorities from harvesting their crops. The Special Rapporteur's attention was drawn by all of his interlocutors to the pronounced increase in Israeli settlement activity and the concomitant confiscation of Palestinian-owned land since the signing of the Wye River Memorandum in October 1998. According to most estimates, the number of settlements built in contravention of article 49 of the Fourth Geneva Convention has reached 190.

22. The Special Rapporteur was able to visit a number of settlements in and around Jerusalem and to observe the network of bypass roads. He was informed that the building of 28 new bypass roads was announced after the signing of the Wye River Memorandum. He was told that the Israeli occupation had deprived Arab Jerusalemites of approximately 80 per cent of their land and that there were currently 17 settlements which spread in three "belts" around the city. The intention was to expand "Greater Jerusalem" into "Metropolitan Jerusalem", an "umbrella" that would incorporate neighbouring municipalities. The Special Rapporteur was told that 52 per cent of the land in East Jerusalem

was for Palestinians while some 34 per cent had been given to Jews. There were practically no Jews in East Jerusalem in 1967; at present, there are some 163,000 Israelis and 155,000 to 158,000 Palestinians. The Israeli authorities have set the ratio of the Israeli and Palestinian populations in East Jerusalem at 73.5 per cent Jews and 26.5 per cent Arabs. Of particular concern to Palestinians was Israeli construction in the Arab neighbourhoods of Ras El Amud and Silwan. After the signing of the Wye River Memorandum, settlers seized a house in the Sheikh Jara neighbourhood and moved into two additional houses. Preparations for similar actions were said also to be under way in Ras El Amud and Burj Laqlaq. Numerous Bedouin are threatened with eviction from sites near the settlements in the Jordan Valley and Jericho areas. The Special Rapporteur visited a Palestinian living in a bus which is completely surrounded by a settlement built on his land.

23. The Special Rapporteur was able to observe the infrastructure work which had been carried out for the settlement on Jabal Abu Ghneim, to be called Har Homa. It will be recalled that in its resolution ES-10/2, the General Assembly condemned the construction by Israel of a new settlement in Jabal Abu Ghneim to the south of occupied East Jerusalem, and reaffirmed that Israeli settlements in all the territories occupied by Israel since 1967 were illegal and an obstacle to peace. In its resolution ES-10/3, the Assembly condemned the failure of the Government of Israel to comply with the demands made by the Assembly at its tenth emergency special session in resolution ES-10/2. It reiterated that all illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory, especially settlement activity, and the practical results thereof could not be recognized irrespective of the passage of time.

24. The increased rate of demolition of Palestinian houses which has continued unabated has given rise to serious concern over the period under review. The reason given is that they had been built without a licence, in an "unscientific way" or in a "green area". Some 21,000 housing units would be required for the Palestinian inhabitants of Jerusalem alone. A licence to build a house, which involves a lengthy procedure, costs approximately US\$ 25,000 and expires within a year even if no construction takes place. In addition, Palestinians are not allowed to build more than two floors. In 1997, the Special Rapporteur visited the Samud "Steadfastness Camp" on a site in East Jerusalem where some 70 families whose houses had been demolished were living in tents in order not to leave the municipal boundaries of Jerusalem and lose their identity cards. During his recent visit to the area, he visited 16 of those families who are now living in an unfinished building in East Jerusalem with no amenities. According to the sources, 31 Palestinian structures were demolished in Jerusalem in 1998, affecting more than 300 persons including 120 children. He was told that 17 houses and a school had been demolished for the construction of Road No. 1. Over 700 demolitions are estimated to have taken place from the signing of the Oslo Accords until the end of 1998. The Special Rapporteur was informed that, in addition to constituting collective punishment, house demolitions were considered by Palestinians as sources of extreme provocation and incitement.

25. The situation of the Arab inhabitants of Jerusalem continued to be precarious, particularly with regard to their identity cards, which made the registration of newborn children and family reunification in the city

difficult. The registration of children may take up to seven years if one of the parents is not from Jerusalem. It is estimated that there are currently some 10,000 unregistered Palestinian children in Jerusalem. This means that they do not have a birth certificate and cannot obtain an identity card at the age of 16, cannot enrol at a university or get married. The "centre of life" criterion has continued to be applied by the Israeli authorities to determine whether Palestinians are entitled to live in Jerusalem. All Palestinians in Jerusalem are considered as foreigners and the "Law of Entry into Israel" of 1952 is applied. The Special Rapporteur was informed that many persons with identity cards discover that they have been deleted from the municipality's computer. From January to August 1998, 346 identity cards were taken from Arab Jerusalemites. The Special Rapporteur was informed that the conflict was being changed from a national into an ethnic one. He was told that the Israeli authorities applied a "three circles policy" to the Arab inhabitants of Jerusalem, consisting of isolation, deportation and replacement, with the alleged aim of reducing the Palestinian population to not even a minority by the time of the final status negotiations.

26. The Special Rapporteur was informed that the issue of residency rights and identity cards had serious repercussions on the health of Arab Jerusalemites, particularly infants, since the National Insurance Institute conducts an investigation of the whole family's residency status every time a child is born. The investigation may take more than a year and starts anew with every new birth in the family. During the investigation, the infant does not benefit from health insurance. This practice may have very serious repercussions for children who require medical treatment after birth. The Special Rapporteur was informed that the infant mortality rate in East Jerusalem was double that of the Jewish sector.

27. The Special Rapporteur was informed about the situation of disabled Palestinians and the legacy of the occupation with regard to the destruction of the infrastructure, affecting economic and social rights and having a negative psychological effect. Disabled Palestinians felt discriminated against and said they were receiving only 15 to 20 per cent of the services provided to Israelis. The Special Rapporteur was told that Israeli soldiers treat Palestinians with disabilities in a dehumanizing way and that many did not receive permits to enter Israel for treatment. It was estimated that some 15,000 Palestinians were permanently disabled during the intifada. Reference was made to the access law regarding all public facilities. The situation of prisoners with disabilities was described as particularly difficult. In addition, the Special Rapporteur was told that prisoners who had been imprisoned in small spaces could develop physical disabilities.

28. The issue of Palestinian prisoners who remain detained in Israeli prisons and detention centres, in violation of articles 49 and 76 of the Fourth Geneva Convention, continues to be a serious source of concern for the population of the occupied territories. The Special Rapporteur was informed that more than 2,200 Palestinians continue to be detained in Israel, 7 of whom are women and some 40 of whom are minors under 16 years of age. Their conditions of detention were described as not meeting international standards, especially regarding medical care and sanitation. The Special Rapporteur was told that detainees only received urgent dental treatment while convicted prisoners receive more thorough dental treatment. Many prisoners are placed

in isolation, individually and in groups, at times reportedly for no reason or on the grounds that they are "troublemakers". The Special Rapporteur was informed that two prisoners had been killed during a recent hunger strike.

29. A serious problem facing Palestinian detainees is lack of access to their lawyers and of family visits owing to the restrictions placed by the Israeli authorities on the freedom of movement of Palestinians between parts of the occupied territories and Israel. The Special Rapporteur was informed that some prisoners had not received family visits for years because their family members cannot obtain a permit to enter Israel. Prisoners are occasionally subjected to transfers which creates additional difficulties for visits. The Special Rapporteur was told that the sentences meted out to Palestinian prisoners were harsher after the signing of the Oslo Accords. For example, on 4 January 1999 five minors were sentenced to five-month prison sentences for throwing stones. A number of Palestinian detainees are represented by Israeli lawyers.

30. Palestinian lawyers have complained that they do not receive Israeli military orders in writing immediately after they have been issued. Military orders are issued in accordance with the Emergency Regulations dating back to the British Mandate and are applicable even in area A which is under the control of the Palestinian Authority. The Special Rapporteur was told that the lack of due process and of fair trial guarantees has serious repercussions for both the prisoners and their family, especially children, including at the psychological level. The Special Rapporteur was informed about Military Order 1456 of 11 June 1998 concerning armed civil guards in settlements whom the police are allowed to ask for assistance. He was told that settler guards, like the police and army, have the right to arrest persons. Four Palestinians were killed by settlers in the West Bank in 1998. So far, 1,457 military orders have been issued regarding the West Bank and 1,316 concerning the Gaza Strip.

31. The Special Rapporteur was informed that the number of administrative detainees had declined considerably during the period under review, and currently stands at fewer than 100 persons. Among the administrative detainees are persons who had served their prison terms and had been transferred to administrative detention instead of being released, as was the case with a person who had completed serving a 10-year prison sentence. In 1998, three persons from the Gaza Strip were placed in administrative detention. There were nine hunger strikes in different prisons during the same period. The current longest-standing administrative detainee is in his fifth year of detention. It should be recalled that the Oslo Accords called for the release of Palestinian detainees. In addition, the Wye River Memorandum called for the release of 750 Palestinian prisoners, only 250 of whom have been released to date.

32. Administrative detentions by the Palestinian Authority continue to be worrying. Reportedly, there was a sharp increase in detentions during the last months of 1998. Many cases were related to individuals exercising their right to freedom of expression.

33. The interrogation methods used by the Israeli General Security Service (GSS) with regard to Palestinian detainees and prisoners suspected of

alleged security offences have remained the same. The Special Rapporteur was informed that the new development in this connection was that the GSS had stopped denying that it resorts to such methods. It will be recalled that the administrative guidelines under the confidential Landau Commission report followed by the GSS permit the exercise of "moderate physical pressure" and that, in 1997, the United Nations Committee against Torture found that such methods constituted breaches of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Israel in 1991, and therefore amounted to torture. International law absolutely prohibits torture and "no exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture". The Committee recommended that interrogations applying any other methods that are in conflict with the provisions of articles 1 and 16 of the Convention cease immediately.

34. One source informed the Special Rapporteur that during the period under review, the methods of torture used by the GSS had become less dramatic and violent, mostly consisting of hooding and position abuse. Nevertheless, the Special Rapporteur was informed about an interrogation method which consisted of cutting off a detainee's blood circulation by placing him in extremely tight handcuffs; the resulting strong pressure on the upper arm causes the person to lose consciousness in approximately three minutes. A lawyer showed the Special Rapporteur a "torture chart" drawn up by the GSS indicating the type of torture or ill-treatment to which a detainee or prisoner was subjected, on what dates and at what times.

35. The Special Rapporteur's attention was drawn to the role of doctors in the context of interrogation methods amounting to torture who are required to fill in a type of "fitness for interrogation" form, thereby indicating which interrogation methods should not be used and hence contributing to torture. He was informed that the GSS law and the discussion of the bill concerning compensation to Palestinian victims of torture by the Israel Defence Forces in the Knesset Committee on Constitutional Law had been suspended, but that they could be resumed at any time.

36. The Special Rapporteur met in Gaza with mental health professionals who deal with Palestinian torture victims. They informed him that even years after their release, former prisoners and their families continued to suffer traumas which affected the whole Palestinian community. One of the manifestations of the humiliation and psychological effects of torture was domestic violence. The Special Rapporteur's interlocutors were currently working on prevention, capacity-building, awareness campaigns and training services in the field of mental health as well as therapies to teach people how to cope. Numerous people suffered from Post Traumatic Stress Disorder. The situation of former prisoners and their wives and children was further compounded by the serious economic situation in which parents at times cannot even provide the family with food, as well as the dashed hopes regarding the peace process and the hardships it has brought to the population of the occupied territories. The Special Rapporteur was informed that the unemployment rate in Gaza stood at 62 per cent and that there was a very strong correlation between the unemployment of fathers and anxiety in children.

37. The Special Rapporteur was informed about the process of legitimizing torture in Israel through legislation. To date, the High Court of Justice has not pronounced itself regarding the legality of interrogation methods which amount to torture, but has lifted interim injunctions prohibiting torture with regard to specific cases. The Knesset has also not taken a decision on the matter to date. Should it pass legislation to that effect, Israel would become the first country to officially legalize torture. The Special Rapporteur was informed that the Israeli authorities persisted in the affirmation that the methods described above did not amount to torture.

38. Palestinians detained by the Palestinian Authority are often, in the course of interrogation, subjected to torture. It has been mentioned that in a number of cases, a chain of culpability can be established: the Palestinian policeman torturing detainees may well himself have been a victim of torture by Israelis.

39. The Special Rapporteur was informed that on the whole, strict closures of the occupied territories as a form of collective punishment had been implemented to a lesser degree than in the past. Nevertheless, the occupied territories were subjected to six weeks of closure between September 1998 and mid-November. Closures as well as curfews continued to be applied in specific locations in the occupied territories when security incidents occurred.

40. Palestinian workers need a permit to work in Israel. These are issued in limited numbers and according to certain criteria. The permits are time-limited and allow the bearers to work, but are not obtained through a governmental employment agency so the workers do not get health and other insurance, proper wages and other benefits. Most Palestinian workers employed in Israel receive minimum wages or well below that level. The Special Rapporteur was informed that restrictions on the freedom of movement and the need to obtain work permits were becoming a form of blackmail used against workers by so-called "permit brokers". In addition, the sources stated that the issuing of magnetic identity cards and the renewal of permits had increasingly become conditioned upon accepting to collaborate with the Israeli security authorities. The Special Rapporteur was informed that numerous workers were fired after only a few days and their permits cancelled. There has been a 30 per cent increase in this type of worker complaint during the period under review: 120 out of 300 cases of complaint concerned cheating by Israeli employers. Workers were on occasion also beaten by their employers. Employers have also threatened workers who ask for their rights with dismissal or tell them they will call the police and say that the worker tried to stab them. The situation of Palestinian workers was said to be worst in the Erez industrial zone.

41. The limitations imposed on the freedom of movement of the population of the occupied territories have continued to affect to a large extent their social and economic well-being. In addition to the limited number of Palestinian workers who have permits to work in Israel, the harsh economic situation has been further compounded by the failure of Israeli tax authorities to refund monies owed to Palestinians. The Palestinian and Israeli economies continue to be closely interrelated, and the Palestinian economy is totally dependent on Israel. The Special Rapporteur was told that 90 per cent of all goods consumed by Palestinians come from Israel. The

amount of Israeli control exercised over the import and export of goods, in particular agricultural produce, continued to have a negative impact on Palestinian trade.

42. Palestinians still need permits to enter Israel and other parts of the occupied territories, in particular East Jerusalem, despite the fact that article 4 of the Declaration of Principles on Interim Self-Government Arrangements states that "the two sides view the West Bank and the Gaza Strip as a single territorial unit". The subsequent Interim Agreement signed on 28 September 1995 provides for procedures to operate a "safe passage" between the two parts of the territories, which has not occurred to date. Movement between parts of the occupied territories and between the occupied territories and Israel remains very difficult. During his recent mission to the area, the Special Rapporteur was obliged to hold one meeting in the West Bank since one of the persons present did not have a permit to enter Jerusalem.

43. The Special Rapporteur was once again informed about the situation of children in the occupied territories, in particular in the Gaza Strip. He was informed that the economic and social situation also affected the health of children. According to a survey, 20 per cent of children under six years of age suffered from malnutrition. Most children do not complete primary education. The Special Rapporteur was informed that children in the Gaza Strip were harassed by soldiers near settlements when they had to cross certain areas in order to go to school. In addition, some 400 students from Gaza continued to be denied access to universities in the West Bank. As an example, the Special Rapporteur was informed that five years ago, 35 per cent of students in one faculty of Bir Zeit University in the West Bank were from Gaza. This number has now been reduced to 1 out of 120. The restrictions imposed on the freedom of movement of Palestinians continued to have serious repercussions on their health, causing daily suffering for people who cannot get permits in order to undergo medical treatment in Israel or other parts of the occupied territories. The Special Rapporteur was told that out of the 600 children born with a congenital heart condition in Gaza, only half were sent for treatment.

44. The Special Rapporteur visited the Palestinian High Council for Motherhood and Childhood which was in the process of developing a Palestinian National Plan for Motherhood and Childhood. He also visited the "Palestine Avenir Foundation" which had programmes for children in the areas of rehabilitation of physically handicapped children; a mobile education unit; education and culture courses; and a mural painting programme.

45. The number of violent clashes between Palestinians and Israelis declined owing to the fewer opportunities for direct physical contact in comparison to the intifada period. Still, 334 Palestinians have been killed by Israeli soldiers or settlers since the Oslo peace process began. Five Palestinians were killed during recent clashes in the occupied territories, some of whom by rubber-coated steel bullets which are used to disperse demonstrations. One of them was 20-year-old Nasser Erekat who was shot in the head with a rubber bullet from a distance of about 10 metres while the Israeli army's rules of engagement directives concerning regulations for opening fire stipulate that rubber bullets should not be fired from less than 40 metres' distance, should not be fired at children, and should only be fired at the lower part of the

body. It is estimated that since the beginning of the intifada, at least 57 Palestinians, including 28 children, have been killed by rubber-coated steel bullets. Hardly any soldiers have been brought to justice. In Bethlehem, 18 children were shot by Israeli soldiers in recent clashes and 2 persons were killed in Kalkiliya by live ammunition. Most of the persons injured had been shot in the lower part of the body.

46. The Special Rapporteur was informed that there were fewer deaths at checkpoints owing to Israeli soldiers refusing to allow Palestinian ambulances to pass. Nevertheless, there were two deaths at checkpoints in 1998. One of them was a mother who died after childbirth at the checkpoint in Hebron. The Israeli soldiers made her wait because she did not have a permit. The Special Rapporteur was told that the Israeli army had admitted that this was a mistake and against its policy and the soldiers concerned were reportedly brought before a military court.

47. The Special Rapporteur asked most of his interlocutors about people-to-people relations between Israelis and Palestinians. He was told that the Israelis most often encountered by Palestinians were soldiers and settlers. The Special Rapporteur was also told that it was difficult to have people-to-people contacts in the light of the restrictions on the freedom of movement of Palestinians. He was told that there had been a higher level of cooperation between the two peoples during the intifada and before the signing of the Oslo Agreements. One person said that Israel was "the furthest country in the world" for Palestinians.

II. CONCLUSIONS AND RECOMMENDATIONS

48. The human rights situation in the occupied territories is hostage to political considerations and expediences. The understanding of the importance of a wider concept of security, including respect for human rights and humanitarian law, with respect to the Israeli-Palestinian conflict is spreading within the international community. Unfortunately, the parties themselves do not yet share this view, thereby prolonging the conflict unnecessarily.

49. Human rights must be integrated into the political and economic discussions concerning the conflict. To facilitate this, solutions and conclusions reached elsewhere should be carefully studied - such as the model of the Organization for Security and Cooperation in Europe referred to by the Special Rapporteur in his last report (E/CN.4/1998/17, paras. 68-70). Within the United Nations, only a few years ago the interrelationship between human rights and peace and security was fiercely contested. Today, this fact is routinely accepted, highlighted by the Secretary-General, the High Commissioner for Human Rights and Member States in their statements and actions. This consideration could be a starting point for reviewing human rights in the context of ongoing processes, in particular those based on the Oslo Agreements and the Wye River Memorandum.

50. Regrettably, an overall assessment of the human rights situation remains worrying. While there is certain positive development to be recognized on the

Israeli side - such as the decrease in administrative detentions and discontinuation of the most flagrant torture methods - it appears that such violations are increasing on the Palestinian side. The pressure exercised by the Occupying Power on the Palestinian Authority, while explaining many violations, does not justify them, nor does it absolve the Palestinian Authority of its responsibility. Tackling human rights violations is not a zero-sum game: both parties have their responsibilities to combat violations, based on their commitments and obligations under international law.

51. Persons placed under administrative detention by the Palestinian Authority should be brought before a court of justice without delay or released. Decisions of the court should be promptly implemented. Special emphasis should be given to the independence of the judiciary. Torture should not be allowed under any circumstances.

52. The volatile and disturbing political situation requires in-depth studies of the applicability of international law and continuous scrutiny of the fulfilment of obligations therein. This involves mainly the Government of Israel as a party to relevant conventions and agreements. A constructive engagement by the Government of Israel is called for.

53. An early and well-prepared convening of a conference of the High Contracting Parties to the Fourth Geneva Convention, as recommended by the General Assembly, is of the utmost importance.

54. The full and equal enjoyment by women of all human rights is a priority for the United Nations and for its Member States. This includes the integration and full participation of women in the Palestinian nation-building programmes as well as working towards the elimination of violence against women in public and private life. While bearing in mind that respect for rights of women and children in the occupied territories depends to a large extent on religion, social customs and family traditions, determined legislative efforts need to be maintained to enforce those rights.

55. The Palestinian people are being subjected to intensified pressure to do their part in the peace process. The Palestinian Authority, the Legislative Council, Palestinian institutions and the Palestinian people have to work together to fight against all human rights violations and build a democratic nation. The international community, Governments, non-governmental organizations and individuals should increasingly focus on this field in assisting Palestinians in their nation-building programme.

56. The Palestinian Authority, the Legislative Council, non-governmental organizations and the Palestinian people are once again to be commended for the full and constructive cooperation accorded to the Special Rapporteur. Their openness and readiness to discuss the human rights situation in all its aspects in a frank and transparent manner reflects a serious attitude towards respect for human rights. At the same time, it provides the basis for combating violations and improving the situation. The invaluable support of the international community in this work will continue to be crucial in the future.

57. The Government of Israel, regrettably, still refuses to cooperate with the United Nations human rights mechanisms. The position of the Government is contained in a letter addressed to the Special Rapporteur, which is reproduced below:

"Dear Mr. Ambassador,

"1. We have taken note of your request of 22 December 1998, that Israel cooperate with you as Special Rapporteur to the Territories during your forthcoming visit to the area.

"2. As you are aware, on 19 February 1993, the Commission on Human Rights adopted resolution 1993/2 A on the 'Question of the violation of human rights in the occupied Arab territories, including Palestine', in which it decided to 'appoint a Special Rapporteur to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in the Palestinian territories occupied by Israel since 1967'.

"3. This resolution, like any other such resolutions adopted within the United Nations system, singles out Israel in a flagrantly negative way:

"(a) It predetermines the Rapporteur's role, resolving ab initio that Israel is in violation of international law and international conventions.

"(b) Contrary to all other 'geographical' rapporteurs who are appointed by the Commission on an annual basis, this Rapporteur has been assigned an open-ended mandate that is never subject to scrutiny, critique or modification.

"(c) The mandate is intrinsically anachronistic. It disregards the negotiations that have taken place between Israel and the PLO, resulting in a series of agreements by which over 97 per cent of the Palestinian population in the West Bank and the Gaza Strip are living under autonomous Palestinian administration. The Palestinian Authority, established by these agreements, exercises legislative, administrative and judicial powers over virtually all spheres of the population's daily life.

"(d) The mandate completely ignores the fact that there are two sides to the Middle East conflict. The Palestinian Authority has undertaken to respect human rights, yet at least 14 people have died while being tortured under interrogation in Palestinian prisons during the last three years. International humanitarian organizations cite numerous other grave violations of human rights under the Palestinian Authority, which the Rapporteur is not authorized to investigate according to the mandate.

"4. Despite the biased and unbalanced mandate, Israel decided to invite the previous Rapporteur - former President of Switzerland, Mr. René Felber - as a personal guest of the Minister of Foreign Affairs, with a view to assisting him in carrying out his functions.

"5. Two years after his appointment, Mr. Felber reached the conclusion that the problems in the Territories are political, and not humanitarian in nature. He thereupon resigned as Special Rapporteur on 9 February 1995.

"6. The Commission turned a blind eye to the conclusions set out in his report and, in April 1995, appointed a successor, in your person, without consulting Israel or even troubling to inform its Foreign Minister of the appointment.

"7. In light of the above, Israel decided to discontinue its cooperation with the Special Rapporteur, indicating however, that if the mandate were amended to become even-handed and time-limited, Israel would reconsider its position.

"8. Nevertheless, Israel's Ambassador in Geneva cooperated with you informally in 1995, 1996 and 1997, yet your reports have been consistently inaccurate and misleading, containing unsubstantiated or simply false facts, and repeatedly disregarding Israel's position.

"9. In this context, allow me to quote your own reports, between 1996 and 1998 on the need to change your mandate:

'the Special Rapporteur invites the Commission on Human Rights to consider amending his mandate in accordance with the foregoing' (para. 40, E/CN.4/1996/18 of 6 March 1996) (emphasis added).

'it is clear that the mandate of the Special Rapporteur as adopted some four years ago is in some ways obsolete and exceptional; it does not refer at all to the peace process; it does not authorize the Special Rapporteur to study and recommend constructive human rights and humanitarian programmes to prevent violations or remedy their aftermath. It limits itself to Israel's violations only in the Occupied Territories; and unlike all other mandates, its duration is open-ended ...' (para. 37, E/CN.4/1997/16 of 19 February 1997);

'the mandate of the Special Rapporteur, as it stands, is exceptional. It puts Israel in a different position compared to other countries subjected to the scrutiny of a Special Rapporteur. The mandate prejudges the outcome of the investigation. The consideration of the human rights situation in the area on the basis of the mandate is limited only to Israel's violations of international law. And the mandate, unlike all the other mandates under the Commission on Human Rights, is not reviewed periodically.

'The main reason given for the unique mandate is the foreign occupation, which is said to constitute a unique situation in the world. It has been the consistent view of the Special Rapporteur that the mandate has to be reviewed.' (paras. 72-73, E/CN.4/1998/17 dated 19 February 1998).

"10. Until a revision is adopted, Israel regrets that it remains unable to accede to your request of 22 December 1998.

"We would request that the full text of this letter be incorporated in the body of your forthcoming report, as an authoritative statement of Israel's position.

"Please accept, Mr. Ambassador, the assurances of my highest consideration.

David Peleg
Ambassador
Permanent Representative"

58. In his statement at the fifty-fourth session of the Commission on Human Rights on 20 March 1998, the Special Rapporteur stated: "The attempt to discredit the report of the Special Rapporteur by the Government concerned is not new in this forum; that is rather expected particularly from a Government refusing to cooperate with the Rapporteur assigned to it. Therefore, to fulfil my task better, I have felt very strongly on the need to accomplish this cooperation. Based on the contents of my reports, the mandate is not and need not be the obstacle to the cooperation. And if that is the case, let me remind you once again that my voice seems to be among those very few who are asking amendments to the mandate - although in my case from the point of view of overall consistency as well as an improved framework for considering human rights".

59. As referred to in the last report (para. 73): "... The only reason for amending the mandate is the respect for human rights; the Special Rapporteur has to have a sufficiently broad mandate to contribute to achieving that goal. To that effect the Special Rapporteur - as an independent expert - needs to be given equal treatment with other special rapporteurs." The Special Rapporteur stands by this statement.

60. Furthermore, the Special Rapporteur stated in his report (para. 77): "... Israel should also have the courage to look beyond the mandate, to cooperate fully with the international human rights mechanisms and to participate actively in the substantive debate in this respect." The contents of the reports of the Special Rapporteur, and particularly the debate attached to the last report at the fifty-fourth session of the Commission, are clear evidence of the fact that there is no linkage between the mandate and cooperation. Nor can the cooperation be conditioned by the mandate.

61. The Special Rapporteur disagrees strongly with the insinuation in the letter cited above that there are no humanitarian problems in the occupied territories. If for nothing else, this report, together with earlier reports, is proof of violations against humanitarian as well as human rights law.

62. As referred to in the Introduction to this report, the Special Rapporteur has made every effort to reflect the situation as accurately as possible, based on information from a wide variety of Palestinian, Israeli and international sources. The Special Rapporteur would undoubtedly also take the facts and position of the Israeli Government into account in his report, should the Government choose to share that information with him.

63. It should be reiterated that the human rights concerns in the occupied territories cannot be held hostage to the political processes and discussions. The United Nations Commission on Human Rights is the main body to draw attention to and conduct an in-depth debate on the human rights situation in the area. This debate cannot take place in a vacuum. On the other hand, it should not be used to attack either party for political purposes only. In the debate - instead of accusing one side or the other for violations of human rights - an effort should be made to clarify the role of human rights in the context of ongoing political and economic discussions. Moreover, the debate should seek ways and means to do away with existing violations and to prevent any new violations.

64. The United Nations human rights mechanism has grown to an extensive network of thematic and country rapporteurs. Further efforts should be made to benefit more effectively from this machinery. Improved coordination and dissemination of information between the rapporteurs are essential. The working methods of the Commission, including its agenda, should continuously be reviewed to ensure the maximum output from its deliberations.

65. The international community has established that a just, comprehensive and sustainable peace settlement in the Middle East is based on certain key principles such as the right to self-determination for the Palestinians, including the establishment of a Palestinian State. Building a civil society under occupation remains a major challenge. Democracy, including regular elections and a multiparty system, and the rule of law are goals that need constant and unwavering attention by the Palestinian Authority, together with the Palestinian institutions and people. Democracy, rule of law and respect for human rights are inextricably linked and where continuous support by Governments, international and non-governmental organizations, donors and individuals is needed most.

66. While celebrating the fiftieth anniversary of the Universal Declaration of Human Rights, it ought to be recalled that almost all provisions of the Declaration are being violated in the occupied territories. To have a real reason to celebrate, let us start to work together to go through all those articles and make them a reality.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE

Report on the situation of human rights in the Palestinian territories
occupied since 1967, submitted by Mr. Giorgio Giacomelli,
Special Rapporteur, pursuant to Commission on Human Rights
resolution 1993/2 A

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Executive summary

The mandate of the Special Rapporteur was established by Commission on Human Rights resolution 1993/2 A of 19 February 1993, to investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967 and to report to the Commission until the end of the Israeli occupation of those territories. The current Special Rapporteur, Mr. Giorgio Giacomelli (Italy), was appointed in December 1999 and this is his first report. The Special Rapporteur undertook a mission to the area where he held meetings in the West Bank, the Gaza Strip and Jerusalem with Palestinian and Israeli non-governmental organizations, international organizations on the ground, grass-roots and community organizations, individuals, and Palestinian Authority institutions. The Special Rapporteur regrets the lack of cooperation by the Israeli authorities.

In light of the mandate, this report addresses the subject of military occupation and actions and omissions of the Occupying Power limited to the duration of the occupation. In the occupied Palestinian territories, Israel bears the responsibilities of Occupying Power, as the Commission reaffirmed in resolution 1993/2. Obligations of international humanitarian law applying to Israel, its covenanted human rights obligations and those arising from customary law and general principles of international law constitute the framework for the investigation that has led to the present report.

The majority of refugees displaced as a result of the 1948 war, those from the West Bank, the Gaza Strip and Jerusalem displaced in the war of 1967, and refugees from Gaza and elsewhere during and after the hostilities of October 1973 still live in 30 camps created after the 1948 war (8 in Gaza and 22 in the West Bank, including Jerusalem). Currently, at least 1,353,547 Palestinian registered refugees and other holders of the right of return (as well as to compensation and/or restitution) reside in the territories that are the subject of this mandate. Israel bears the primary responsibility for the implementation of the right of return.

Population transfer constitutes a particularly grave violation of human rights and humanitarian law and violates the long-established public international law principle of the unacceptability of the acquisition of territory by force, as well as specific resolutions concerning Israel's confiscation of land and settlement activities. Since 1967, Israel has confiscated an estimated 60 per cent of the West Bank, 33 per cent of the Gaza Strip, and approximately 33 per cent of the Palestinian land area in Jerusalem for public, semi-public and private use in order to create Israeli military zones, settlements, industrial areas, elaborate "by-pass" roads, and quarries, as well as to hold "State land" for exclusive Israeli use. Israel presently maintains 19 settlements in Gaza, 158 in the West Bank and at least 16 in occupied Jerusalem. In 1999 alone, Israel established 44 new settlement outposts in the West Bank.

Israeli occupation forces frequently carry out punitive and violent demolitions of Palestinian homes for lack of permit as well as forcible evictions of entire villages. Since 1987, 16,700 Palestinians (including 7,300 children) have lost their homes in this way. In 1999, Israel demolished 31 Palestinian homes in East Jerusalem and 50 in the West Bank, the latter in Area C. Another 28,000 remain under threat. Israeli occupation practices also affect the natural

environment of the occupied Palestinian territories, including degradation of the infrastructure, land confiscation, water depletion, uprooting of trees, dumping of toxic waste and other pollution.

Torture is absolutely forbidden, both under international human rights and humanitarian law, and freedom from torture is a non-derogable right. Although Israel ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1991, the Israeli General Security Service (GSS) has used torture systematically during the interrogation of Palestinians suspected of security offences. The United Nations Committee against Torture has determined that this amounts to a breach of the Convention against Torture, deemed them “completely unacceptable”, and determined that it should cease immediately. On 6 September 1999, Israel’s High Court of Justice issued a unanimous decision that ruled that the GSS violent interrogation techniques against Palestinian detainees were illegal, but refrained from defining them as torture and advised that such practices might be acceptable if specifically authorized by new legislation. The Court also indicated that GSS interrogators who would use these methods in extreme circumstances might not be criminally liable as they would be able to rely on the defence of necessity.

After the withdrawal and redeployment of the Israeli army from the major Palestinian cities in the West Bank in 1995, all Palestinian political prisoners were transferred from the occupied territories to Israel, in violation of article 76 of the Fourth Geneva Convention. Although there have been releases under the implementation of the peace agreements, the number of prisoners remains high, standing currently at about 1,500. The practice of administrative detention, without charges or trial, whereby orders can be renewed indefinitely for six-month periods, has continued. There has been a reduction in the number of administrative detainees, who currently number 13. The conditions of detention are said to be below international standards and difficulties of access to prisoners are faced by their lawyers and families.

The occupation, including the complete dependence of the Palestinian economy on Israel, lack of infrastructure, measures of collective punishment such as closures and house demolitions have caused the disruption of the fabric of society, with particularly serious effects on the family, which is a fundamental social support resource in Palestinian society. Palestinian children have suffered considerably as a result of the Israeli occupation and more than 90 per cent have experienced multiple traumatic events in their lives. Attention should be drawn to the situation of Palestinian juveniles (aged between 14 and 17) imprisoned in Israel, in contravention of article 76 of the Fourth Geneva Convention. Four Palestinian children were killed in 1999; 102 children were injured, 82 by Israeli soldiers, 19 by settlers and 1 by both.

The enjoyment of fundamental human rights and freedoms by the population of the occupied Palestinian territories is severely curtailed by measures such as closures, which separate parts of the occupied territories, including East Jerusalem, from each other as well as from Israel and which have been imposed systematically since 1993. The “Erez II” checkpoint under construction near Bethlehem will de facto completely separate the northern from the southern part of the West Bank, a situation compounded by permit requirements for non-resident Palestinians to enter Jerusalem. Closures have severely curtailed the freedom of movement,

regulated through the policy of permits and magnetic cards, education and religion of the population of the occupied territories. There does not seem, however, to be any specific interference with freedom of expression.

The city of Jerusalem, under Israeli military closure since 1993, represents a concentration of the range of human rights concerns and the combined consequences of the Israeli occupation. Government's discriminatory treatment of Palestinians affect all aspects of life, as well as having dramatic ramifications on the demographic, historic and cultural nature of the city itself.

The economic dependence of the occupied territories on Israel affects all sectors, in particular owing to Israeli control of the movement of goods, trade, and especially the labour market, where Palestinian workers are discriminated against on the basis of their civil status and, on the pretext of security, receive disproportionately low wages, inferior benefits, and work under poor conditions. This has resulted in an estimated 10-15 per cent decrease in real per capita income for the population of the occupied territories from 1993 to 1999. There are currently some 50,000 Palestinian workers employed daily in Israel. Another category of workers affected are fishermen in the Gaza Strip who are exposed to attacks and harassment by Israeli navy patrols, as well as destruction of their nets.

The Special Rapporteur notes that violations acquire special gravity and meaning when taken into consideration in their composite form. Just as some of the above-mentioned violations tend to accumulate such that, each day that they are not dealt with, their consequences increase in gravity and effect, they also assume other dimensions and beget ancillary human rights consequences. The Special Rapporteur recognizes that the purpose of protection enshrined in humanitarian law, in particular in the Hague Regulations and the Fourth Geneva Convention, until today has not been served. In general, the recommendation of the Special Rapporteur cannot be but that of a rigorous implementation of the letter and spirit of the relevant international norms, which implies the reversal of illegal trends, correction and, where appropriate, restitution.

Introduction

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A of 19 February 1993, in which it decided to appoint a special rapporteur with the following mandate:

“(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

“(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

“(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories.”

2. The former Special Rapporteurs, Mr. René Felber (Switzerland) and Mr. Hannu Halinen (Finland), presented reports to the Commission from its fiftieth to its fifty-fifth sessions (E/CN.4/1994/14, E/CN.4/1995/19, E/CN.4/1996/18, E/CN.4/1997/16, E/CN.4/1998/17 and E/CN.4/1999/24, respectively). The current Special Rapporteur, Mr. Giorgio Giacomelli (Italy), was appointed in December 1999 by the Chairperson of the Commission on Human Rights.

3. Prior to presenting his report to the Commission on Human Rights at its fifty-sixth session, the Special Rapporteur undertook a mission to the area where he held meetings with a wide range of interlocutors in connection with his mandate. This included meetings with Palestinian and Israeli NGOs, international organizations on the ground, grass-roots and community organizations, individuals and Palestinian Authority institutions. Information was gathered through eyewitness observation, oral testimony, and documentation from a wide variety of sources. On this mission, the Special Rapporteur met with these interlocutors in the West Bank, the Gaza Strip and Jerusalem.

4. The Special Rapporteur regrets the lack of cooperation by the Israeli authorities. As was previously brought to the Commission's attention, Israel rejects the mandate claiming that, since its establishment, a new situation prevails and violations are committed by other parties. While the Special Rapporteur has to limit his inquiry to the scope of the mandate, he is nonetheless aware of allegations and violations peripheral to his mandate related to actions or omissions by Israel in other areas, and by the Palestinian Authority (PA). However, in light of the mandate, this report addresses the subject of military occupation, and actions and omissions of the Occupying Power limited in time to the duration of the occupation.

I. JURISDICTION

5. Under the Charter of the United Nations, a Member State is obligated to “respect and promote human rights”. Additionally, Israel is constitutionally bound by the terms of the “Partition of Palestine” resolution of the General Assembly, 181 (II), which states in Part I, chapter 2, paragraph 3: “All persons within the jurisdiction of the [Arab or Jewish] State shall be

entitled to equal protection of the laws.” Israel bears an obligation to respect, promote and fulfil human rights, arising from its ratification of the various human rights and humanitarian law treaties. In the occupied Palestinian territories, Israel bears the responsibilities of Occupying Power, as the Commission on Human Rights in its resolution 1993/2 reaffirmed.

6. United Nations human rights treaty bodies have established that the responsibility and obligation to observe human rights, especially upon a ratifying State, encompasses the State jurisdiction even when such jurisdiction exceeds the State’s entitled territory, whether such territories are occupied, administered or overseen in any other form. This position has been reaffirmed in the case of treaty bodies reviewing Israel’s covenanted obligations.

7. In the occupied territories, with the exception of Jerusalem, Israel variously has shared the “personal”, “functional” and “geographical” elements of jurisdiction with the Palestinian (National) Authority during the interim period and up to today, in a patchwork of Areas “A”, “B” and “C” as defined by agreement of the parties in the Oslo process. However, in all these areas Israel continues to exert control over the movement of people and goods between and among jurisdictional areas and the external borders. As a matter of agreement with the Palestinian representatives, Israel also claims the right to enter all areas for purposes of security.

8. Therefore, throughout this review period, international humanitarian law obligations apply to Israel, as well as its covenanted human rights obligations and those arising from customary law and general principles of international law. These norms and instruments constitute the framework for the investigation that has led to the present report.

9. It is noted that the humanitarian law instruments (notably the Hague Regulations Respecting the Laws and Customs of War on Land of 1907, art. 43) prohibits an Occupying Power from imposing its own legal system in an occupied zone and/or subjecting the occupied civilian population to its domestic laws. In the case under review, despite these prohibitions, the Occupying Power has supplanted its domestic legal regime in occupied Jerusalem by an act of Knesset in 1981. In the other occupied zones, Israel selectively has replaced existing laws with its own domestic laws and military orders. This violation of international law includes Israel’s application of its municipal law to its citizens and Israeli institutions settling in the occupied territories.

II. PRINCIPAL CONCERNS REGARDING HUMAN RIGHTS

A. The right of return

10. The plight of Palestinian refugees in these territories has remained a concern throughout the period of occupation. Most of these refugees were made homeless as a consequence of the war of 1948, as well as the simultaneous and subsequent confiscation of their land, properties and homes, and large-scale demolition of their villages by Israel. Currently, at least 1,353,547 Palestinian registered refugees and other holders of the right of return (as well as to compensation and/or restitution) reside in the territories subject to this mandate. The Special Rapporteur notes that the duty holder, in the case of this right, is also the Occupying Power and bears the main responsibility for the return of persons residing in the occupied Palestinian territories, displaced as a result of the 1948 war, those from the West Bank, the Gaza Strip and

Jerusalem displaced in the war of 1967, and refugees from Gaza and elsewhere during and after the hostilities of October 1973. The majority of these refugees still live in 30 camps created after the 1948 war (8 in Gaza and 22 in the West Bank, including Jerusalem).

11. The continuing violation of the right of return emerged as a special concern during the Special Rapporteur's visit. It is his observation that it is increasingly a subject of both popular and political discourse, including in the form of opinion polls, editorials and petitions, reinforcing the claim to this right. Refugees feel that they are the subjects of continuing violation while kept in limbo for political reasons. Although the international community continues to provide services for Palestinian refugees, they note that there is a lack of adequate protection because they do not fall under the Convention relating to the Status of Refugees of 1951. Israel bears the primary responsibility for the implementation of the right of return, but has not demonstrated willingness to implement it. However, it should be noted that the plight of the Palestinian refugees has become the subject of discourse in certain Israeli political and civil society quarters. For instance, although he did not acknowledge responsibility, in an October 1999 speech to the Knesset Prime Minister Barak expressed regret for the suffering of the Palestinian people, including refugees.

12. It is observed, in particular, that the violation of this right grew greater during this review period - as with every passing year - and as the number of right holders grows, the values of their potential compensation and restitution claims increase, and the political and logistical aspects of the task become more complex and difficult.

B. Land and population transfer

13. It should be recalled that population transfer, as manifest in cases of the past decade, constitutes a particularly grave violation of human rights and humanitarian law. In this connection, the Special Rapporteur notes the increase in forced eviction of Palestinians and the implantation of Israeli settlers in the territories under review.

14. The Occupying Power's confiscation of land and properties belonging privately and collectively to the Palestinians in the occupied Palestinian territories is a dominant feature of the occupation and an essential component of population transfer carried out by Israel. This practice violates the long-established international law principle of the unacceptability of the acquisition of territory by force, as well as specific resolutions concerning Israel's confiscation of land and settlement activities. Since 1967, Israel has confiscated land for public, semi-public and private use in order to create Israeli military zones, settlements, industrial areas, elaborate "by-pass" roads, and quarries, as well as to hold "State land" for exclusive Israeli use. Estimates place the proportion of Palestinian land confiscated by Israel at some 60 per cent of the West Bank, 33 per cent of the Gaza Strip, and at least 32.5 km², or approximately 33 per cent of the Palestinian land area in Jerusalem.

15. In the occupied Palestinian territories, planning since 1967 has been assumed by the military authorities and, for instance, continues to be carried out for Areas B and C in the West Bank by the civil Israeli administration based in the settlement of Bayt El. This practice is

in violation of article 43 of the Hague Regulations which, as noted above, prohibit an Occupying Power from altering the legal system in occupied territories. Israeli domestic laws, including Basic Laws, military orders and planning regulations, are applied with discrimination against and disadvantage to the Palestinian population.

16. Israeli authorities impose their own physical planning regime and master plans on villages, towns and rural areas, thereby restricting Palestinian living areas. For example, 1994 Israeli master plans - announced two years later - created six quarries on West Bank land. In 1999 alone, Israel established 44 new settlement outposts in the West Bank, on a combined land area of 9,953 dunums (2,488 acres). During the same year, Israeli planning authorities approved 14 new by-pass roads in the West Bank and Jerusalem which call for the confiscation of another 10,129 dunums (2,532 acres) of Palestinian land.

17. While applying very tight restrictions and granting very few permissions to build, Israeli occupation forces frequently carry out punitive and violent demolitions of Palestinian homes for lack of permit. Interlocutors reported the myriad difficulties and discriminatory practices that Palestinians face in obtaining building permits and information about imposed master plans. Sometimes punishment for infractions is retroactive to the establishment or public disclosure of a master plan. Since 1987, 16,700 Palestinians (including 7,300 children) have lost their homes in this way.

18. Israel's demolition of Palestinian homes in the West Bank and East Jerusalem has not fallen since 1993. In fact, although the area and number of Palestinians living under direct Israel civilian control are smaller, the average yearly demolition of Palestinian homes showed an increase throughout 1995-1999. In 1999, Israel demolished 31 Palestinian homes in East Jerusalem and 50 in the West Bank, the latter in Area C. Another 28,000 homes remain under threat.

19. Israel continues to evict entire Palestinian villages under a variety of pretexts. For the stated reason that they were living in a closed military zone, some 600 indigenous villagers in the eastern Hebron District (West Bank) were forcibly evicted under Israeli military order and their belongings were confiscated by Israeli forces in September and October 1999. Settlers in the area are currently using the now-homeless villagers' lands. During the Special Rapporteur's visit to the occupied territories, Israeli forces evicted and dispossessed a further 19 families in the same area.

20. In Gaza, at present Israel maintains 19 settlements that occupy 23,000 dunums of confiscated land, surrounded by an additional 23,000 dunums of confiscated land. In the West Bank, Israel maintains 158 settlements, while settlements in occupied Jerusalem number at least 16. All of these settlement implantations violate, in particular, article 49 of the Fourth Geneva Convention, as well as other international law norms.

21. The Special Rapporteur witnessed the ongoing construction of some 6,500 housing units for the new Jabal Abu Ghunaym/Har Homa settlement on 2,056 dunums of confiscated Palestinian land, completing the settlement circle around occupied Jerusalem. He also visited areas of new construction in Gaza Strip settlements. Reflecting the current trend in settlement growth, in the second half of 1999 official tenders for settlement construction in the occupied

territories provided for 3,196 new units. The current Israeli Government approved the construction of a total of 5,752 new settlement units in 1999. Published reports indicate that the settler population in the West Bank and Gaza, now totalling 193,680, increased by 12.5 per cent in 1999 over the previous year. The settlers in Jerusalem increased in 1999 to a total of approximately 170,000.

C. Right to a safe and healthy environment

22. Occupation practices that affect the natural environment of the occupied territories include degradation of the infrastructure, land confiscation, water depletion, uprooting of trees, dumping of toxic waste and other pollution. This inherent right of the Palestinian people is also the subject of Israel's State obligations under, among others, the International Covenant on Economic, Social and Cultural Rights, which it ratified in 1991.

23. Palestinian entitlements for water include the underground water of the West Bank and Gaza aquifers, in addition to their rightful shares in the waters of the Jordan River as riparians. The annual renewable freshwater yield in the occupied territories ranges from 600 million cubic metres to 650 million cubic metres. The West Bank's hydrological system includes three major aquifers: the western, north-eastern and eastern basins.

24. The Palestinian use of the Jordan River before 1967 was through 140 pumping units. Israel either confiscated or destroyed all of those pumping units. In addition, Israel closed the large, irrigated areas of the Jordan Valley used by Palestinians, calling them military zones that later were transferred to Israeli settlers.

25. At present Israel extracts more than 85 per cent of the Palestinian water from the West Bank aquifers, which accounts for about 25 per cent of Israel's water use. As a result of Israeli restrictions, Palestinians currently use 246 million cubic metres of their water resources to supply nearly 3 million people in both the West Bank and Gaza Strip with their domestic, industrial and agricultural needs. This compares to Israel's use of 1,959 million cubic metres for its population of approximately 6 million. That reduces water consumption by Palestinians to 82 m³ per capita, as compared with 340 m³ for Israeli citizens and settlers.

26. Israel provides settlers with a continuous and plentiful water supply, largely from Palestinian water resources. The supply to Palestinians is intermittent, especially during summer months, as was the case in 1999.

27. Israeli settlements in the West Bank and Jerusalem are typically placed on high ground. Wastewater from many settlements is collected and discharged to the nearby valleys without treatment. The Special Rapporteur observed that Kfar Darom Israeli settlement in the Gaza Strip releases its sewage and chemical waste left from the industrial plants to the Palestinian Al-Saqa Valley in the central part of the Gaza Strip.

28. Israelis dump solid waste without restriction on Palestinian land, fields, and side roads. The solid waste generated in West Jerusalem, for example, is transferred to an unsanitary dumping site east of Abu Dis. That site in the West Bank overlays the infiltration area of the eastern sector of the water aquifer. Also, the settlements of Ariel, Innab, Homesh Alon Morieh,

Qarna Shamron, Kadumim and others dispose of their solid waste in the West Bank, as do military camps and settlements inside the “green line” (1948 border of Israel).

29. The Government of Israel has constructed at least seven industrial zones in the West Bank and two in Gaza. The West Bank zones occupy a total area of approximately 302 hectares. They are located mainly on hilltops, from which they dump industrial wastewater onto adjacent Palestinian lands. Information about industries in the Israeli industrial zones is not accessible to the Palestinians. Palestinian sources estimate that at least 200 Israeli factories operate in the West Bank. Some of the products are identifiable, but detailed information on quantities produced, labour, and waste generated is not available. Aluminium, leather-tanning, textile-dyeing, batteries, fibreglass, plastic, and chemicals are among the known industries within these settlements.

30. The Special Rapporteur visited the Barqan industrial zone, in the West Bank, which is a clear example of environmental pollution. Aluminium, fibreglass, plastics, electroplating and military industries are known to operate inside Barqan. The industrial wastewater that flows untreated to the nearby valley damages agricultural land belonging to the neighbouring Palestinian villages of Sarta, Kafr al-Dik, and Burqin, polluting the groundwater with heavy metals.

D. Torture

31. Torture is absolutely forbidden both under international human rights and humanitarian law and freedom from torture is a non-derogable right. Although Israel ratified the Convention against Torture in 1991, this is not part of Israeli domestic law and its provisions cannot be invoked in Israeli courts. The Israeli General Security Service (GSS) has used torture systematically during the interrogation of Palestinians suspected of security offences. The guidelines for interrogation were set by the Landau Commission of Inquiry in 1987; the second part of the guidelines are confidential and have never been published. Government regulation has allowed the head of GSS to authorize the use of “a moderate degree of pressure, including physical pressure” according to the Landau guidelines, in order to extract information from detainees. Methods and means, used alone or in combination, include position abuse; hooding; prolonged sleep deprivation and loud music; violent shaking; threats, including death threats; and chilling by cold air. The United Nations Committee against Torture determined that these methods amount to a breach of the Convention, deemed them “completely unacceptable” and in conflict with articles 1, 2 and 16 of the Convention, and determined that they should cease immediately.

32. On 6 September 1999, Israel’s High Court of Justice issued a unanimous decision that ruled that the GSS violent interrogation techniques against Palestinian detainees were illegal. However, it refrained from defining them as torture and advised that such practices might be acceptable if specifically authorized by new legislation. The Court also indicated that GSS interrogators who would use these methods in extreme circumstances might not be criminally liable as they would be able to rely on the defence of necessity.

33. On 9 February 2000, the Israeli State Comptroller’s 1995 report on GSS practices during the intifada was made public. It revealed large-scale use of torture by GSS interrogators,

systematic overstepping of the Landau guidelines and lying (to their superiors) about their compliance with them, and superiors not preventing the practice. On 15 February 2000, the head of GSS abandoned his demand for legislation of "special" interrogation methods in a meeting with the Prime Minister and senior Justice Ministry officials. However, in the meeting, the Israeli Attorney-General reiterated his promise to grant legal protection to any interrogator who uses "special means" in individual cases.

E. Prisoners, administrative detention, administration of justice

34. After the withdrawal and redeployment of the Israeli army from the major Palestinian towns in the West Bank in 1995, all Palestinian prisoners were transferred from the occupied territories to Israel, in violation of article 76 of the Fourth Geneva Convention. Although there have been releases of Palestinian (political) prisoners within the framework of the implementation of the peace agreements, their number remains high and currently stands at about 1,500. The provisions of the peace agreements relating to the release of Palestinian political prisoners have not been fully implemented by Israel. In this connection, it has to be noted that the situation of Palestinian security detainees from Jerusalem - some 52 - is particularly difficult since they are not included in the quota of prisoners to be released in the context of the implementation of the peace accords, although a few have been released recently. Several have spent more than 10 years in prison.

35. The conditions of detention are said to be below international standards with overcrowding, inadequate medical care, insufficient food rations, bad ventilation of cells, small cells, tear gas thrown into cells by the prison authorities during prisoners' protests, and with regard to the facility of access, by family and legal counsel and the frequency and duration of visits. Lately, lawyers have been prevented from seeing their clients for up to two or three months, which raises fears that torture is being used. Palestinian lawyers are also prevented from seeing their clients if they do not have a permit to enter Israel, in particular those from Gaza. Palestinian prisoners in Israeli prisons and detention centres can only be defended by lawyers who are members of the Israeli Bar Association. Families have difficulty in reaching their imprisoned relatives for lack of permit or owing to the distance from the prison. They are also subjected to harassment by the prison guards once they arrive. The policy of placing prisoners in isolation has continued during the period under review.

36. Administrative detention of Palestinian prisoners, without charges or trial, has been practised widely in Israel and detention orders can be renewed indefinitely for six-month periods. Some administrative detainees have spent more than five years in prison. Lately, there has been a reduction in the number of Palestinian administrative detainees who currently number 13. The problem of administrative detention sentences is compounded by the fact that the evidence placed before the judge at the military appeal committee is often declared confidential and is therefore inaccessible to both the defendant and the lawyer.

37. Double standards are applied in the administration of justice between Israelis and Palestinians on the basis of nationality; this is also reflected in the disparity in the sentencing pattern. For example, Israelis, mostly settlers, who kill Palestinians have received a maximum

sentence of seven years, but are sentenced more often to between four and six months of imprisonment, which institutionalizes impunity in the process. By contrast, Palestinians are sentenced to life imprisonment for killing Israelis.

F. Children, women and the family

38. Palestinian children have suffered considerably as a result of the Israeli occupation. According to mental health professionals, more than 90 per cent have experienced multiple traumatic events in their lives. This situation is aggravated by the fact that the occupation has also significantly affected an important Palestinian social support resource: the family structure. As an example, around 70 per cent of the children in the Gaza Strip have been exposed to four or five traumatic events such as tear-gas inhalation, night raids on the home, humiliation and/or beating of parents in front of them by Israeli forces and imprisonment. In addition to violence, measures of collective punishment undertaken by the Israeli authorities, such as house demolitions, have serious psychological effects on children.

39. Particular attention should be drawn to the situation of Palestinian juveniles imprisoned in Israel, in contravention of article 76 of the Fourth Geneva Convention. During 1999, there were 220 cases of arrest of Palestinian minors who were subsequently released. They were mostly in the 14-17 age group; their arrests were therefore in violation of the Convention on the Rights of the Child and other standards which set out a minimum age for imprisonment. In April 1999, the Israeli military commander for the middle area of the West Bank issued Military Order No. 132 which stipulates that children between 12 and 14 years of age can be arrested and does not define juveniles aged 16 as minors, although Israel considers persons up to the age of 16 as children. Although it is difficult to give the exact number of juvenile prisoners, it is currently estimated that there are some 75 Palestinian minors in the following prisons: 30 in Telmond (aged 12-16), 35 in Megiddo (aged 16-18), and approximately 10 in camps or interrogation centres. Eight juveniles, with very little of their sentences left to serve, were released after the signing of the Sharm el-Sheikh agreement. The overwhelming majority of the juveniles have been arrested on charges of stone-throwing and sentenced to periods usually ranging from one to six months. Children as young as 14 have had to sit outside in the rain at night blindfolded at the Beit El military investigation centre. The circumstances of these arrests and interrogations constitute serious violations of the Fourth Geneva Convention and the Convention on the Rights of the Child, as well as of international human rights conventions, to which Israel is a signatory. There are no military courts and no judges for minors.

40. Ten juveniles from Jerusalem arrested for political reasons were detained for some time in the section for criminal prisoners. Also, juveniles from the same family can be detained in different prisons. Family visits are limited to parents and brothers below the age of 16 and over 40 and they require a permit from the Israeli military authorities to visit. The visiting family members are searched and often harassed. Relatives who are not members of the prisoner's immediate family require two permits, which take months to be issued. Imprisoned Palestinian juveniles are allowed to pursue part of their education in prison but under unsatisfactory conditions. Conditions of detention include overcrowding, inadequate medical treatment and long delays in being treated by specialists and obtaining hospitalization for those who require it.

41. It should also be mentioned that 4 Palestinian children were killed in 1999; 102 children were injured, 82 by Israeli soldiers, 19 by settlers and 1 by both. Forty-seven were injured by rubber-coated steel bullets and 3 with live ammunition. Forty-four were subjected to beatings, 5 were run over by vehicles and 3 suffered from tear-gas inhalation.

42. Particular problems are also faced by children born to Arab parents in Jerusalem who often cannot be registered and issued birth certificates if their parents do not have the necessary residency status. It is estimated that there are approximately 10,000 unregistered children in Jerusalem who will not be entitled to receive an identity card when they reach the age of 16. Lack of residency status also deprives them of health and social insurance and the right to enrol in municipal schools.

43. The occupation, including the complete dependence of the Palestinian economy on Israel, lack of infrastructure, and measures of collective punishment such as closures and house demolitions have caused the disruption of the fabric of society, with particularly serious effects on the family, which is a fundamental social support in Palestinian society. In particular, harsh prison sentences that take fathers away from children and violence that often occurs after release affect the image and protective role of the breadwinner, resulting in mothers taking on an additional burden and acquiring roles other than the traditional ones.

G. Closures and the freedoms of movement, education, religion, expression and information

44. The enjoyment of fundamental human rights and freedoms by the population of the occupied Palestinian territories is severely curtailed by measures such as closures and the concomitant restriction of the freedom of movement that are imposed on the occupied territories by the Occupying Power in violation of articles 33 and 35 of the Fourth Geneva Convention, article 12 of the International Covenant on Civil and Political Rights and other international norms.

45. Closures began to be imposed systematically on the occupied territories as of 1993, with varying degrees of intensity, and have separated parts of the occupied territories, including East Jerusalem, from each other as well as from Israel. A permanent state of closure of the occupied territories is constantly in force and the movement of the population of the occupied territories is regulated through permits allowing them to access different parts of the territories. Stricter closures are imposed during Jewish holidays and in case of security incidents in Israel. On such occasions, access to Israel and movement between the occupied territories is blocked.

46. Movement is regulated through the policy of permits and magnetic cards, the latter being a requirement especially for the male inhabitants of Gaza and Palestinians working in Israel. Permits are also required for the use of the safe passage between the Gaza Strip and the West Bank. Since Israel has full control over the safe passage, numerous requests for its use have been refused. In addition to the above, an extremely serious recent development regarding the freedom of movement is the construction under way of the so-called "Erez II" checkpoint near Bethlehem which will de facto separate the northern part of the West Bank from the southern part. This is further compounded by the fact that non-resident Palestinians need a permit to enter Jerusalem.

47. The lack of appropriate educational infrastructure in the occupied territories and the Israeli policy of closures and permits have serious repercussions for students in the Gaza Strip. More than 1,300 students from Gaza are prevented from studying at universities and Palestinian institutions of higher education in the West Bank because Israel considers them to be a security risk. Some are not given permits if the father is “unsafe”, which amounts to collective punishment. Some permits are denied for no apparent reason. On 16 January 1999, 272 permits were issued to students from Gaza with a validity of five to six months, and which can be withdrawn at random. Students who enter the West Bank “illegally” risk arrest, detention and deportation. There are currently some 400 Gazans enrolled in West Bank universities. In the West Bank, the Israeli army and settlers have raided educational institutions, exposing teachers and students to risks of harassment, ill-treatment and arrest. Given that the Israeli occupation forces control all international borders with the occupied territories, they often prevent Palestinian students from travelling to study abroad.

48. Inevitably, the tight control established by the Occupying Power through a variety of measures cannot but affect, albeit indirectly, other rights such as those to education and religion, although there seems not to be any specific interference with freedom of expression.

49. Freedom of information is curtailed by the Occupying Power principally through withholding of information, under specific circumstances, from the population of the occupied territories, in contravention of article 19 of the International Covenant on Civil and Political Rights. Palestinians are not sufficiently warned of or informed about measures which are adopted without adequate notice and publicity, particularly considering that they are in a language not understood by the population of the occupied territories (Hebrew). Proper announcements are not made, for example, concerning the altering of master plans of towns or villages, with regard to land confiscation, demolition orders and forced evictions.

H. Situation of Jerusalem

50. Particular mention deserves to be made of the case of East Jerusalem where violations continue to be particularly intense; and are implicitly of heightened relevance. The city, under Israeli military closure since 1993, represents a concentration of the range of human rights concerns cited above. The combined consequences of the Israeli occupation Government’s discriminatory treatment of Palestinians affects all aspects of life, as well as having dramatic consequences on the demographic, historic and cultural character of the city itself.

51. Within the purview of this mandate, two aspects are unique to Palestinians of Jerusalem: the wholesale imposition of Israeli domestic law in the city, and the special discrimination practised by Israel’s arbitrary denial and revocation of residency, which dismembers families. From 1967 to 1999, Israel cancelled the identity cards of 6,264 Palestinian Jerusalemites, affecting more than 25,000 people (including families). The intensification of this policy since 1996 has forced some 2,200-3,000 Palestinians to leave their city, or to live there “illegally”. Despite official promises to halt this practice, Israel continued arbitrarily to revoke identity cards and residency permits. In fact, by Israeli law, Palestinian Jerusalemites are considered “visitors” in their home city, unless and until they agree to become Israeli citizens. Meanwhile, the 170,000 settlers who live in East Jerusalem now exceed in number the indigenous population.

52. Israel's annexation of occupied Jerusalem by a "Basic Law" in 1980 was determined by the Security Council and the General Assembly to be null and void. Therefore, the Fourth Geneva Convention, the Hague Regulations and other legal obligations on Israel continue to apply.

I. Workers and fishermen

53. The economic dependence of the occupied Palestinian territories on the Occupying Power affects all sectors, in particular by Israeli control over the movement of goods, trade, and especially the labour market. Simultaneously, Israel discriminates against Palestinian workers on the basis of their civil status and on the pretext of security. The combined effects are manifest in disproportionately low wages; poor working conditions; inferior benefits, such as social insurance; and denial of freedom of movement and the right to work.

54. Israel strictly and systematically controls the movement of Palestinian workers to Israel and abroad to a greater degree today, whereas previously movement has been relatively free even during tense and difficult times, such as during the intifada. The complex system of different permits provides the Occupying Power with very ample political and economic control over the flow of manpower. This pass/permit system adapts to the requirements of its security and economy without the onus of any contractual negotiation with the labour force, which finds itself at the mercy of the employer.

55. Such a situation has led to multiple violations and has resulted in an estimated decrease of 10-15 per cent in real per capita income for the population of the occupied territories during the period 1993-1999. It has also resulted in an ebb and flow of the number of workers absorbed by the Israeli market. The number of Palestinian workers currently employed in Israeli settlements and industrial zones is estimated at 50,000 daily. This represents a significant decrease compared with some 120,000 workers daily in 1992. It appears, however, that roughly as many workers, mostly from the West Bank, daily find their way into Israel unofficially, at their own risk. They represent a particularly vulnerable category, in particular with regard to denial of minimum wage and exposure to arbitrary decisions and harassment by employers.

56. A special group of workers is represented by some 2,600 Palestinians who earn their living by fishing and associated activities in the Gaza Strip. A complex zoning of the Gaza territorial waters makes it particularly difficult for fishermen to comply with rules, and limits the waters open to their activity to 12 nautical miles instead of the 20 miles agreed under the Oslo Accords. Even there, they are exposed to frequent harassment, ill-treatment, attacks and arrest by Israeli navy patrols, and occasional destruction of nets and equipment. During the review period, two fishermen were injured by Israeli navy gunfire on 10 April 1999.

J. Collective punishment

57. Many of the measures taken to enforce Israeli domestic law can be considered collective punishment. While this practice is prohibited by human rights and humanitarian norms, it remains a subject of concern for this Special Rapporteur. The constant military closure of Jerusalem, the West Bank and Gaza, to differing degrees, since 1993 constitutes a pattern of discrimination and denial of rights on a collective basis.

58. The discriminatory distribution of natural resources, such as land and water, has cumulative and collective consequences. Large-scale forced evictions, like the one cited during the Special Rapporteur's visit, are arbitrary actions constituting collective punishment directed at entire communities.

III. CONCLUSIONS AND RECOMMENDATIONS

59. The conclusions and recommendations of the Special Rapporteur are inspired by the conviction that international law should be respected not only for obvious juridical and ethical reasons, but in the very interest of the parties themselves. In fact, international law, and in particular human rights and humanitarian law, should be perceived as the very foundation of any just and lasting solution.

60. An encouraging, if yet embryonic factor is the awakening of civil society - across borders - to universal human rights values. The voice of the fast-growing number of NGOs active in the area of human rights should be listened to as the voice of the conscience of humanity. It is also worth noting that the rare respectable voices that have tried a non-biased interpretation of facts and to inspire more human attitudes - voices that until recently have been generally ignored when not angrily rejected - have begun to find some audience, inspire a less ideological reading of history, and hopefully encourage more objective attitudes and measures. However, in spite of these signs, which should be welcomed and supported, violations of human rights in the area covered by the mandate continue to give reason for concern.

61. Likewise, the Special Rapporteur welcomes and appreciates the good efforts of the human rights community as a whole, encompassing local, regional and international organizations, lawyers and individual activists, as well as United Nations human rights bodies, who collectively work towards goals and interests in common with this mandate.

62. The trend of the human rights situation in the occupied territories is not an easy one to read. While in fact in certain areas (such as in particular the numbers of prisoners, administrative detentions and casualties and the amount of land under complete Israeli control) violations appear to be statistically decreasing, such an impression must be measured against the new situation prevailing on the ground (delegation of certain functions to the Palestinian Authority; frequency and level of confrontations). At the same time violations such as population transfers, multiple restrictions of the freedom of movement, land confiscations, house demolitions, and expansion of the existing settlements and the establishment of new ones constitute negative indicators during the review period.

63. It is noteworthy that land confiscations and house demolitions have significantly increased in several areas, although they have been carried out over a smaller territory than in the past.

64. The Special Rapporteur takes note of the particularly severe plight faced by the Palestinian population of Jerusalem, which is subjected to a number of human rights violations such as confiscation of land and property, restriction of movement, denial of housing, arbitrary cancellation of residence status and population transfer through the expansion of settlements, which in combination produce a multiplier effect.

65. In the same vein, the Special Rapporteur notes that violations acquire special gravity and meaning when taken into consideration in their composite form. Just as some of the above-mentioned violations tend to accumulate such that, each day that they are not dealt with, their consequences increase in gravity and effect, they also assume other dimensions and beget ancillary human rights consequences. For instance, the combined effect of closure, land confiscation, house demolition, systematic expansion of settlements and by-pass roads and discrimination against workers, coupled with the resulting economic hardship have the disrupting consequence of isolating communities and rending the very fabric of society in the occupied territories reminiscent of the fragmentation reflected on the map.

66. Even in the case of certain measures that at first sight seem to be meant to improve the situation, such as the "safe passage", implementation based on very strict, lengthy, often humiliating procedures in fact runs the risk of institutionalizing a de facto closure and separation, thus contributing to the establishment of two superposed and intricate worlds, far from inspired by equality and based on a complex system of one-way osmosis.

67. Another area of violations - particularly odious insofar as it directly affects the physical and mental integrity of people - is that of the administration of justice, including treatment of prisoners, administrative detention and torture, where nothing short of full respect of international law can suffice. For instance, while in recent times Israel had adopted some measures to address the ongoing practice of torture, its Government has not identified its stand on the matter with clarity, nor has it unequivocally prohibited the practice of torture by law. Any ambiguity on this subject is an implicit violation of human rights law and, in particular, of the Convention against Torture, to which Israel is a party.

68. The Special Rapporteur recognizes that the purpose of protection enshrined in humanitarian law, in particular in the Hague Regulations and the Fourth Geneva Convention, until today has not been served. In this regard it has to be noted that while the principal responsibility lies with the Occupying Power, all the other High Contracting Parties also bear the responsibility to ensure respect. The Special Rapporteur therefore welcomes the General Assembly's initiative to implement the Fourth Geneva Convention and looks forward to the follow-up pledged by the High Contracting Parties at their Conference on 15 July 1999.

69. To this end, the Special Rapporteur wishes to acknowledge that there is a gamut of options available under the Convention to ensure respect through collective action, joint action, and bilateral measures. In fact, while the international community not only bears the positive obligation to ensure respect, it also has the obligation not to take any action through bilateral or regional arrangements, adopted for reasons of political or economic expediency, leading to violation of the relevant human rights and humanitarian norms.

70. The Special Rapporteur has observed that international monitoring and protection, where applied, can serve to defuse conflict, resolve tensions and assist good faith efforts on both sides. A model for this is the Temporary International Presence in Hebron (TIPH).

71. In general, the recommendation of the Special Rapporteur cannot be but that of a rigorous implementation of the letter and spirit of the relevant international norms, which implies the reversal of illegal trends, correction and, where appropriate, restitution.

72. While the very nature of human rights is in general not compatible with the concepts of selectivity or gradualness, in taking corrective action particular attention should be devoted to the situation of especially vulnerable segments of society such as women, children and the handicapped.

73. In certain types of violations, such as those related to natural resources, the environment and pollution, urgent measures should be adopted to avoid their becoming irreversible, keeping in mind that every day that they are not dealt with increases their gravity. In such cases, to avoid violations and apply a restitution ad integrum amounts to common sense and good public administration. A typical example is that of violations that affect the environment, the consequences of which will not affect just one person, but the entire region and beyond.

74. Likewise, violations such as those affecting freedom of movement, trade and work, which tend to strangle the already fragile Palestinian economy and, in fact, already have affected negatively the per capita income of the Palestinian population (especially in Gaza), augur an explosive economic and political situation that, if not checked, will affect the whole region.

75. One approach adopted by the Occupying Power that has led to multiple violations and serious negative effects is the imposition of its own legal system in the occupied territories (in contravention of article 43 of the Hague Regulations). A typical example is legislation relating to the development and physical planning of the territory. Such an approach, combined with a lack of transparency and publicity in carrying out, for instance, land confiscation, master plans, evictions and house demolitions, is causing undue suffering and loss. Therefore, planning of territory should be restored to the entitled people and corrective action should be undertaken to restore properties to their rightful owners. In this area in particular inspiration should be taken from laudable civil society actions, including joint Israeli-Palestinian efforts, to oppose and achieve restitution for demolitions and forced evictions.

76. The Special Rapporteur draws attention to the feelings generally expressed by the people he met in the occupied Palestinian territories, especially in areas where there is continuing and/or expanding encroachment of Israeli military occupation and settlements. There exists an apparently growing sense of hopelessness manifested, on the one hand, by passive discouragement and, on the other, by growing anger that is being directed not only against the Occupying Power, but also their own Palestinian Authority, and especially against the international community in connection with its inability to offer effective protection.

77. There seems to be a commensurate lack of confidence on the part of members of the Palestinian Authority, in particular among members of the Palestinian Legislative Council and non-governmental and other organizations working locally, in the current political process. Parallel to obvious improvements in physical infrastructure and national symbols in areas under the Palestinian Authority's jurisdiction (Area "A"), the general continuity of human rights violations and the notable aggravation of some negative indicators provide some of the grounds for this perceived lack of confidence and despair.

78. While this report - as guided by the mandate - has dealt specifically with violations perpetrated by the Occupying Power, the Special Rapporteur would be remiss in his responsibility if he did not draw the attention of the Commission to the fact that since the

establishment of this mandate, a new situation has come into being in the mandated area and that new players have appeared on the same ground. These factors have created a new, more complex situation conducive to combined and mutually reinforcing violations that require attention and action. At the same time, the fact that the Special Rapporteur has access only to one party involved severely limits the possibility of drawing a complete picture of the situation, with the risk that the initiative adopted in 1993 may encounter the same limitation as has been the case with other initiatives that were relegated to a routine and limited role.

79. It will be for the Commission to consider if the mandate, as it stands, still fully serves the purpose for which it was originally conceived and whether it reflects a complete picture of the human rights situation in the occupied territories.

80. The Special Rapporteur has become acquainted with the important programme of assistance provided to the Palestinian Authority and Palestinian civil society by the Office of the High Commissioner for Human Rights. The international community should consider supporting this and other such practical action such as advisory services, training and human rights education, in order to advance international human rights and humanitarian law in the occupied Palestinian territories and the development of a culture of human rights.

81. A final consideration seems to be in order with reference to the fact that any agreement between the Occupying Power and a body representing the occupied civilian population is null and void if it violates the terms of the Fourth Geneva Convention. In other words, while protection of human rights and humanitarian law should never become an obstacle in the way of a peace process, an ultimate solution should not be achieved to the detriment of human rights. Indeed, respect for human rights and fundamental freedoms must be considered part and parcel of any viable peace process as they are a conditio sine qua non of any enduring peace.



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REPRESENTATIVE OF ALGERIA TO THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

Mission report on Israel's violations of human rights in the Palestinian territories
occupied since 1967, submitted by Mr. Giorgio Giacomelli, Special Rapporteur

Introduction

1. In response to the recent developments and the acute situation in the occupied Palestinian territories, the Special Rapporteur undertook a mission to the region to ascertain the prevailing human rights conditions. The Commission's subsequent decision to convene the current special session provides the occasion for the Special Rapporteur to bring his findings to the Commission's attention as a reference for its deliberations.

2. The recent mission to the occupied Palestinian territories (OPT) from 11 to 15 October 2000, enabled the Special Rapporteur to consult with a wide range of interlocutors in connection with his mandate. This included meetings in the West Bank, the Gaza Strip and Jerusalem with Palestinian and Israeli NGOs, international organizations on the ground, grassroots and community organizations, human rights monitors, Palestinian Authority representatives, medical professionals and individuals wounded in the recent confrontations. He gathered oral testimony and documentary information, as well as published materials from additional sources. The Special Rapporteur notes with regret that again he was denied the opportunity to consult official Israeli interlocutors, owing to Israel's continuing rejection of the mandate and its refusal to cooperate with the Special Rapporteur.

3. In compliance with the mandate, as formulated by the Commission on Human Rights, this report addresses the subject of military occupation, and actions and omissions of the occupying Power during the unfolding events of late September 2000 until today, 17 October 2000.

4. While concentrating his attention on the terms of reference contained in the mandate, the Special Rapporteur feels he would be remiss in his obligation as a mechanism of the Commission on Human Rights if he were not to draw the attention of the Commission to the fact that, in the very area covered by the mandate and in areas geographically and substantively peripheral to it, other serious violations are being perpetrated. It would be for the Commission to decide how best to address these matters in the interest of faithfully and comprehensively upholding human rights norms.

5. In general, the full range of human rights violations reported in the Special Rapporteur's previous report, to the Commission at its fifty-sixth session (E/CN.4/2000/25), remain constant. However, a number of violations from that spectrum have shown a dramatic upsurge since late September 2000. The Special Rapporteur brings these particular areas to the Commission's attention. He expects to present his regular, comprehensive report to the Commission at its fifty-seventh session, in 2001.

The human rights framework

6. Under the Charter of the United Nations a State Member of the United Nations is obligated to "respect and promote human rights". Additionally, Israel was bound upon its establishment by the terms of General Assembly "partition of Palestine" resolution 181 (II), which states in Part I, chapter 2, paragraph 3: "All persons within the jurisdiction of the [Arab or Jewish] State shall be entitled to equal protection of the law". As the occupying Power in the West Bank, the Gaza Strip and Jerusalem, Israel bears de jure responsibility for implementing

the applicable humanitarian law norms. In the occupied Palestinian territories, Israel bears the responsibilities of the occupying Power, as the Commission on Human Rights recognized in its resolution 1993/2. As the treaty bodies have subsequently reaffirmed, these Israeli jurisdictional obligations remain applicable to date (see CERD/C/304/Add.45 and E/C.12/1/Add.27).

7. Therefore, international humanitarian law obligations apply to this review of Israel's role in the occupied Palestinian territories, including the Hague Regulations and the Geneva Conventions of 1949, in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. In addition, as ratifying Party to the six principal human rights treaties, Israel's covenanted human rights obligations apply, as well as those arising from customary law and general principles of international law. The norms of both customary and treaty law, as well as the relevant resolutions of the United Nations form the legal framework for the concerns raised in this report.

8. It should be noted that the data collected here on specific violations are neither exhaustive nor reflect perfect uniformity among all sources. The Special Rapporteur has sought corroboration of the information in order to establish reasonable certainty of the facts presented to the Commission. Nonetheless, the Special Rapporteur's report here reflects the scale and proportions of the violations committed over the period under review.

Principal concerns regarding human rights

Right to life

9. The occupying Power has dramatically escalated the use of lethal force against the civilian population, ostensibly in response to demonstrations beginning in Jerusalem and spreading throughout the West Bank and Gaza Strip. Occupation forces appear to have indiscriminately used excessive force in cases where there was no imminent threat to their lives. Whether in cases of Israel Defence Forces (IDF) or Israeli police actions, deadly force is used without warning, and without employing deterrence or gradual measures consistent with the minimum standards and methods of crowd control or management of civil unrest. These fundamental human rights and humanitarian norms of necessity and proportionality have been breached in most reported cases of confrontation between Palestinian civilians and Israeli forces.

10. While the various sources consulted may differ to some degree on details, all concur that, since 28 September, Israeli forces have killed at least 85 Palestinians in the occupied Palestinian territories in this way, of whom more than 20 were children (under the age of 18), including small children, as well as two infants, 5 and 6 months old. Israeli settlers in the West Bank are responsible for at least five of these Palestinian deaths over the past 18 days. In some sense the scale of this violation is unprecedented. It is worthy of note that the number of deaths caused by Israeli forces so far approximate the number killed in the first four months of the intifada, in 1987/1988.

11. Depending on the criteria applied by the different sources with regard to the nature and gravity of wounds, various reports estimate between 2,000 and 3,700 Palestinians injured by Israeli occupation forces. Of these, some 40 per cent are under 18 years of age. The total injuries are roughly categorized as resulting from shooting to the head (40 per cent), the

chest (20 per cent), abdomen (20 per cent), extremities and back (20 per cent). Reportedly, at least half of the injuries resulted from Israeli forces using live ammunition, with the remaining injuries due to rubber-coated metal bullets and tear gas (around 10 per cent).

12. In different degrees, these casualties are widely distributed across the occupied Palestinian territories. Approximately, two thirds are found throughout the West Bank and Jerusalem, with the remaining third in the Gaza Strip.

13. Officially verifiable figures for the total number of Israeli casualties were not available. However, Israeli occupying forces, including settlers, to date have been reported to have suffered seven deaths.

Means of force used

14. The Israeli forces have used a variety of methods, including shooting with lethal weapons. In addition to using rubber-coated metal bullets, which at close range have proved lethal, troops have fired rifles and machine guns, deployed tanks, fired rockets and anti-tank missiles, and have employed and fired from helicopter gunships and naval vessels.

15. Many of the casualties are reportedly the result of long-distance shooting by snipers. The Special Rapporteur took eyewitness and victim testimony of the use of this tactic against civilians, some of whom were far from, and uninvolved in, civil demonstrations.

16. It is worth noting that the confrontations with and manoeuvre of IDF forces, in some cases, have disregarded the lines of territorial division agreed upon. This has created some confusion as to the role of the Palestinian civil police, who are meant both to maintain order and to protect the Palestinian population. This is a situation that remains of deep concern and should be the subject of careful study and remedial efforts.

17. Local observers have reported concern over the apparent re-emergence of IDF special undercover units to conduct operations similar to those carried out during the intifada (1987- ca. 1993). At present, the Israeli settler population has emerged as an increasingly obvious source of paramilitary activity, particularly, as local observers have noted, since this year's Paris summit. For instance, settlers have opened fire on local Palestinian neighbourhoods in Jerusalem and in West Bank villages, as noted in shooting incidents reported at Bidya and Za'tara village (near Nablus) and in neighbourhoods adjacent to Pesugot settlement (Jabal Tawil/al-Bireh), which resulted in injuries and one death. Numerous reports indicate that Israeli occupation forces have not acted to deter such paramilitary activities.

18. The situation has become more complex and multifaceted as some new actors, such as the paramilitary settlers, have entered the scene and some Palestinians bearing arms have appeared in the protests. These new factors, within a context of escalating violence, form a particularly alarming development that calls for urgent attention.

19. The emergence of particularly odious and brutal attacks, such as the death by torture of a young Palestinian from Imm Safa village (West Bank, Area C), or mob attacks, as in the case of the 12 October Ramallah killings, give ominous warning as to the new forms of violence that could spin out of control if not properly addressed and remedied.

Right to health

20. In addition to the obvious consequences for the right to health that arise from the use of lethal weapons against civilians, medical professionals have also become targets of IDF gunfire. Israeli forces have obstructed, beaten and/or shot a number of emergency medical personnel on duty. This has led to the denial of emergency medical aid to victims and to the wounding of medical personnel, as well as the death of one ambulance driver, Bassam Bilbaisi.

21. The level and number of casualties have strained local medical services beyond capacity, requiring the transfer of severely injured victims to hospitals in neighbouring countries. The casualties and the Israeli-imposed closure of the occupied Palestinian territories have created a shortage of medical supplies and strained the capacity of medical services. The impossibility of replenishing stocks and the denial of access to needed treatment in neighbouring countries due to closure of the occupied territories have deepened the medical-care crisis at a time of increased need.

Freedom of movement

22. While the right to freedom of movement has been the subject of violations on a sustained basis, particularly since the beginning of the interim period, Israel's current closure of the occupied territories is characterized also by the sealing off of Palestinian populated areas. This has prevented the free movement of people and material into and out of these areas, and has created shortages and a sense of isolation. The besieging of several Palestinian communities has resulted in further fragmentation of the territory and society as a whole and is having a negative impact on the already fragile Palestinian economy. Furthermore, such an acute situation already has consequences for access to education, medical care and livelihood, in addition to lowering morale and contributing to an overall sense of confinement.

23. The day before the Jewish holiday of Yom Kippur, the Israeli authorities closed the occupied Palestinian territories, after which they cancelled all permits for Palestinian workers, prohibiting them access to their jobs in Israel. Subsequently, the Israeli authorities cancelled grade 2 and 3 permits for Palestinians, denying freedom of movement to businessmen and other professionals.

Economic, social and cultural rights

24. Other economic losses include those resulting from the demolition of physical structures, including homes and apartments, as in the case of 40 apartments at Netzarim Junction, the damaging and burning of vehicles, including ambulances, and vandalism of homes. These acts have been carried out by both Israeli soldiers and settlers. Physical damage by the IDF ranges

from random gunfire at water tanks on the roofs of homes to the shelling of the municipality building at Beit Lahia, in the Gaza Strip and the shelling of the electrical plant in Ramallah, West Bank.

25. The massacre carried out in the Haram al-Sharif perhaps most dramatically exemplifies the violation of a religious site. Other sites that have been militarized, such as Joseph's Tomb, in Nablus, and Rachel's Tomb, in Bethlehem, have been the site of violent conflict, resulting in destruction and/or effective denial of the right to worship. Other incidents include the attempted burning of the church in Beit Hanina (Jerusalem) in a night raid by settlers last week and the vandalization of a synagogue at Jericho on 13 October. These incidents, beyond the violation of the right to religious expression, stand out as particularly offensive and pose the danger of exacerbating one of the most sensitive dimensions of the conflict.

Collective punishment

26. The closure and isolation of communities has been recognized as a type of collective punishment that contravenes the Fourth Geneva Convention, as does the demolition of homes and destruction of public property and facilities. Preventing workers from having access to their source of livelihood also stands as a violation of this humanitarian law principle. These acts not only result in the loss of livelihood arising from denial of the right to work, but also in the loss of public goods and services from the destruction of municipal facilities and public utilities, as noted above.

Vulnerable groups

27. In addition to those directly affected by the use of force, particular segments of the Palestinian population deserve special attention because of their vulnerability. Children in general constitute a particularly vulnerable category as they are the least equipped to cope with the psychological and other pressures of the situation and are thus often in particular need of medical attention. They may also suffer from trauma and unrest within the family. Women suffer disproportionately as a vulnerable social group and particularly as mothers coping with their role as guardians of the family and suppliers of their children's needs.

28. A category of people that have become especially vulnerable in the light of recent events are Palestinians living near settlements and in areas where the Palestinian Authority does not have a presence, such as small, isolated farmers and Bedouins. It is worth noting that, owing to their great number and the poor living conditions in the camps, Palestinian refugees are most affected by negative economic pressures and political unrest, and are central to any development of the situation.

Local perceptions

29. In general, respondents identified one of the main causes of the recent Palestinian protests as accumulated frustration at the perceived shortcomings of the Oslo process, both as to content and implementation, and notably its failure to uphold human rights and humanitarian norms. Both the local Palestinian and Israeli interlocutors consulted emphasized to the Special Rapporteur that none of the concerned parties could possibly not be cognizant of the

danger inherent in this failure: the people in the street, Israeli intelligence, the Commission on Human Rights, the various treaty bodies, the General Assembly, the Special Rapporteur, the Palestinian Authority. They lamented that, in spite of that, no corrective action had been taken.

30. Under the circumstances, all the local parties reiterated their disappointment at the international community's apparent lack of will to take substantive measures to uphold the rights of Palestinians. Moreover, they uniformly deplored the double standard that has applied to the occupied Palestinian territories of tolerating or facilitating the Israeli occupation authorities' unbroken pattern of violations. In particular, they point out the contradiction between the standards established by the United Nations and the simultaneous ineffectiveness of the United Nations in upholding its own principles. A number of common demands were forcefully put forward by practically all interlocutors for the following needed corrective action:

The de jure implementation of applicable humanitarian law and human rights standards, including the Fourth Geneva Convention of 1949 and the principal human rights treaties;

The prompt formation and dispatch of a commission of inquiry with competence to establish responsibility for violations committed by the occupying Power. A number of interlocutors recommended measures comparable to those taken in the case of East Timor;

Any peace agreement should be subject to the scrutiny and guarantee of a competent body empowered to review its consistency with human rights and humanitarian law, including United Nations resolutions on Palestine (for example, General Assembly resolution 194 (III) with respect to repatriation and compensation);

The International Committee of the Red Cross should urgently increase its presence as a measure of physical protection;

International observers and/or an interposition force should be established to ensure the physical protection of the population of the occupied territories;

The relevant thematic special rapporteurs should give special attention to the occupied Palestinian territories.

31. The grievances expressed were not devoid of a certain positive underpinning. Respondents also conveyed the hope that the losses arising from these tragic events would not have been incurred in vain. Rather they expressed the hope that a correct reading of the meaning of recent events would inspire the establishment of a fairer process capable of leading to a durable peace.

Conclusions and recommendations

32. Quite apart from any debate over the particular spark that ignited the unrest and confrontation, the Special Rapporteur remains convinced that the current conflict has its roots in accumulated grievances and resentment at the continuing violations of human rights and humanitarian norms under Israeli occupation.

33. The Special Rapporteur is particularly concerned that any progress at confidence building that had been made may be irretrievably lost, as augured by the rapid polarization that is taking place on both sides and at all levels of Palestinian and Israeli society. This signals the urgent need for the adoption of measures towards restoring confidence and rekindling hope in the peace process. One indispensable ingredient for achieving that is the establishment of a human rights framework.

34. As pointed out in the Special Rapporteur's previous report to the Commission, this prerequisite is the sine qua non of any meaningful and durable peace. In addition to their cogency, these norms, once genuinely accepted, would alone allow the sense of confidence and security that would make possible the acceptance of the indispensable and painful compromises necessary.

35. With this in mind, the Special Rapporteur offers the following recommendations for urgent action:

That the occupying Power immediately issue orders to all its forces, civilian or military, consistent with international humanitarian norms;

That those orders be rigorously implemented and that the appropriate training be provided when required;

That a permanent mechanism be established to ensure that the orders are followed and, when they are not, to determine accountability, assign punishment and redress violations;

That, to ensure the credibility of the peace process, an Ombudsman-type mechanism be established to process complaints, building on the experience of similar measures adopted in other conflict situations;

That an observer and/or guarantor body be established that, by its very presence and neutrality, would serve to build up a sense of security and confidence on both sides;

The Special Rapporteur supports the idea of establishing a mechanism for a speedy and objective inquiry into the ongoing crisis, the importance of which was stressed by the Security Council in its resolution 1322 (2000).

36. Adopting these measures would meet the most immediate needs and might afford all the parties a way out of the current impasse. However, they should not supplant the broader task that lies ahead, which involves relaunching a peace process that would include the appropriate human rights framework.



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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD
CONFERENCE ON HUMAN RIGHTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Report of the High Commissioner on her visit to the occupied Palestinian
territories, Israel, Egypt and Jordan (8-16 November 2000)

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I. INTRODUCTION

1. The General Assembly and the Commission on Human Rights have been seized of the situation of human rights in the occupied Palestinian territories for many years. Since late September, however, there has been a dramatic deterioration of the human rights situation in the occupied territories.
2. By a letter dated 3 October 2000, addressed to the United Nations High Commissioner for Human Rights, the Permanent Representative of Algeria to the United Nations Office at Geneva, on behalf of the Council of Arab Permanent Representatives of Members of the League of Arab States, requested that a special session of the Commission be convened "to discuss the grave and massive violations of the human rights of the Palestinian people by the Israeli occupying power".
3. In the light of the agreement of a majority of its members, the Commission on Human Rights convened in its fifth special session from 17 October to 19 October 2000.
4. On 19 October 2000, the Commission on Human Rights at its fifth special session, adopted resolution S-5/1 (E/2000/112-E/CN.4/S-5/5, chap. II), in which it decided *inter alia* to request the United Nations High Commissioner for Human Rights to undertake an urgent visit to the occupied Palestinian territories to take stock of the violations of the human rights of the Palestinian people by the Israeli occupying Power, to facilitate the activities of the mechanisms of the Commission in implementation of the resolution, to keep it informed of developments and to report to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session. On 22 November 2000, the Economic and Social Council, in its decision 2000/311, endorsed the resolution adopted by the Commission at its fifth special session.
5. The mandate of the High Commissioner for Human Rights requires her to promote and protect the effective enjoyment by all of all civil, cultural, economic, political and social rights; to enhance international cooperation for the promotion and protection of all human rights; to engage in a dialogue with all Governments with a view to securing respect for all human rights; and to carry out the tasks assigned to her by the competent bodies of the United Nations system in the field of human rights. The High Commissioner is also mandated to report on her activities to the Commission on Human Rights, the Economic and Social Council and to the General Assembly.
6. Mindful of these aspects of her mandate, the High Commissioner for Human Rights undertook a visit to the Middle East from 8 to 16 November 2000. During her mission, she visited the occupied Palestinian territories, Israel, Egypt and Jordan. This report to the Commission on Human Rights summarizes the outcome of her mission.
7. The High Commissioner's visit to the occupied Palestinian territories took place at the urgent request of the Commission on Human Rights and because of the seriousness of the human rights situation there at the present time.

8. With regard to her visit to Israel, the High Commissioner, in cooperation with the Israeli authorities, undertook a visit that had been scheduled at an earlier stage but that had been postponed. The visit to Israel focused on general cooperation on human rights issues as well as on the situation in the occupied Palestinian territories. During her visit to Israel, the Israeli authorities expressly accepted, in a meeting between the High Commissioner and senior Foreign Ministry officials on 15 November 2000, that the High Commissioner's report on her visit to the region would also deal with the visit to Israel.

9. The visits to Egypt and Jordan were undertaken primarily in view of the situation in the occupied Palestinian territories. From that perspective, the discussions with leaders in those countries are reflected in this report.

10. In submitting this report, the High Commissioner for Human Rights is conscious of the evolving situation in the area, attentive to the efforts of the Secretary-General of the United Nations and others to promote peace, and to the importance of the quest for peace with justice and respect for human rights, and mindful of the duty of conscience regarding the situation of human rights prevailing in the occupied Palestinian territories. It is in this spirit of conscience that this report is submitted.

II. OUTLINE OF THE HIGH COMMISSIONER'S VISIT TO THE REGION

11. The programme of the High Commissioner's visit to the region, including lists of those with whom she met, is annexed to the present report. The following is a brief summary.

12. In Gaza, the High Commissioner met with the President of the Palestinian Authority and Chairman of the Executive Committee of the Palestine Liberation Army (PLO), Mr. Yasser Arafat, senior representatives of the Palestinian Authority (PA), representatives of the NGO community, the Chairman of the Palestinian Independent Commission for Citizen's Rights and with representatives of United Nations programmes, funds and agencies, including the Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the United Nations Special Coordinator. The High Commissioner visited the largest hospital in Gaza, Shifa Hospital, and met with 45 patients, including children, injured over recent weeks, as well as medical staff and family members. She travelled to the Rafah refugee camp near the Egyptian border, visited sites affected by the recent violence, including several UNWRA schools; visited a health care centre, and viewed settlements and military installations.

13. In East Jerusalem, the High Commissioner met with representatives of the Muslim and Christian communities as well as of NGOs, Palestinian officials and a delegation of expatriate volunteers. She visited Hebron, Ramallah and El-Bireh, where she met with the Speaker and other members of the Palestinian Legislative Council as well as with Ministers of the PA. In Ramallah, the High Commissioner visited a refugee camp, including a school, and, in El-Bireh, met with representatives of NGOs, and a delegation of schoolchildren.

14. In Israel, the High Commissioner discussed the recent human rights developments in Israel and the occupied Palestinian territories with the President of Israel, Mr. Moshe Katzav, the President of the Supreme Court, Chief Justice Aharon Barak, the Minister of Justice,

Dr. Yossi Beilin, the Director General of the Ministry of Foreign Affairs, Dr. Alon Leal and other senior officials, senior officials of the Ministry of Defence, representatives of the Israeli Defense Forces (IDF), the Israeli member of the United Nations Human Rights Committee, representatives of NGOs, academics and Israeli settlers from Gilo, and international and local staff of United Nations agencies.

15. In Cairo, the High Commissioner met with the Minister for Foreign Affairs of Egypt, Mr. Amr Musa, with senior officials of the Ministry of Foreign Affairs and with representatives of NGOs. She also met with the Secretary General of the League of Arab States, Dr. Ismat Abdel-Maguid.

16. In Amman, the High Commissioner was received by His Royal Majesty King Abdullah II of Jordan and met with the Deputy Prime Minister, Mr. Ahmed Khleifat, and the Secretary General of the Ministry of Foreign Affairs, Mr. Shaher Bak.

17. In all, the High Commissioner heard the views of several hundred people, many of whom spoke from personal experience of the present human rights situation. The High Commissioner also received several dozen written submissions and briefs, which have been considered in the preparation of this report. The High Commissioner wishes to record her appreciation and thanks to all those with whom she met and to the Governments, authorities and United Nations representatives which received her and facilitated her mission.

18. It was a difficult mission, addressing a highly politicized and complex situation with serious human rights implications. At each meeting in both the occupied Palestinian territories and Israel the High Commissioner emphasized the integrity of her mandate, the objectivity of her approach, and that her focus would be on the human rights implications of what she saw and heard and of what was represented to her by the various parties she met.

III. GENERAL OBSERVATIONS

19. The human rights situation in the occupied Palestinian territories is bleak. The civilian population feels besieged by a stronger power prepared to use its superior force against demonstrations and stonethrowing by adolescents. During the course of the visit the violence escalated, with more shooting - including so-called drive-by shootings - on the Palestinian side and the use of rockets and heavy machine-gun fire on the Israeli side. At each meeting in the occupied Palestinian territories pleas for international protection or for some form of international monitoring presence were voiced.

20. In the occupied Palestinian territories, discussions concerning the present crisis and its impact on human rights were linked to the reality of the occupation itself. That reality was described by Palestinians as one of grinding, petty humiliations, discrimination and inequalities which were ultimately dehumanizing. It was explained that the anger and frustration of the present Intifada stemmed from lack of implementation of the key United Nations resolutions, especially General Assembly resolutions 181 (II) and 194 (III) and Security Council resolution 242 (1967), the continuing encroachment on land for settlements, and what was perceived as a peace process which had not addressed the Palestinian claims of a State with East Jerusalem as its capital and some recognition of the right of return of refugees.

21. Perhaps the strongest and most troubling impression taken away by the High Commissioner from her visit to Israel and the occupied Palestinian territories was that of two peoples who are linked by history and geography, but are currently separated by a wide and growing gap in their perceptions of each other. The violence of recent months has resulted in a hardening of positions, with little willingness on either side to understand or accept the narrative of the other.

22. Amongst Israelis there is a preoccupation with security, born of a strong sense of isolation and of being set upon from all sides. This can easily be understood in terms of Israeli and Jewish history. However, it is not appreciated or allowed for by a Palestinian people who see only Israel's overwhelming military superiority and experience its readiness to use it. Israelis with whom the High Commissioner met, including many who deeply believe in the peace process, said they felt shell-shocked by the recent breakdown of negotiations at a time when, to them, a comprehensive settlement had seemed so close. Amongst Palestinians, on the other hand, the predominant sentiment was that the process of the past seven years had delivered little or nothing to them. Whilst Israelis point to the building of economic links as a positive sign, Palestinians see the same process as increasing the dependence of the occupied territories and their vulnerability to exploitation by Israel during periods of crisis.

23. The High Commissioner was offered different views about the origins of the present cycle of violence, including on the significance of the visit of Mr. Ariel Sharon to the Temple Mount/Haram Al-Sharif, and on whether the current intifada is a spontaneous popular uprising or an orchestrated strategy. The High Commissioner referred repeatedly to her mandate, which addresses the underlying human rights causes of the conflict. Such an approach acknowledges the long-standing and unresolved grievances of the Palestinian people, many of whom are now third-generation refugees. It must also be understood, as it is by many Israelis, that Palestinians, including Arabs who have Israeli citizenship, have suffered and continue to suffer from serious discrimination. An inescapable conclusion is that much of the present situation has to do with the daily reality of life under the occupation, including what Palestinians see as the numerous daily humiliations imposed upon them, often deliberately, but sometimes through bureaucratic indifference towards people who lack political power. However, in discussing root causes, it must also be acknowledged that over an extended period the right of Israelis to "security of person" (Universal Declaration of Human Rights, article 3) has been threatened. This persistent insecurity has given rise to many of the problems which now lie at the heart of the human rights situation in the occupied Palestinian territories and Israel.

24. A related problem is that of hate speech and incitement. Numerous examples were cited to the High Commissioner during her visit and evidence was clearly visible on the walls of Palestinian houses and Israeli settlements. The High Commissioner was struck, for example, by the deep hurt caused by the accusation that Palestinian parents were forcing their children into the line of fire to achieve martyrdom. Similarly, she was shocked by calls broadcast on Palestinian television and radio urging the killing of all Jews. At this very difficult time it is incumbent upon leaders on both sides to avoid inciting racial and religious animosities and to condemn such incitement when it does occur within their communities. The High Commissioner believes that the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance will provide an opportunity for reflection and reconciliation, which political leaders and members of civil society alike should begin to prepare for.

IV. HUMAN RIGHTS SITUATION IN THE OCCUPIED PALESTINIAN TERRITORIES

25. While in the occupied Palestinian territories, the High Commissioner received information from numerous sources alleging serious violations of human rights, both in relation to recent events and more long-term systematic abuses originating from the occupation itself. Also alleged was a failure on the part of Israel to adhere to international humanitarian law, in particular the 1949 Fourth Geneva Convention relative to the protection of civilians in time of war, whose applicability to the occupied territories has been repeatedly reaffirmed by United Nations bodies, including the Security Council, the General Assembly and the Commission on Human Rights. Particular areas of concern with regard to recent developments included: excessive and disproportionate use of force, including alleged attacks on medical personnel; the arbitrary destruction of property; the effects on Palestinian residents of Israeli settlement activity, including restrictions on freedom of movement; the serious economic impact on the residents of the occupied territories; the violations of the human rights of children; and restrictions on access to humanitarian assistance.

Excessive use of force

26. The most persistent allegation brought to the attention of the High Commissioner was that Israeli security forces have engaged in excessive force, disproportionate to the threat faced by their soldiers. A wide range of observers, including United Nations representatives, expressed the strong view that the very high number of casualties, combined with the nature of the injuries being sustained, including by young people, could only be consistent with a military response which was both excessive and inappropriate. With only minor regional variations, this pattern was, said the observers, repeated in different locations throughout the affected areas.

27. The High Commissioner had requested a meeting with the Israeli Defense Forces (IDF). The meeting was facilitated by Israel and took place at Ben Gurion Airport on 13 November prior to her flight to Cairo. It is described in some detail in paragraphs 66 to 71 below but, as it offered an opportunity to hear the Israeli perspective on the allegations of excessive use of force, the relevant comments or a reference to the relevant paragraphs are inserted in the present section of the report.

28. In an attempt to disperse the demonstrations, the Israeli military authorities have used live ammunition, rubber coated steel bullets and tear gas, all of which have resulted in deaths and injuries amongst the Palestinians. Heavier weapons have also been used, including rockets fired by infantry and from helicopters, armoured vehicles which have been deployed throughout the Gaza Strip and the West Bank, and heavy machine guns. The use of heavy weapons has raised the incidence of death and injury amongst non-combatants and, indeed, several such deaths occurred during the period of the High Commissioner's visit.

29. A high percentage of the injuries sustained by Palestinians have been to the upper part of their body, including a large number of eye injuries, some caused by the firing of "rubber" bullets at close range. The result is often the loss of an eye, but can also be severe brain damage or death. In subsequent discussions senior IDF representatives accepted the potential lethality of "rubber" bullets, and also that of tear gas, if used in a confined area, as has been alleged.

30. When asked about the reported injuries, senior IDF officers told the High Commissioner (see paras. 69-70 below) that the methods and weapons employed by the IDF in dealing with the present crisis are carefully calibrated according to the nature of the threat being faced and, in particular, that live fire, whether from small arms or heavier weapons, has only been directed at those who have used firearms or petrol bombs in attacks against Israeli forces.

31. While in the Gaza Strip, the High Commissioner visited Shifa Hospital, the largest hospital in Gaza with 650 beds and 8 operating theatres. The High Commissioner met with 45 patients, including boys and girls under 18 and their relatives. A 15-year-old, now a paraplegic, informed the High Commissioner that he was shot by Israeli soldiers while he was demonstrating and throwing stones in the industrial zone close to Erez checkpoint. He had joined other teenagers after school to express his anger following the death of one of his schoolmates the previous day. A 14-year-old wounded in the arm and leg explained that he had gone to throw stones in revenge after a classmate had been shot and blinded in both eyes, and the doctor accompanying the High Commissioner confirmed he had treated this other boy. The High Commissioner heard numerous anecdotal accounts of shootings involving Palestinians who, it was said, could not have been involved in any form of protest activity, for example, an elderly man who was shot twice near the door of his house and a pregnant woman who was shot whilst on the roof of her house. See paragraphs 69 and 70 below for the IDF response on rules of engagement and child casualties.

32. The Minister of Health of the Palestinian Authority, Dr. Riadh Al-Zaanoun, told the High Commissioner that by his estimates some 6,958 persons (3,366 in the West Bank and 3,592 in the Gaza Strip) had been wounded during the period 29 September-9 November 2000 and that 1,016 Palestinians had been injured in Israel. Of those injured, he said, 40 per cent were under the age of 18. According to the Minister, the types of ammunition responsible for injuries were as follows: rubber bullets (41 per cent); live bullets (27 per cent); tear gas (27 per cent); and others, including rockets (11 per cent).

33. The Palestinian Red Crescent Society estimates that 236 Palestinians were killed and 9,353 injured during the period 29 September-23 November. During the period 27 September-23 November, Israeli official sources estimate that 30 Israelis were killed and 375 were injured. Estimates are disputed by the parties.

Impact on children

34. According to the Red Cross/Red Crescent, as of 20 November, 86 children (aged 18 and under) had been killed and over 3,000 injured, two to three hundred of whom, it is estimated, will have permanent disabilities. According to the same source, hundreds of Palestinian children have been obliged to abandon their homes in order to escape the violence. The destruction of family dwellings has left more than a thousand children without homes, often in situations of food shortage and without access to medical care.

35. The current situation in the West Bank and Gaza Strip has had a serious impact on the Palestinian education system. The High Commissioner visited two schools in the Gaza Strip and one school in Ramallah where she was briefed by teachers on the consequences of the current situation for Palestinian pupils. She was told that since the beginning of October more

than 40 schools have been closed or are unable to operate owing to curfews or closures. Other schools, such as one visited by the High Commissioner in the Gaza Strip, have been damaged by gunfire and the premises abandoned, requiring that several thousand children be fitted into other schools if possible.

36. In discussions with directors of preparatory schools and educators, as well as delegations of children in Gaza and Ramallah, the High Commissioner was told that many children suffer from psychological and social problems as a direct consequence of the current situation. Children themselves explained to the High Commissioner their fear of leaving their homes or, in some cases, of going back to their homes, and of difficulties sleeping. According to UNICEF, only about 1 per cent of adolescents in Gaza have actually engaged in demonstrations or attacks against Israeli military positions. However, teachers have reported that the rest of the students who have remained at their studies have nevertheless been mentally distracted or emotionally affected by the events in the street, with the result that their educational performance has deteriorated.

Medical personnel

37. An aspect of particular concern is the allegation that the medical condition of many of the victims has suffered, with some deaths, as a consequence of their being denied access to timely medical assistance. Reportedly, Palestinian ambulances and medical personnel have been prevented from discharging their normal responsibilities. During the High Commissioner's visit to Gaza, her vehicle was unable to proceed along the main north-south road because of an exchange of gunfire on the road ahead which had left two Israeli soldiers at a checkpoint seriously wounded and two Palestinians dead in their vehicle. The High Commissioner witnessed the fact that two ambulances were not permitted to attend to the Palestinian casualties.

38. Very serious allegations were made of attacks by Israeli security forces on medical personnel and ambulances. The High Commissioner was informed about the case of a Palestinian Red Crescent Society ambulance driver, Bassam Al-Balbisi, who had been killed while trying to approach 12-year-old Mohammad Al-Dura and his father in order to move them into an ambulance. According to Palestinian officials, 45 ambulances had been attacked by Israeli forces in Jerusalem and the West Bank and 23 in the Gaza Strip. The High Commissioner was told that nine ambulances had been put out of service owing to damage between 29 September and 9 November.

Destruction of property

39. In the Gaza Strip, the High Commissioner visited Rafah refugee camp and surrounding areas where she was able to inspect a number of private houses and apartments that had been heavily damaged by gunfire and/or rocket attack, particularly at night. The owner of one house in Rafah told the High Commissioner that she had been obliged to leave her house, within a few minutes, when she realized that an Israeli tank had already started to destroy part of the house. A farm owner told the High Commissioner that Israeli soldiers had destroyed his greenhouses and his family residence during the night of 29 October. Water wells have reportedly also been destroyed in actions carried out by settlers or Israeli forces. The High Commissioner saw that a

number of fields of fruit-bearing trees, particularly olive trees, had been cleared in the occupied regions. The High Commissioner was told that, in many cases, these orchards and fields represented the entire livelihood of dozens of families.

40. According to the IDF (see sect. V below), the clearances and demolitions were carried out as matter of military necessity because these structures or plantations had been used as cover by Palestinian gunmen. The IDF told the High Commissioner that the doctrine of military necessity meant that compensation was not payable in these circumstances. Israeli officials told the High Commissioner that military action carried out in the Palestinian areas often took place at night, because this was the time when Palestinian gunfire most often occurred.

Settlements

41. At the best of times relations between Israeli settlers and Palestinians are extremely sensitive and tense. At times of crisis the settlements can become a catalyst for violence. Amongst the main concerns raised by the Palestinian interlocutors were the privileged position settlements enjoy with respect to land and water for domestic and agricultural use, the negative impact on surrounding Palestinian communities, the fact that settlers are heavily armed and live in barrier-enclosed areas protected by the IDF and that separate roads have been created for settlers alone which are prohibited to Palestinians. The concerns raised with the High Commissioner by three Israeli families living in Gilo whom she met at Ben Gurion Airport on 15 November are set out at paragraph 71 below.

42. In Gaza, Israeli installations to protect settlements there are located on the main road through Gaza and have become the focus for stone throwing and shooting by Palestinians, with severe retaliation by the Israeli military. It was strongly represented to the High Commissioner that if these military installations and heavy armoury were to move off the highway and closer to the settlements being protected this could ease tension. The IDF analysis was that the protection role could only be discharged from the present positions (see paras. 69-70 below).

43. Following her visit to the refugee camp at Rafah the High Commissioner was driven along a settlement road and was surprised to be shown further expansions of settlements taking place.

44. The High Commissioner visited the city of Hebron, one of the biggest administrative units in the occupied Palestinian territories in terms of area and population, and went into the Israeli controlled part of Hebron known as H2 in the company of officials of the Temporary International Presence in Hebron (TIPH). Since the first week of October, the IDF has imposed a curfew on 30,000 Palestinians living in the H2 zone, which has had an enormous impact on the enjoyment by Palestinian residents of their basic human rights. As a result of the curfew, thousands of families and their children live under virtual house arrest, confined to their homes for all but a few hours per week. During the hours when the curfew is not imposed the use of motor vehicles by Palestinian residents is forbidden, requiring residents to walk considerable distances to purchase food supplies, as shops in the Hebron H2 zone are also affected by the curfew.

45. Workers from the Hebron H2 zone have been prevented from reaching their places of work, whether in Israel or in the occupied territories. Restrictions on freedom of movement make it increasingly difficult for the Palestinians in the H2 zone to meet their most basic needs, such as food supplies and medical care, and Palestinian children cannot attend school. In this regard, the High Commissioner was informed that 32 schools had been closed since the beginning of the events, preventing some 15,000 pupils from exercising their right to education.

46. The curfew does not apply to the 300 to 400 Israeli settlers living in the H2 zone of the city and the settler school remains open. To ensure the safety of those settlers, the IDF maintains a large presence in that part of Hebron (700 soldiers according to the IDF; 2,000 according to another source). Three schools and several Palestinian houses in the H2 zone have been taken over by the IDF and turned into military posts.

47. At a meeting with the Mayor of Hebron, the Minister for Transport and other officials in the H1 zone of Hebron (under the Palestinian Authority), the High Commissioner was told that, since October, 20 Palestinians had been killed in Hebron, of whom 5 were under 18 years of age, and that many houses, stores and facilities had been damaged, without compensation. Allegations were made that settlers were involved in violence against and harassment of Palestinian residents, with the tacit consent of the IDF.

48. IDF representatives told the High Commissioner that their presence was necessary to secure the safety of the settler community, which had been subjected to regular fire from Palestinian gunmen.

Freedom of movement

49. An effective closure of the occupied territories has been applied since the beginning of October and the movement of the population there continues to be heavily restricted. The High Commissioner's own travel between Israel and the occupied territories, and within the occupied territories, afforded an opportunity to assess the immediate impact of these restrictions. It was noted that, while road closures impact heavily on Palestinians, there exists a parallel road network, established by the Government of Israel, known as the by-pass roads, exclusively for the use of Israeli settlers and the authorities, enabling them to travel freely.

50. In discussions with senior IDF representatives, the High Commissioner called for a lifting or easing of the closures. The response from the senior officer responsible for IDF operations in the occupied territories was that the closures were a necessary security measure. An explicit linkage was drawn between the closures and the release in October, by the Palestinian Authority, of some 80 prisoners who had been held in Palestinian custody and who are considered by the Israeli authorities to pose a major security threat to Israel. The High Commissioner was told that if the Palestinian Authority were to re-incarcerate these 80 prisoners then the closures would be lifted the same day.

Freedom of religion

51. The High Commissioner met Muslim and Christian leaders representing the Palestinian and Armenian communities in East Jerusalem. They told the High Commissioner that the Israeli authorities continued to deny Palestinians full access to holy sites, including the Al-Aqsa Mosque and the Church of the Holy Sepulchre.

52. Since the beginning of October, access to the Al-Aqsa Mosque has been denied to Muslims, even religious leaders, under the age of 45 years. As a result, only one tenth of the usual number of worshippers currently have access to Al-Aqsa. Representatives of both communities expressed the wish to have full responsibility for their own holy places, which is currently denied by the Israeli authorities. They complained also of disrespectful behaviour by Israeli troops stationed at the holy sites. In discussing the need for religious tolerance, they explained to the High Commissioner their shared vision of Jerusalem as encompassing "one city, two peoples and three religions" and stressed the universal character of the city and the necessity to maintain its spiritual soul.

53. The High Commissioner relayed these views to the Israeli authorities in her subsequent discussions with them. In particular, she expressed her concern that restrictions on access to the holy sites could result in increased tension during the coming month of Ramadhan. The Israeli authorities told the High Commissioner that the restrictions were necessary to prevent armed extremists from occupying the holy sites, which would necessitate an Israeli military response. They argued that the degree of control over holy sites currently given to Palestinians was greater than that which had been accorded to Jewish communities prior to the creation of the State of Israel. In some cases where Palestinians had been entrusted with the protection of holy sites, such as Joseph's Tomb, these sites had subsequently been desecrated.

Economic impact

54. The United Nations development and humanitarian agencies operating in Jerusalem and Gaza provided comprehensive briefings to the High Commissioner on the impact that the current situation, particularly the closures, is having on the enjoyment by Palestinians of their economic rights and their right to development. They explained that the seriousness of the economic situation required that they put development programmes on hold and concentrate on emergency response and relief.

55. Approximately 128,000 Palestinian workers, normally employed in Israel, are currently barred from travelling to their workplaces. The movement of Palestinians within the occupied territories is severely restricted under the strict internal closure imposed, for instance, on the various parts of the West Bank.

56. According to the Israeli Ministry of Defence figures, the restrictions affect 20 per cent of the Palestinian workforce and some 35 per cent of total salary income. According to the Office of the United Nations Special Coordinator, unemployment had tripled since the beginning of October, which translates into a loss of household income of some 10 to 11 million dollars

per day. While most reports indicated that there were adequate supplies of food within the occupied territories, the means with which to purchase food, medicines and other basic necessities are rapidly becoming exhausted as affected families use the last of their savings.

57. United Nations studies also report a 50 per cent reduction in normal economic activity within the territories themselves. Restrictions on the movement of Palestinians within the West Bank have had economic consequences. Another serious factor has been the restriction on the import of raw materials, particularly cement. The ban on the movement of cement has effectively brought construction, normally the single largest industry in the occupied territories, to a standstill.

58. According to a Ministry of Defence briefing provided to the High Commissioner, loss of confidence among Israelis has also had a major effect on economic conditions in the occupied territories. In 1999, some 100,000 Israelis travelled to the territories for commercial reasons, generating income of \$500 million. Cooperative projects in industrial zones along the "green line" between Israel and the territories had resulted in the completion of 25 factories but since the start of the intifada, three of these factories have been burned and an industrial estate attacked, with the result that investor confidence has plummeted. The Ministry representatives also stated that the effects of the closures have been exacerbated in some cases by the reluctance of Palestinian Authority officials to cooperate with Israeli security processes at border checkpoints.

59. According to an International Monetary Fund (IMF) briefing provided to the High Commissioner, a factor which has aggravated the economic impact of the closures and other restrictions has been the failure of the Israeli authorities to make available to the Palestinian Authority in a timely manner certain tax revenues owed to it under existing agreements, which has affected the capacity of the Palestinian Authority to pay salaries to its employees.

60. Although the adverse economic consequences of the current situation are being felt most acutely in the occupied Palestinian territories, they have also had a negative impact on the Israeli economy.

Humanitarian access

61. Access is a major preoccupation for all humanitarian organizations operating in the occupied territories. Of particular concern are the restrictions imposed on the movement of United Nations local Palestinian staff, who make up the vast majority of United Nations employees in the occupied territories.

62. The High Commissioner was informed that because of the closures, emergency evacuation of seriously injured civilians for treatment abroad is difficult. Restrictions on access also affect the import of donations of humanitarian goods and equipment from abroad. Imports into Gaza involve unloading of the cargo of every truck originating from Israel at the Gaza/West Bank entry checkpoints and reloading onto other trucks for onward delivery. United Nations agencies have reported difficulties in obtaining clearance for emergency health kits.

63. The Ministry of Defence indicated that it was doing everything possible to facilitate humanitarian access to the occupied territories. During October alone, the Ministry representatives said, requests from some 80 countries had been processed in relation to medical supplies, blankets and sophisticated hospital equipment. A special coordination centre had been set up in order to bypass the usual bureaucratic channels and close liaison had been established with the Palestinian Authority.

64. The High Commissioner, in her subsequent discussions with senior IDF representatives, raised the specific issue of UNRWA medical supplies that had been blocked in Jerusalem. The IDF representatives indicated that this type of cargo should not be the subject of any restriction and they undertook to facilitate its delivery.

V. VISIT TO ISRAEL

65. The High Commissioner's visit to Israel allowed her to address general human rights issues and hear the views of a wide range of Israeli citizens and organizations, both Jewish and Arab. However, given the current situation, most discussions focused on the human rights situation in the occupied territories. The following paragraphs reflect the Israeli perspective on the situation.

Excessive use of force

66. On 13 November, following her visits to Gaza, Hebron and Ramallah, the High Commissioner discussed, with the Israeli authorities, the use of force by the IDF and other security forces. The High Commissioner expresses her appreciation for the very frank and informative meeting with the senior IDF officers responsible for security, intelligence, legal issues, weapons development and public affairs, which the government facilitated.

67. The IDF officers outlined their view of the genesis of the present situation - a view which was shared by other Israeli government officials. In brief, the view was put that the current intifada had been launched as a deliberate strategy of the Palestinian leadership. On offer at Camp David had been a Palestinian State, with reference made to both a right of return and a negotiated division of Jerusalem. According to the IDF, the Palestinian leadership, unwilling to make the difficult political compromises required, had ignited what it hoped would be a "CNN war" in which Palestinian losses would rally the support of the Muslim world and sway public opinion in the West. The aim was to increase international pressure on Israel to make further concessions. The ultimate goal was a Kosovo-style intervention force to protect "Palestinian territory", rather than "Palestinian people", thereby achieving a resolution without having to go to the negotiating table.

68. In terms of the pattern of the violence, the IDF officers described as typical a situation which commenced with stone throwing but which quickly escalated into armed attacks. Whereas the previous intifada had almost exclusively featured stone throwers, who were dealt with using riot control techniques, the Palestinians were now armed and many incidents featured a lethal mix of stone throwers and shooters. It was stated that out of 5,085 attacks on Israeli settlements, some 1,400 had involved live fire, including machine gun fire or the use of firebombs.

69. The IDF officers said that, according to their rules of engagement, attackers who use live ammunition could be shot by soldiers and sharpshooters deployed for that purpose. Nevertheless, they said, the IDF was only using 2 per cent of its military force. The High Commissioner was told that most of those killed over recent weeks had been armed attackers, shot after opening fire on Israeli positions. Some, however, had been killed in the crossfire, by one side or the other. Asked about the number of child casualties, the IDF officers responded that they were unable to indicate ages and numbers as the IDF generally had no access to the dead and wounded on the Palestinian side. However, they felt that the numbers reported were exaggerated and told the High Commissioner that the Tanzeem militia recruited and armed children.

70. Asked why the IDF reportedly often resorts to the use of live ammunition instead of non-lethal weapons, the IDF officers indicated that the military tactics being employed against them influenced the types of weapons the IDF could employ. They explained to the High Commissioner that Israel was concerned to reduce the number of casualties. So-called less-than-lethal weapons (which can still kill at short ranges or high concentrations) such as plastic coated bullets, tear gas and water cannons are only effective at a range of 50-100 metres. But at this range troops are vulnerable to live fire. The IDF have over the last few months field-tested dozens of weapons but have concluded that less-than-lethal weapons effective to a range of 200 metres do not currently exist. As a consequence, new weapons systems are being developed which, the IDF hope, will soon be deployed to control crowds effectively at longer ranges with little or no risk of serious injury.

71. Before leaving Israel on 15 November, the High Commissioner met at Ben Gurion Airport with three families from Gilo, a Jewish settlement on the outskirts of Jerusalem, who described nightly gunfire directed at their homes from a neighbouring Palestinian area. They also expressed concern that this resulted in heavy retaliation by the Israeli side, causing an intolerable situation for all civilians. They had had good relations with their Arab neighbours and were appalled at how the situation had deteriorated. Their families had lived in Gilo for upwards of 20 years and they did not see themselves as settlers. They urged the need to stop the violence and return to political dialogue.

Investigations; compensation for damage

72. Matters which the High Commissioner pursued with IDF representatives were the issue of how the use of lethal force was investigated by the IDF, what punishments were available for improper or excessive use of such force, and how many investigations had been conducted to date and with what result.

73. She was told that, unlike the situation during the previous intifada, when the Israeli army was in full control of the occupied Palestinian territories, there was currently no policy of routine investigation into the use of lethal force. Investigations could, however, be carried out internally if there was a particular reason to suspect that improper conduct had taken place. It was explained that that decision had arisen from the IDF evaluating that the current situation could be described as a state of "active warfare". In that situation the rules of war applied and soldiers were not required to account for each shot fired. In any case, the IDF representatives said, the number of shots being fired made such a policy impractical. Reference was also made to the

practical difficulties of investigating incidents in areas under Palestinian Authority control. Another consequence of the IDF decision about the state of "active warfare" was that compensation would no longer be made for the military use of private property, as it had been in the past. Asked about the destruction of houses and orchards in the occupied Palestinian territories, the IDF representatives advised the High Commissioner that there was no question of compensation as, under the rules of war, those areas had been cleared as a matter of military necessity because they had been used as cover by Palestinian gunmen.

74. The IDF representatives added that the new assessment of their current legal situation would normally also affect their own rules of engagement. In the present case, however, a decision had been taken to maintain the same rules of engagement as applied in previous intifada, in order not to increase the number of casualties. The IDF representatives made the point that double standards were being applied in relation to the Palestinian side which was not under international scrutiny about its rules of engagement or its policy on investigating shootings and violations of human rights. The IDF representatives referred to the lynching of two Israeli soldiers in Ramallah.

Situation of Arab Israelis

75. The situation of Arab Israeli citizens was raised at a meeting between representatives of Israeli NGOs and the High Commissioner as a specific human rights problem, albeit one which could not be entirely separated from the general situation in the occupied territories. Representatives of a number of Israeli NGOs indicated that Israeli Arabs, who represent 20 per cent of the State's population, had faced decades of neglect and discrimination on the part of the Israeli authorities.

76. Representatives of the Ministry of Foreign Affairs told the High Commissioner that the Government of Israel was taking measures to promote the integration of Israeli Arabs into Israeli society and to guarantee their rights as full citizens. Most Israeli interlocutors, including officials, acknowledged, however, that Israeli Arabs had suffered disadvantage and discrimination and that there was still some way to go in achieving full equality for that community. The President of the Supreme Court, Chief Justice Aharon Barak, briefed the High Commissioner on judicial action taken by the Supreme Court with respect to issues of equality, including decisions granting Arabs the right to purchase land in Israel. He also outlined the liberal approach adopted by his court concerning issues such as standing and jurisdiction in civil cases, which enabled NGOs to bring suits on behalf of aggrieved persons.

77. Most of the Arab Israelis whom the High Commissioner met described their situation as one of exclusion, prejudice, official hostility and routine humiliation. Since 28 September, however, the threat of violence which has engulfed many of their communities has become the primary concern of Arab Israelis. There was a sense of frustration that their problems were perhaps less well recognized than those of Palestinians living in the occupied territories.

78. Arab Israeli NGO representatives told the High Commissioner that, following the street demonstrations that took place in Arab cities and villages in Israel at the end of September and beginning of October, the security forces had responded with brutality and excessive force, using live ammunition, tear gas and plastic coated bullets, in contrast to the more moderate tactics

employed against Jewish protesters. This had led to the deaths of 13 Arab Israeli citizens. Many more had been injured and more than 1,000 arrested. A particular concern was the manner in which detention policy was being implemented. Many arrests, including of minors, were being carried out during night-time raids on homes. Once arrested, Arab detainees, including minors, were, according to these sources, far more likely to be held in custody without bail until the conclusion of their trials. It was asserted that this pattern was the result of a deliberate policy of discrimination against Arab Israelis on the part of the Attorney General's Office and the State Prosecutor's Office. It was further asserted that this policy extended to appealing every decision to release Palestinian detainees, which did not apply where Jewish detainees were concerned. Concern was expressed that the courts had largely acquiesced to these policies, with the result that large numbers of young Arab Israelis remained in detention. This issue was raised by the High Commissioner with the State Attorney General who indicated that she would look into the situation of young detainees.

Israeli Commission of Inquiry

79. On 11 November, the Government of Israel decided to establish a State commission of inquiry to inquire into the clashes, since 29 September, between the security forces and Israeli citizens in which 13 Arabs were killed and hundreds of people injured. The Commission, composed of three members, will be chaired by a justice of the Supreme Court. The Judicial Commission of Inquiry Law gives this Commission full power to subpoena and obtain information from anyone it deems may be able to assist in its inquiry. Witnesses who testify before it enjoy full immunity. Its mandate is to investigate how the events developed, determine the facts and draw conclusions. The Commission of Inquiry will decide for itself whether to publish its findings. It will not address cases which occurred in the occupied Palestinian territories or cases involving non-Israeli citizens.

80. Some Arab Israeli NGOs have welcomed the establishment of the Commission of Inquiry, while regretting that time was lost by the Government in establishing initially a more limited "examining committee". Others have expressed scepticism as to whether it will adequately address the issues.

National human rights commission

81. Recent events in Israel have underlined the need to strengthen national mechanisms for the protection and promotion of human rights, especially in the area of non-discrimination. In this context, the High Commissioner noted the positive steps being taken towards the establishment of an independent national human rights commission.

82. During the High Commissioner's meeting with the Minister of Justice and representatives of civil society such as human rights lawyers, academics and experts, the Minister reiterated his commitment to establish a human rights commission. He mentioned that the Minerva Center for Human Rights at the Hebrew University of Jerusalem had undertaken to carry out research on national human rights institutions and to recommend a model for an Israeli institution. In the first stage of the project, the research team examined international guidelines and the legislative

and administrative structure, function and modes of operation of human rights institutions in other countries. The NGO community had also been consulted when the proposal was being drawn up and their concerns, ideas and suggestions had been discussed with the research team.

83. Following these consultations the research team will prepare a draft report which will be distributed for comments among government officials, academic institutions and the NGO community. The final proposal, which will incorporate the responses on the draft report, will be presented to the Minister of Justice by March 2001. The High Commissioner was advised that the proposal will include recommendations on the relationship between the human rights commission and the Parliament and the Government, as well as existing executive bodies, such as the State Comptroller, the Ombudsman and the recently established Commission for Equal Rights for People with Disabilities. The final report will present the amendments needed to current legislation and recommend draft implementing legislation.

84. The High Commissioner offered the services of her Special Adviser on National Human Rights Institutions to assist the Government in its efforts towards the establishment of a national commission. On 17 November, the High Commissioner wrote to the Minister of Justice reiterating this offer.

VI. VISIT TO EGYPT

85. The High Commissioner visited Egypt to discuss with senior officials and the Secretary General of the League of Arab States the human rights situation in the occupied Palestinian territories and the follow-up to the fifth special session of the Commission on Human Rights.

86. In Cairo, the High Commissioner met with the Minister for Foreign Affairs, Mr. Amr. Musa, together with senior officials of the Ministry of Foreign Affairs. The Minister briefed the High Commissioner on steps taken by Egypt at the political level to assist in resolving the present conflict, including implementation of the agreement reached at Sharm El Sheikh. He expressed his Government's deep concern at the continuing deterioration of the situation in the occupied Palestinian territories and the impact it was having on the Palestinians. In this regard he raised the question of Israel's compliance with the Fourth Geneva Convention and referred to the necessity to implement the decisions taken during the fifth special session. The High Commissioner briefed the Minister on her visit and, in response to the concerns expressed with regard to access for humanitarian aid, the High Commissioner informed the Minister that she had made representations to the Israeli authorities concerning access for humanitarian relief supplies destined for the occupied territories.

87. During the High Commissioner's meeting with the Secretary General of the League of Arab States, Dr. Ismat Abdel-Maguid, the latter referred to the concerns expressed in Arab countries with regard to the situation of the Palestinians and steps taken by the members of the League of Arab States following their meeting in Cairo on 19 October. He expressed his appreciation of the High Commissioner's decision to visit Israel and the occupied Palestinian territories at a very difficult time. He also declared the readiness of Arab countries to support the resolution adopted at the fifth special session and indicated that he was looking forward to its implementation.

VII. VISIT TO JORDAN

88. In Jordan, the High Commissioner was received by His Royal Majesty King Abdullah II. He expressed deep concern about recent developments in Israel and the occupied territories and mentioned that Jordan was sparing no efforts to assist both parties in the implementation of the decisions agreed upon in Sharm el Sheikh. In terms of humanitarian assistance, King Abdullah described the extensive relief programme put in place by Jordan, including a hospital in the West Bank.

89. In a separate meeting with the Deputy Prime Minister and with senior officials from the Ministry of Foreign Affairs, the High Commissioner was made aware of Jordan's concern about current events, particularly given the strong ties between the Jordanian and Palestinian peoples.

VIII. CONCLUSIONS AND RECOMMENDATIONS

90. The High Commissioner came away from her visit deeply concerned about the serious deterioration of the human rights situation in the occupied territories and Israel and at the terrible cost in terms of human lives. It is vital that both parties renew efforts to halt the current dangerous escalation.

91. Mindful of the urgent and widespread calls for international protection made to her during her visit to the occupied territories, the High Commissioner believes that every effort should be made to explore the feasibility of establishing an international monitoring presence.

92. The only path to lasting peace and stability is through peaceful negotiation, which calls for courage and responsibility on the part of the leadership of both sides. When she met with Chairman Arafat in Gaza on 15 November, the High Commissioner asked him if he would publicly call for an end to the shooting by Palestinians. Later the same day he called on Palestinians to stop firing on Israeli targets from zone "A" of the occupied territories. In discussions with senior IDF officers, the High Commissioner also urged a withdrawal of Israeli military forces from some of their forward positions and a lowering of the military profile in the occupied territories. She continues to believe that some specific steps in that direction by the IDF could help to break the present cycle of violence.

93. The High Commissioner believes that a peaceful and stable future in the region can only be achieved on the basis of a framework conforming to the requirements of international human rights and humanitarian law. Full application of the international human rights standards set out in the Universal Declaration of Human Rights and the two Human Rights Covenants is essential.

94. The High Commissioner recalls that the General Assembly and the Commission on Human Rights have repeatedly reaffirmed the de jure applicability of the 1949 Fourth Geneva Convention relative to the Protection of Civilians in Time of War to the occupied Palestinian territories. Article 1 of the Convention places a duty on all the High Contracting Parties "to respect and to ensure respect" of the provisions of the Convention "in all circumstances". It would be appropriate for the High Contracting Parties to assume their responsibility under the Convention.

95. Another way in which the international community can assist is through the work of the task force established under the terms of the Sharm El Sheikh Agreement.

96. The High Commissioner would urge that the following specific steps be taken in order to stop the escalation of violence:

The security forces of both sides should act in full conformity with the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Whenever force is used the principle of proportionality has to be applied and all necessary measures have to be taken to avoid loss of life or injury to civilians or damage to civilian property.

The construction of new settlements should cease and those located in heavily populated Palestinian areas should be removed. As well as protecting settlers, the Israeli security forces should also protect Palestinians from violence perpetrated by Israeli settlers.

All cases of the use of lethal force on both sides should be investigated and subjected to the processes of justice in order to avoid impunity.

Compensation should be provided to the victims of unlawful use of force, including for the loss of property.

Curfews should be imposed only in extreme circumstances and as a last resort. In no case should curfews be used as a punitive measure. In cases where a curfew is imposed, it should be done in consultation with the local communities with a view to limiting the adverse impact on the human rights of those affected.

The enjoyment of economic rights within the occupied Palestinian territories, including the right to development, should be protected.

All holy sites and access to them by all faiths should be respected.

The Israeli authorities should ensure freedom of movement of international and national staff of United Nations agencies and facilitate access by them to those in need of assistance.

Cooperation with the United Nations agencies is vital to ensure effective humanitarian assistance in the occupied Palestinian territories.

97. The High Commissioner will:

Continue, through her office in the occupied Palestinian territories, to assist the Palestinian Authority to build up its institutional capacity in the area of the rule of law;

Offer the services of her Special Adviser on National Human Rights Institutions to assist the Government of Israel in its efforts towards the establishment of a national human rights commission;

Provide the necessary secretariat support for actions undertaken by the Commission on Human Rights, and its mechanisms, in the implementation of the resolution adopted at its fifth special session;

Stand ready to facilitate dialogue between the human rights bodies of Israel and the Palestinian Authority, Palestinian and Israeli NGOs, and other representatives of civil society in order to enhance mutual understanding;

Urge the international community to support the work of United Nations agencies in the occupied Palestinian territories and, in this context, contribute generously to the different resource mobilization initiatives currently under way including those of the World Food Programme, UNICEF, the World Health Organization and UNRWA.

Annex*

PROGRAMME OF THE VISIT IN THE OCCUPIED
PALESTINIAN TERRITORIES AND ISRAEL

A. Visit to the occupied Palestinian territories

1. Meeting with members of the Palestinian Authority

Mr. Yasser Arafat, President
Mr. Tayeb Abdel Rahim, Minister of Presidential Affairs
Mr. Freih Abu Middain, Minister of Justice
Mr. Zouhdi Nashashibi, Minister of Finance
Mrs. Intissar Al Wazir, Minister of Social Affairs
Dr. Riyadh Al-Zaanoun, Minister of Health
Mr. Youssef Abu Safia, Minister of Environment
Mr. Abdul Rahman Hamad, Minister of Housing
Mr. Ziyad Abu Zayyad, Minister of Jerusalem Affairs
Mr. Rafeeq Natshah, Minister of Labour
Mr. Ali Al Qwasma, Minister of Transportation
Mr. Talal Sadr, Minister without portfolio
Mr. Ahmad Said Tamimi, Acting Minister of the Interior
Mr. Ibrahim abu Dhaga, Presidential Adviser for Human Rights
Mr. Ahmed Soboh, Assistant to the Minister of Planning and International Cooperation (MOPIC)
Ms. Samia Bamia, Director, United Nations and International Organizations, Ministry of Planning and International Cooperation

2. Meeting with members of the Palestinian Legislative Council

Mr. Ahmed Qurai, Chairman
Mr. Qadurah Faris, Head of the Oversight and Human Rights Committee
Mr. Ghasi Hanania, Deputy Speaker
Mr. Jamal Al Showbaki, Member
Mr. Suleyman Abu Snaina, Member
Mr. Abdul Jawad Saleh, Member
Mr. Azmi Shouaibi, Member

3. Meeting with members of the Palestinian Independent Commission for Citizen's Rights

Dr. Hayder Abed-Elshafi, Commissioner General
Dr. Said Zeydani, General Director in Ramallah

* The annex is reproduced in English only.

4. Meetings with other Palestinian officials, academics and representatives of civil society

Mr. Mustafa Abdel Nabi Al-Natshah, Mayor of Hebron
 Dr. Fathi Arafat, Chairman of the Palestinian Red Crescent Society
 Dr. Sari Nusseibeh, President of Al-Quds University in Jerusalem
 Dr. Ali Jirbawi, Head, Political Science Department, Birzeit University and
 Project Coordinator for Human Rights Issues, Education Department, UNRWA
 Dr. Hanan Ashrawi, Member of the Palestinian Legislative Council and
 Secretary-General of Global Dialogue and Democracy ("Miftah")
 Mr. Sulaiman Al Najjab, Member of the Executive Committee of PLO

In addition, the High Commissioner met with rallies of children in Gaza and in El Bireh (Ramallah), a delegation of expatriate volunteers in East Jerusalem at the UNDP office, as well as other Palestinian civilians (refugees, displaced persons, farmers, educators, doctors and schoolteachers).

5. Meeting with Palestinian NGOs at the office of the United Nations Coordinator in the Occupied Territories (UNSCO), Gaza (11 November 2000)

Democracy and Workers Rights
 Centre for Economic and Social Rights
 Al Mizan Centre for Human Rights
 Palestinian Centre for Human Rights
 Palestinian Society for Human Rights
 The Palestinian Association for Legal Sciences
 Addameer
 Gaza Centre for Rights and Law
 Mashriqqiyat
 Cultural and Free Thought Centre
 Tamer Institute for Community Education
 Red Crescent Society
 Gaza Community Mental Health
 National Rehabilitation Society for Handicapped
 Women Affairs Technical Committee
 General Union of Palestinian Women
 Women Affairs Centre
 Palestinian Hydrologist Group
 Palestinian Bar Association
 Union of Palestinian Medical Relief Committees

6. Meeting with Palestinian NGOs in East Jerusalem at the UNDP office
(12 November 2000)

Rawdat-E-Zuher
St. John Eye Hospital
Jerusalem Centre for Economic and Social Rights
Gender Planning Development
Palestinian Counselling Centre
Union of Health Work Committees
Palestinian Prisoner Society
Makassed Society in Jerusalem
ECRC-PNGO
Jerusalem Centre for Women
Arab Thought Forum
Palestinian Society for the Protection of Human Rights and Environment (LAW)
Adameer Association
Land Research Centre
Palestinian Human Rights Monitoring Group
Palestinian Academic Society for the Study of International Affairs (PASSIA)
Palestinian Agriculture Relief (PARC)
Medical Relief Committees/Jerusalem
Al-Haq
Early Childhood Resource Centre

7. Meeting with Palestinian NGOs, El-Bireh, Ramallah (13 November 2000)

Birzeit Law Institute
Bisan Centre for Research and Development
Association of Women for Social Work
Women Union Centre
Union of Women Centres - Palestine
Palestinian Bar Association
Jerusalem Legal Aid Centre
Jerusalem Centre for Women
PNGO Network
Association of Palestinian Local Authorities
Women's Studies Centre
Women's Centre for Legal Aid and Counseling
Al-Haq
Law Society
Arab Thought Forum/Citizen Rights Centre
Defence for Children International/Palestinian Section
Palestinian Happy Child Centre – PHCC
Adameer

Guidance and Training Centre for the Child and Family
Palestinian Mother and Child Care Society
General Union of Disabled Palestinians
Palestinian Working Women Society
Freedoms Defence Centre
Democracy and Workers' Rights Centre
Resource Centre for Palestinian Residency and Refugee Rights (BADIL)
Treatment and Rehabilitation Centre for Victims of Torture
Mandela Institute for Political Prisoners

8. Meeting with representatives of the Muslim, Christian and Armenian communities, East Jerusalem (12 November 2000)

Mr. Ramzi Zananiri, Executive Director
Near East Christian Council Committee for Refugee Work, Jerusalem/West Bank

Mr. Harry Hagopian
Executive Director, Middle East Council of Churches
Convenor, Jerusalem Inter-Church Committee
Legal Consultant, London, United Kingdom

Fr. Raed Abusahlia
Chancellor of the Latin Patriarchate
Secretary of Patriarch Michel Sabbah

Bishop Aris Shirvanjan
Director for Ecumenical and Foreign Relations of
the Armenian Patriarchate, Jerusalem

Dr. Mustafa Abu Sway
Director
Islamic Research Centre
Al-Quds University
Jerusalem

Sheikh Ikrama Said Sabri
General Mufti of Jerusalem and Palestinian territories
Preacher of Al-Aqsa Mosque

Sheikh Yaakoub Karrach
Director of Islam Fiqh Centre
and member of the Palestinian National Council

9. Locations visited by the High Commissioner in the occupied Palestinian territories

A. Gaza Strip

Erez checkpoint
Shifa Hospital
Netzarim junction
Al-Mazra'a school in Deir El-Balah, opposite Kfar Darom settlement
Affected houses near the border fence in Rafah
Rafah Health Centre
Rafah preparatory girls school
Uprooted farms near Moraje settlement in Rafah

B. West Bank

East Jerusalem
Ramallah
El Bireh
Hebron with the Temporary International Presence in Hebron (TIPH)
Jalazon refugee camp
Jalazon preparatory boys school

10. Meeting with United Nations officials

Mr. Terje R. Larsen, United Nations Special Coordinator for the Middle East peace process and Personal Representative of the Secretary-General to the PLO and the PA
Mr. Peter Hansen, Commissioner General of UNRWA
Mr. Timothy Rothermel, UNDP, Special Representative of the Administrator

In addition, the High Commissioner met with representatives of the following United Nations bodies and agencies in Gaza:

Office for the Coordination of Humanitarian Affairs
International Monetary Fund
United Nations Children's Fund
United Nations Development Fund for Women
United Nations Development Programme
World Food Programme
World Health Organization

11. Meeting with staff of the Office of the High Commissioner for Human Rights in the occupied Palestinian territories (Gaza and the West Bank)

Mr. Amin Medani, Director, Chief Technical Adviser
Mr. Saber Nairab, Human Rights Officer (Gaza)
Mr. Ammar al Dwaik, Human Rights Officer (West Bank)
Ms. Wijdan Jaber, Administrative Assistant
Ms. Eman Fathi, Secretary
Mr. Fawzi Al Akra'a, Logistics Officer

B. Visit to Israel

H.E. Mr. Moshe Katzav, President of the State of Israel
The Hon. Aharon Barak, President of the Supreme Court
Mr. Yossi Beilin, Minister of Justice, together with the following guests at a lunch hosted by him:

Mr. Shlomo Gur, Director General, Ministry of Justice
Mrs. Edna Arbel, State Attorney
Mrs. Osnat Mandel, Acting Director, High Court of Justice Division, State Attorney's Office
Ms. Tamar Gaulan, Director, Foreign Relations and International Organizations, Ministry of Justice
Mr. Daniel Levy, Senior Advisor to the Minister of Justice
Mr. Amir Avramovitch, Media Advisor to the Minister of Justice
Ms. Rachel Harris, legal intern
Ms. Colette Avital, Member of the Knesset
Mrs. Zehava Gal'on, Member of the Knesset, Head of the Meretz parliamentary faction
Mrs. Pnina Herzog, President, International Counsel of Women
Prof. David Kretzmer, member of the United Nations Human Rights Committee
Prof. Mordechai Kremnitzer, Israel Democracy Institute
Prof. Ruth Gavison, Faculty of Law, Hebrew University
Dr. Daphna Sharfman, Chair, Political Science Department, Western Galilee College
Dr. Eddy Kaufman, Board Member, Human Rights Watch, Middle East
Mrs. Orna Rabinovitch Pundak, former Chairperson, Amnesty International, Israeli Section
Mr. Moshe Negbi, political commentator
Mr. David Peleg, former Permanent Representative, Permanent Mission of Israel to the United Nations at Geneva
Mr. Mordechai Yedid, Deputy Director General, International Organizations, Ministry of Foreign Affairs
Mr. Yaakov Paran, Director, Human Rights Department, Ministry of Foreign Affairs
Mr. Zeev Lurie, Deputy Director, Human Rights Department, Ministry of Foreign Affairs

Dr. Alon Leal, Director General of the Ministry for Foreign Affairs and other senior officials of the Ministry

Major General Eiland and senior officers of the Israeli Defense Forces (IDF)

General Ya'acov Or, IDF Coordinator for the Territories, and other IDF officials

Families from Gilo community

Ms. Naomi Chazan, Member of the Knesset

In addition, the High Commissioner met with representatives of civil society (academics and human rights defenders), Members of the Knesset and other Israeli officials, including the State Prosecutor.

Meeting with Israeli and Arab NGOs in Jerusalem (9 November 2000)

Btselem Israeli Information Centre for Human Rights in the Occupied Territories

HaMoKed Centre for the Defence of the Individual

Public Committee against Torture in Israel

Defence for Children International (Israel Section)

Ittijah Union of Arab Community Based Association

Physicians for Human Rights

Association for Civil Rights in Israel (ACRI)

Rabbis for Human Rights

Adalah Legal Centre for Arab Minority Rights in Israel

Mossawa Centre

Ms. Tamar Pelleg, human rights lawyer

Visit to the "Yad Vashem" Martyr's and Heroes' Memorial of the Holocaust



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Fifty-seventh session
Item 8 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the human rights inquiry commission established pursuant
to Commission resolution S-5/1 of 19 October 2000**

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I. INTRODUCTION

1. On 19 October 2000, the Commission on Human Rights adopted resolution S-5/1 establishing a commission of inquiry to investigate violations of human rights and humanitarian law in the occupied Palestinian territories after 28 September 2000 and to provide the Commission on Human Rights with its conclusions and recommendations (see annex I). In pursuance of this resolution, a human rights inquiry commission was established on 2 January 2001, comprising Professor John Dugard, (South Africa), Dr. Kamal Hossain (Bangladesh) and Professor Richard Falk (United States of America). Initially Professor Dugard and Dr. Hossain acted as Co-Chairpersons but, during the course of the visit to the occupied Palestinian territories (OPT), Professor Dugard was appointed as Chairman.

2. The Human Rights Inquiry Commission ("the Commission") held its first meeting in Geneva from 14 to 16 January 2001 to discuss its mandate, methodology and programme of action. It then visited the occupied Palestinian territories (OPT) and Israel from 10 to 18 February 2001. The full programme of the Commission appears in annex II.

3. On the evening of its arrival in Gaza on 10 February 2001, the Commission met with the Palestinian Authority President, Yasser Arafat, who gave the Commission an account of the situation from the perspective of the Palestinian Authority. From the programme contained in annex II, it will be seen that, while in Gaza, the Commission held meetings and discussions with members of the Palestinian Authority, non-governmental (NGOs), the Palestinian Red Crescent, the International Committee of the Red Cross (ICRC), international agencies (notably the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Special Coordinator in the Occupied Territories (UNSCO) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)), journalists, lawyers and members of the Palestinian Legislative Council. It also interviewed several young men who had been seriously wounded during demonstrations by gunfire from the Israeli Defence Force (IDF) and visited a hospital in Khan Yunis where it saw persons hospitalized as a result of gas inhalation. En route to Khan Yunis, the Commission visited the Qarara area, near the Kusufim road leading to settlements, where it saw agricultural land that had been bulldozed and houses that had been demolished by the IDF and it spoke with the occupants of these houses, who are now living in tents. At Khan Yunis the Commission visited the Tufar checkpoint adjacent to the Neve Dekalim Jewish settlement. While the Commission members were speaking to journalists at this point, two shots were fired from a nearby building at the settlement. This evoked a heavy response from the IDF base attached to the settlement, resulting in three casualties, two of which were serious. Thereafter, the Commission interviewed persons who had suffered as a result of gunfire or the destruction of property.

4. The Commission spent Wednesday, 14 February interviewing Israeli NGOs and Israeli interlocutors who provided the Commission with a broader understanding of the context of the conflict and the legal position adopted by the Government of Israel. On 15 and 16 February the Commission visited Ramallah, where it met with members of the Palestinian Authority, the Palestinian Legislative Council, the Palestinian Peace Negotiation Affairs Department, and Palestinian NGOs, lawyers and academicians. On the morning of 16 February, before leaving for Ramallah, the Commission met with the representatives of member States of the

European Union, whose views confirmed many of the opinions expressed by other interlocutors interviewed by the Commission. Later in the morning of 16 February the Commission spoke with Christian and Muslim leaders (including those responsible for the management of the Al Aqsa mosque) and met with Mr. Faisal El-Husseini at Orient House. On Saturday, 17 February the Commission travelled to Hebron, where it met with the Temporary International Presence in Hebron (TIPH) and the Mayor of Hebron. Owing to the tense security situation arising from the funeral of a person killed by IDF gunfire on the previous night, it was unable to visit "H2", the area of Hebron under Israeli military control. After leaving Hebron, it visited the Aida Refugee Camp near Bethlehem and inspected an UNRWA school and houses which had been heavily damaged by IDF shelling. Thereafter, it met with a wide range of interlocutors and journalists in Jerusalem.

5. While in Jerusalem, the Commission held evening meetings with widely respected Israeli academic and intellectual figures, who were able to inform the Commission about the legal context of the conflict and the Jewish settlements in the West Bank and Gaza and provide Israeli perspectives of the intifada. On the afternoon of 16 February, the Commission visited the East Jerusalem neighbourhood of Gilo, which had come under gunfire from the Palestinian town of Beit Jala. On the last day of its visit, the Commission met with an Israeli political scientist and a former Israeli IDF General.

6. At the request of the Commission, the staff of the United Nations Secretariat accompanying the Commission conducted a number of confidential interviews with victims in Gaza, Ramallah, Hebron and Jerusalem. The texts of these interviews were shared with members of the Commission.

7. The Government of Israel made it clear from the outset that it would not cooperate with the Commission. Two letters were addressed to the Government of Israel before the departure of the Commission for Israel requesting meetings with the Government; a final letter containing a similar request was sent while the Commission was visiting the area. Despite these efforts, the Government of Israel consistently maintained its policy of non-cooperation with the Commission. The Commission is, however, pleased to report that the Government did not in any way obstruct the work of the Commission and indeed facilitated its visit to Israel and the occupied territories by granting Dr. Hossain an entry visa. (The other two Commissioners did not require visas for their visit.)

8. Jewish settlements in the West Bank and Gaza feature prominently in this report. For this reason, the Commission approached the Council of Jewish Settlements of Judea, Samaria and Gaza (Yesha) in order to obtain their views at first hand. After consideration and consultation with the Government of Israel, the Council decided not to cooperate with the Commission.

9. The Commission made a concerted effort to obtain information and opinions about human rights violations and violations of international humanitarian law from both the Palestinian and the Israeli perspectives. The Commission regrets the refusal of the Government of Israel to cooperate with it. This meant that it could not obtain specific responses to allegations of human rights violations and violations of international humanitarian law or benefit from

interaction on the concerns of the Commission. The Commission believes, however, that it was adequately informed as to the official Israeli position through its study of the Israeli submissions to the Mitchell Commission and the Government's response to the report of the High Commissioner for Human Rights and by speaking to informed Israeli interlocutors. It also had the benefit of a discussion with former General Shlomo Gazit, the Chief Military Coordinator of West Bank and Gaza Policy in the period 1967-1974 and a keen student of military affairs and security doctrine.

II. METHODOLOGY

10. The Commission has studied numerous reports on matters affecting human rights and humanitarian law in the occupied Palestinian territories since the start of the second intifada on 28 September 2000. During its visit to Israel and the occupied territories, it heard a considerable amount of evidence on such matters. In addition, it experienced violence at first hand, spoke to victims and inspected destroyed properties and the sites of some of the worst confrontations between demonstrators and the IDF. The impressions and interpolations of the Commission and the testimony received by the Commission confirm the views expressed by the most respected and reliable NGOs in the region. The Commission has, therefore, relied to varying degrees on the findings of respected NGOs where they were supported by reliable eyewitness accounts and where they coincide with other evidence received by the Commission. In other words, the Commission is guided in its report by the best available evidence. Most of this evidence is not disputed by either the Palestinian Authority (PA) or the Government of Israel, although they tend to place an interpretation different from that of the Commission upon it.

11. In its report the Commission refers to facts and figures that show the magnitude of the violations of human rights and international humanitarian law in the OPT. These facts and figures have been taken from a wide variety of sources. Every attempt has been made to confirm their accuracy by reference to reports on the same incidents from other sources. Where there is any doubt about the accuracy of a particular factual situation, no statistics are given about it.

12. The present report will show that the IDF, assisted by settlers on occasion, has been responsible for most of the human rights violations and violations of international humanitarian law in the OPT. This is not to overlook the fact that human rights violations have been committed by Palestinians, either under the authority of the PA or by individual Palestinians acting seemingly without authority. Where necessary, the present report draws attention to these violations.

13. The mandate of the Commission is to report on violations of human rights and international humanitarian law in the OPT. Both the Government of Israel and the PA allege that the other party has violated the Oslo Accords in fundamental respects during the present intifada. The Commission makes no attempt to pronounce on these allegations, except where they impinge upon matters falling within its mandate.

14. In the course of its investigation, the Commission met leaders of civil society in both Israel and the OPT. We were impressed with their understanding and vision. Leaders of this kind offer the best prospect for the future of Palestine and the normalization of relations between Jews and Arabs.

15. The Commission hopes that its report will serve to advance the peace process. The attitude of the Commission is that, while there can be no human rights without peace, a durable peace is not likely to be attained if it is not founded on respect for human rights and the rule of law.

III. CLARIFYING THE CONTEXT: ILLUSION AND REALITY

16. It was evident in all phases of our inquiry into the patterns of violations of human rights and international humanitarian law during the second intifada that an appreciation of the behaviour of the parties involved depended on having an understanding of the surrounding context. Each side has felt justified in taking the action that has accompanied recent moves, although each side gives its own self-serving interpretation of its legal, moral and political character. It is important to comprehend these differences in the process of seeking an objective assessment of the various allegations of violative conduct. It is just as important to avoid equating adversary positions as equally persuasive. In the setting of the Israeli-Palestinian relationship it is of pervasive significance that the Palestinian people are struggling to realize their right of self-determination, which by virtue of international law and morality provides the foundation for the exercise of other rights. Of comparable significance is the appreciation of the extent to which Israel's continued occupation of Palestinian territories has remained the most formidable obstacle to Palestinian self-determination.

17. The Commission came away from this inquiry with two overriding assessments that are at once discouraging and illuminating.

18. The first involves perceptions, and focuses on the extent to which the two sides perceive the central reality of their respective positions from diametrically opposed constructions of the meaning of recent events. In essence, the Government of Israel and most Israelis conceive of the breakdown of the Oslo process as creating for them a severe and novel security crisis. Most Israelis view the second intifada as an indication that Palestinians are unwilling to resolve their conflict by peaceful means, having rejected what is regarded as a generous offer by the Government of Israel at the Camp David II and Taba stages of the Final Status negotiations. The nature of this crisis is such that, according to this dominant Israeli perspective, the encounter with the Palestinians has moved from a relationship between an occupying Power and an occupied people to one between conflicting parties in a state of belligerency or war, implying a virtual absence of legal and moral constraints, at least on the Israeli side, provided only that a self-serving argument of military necessity is set forth.

19. In the starkest possible contrast, the Palestinian Authority and most Palestinians perceive the current phase of their relationship with Israel as brought about by a combination of the distortions associated with the implementation of the Oslo principles, the failure to implement a series of authoritative United Nations resolutions, most particularly Security Council resolutions 242 (1968) and 338 (1973), and grave breaches by Israel of the Fourth Geneva Convention. These aspects of the situation are further seen as responsible for the full harshness of Israeli occupation as it affects adversely the daily lives of the Palestinians. Such circumstances are regarded as profoundly aggravated by the continued expansion of Israeli settlements throughout the period of the Oslo process and by the IDF role in their protection.

The combination of these elements is regarded by most Palestinians as the proximate cause of the escalating spiral of violence set off by the provocative events at Harem al-Sharif/ Temple Mount on 28 September 2000. In this regard, the second intifada is viewed as a spontaneous series of moderate and proportional responses to an occupation that has been maintained and perpetuated in defiance of the authority of the United Nations since it was established in 1967. From this perspective, the Palestinians contend that they continue to seek a negotiated end to the conflict to attain a peaceful settlement that is fair to both sides and upholds the security of both peoples on the basis of mutuality.

20. Our second closely related conclusion is associated with the somewhat disguised link between the modality of Israeli occupation as a result of changes brought about by the Oslo process and the subsequent intifada, with its escalating spiral of violence. It is of critical importance to appreciate the interaction between the redeployment of the IDF since 1994 and the implementation of the Oslo Accords. In effect, the IDF withdrew by stages from most of the areas on the West Bank and Gaza inhabited by the bulk of the Palestinian population, and yet sustained, and even intensified, its control over the borders between the Palestinian territories and Israel and among the various districts internal to the OPT. Even more significantly, owing to the retention of the settlements situated throughout the Palestinian territories, as the accompanying map makes clear (annex IV), the West Bank and Gaza were divided into "A", "B", and "C" areas, with the Palestinian Authority exercising full administrative control over A, while Israel exercises security control over B and retains exclusive control over C. In effect, a series of internal boundaries were established by agreements implementing the Oslo Accords, so as to enable Israel to provide protection to the settlements while withdrawing from areas densely populated by Palestinians. The effect of such a redistricting of the Palestinian territories was to produce a situation of extreme fragmentation, making travel very burdensome for Palestinians who went, for work or otherwise, from one part of the territories to another: checkpoints were maintained where detailed searches were carried out that resulted in long waits and frequent humiliation, greatly burdening Palestinian rights of movement even under normal circumstances. In the course of the second intifada, this already difficult situation has been severely aggravated by frequent closures and blockades that have prevented the movement of goods and persons across both internal and external borders. Most Palestinians described the situation of recent months as living under "a state of siege".

21. Such a pattern of control and security can only be understood in relation to the settlements and their need for safe access to and from Israel. The main IDF function in the occupied Palestinian territories is to guard the settlements and the access and bypass roads. The relationship is such that the settlers are given unconditional priority whenever their presence impinges upon that of the Palestinian indigenous population. For instance, all Palestinian traffic is stopped while a single settler vehicle passes on an access road, causing long delays and much resentment. While travelling, particularly in Gaza, the Commission had its own direct experience of this situation. When a violent incident occurs, Israeli closures further inhibit travel, often preventing or greatly detaining even emergency traffic, such as ambulances. The Commission verified several accounts of deaths due to an inability of Palestinians to receive timely medical attention. Israel has invested heavily in an elaborate system of bypass roads in the West Bank designed to provide most settlements and the IDF with the means to travel to and from Israel, and between settlements, without passing through Palestinian-controlled areas. Palestinians view these roads with alarm, both because of their substantial and symbolic

encroachment upon the heart of a future Palestinian State and, more so, because the magnitude of the investment and effort involved in such a development seems to impart an Israeli view that most of the settlements on the West Bank will never be removed. This situation contrasts with Gaza, where access roads cut through Palestinian territory and have not been specially constructed. In this regard, the settlement structure in Gaza seems removable by negotiations on final status in a manner that at present does not appear likely in relation to the West Bank.

22. Part of the perceptual gap is associated with the effects and nature of the violence. Israelis appear to connect most of their casualties with the stone-throwing demonstrations, interspersed at times with Palestinian gunfire. The Palestinians associate casualties on their side mainly with what they view as Israeli/IDF overreaction to these demonstrations. It was the clear judgement of the Commission that Palestinian casualties were indeed mainly associated with these direct encounters, but that, to the best of our knowledge, the IDF, operating behind fortifications with superior weaponry, endured not a single serious casualty as a result of Palestinian demonstrations and, further, their soldiers seemed to be in no life-threatening danger during the course of these events. It was the definite view of the Commission that the majority of Israeli casualties resulted from incidents on settlement roads and at relatively isolated checkpoints at the interface between A, B, and C areas, that is, as a consequence of the settlements, and irritations resulting indirectly therefrom. In this regard, account must be taken of settler violence against Palestinian civilians in areas adjoining settlements, and of IDF complicity in such violence. A pervasive feature of the tensions associated with the second intifada is the clear affinity between the IDF and Jewish settlement communities, and the equally evident hostility between these communities and the surrounding Palestinian population.

23. The language associated with the second intifada is also relevant to an assessment of human rights violations and violations of international humanitarian law. Both sides tend to view the violence of the other side as comprising "terrorism". The Israelis view attacks by Palestinians, especially beyond "the Green Line" (pre-1967 Israel), as terrorism even if directed against official targets such as IDF soldiers or government officials. Palestinians regard the IDF tactics involving shooting unarmed civilian demonstrators (especially children) or relying on tanks and helicopters against demonstrators, in retaliation for shots fired from refugee camps, and assassinations of targeted individuals as State terrorism. The legal status of these patterns of violence is difficult to establish authoritatively. Part of the current complexity relates to the Israeli contention that a condition of armed conflict has replaced that of belligerent occupancy as a result of IDF withdrawals from A zones, and the transfer of governing authority in those areas to the PA. Another part of the complexity arises from the Palestinians' contention that they enjoy a right of resistance to an illegal occupation.

24. There is another fundamental discrepancy of perception. Israel believes that its security measures, including border and road closures, represent reasonable, even restrained, measures of response to Palestinian unrest and opposition. To the extent that Israel relies on the superiority of its weaponry or inflicts most of the casualties, such behaviour is rationalized as necessary to demoralize a numerically superior enemy, nipping its resistance in the bud. Such lines of explanation were set forth by Israeli witnesses to explain and justify even the use of live ammunition by the IDF against unarmed Palestinian demonstrators during the opening days of the second intifada. During these crucial days there was no evidence of Palestinian gunfire.

25. The Palestinians view this link between Palestinian acts of resistance and Israeli responses from an entirely different angle of interpretation. To Palestinians, the Israeli use of force from day one of the second intifada, and indeed before Ariel Sharon's visit on 28 September to the Al Aqsa mosque, was intended to crush any Palestinian impulse to oppose openly the continued Israeli domination and occupation of the West Bank and Gaza. For most Palestinians, the closures of roads and borders, destruction of homes and property, and accompanying measures of curfews and restrictions are regarded as clear expressions of an Israeli policy of inflicting collective punishment upon all Palestinian inhabitants. Palestinians also rejected the view that the Palestinian Authority, and its police, had the capacity to prevent hostile demonstrations or to ensure the absence of violent incidents involving targets within Israel. When Israel responded to such events by punishing the territories as a whole it was viewed by Palestinians as vindictive, unjust and illegal because such a response lacked any discernible connection to either the perpetrator or to prospects for deterrence of future violence.

26. Closely related to such perceptions are differences of viewpoint as to the nature of the second intifada. Israelis tended to contrast the first with second intifadas. The first intifada was seen in retrospect by Israelis as having been a largely spontaneous, bottom-up and non-violent expression of opposition to Israeli occupation. It was, in such circumstances, not reasonable to hold the Palestinian leadership responsible for the disorder. According to Israelis, the second intifada was instigated from above so as to mount a timely challenge to the Israeli leadership at a delicate moment in the peace negotiations. It was a calculated plan to improve upon an exceedingly weak Palestinian bargaining position and it also represented a serious failure by the Palestinian Authority to carry out its obligations under the Interim Agreements flowing from Oslo to maintain security for Israel in areas subject to its authority.

27. The Palestinians see the second intifada from an entirely different perspective, essentially from the outlook of an occupied people. They regard the demonstrations as spontaneous eruptions of pent-up hostile sentiment arising from years of frustration, disappointment and humiliation. Palestinians interpret the Israeli responses as consistent with the basic structure of the occupation of their territories, as one-sided, lacking in empathy for the Palestinian civilian population, and designed to punish and crush any signs of resistance.

28. From this perspective, the Palestinians see the greater reliance by Israel on heavy weapons and deadly fire in the second intifada, as compared to the first, as seeking to discourage Palestinians from either raising the level of their resistance or resisting altogether. This reliance on the tactics of war is also perceived as providing Israel with a pretext for avoiding the restraints associated with the exercise of police responsibilities or relating to the application of standards of human rights.

29. In addition to these basic structural issues, it is of great importance to appreciate the added vulnerability of Palestinian refugees who comprise about 50 per cent of the population in the Palestinian territories and whose number is increasing at a rate of more than 3 per cent per annum. While the Israelis tend to perceive Palestinians resident in the territories as a single reality, without according any special attention to the refugees, the Palestinians are far more conscious of the acute suffering that Israeli security measures have brought to the refugee communities during this second intifada.

30. These refugees have been particularly victimized during the second intifada, often being trapped within their crowded confines by closure and curfew measures, which has made it impossible for many refugees to keep their jobs. Unemployment is high, savings almost non-existent, with great suffering resulting. Also, for historical reasons, the Palestinian refugees, alone among refugee communities in the world, fall outside the protective regime of the Office of the United Nations High Commissioner for Refugees (UNHCR). UNRWA provides relief and humanitarian aid, but is not constitutionally or politically empowered to provide needed protection, a conclusion supported for us by discussions with leading United Nations officials and NGO experts.

31. A further fundamental question of human rights relates to the extreme differences between the parties on matters pertaining to the core dispute, the wider refugee issue and its relationship to a successful peace process. The Israeli consensus regards the assertion of any serious demand to implement a Palestinian right of return in relation to Palestinians expelled from 530 villages in 1948 as a decisive complication in the search for "peace". The Palestinian approach is more varied and tentative. Some Palestinians do insist that the right of return be fully implemented in accordance with international law, which accords priority to repatriation to the extent desired. More frequently, Palestinians seem more flexible on this matter, seeking mainly a symbolic acknowledgement by Israel of the hardships associated with the expulsions, some provision for compensation and some possibilities for Palestinian family unification. This Palestinian view suggests that if there is Israeli good will on other outstanding issues, such as Jerusalem and the settlements, then controversy over the right of return can be addressed in a manner that takes account of practical realities that have developed in the course of the more than 50 years since the critical events.

32. Overall, the Government of Israel and Israeli public opinion tend to regard all Israeli uses of force as reasonable measures of security, given the altered connection between the two societies as a result of the IDF redeployment associated with the Oslo process. Such security measures need to be stringent and intrusive so as to afford protection to the settlements, and to settler movement to and from Israel. Israeli security is a catch-all justification for all policies directed coercively at the people of Palestine. Such a major premise enables the Israeli outlook to view any Palestinian recourse to force as tantamount to "terrorism". The perceptual gap is greatest on this issue of violence and its interpretation, as Palestinians view their acts of opposition as reasonable responses to an illegal occupation of their homeland, treating their violence as produced by consistent Israeli overreaction to non-violent resistance. Additionally, Palestinians universally reject Israel's wider security rationale and view restrictions on movement, closures, property destruction, political assassinations, sniper shootings and the like as punitive and vindictive practices inconsistent with their fundamental human rights, as well as with the minimum restraints embodied in international humanitarian law.

33. There is one comprehensive observation bearing on the perception of United Nations authority by the two sides. Israelis tend to view the United Nations and most of the international community as completely unsympathetic to their quest for security, as well as biased in favour of Palestinian claims and grievances. On their side, the Palestinians feel disillusioned about the effectiveness of United Nations support and abandoned in their hour of need for elemental

protection. Palestinians refer to the myriad United Nations resolutions supporting their cause, but never implemented. In this sense, both sides are currently suspicious about the role of the United Nations, its outlook, capacity and commitment.

34. Three conclusions follow from this consideration of Israeli-Palestinian perceptual gaps:

(a) The importance of encouraging better contact between persons of good will on both sides so that communication between the parties is more open and takes greater account of the views of the other side. This observation applies particularly to journalists, currently by and large confined within their respective societies, who tend to provide readers with partisan accounts of the interaction of Israelis and Palestinians that are uncritical of their respective official positions and to employ language that reinforces “enemy” stereotypes of “the other”;

(b) The challenge to the organs of the United Nations to rehabilitate their reputation in relation to both Israel and the Palestinian Authority, and the two populations, by seeking to achieve objectivity in apportioning legal and political responsibility, in calling for certain conduct in the name of international law, and in fashioning proposals for peace and reconciliation. As important, or more so, is the need to take steps to ensure that United Nations directives, whether in the form of resolutions or otherwise, are implemented to the extent possible, and that non-compliance is addressed by follow-up action;

(c) An appreciation that a commitment to objectivity does not imply a posture of “neutrality” with respect to addressing the merits of controversies concerning alleged violations of human rights and international humanitarian law. Judgements can and must be made. It is useful to recall in this connection the statement of the Israeli Minister for Foreign Affairs, Shlomo Ben-Ami, on 28 November 2000 in the course of a Cabinet discussion, opposing the release of supposed Palestinian transgressors during the early stages of the second intifada: “Accusations made by a well-established society about how a people it is oppressing is breaking the rules to attain its rights do not have much credence” (article by Akiva Elder in *Ha’aretz*, 28 November 2000). Such a perspective underlies the entire undertaking of our report. We have attempted to the extent possible to reflect the facts and law fairly and accurately in relation to both sides, but we have evaluated the relative weight of facts and contending arguments about their legal significance. This process alone enables us to draw firm conclusions about the existence of violations of international legal standards of human rights and of international humanitarian law.

IV. THE LEGAL STATUS OF THE CONFLICT

35. The legal status of the West Bank and Gaza and the legal regime governing relations between Israel and the people of Palestine have been in dispute ever since Israel first occupied the West Bank and Gaza in 1967. As the sovereignty of Jordan over the West Bank was questionable and Egypt never asserted sovereignty over Gaza, the Government of Israel took the view that there was no sovereign Power at whose expense it occupied these territories. Consequently, although Israel is a party to the Fourth Geneva Convention of 1949, it maintained that it was not bound in law to treat the territories as occupied territories within the meaning of

the Fourth Geneva Convention. Despite this, Israel agreed to apply certain of the humanitarian provisions contained in the Fourth Geneva Convention to the occupied territories on a de facto basis.

36. The peace agreements between Israel and the Palestinian Authority, hereafter referred to as the Oslo Accords, have superimposed an additional level of complexity on an already disputed legal situation. It is now argued by Israel that, despite the prohibitions contained in article 47 of the Fourth Geneva Convention on interfering with the rights of protected persons in an occupied territory by agreement between the authorities of the occupied territory and the occupying Power, the Oslo Accords have substantially altered the situation. In particular, it is argued by Israel that it can no longer be viewed as an occupying Power in respect of the "A" areas, accommodating the majority of the Palestinian population, because effective control in these areas has been handed over to the Palestinian Authority.

37. The status of the West Bank and Gaza raises serious questions, not only for the above reasons, but also because of the impact of human rights and self-determination on the territory. A prolonged occupation, lasting for more than 30 years, was not envisaged by the drafters of the Fourth Geneva Convention (see art. 6). Commentators have therefore suggested that in the case of the prolonged occupation, the occupying Power is subject to the restraints imposed by international human rights law, as well as the rules of international humanitarian law. The right to self-determination, which features prominently in both customary international law and international human rights instruments, is of particular importance in any assessment of the status of the West Bank and Gaza. The right of the Palestinian people to self-determination has repeatedly been recognized by the General Assembly of the United Nations and there can be little doubt that the ultimate goal of the Oslo peace process is to establish an independent Palestinian State. Indeed over 100 States already have relations with the Palestinian entity, not unlike relations with an independent State, while the Palestinian Authority has observer status in many international organizations. The Palestinian question is, therefore, seen by many as a colonial issue and the recognition of Palestinian statehood as the last step in the decolonization process initiated by the General Assembly in its resolution 1514 (XV).

38. Uncertainty about the status of Palestine in international law has complicated the conflict between Israel and the Palestinian people since 29 September 2000. The Government of Israel argues that it can no longer be seen as an occupying Power in respect of the A areas because it has ceded control over these territories to the Palestinian Authority. Moreover, it argues that, unlike the first intifada, in which the weapons of the Palestinian uprising were mainly stones, the weapons of the new intifada include guns and heavier weaponry, with the result that there is now an armed conflict between Israel and the Palestinian people led by the Palestinian Authority. This argument seeks to justify the use of force resorted to by the IDF in the present conflict. In essence, Israel argues that it cannot be seen as an occupying police power required to act in accordance with police law enforcement codes, but that it is engaged in an armed conflict in which it is entitled to use military means, including the use of lethal weapons, to suppress political demonstrations, to kill Palestinian leaders and to destroy homes and property in the interest of military necessity.

39. Clearly, there is no international armed conflict in the region, as Palestine, despite widespread recognition, still falls short of the accepted criteria of statehood. The question then

arises as to whether there is a non-international armed conflict, defined by the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia in the Tadic case, as “protracted armed violence between governmental authorities and organized armed groups”. The Israeli argument that the threshold for an armed conflict has been met is based on the fact that there have been some 3,000 incidents allegedly involving exchanges of gunfire and that Palestinian violence is organized and orchestrated by the Palestinian Authority. A contrary view advanced by the Palestinians is that the present intifada is to be categorized as an uprising of large elements of a civilian population against an occupying Power’s unlawful abuses of its control over that population and its environment; that the uprising has been instigated by loosely organized elements of the population opposed to Israeli occupation of Palestine and the failure of the Palestinian Authority to improve the lot of the Palestinian people; and that there are no properly organized armed groups, let alone armed groups coordinated or organized by the Palestinian Authority.

40. It is difficult for the Commission to make a final judgement on this matter. However, it inclines to the view that sporadic demonstrations/confrontations often provoked by the killing of demonstrators and not resulting in loss of life on the part of Israeli soldiers, undisciplined lynchings (as in the tragic killing of Israeli reservists on 12 October 2000 in Ramallah), acts of terrorism in Israel itself and the shooting of soldiers and settlers on roads leading to settlements by largely unorganized gunmen cannot amount to protracted armed violence on the part of an organized armed group. This assessment is confirmed by the peace that prevails in those areas of the West Bank and Gaza visited by the Commission. The Commission realizes that this assessment, based on a brief visit to the region and the views of witnesses and NGOs generally unsympathetic to the IDF, may not be fully accurate. However, there is enough doubt in the minds of the members of the Commission as to the prevailing situation to place in question the assessment of the situation as an armed conflict by the IDF justifying its resort to military rather than police measures.

41. In the opinion of the Commission, the conflict remains subject to the rules of the Fourth Geneva Convention. It does not accept the Israeli argument that the Fourth Geneva Convention is inapplicable by reason of the absence of a residual sovereign Power in the OPT. This argument, premised on a strained interpretation of article 2 of the Convention, fails to take account of the fact that the law of occupation is concerned with the interests of the population of an occupied territory rather than those of a displaced sovereign. The argument that Israel is no longer an occupying Power because it lacks effective control over A areas of the OPT carries more weight, but is likewise untenable. The test for the application of the legal regime of occupation is not whether the occupying Power fails to exercise effective control over the territory, but whether it has the ability to exercise such power, a principle affirmed by the United States Military Tribunal at Nürnberg in In re List and others (The Hostages Case) in 1948. The Oslo Accords leave Israel with the ultimate legal control over the OPT and the fact that for political reasons it has chosen not to exercise this control, when it undoubtedly has the military capacity to do so, cannot relieve Israel of its responsibilities as an occupying Power.

42. While an occupying Power or party to a conflict may be given a margin of interpretation in its assessment of the nature of the conflict, it cannot be allowed unilaterally to categorize a situation in such a way that the restraints of international humanitarian law and human rights law are abandoned. For this reason, the Commission suggests that the High Contracting Parties to

the Geneva Convention should seriously address the nature of the conflict and Israel's obligations as a party to the Fourth Geneva Convention. The Commission is mindful of the Israeli objection to the "politicization" of the Geneva Conventions, but it sees no alternative to the exercise of the supervisory powers of the High Contracting Parties under article 1 of the Fourth Geneva Convention. Israel's objection that article 1 does not oblige a High Contracting Party to "ensure" respect for the Convention on the part of other States parties runs counter to the views of the ICRC and to the general obligation on the part of States to ensure respect for humanitarian law.

43. Even if the conflict is categorized as an armed conflict, entitling the IDF to greater latitude in the exercise of its powers, the IDF is certainly not freed from all restraints under international humanitarian law and human rights law. It is still obliged to observe the principle of distinction requiring that civilians may not be made the object of attack, "unless and for such time as they take a direct part in hostilities" (a principle reaffirmed in article 51 (3) of Additional Protocol I to the Geneva Conventions). Stone throwing by youths at heavily protected military posts hardly seems to involve participation in hostilities. Moreover, there is considerable evidence of indiscriminate firing at civilians in the proximity of demonstrations and elsewhere. In addition, the IDF is subject to the principle of proportionality which requires that injury to non-combatants or damage to civilian objects may not be disproportionate to the military advantages derived from an operation. The use of lethal weapons against demonstrators and the widespread destruction of homes and property along settlement roads cannot, in the opinion of the Commission, be seen as proportionate in the circumstances. Human rights norms also provide a yardstick for measuring conduct in the OPT, as there is general agreement that such norms are to be applied in the case of prolonged occupation. The 1979 Code of Conduct for Law Enforcement Officials and the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials reflect the human rights norms applicable in the case of law enforcement and crowd control. It is against this background that allegations of human rights violations and violations of international humanitarian law will be considered in the following section.

V. EXCESSIVE USE OF FORCE

44. Casualties have been high in the present intifada. According to conservative estimates, as at 21 February 2001, 311 Palestinians (civilians and security forces) have been killed by Israeli security forces and civilians in the OPT; 47 Israelis (civilians and security forces) have been killed by Palestinian civilians and security forces; 11,575 Palestinians and 466 Israelis have been injured; 84 Palestinian children under the age of 17 years have been killed and some 5,000 injured; 1 Israeli child has been killed and 15 injured; 271 Palestinian civilians and 40 members of the security forces have been killed; while 27 Israeli civilians and 20 members of the security forces have been killed.

45. Most of the Palestinian deaths and injuries have been caused by live ammunition (deaths: 93 per cent; injuries: 20 per cent), rubber-coated bullets (deaths: 1 per cent; injuries: 37 per cent), and tear gas (deaths: 1 per cent; injuries: 32 per cent). Most of these deaths and injuries have occurred in confrontations/demonstrations held on the perimeters of A areas, roads to settlements or junctions on the road to settlements. There is no evidence that members of the IDF responsible for such killings or the infliction of such injuries were killed or seriously injured. On the contrary, the evidence suggests that members of the IDF, behind concrete

bunkers, were in most cases not exposed to life-threatening attacks by stone - or Molotov-cocktail throwers, or even by sporadic gunfire from gunmen in or around the demonstrations. This assessment is vigorously disputed by the IDF, which maintains that rubber-coated bullets and live ammunition have only been used in life-threatening situations.¹ However, statistics, reflected in the number of Palestinian deaths at demonstrations and the absence of IDF deaths or serious injuries at such confrontations, the evidence of eyewitnesses who testified before the Commission and the reports of NGOs and international bodies place the IDF assessment in serious question. It is difficult to resist the conclusion that most of these demonstrations could have been dealt with by methods normally used to suppress violent demonstrations, such as water cannons, tear gas and soft rubber bullets (of the kind used in Northern Ireland). Also, it is unclear why the IDF has not used riot shields to protect itself against stone-throwers. By and large the evidence suggests that the IDF is either not trained or equipped to deal adequately with violent demonstrations (despite its long experience in coping with such demonstrations) or that it has deliberately chosen not to employ such methods. For this reason the Commission shares the view expressed by many NGOs that the IDF is to be censured for failing to comply with the methods for law enforcement laid down in the law enforcement codes of 1979 and 1990 referred to above. The Commission likewise shares the concerns of NGOs about the failure of the IDF to comply with its own open-fire regulations relating to the use of live ammunition in situations of this kind.

46. Even if the above assessment is incorrect and the confrontations in question were manifestations of an armed conflict between the IDF and an organized Palestinian force, the Commission is of the view that the response of the IDF fails to meet the requirement of proportionality and shows a serious disregard for civilians in the proximity of the demonstrations.

47. The Commission received disturbing evidence about both the rubber-coated bullets and the live ammunition employed by the IDF. The former are, apparently, designed to target particular individuals and not to disperse crowds. Moreover, it is misleading to refer to them as "rubber bullets" as they are metal bullets with a thin rubber coating. The live ammunition employed includes high-velocity bullets which splinter on impact and cause the maximum harm. Equally disturbing is the evidence that many of the deaths and injuries inflicted were the result of head wounds and wounds to the upper body, which suggests an intention to cause serious bodily injury rather than to restrain demonstrations/confrontations.

48. International law obliges the military to be particularly careful in its treatment of children. Of the Palestinians killed, 27 per cent have been children below the age of 18 years and approximately 50 per cent of those injured have been below the age of 18 years. These children have been armed with stones or, in some cases, Molotov cocktails. The Israeli position is that the participation of children in demonstrations against the IDF has been organized, encouraged and orchestrated by the Palestinian Authority after thorough indoctrination against Israelis. While the Commission is prepared to accept that some children are likely to have been exposed to anti-Israeli propaganda in school or special training camps, it cannot disregard the fact that demonstrations are substantially the result of the humiliation and frustration felt by children and their families from years of occupation. The Commission heard evidence from parents and NGOs about the unsuccessful attempts of many parents to prevent their children participating in demonstrations and the grief caused them by the death and suffering of their

children. In this respect, Palestinian parents are no different from Israeli parents. It is likely that the Palestinian Authority could have done more to restrain children from participation in stone-throwing demonstrations. The evidence suggests that, on occasion, the Palestinian police made attempts to prevent demonstrations, but these attempts were often unsuccessful. This can be ascribed to the incompetence of the Palestinian police, the fact that the Palestinian police were themselves targeted by stone-throwers when they attempted to curtail demonstrations, and an understandable identification of the Palestinian police with the goals and spirit of the demonstrators. History is replete with instances of cases in which young people, prompted by idealism, despair, humiliation and the desire for excitement, have participated in demonstrations that have confronted an oppressive regime. In recent times children have behaved in a similar way in Northern Ireland, South Africa, Indonesia and elsewhere. The insistence of the IDF that the Palestinian demonstrators, humiliated by years of military occupation which has become part of their culture and upbringing, have been organized and orchestrated by the Palestinian Authority either shows an ignorance of history or cynical disregard for the overwhelming weight of the evidence.

49. The excessive use of force on the part of the IDF and the failure to comply with international humanitarian law is further demonstrated by the failure of the IDF to respect the vehicles of the Red Crescent and other medical vehicles. Statistics show that vehicles of the Red Crescent have been attacked on 101 occasions. The IDF has also prevented ambulances and private vehicles from travelling to hospitals. In this respect, it should be stressed that the Palestinians have likewise shown a lack of respect for medical vehicles and there have been 57 incidents in which Palestinians have attacked personnel and vehicles of the Magen David Adom.

50. In the present intifada, the IDF apparently on grounds of military necessity, has destroyed homes and laid to waste a significant amount of agricultural land, especially in Gaza, which is already land starved. Statistics show that 94 homes have been demolished and 7,024 dunums of agricultural land bulldozed in Gaza. Damage to private houses is put at US\$ 9.5 million and damage to agricultural land at about US\$ 27 million. Most of this action has occurred on roads leading to settlements, ostensibly in the interest of the protection of settlement vehicles. The Commission inspected some of the devastation caused by the IDF along settlement roads. On the Kusufim road, in the Qarara district, it inspected land that had been bulldozed for a distance of some 700 metres from the road. Houses situated on this land had been destroyed and families compelled to live in tents. Water wells in the vicinity had also been completely destroyed. The Commission found it difficult to believe that such destruction, generally carried out in the middle of the night and without advance warning, was justified on grounds of military necessity. To the Commission it seemed that such destruction of property had been carried out in an intimidatory manner unrelated to security, disrespectful of civilian well-being and going well beyond the needs of military necessity. The evidence suggests that destruction of property and demolition of houses have been replicated elsewhere in the West Bank and Gaza. Palestinians, like other people, are deeply attached to their homes and agricultural land. The demolition of homes and the destruction of olive and citrus trees, nurtured by farmers over many years, has caused untold human suffering to persons unconnected with the present violence. Even if a low-intensity armed conflict exists in the West Bank and Gaza, it seems evident to us that such measures are disproportionate, in the sense that the damage to civilian property outweighs military gain.

Here it should be stressed that the Fourth Geneva Convention prohibits the destruction of private property by the occupying Power “except where such destruction is rendered absolutely necessary by military operations” (art. 53).

51. The Commission concludes that the IDF has engaged in the excessive use of force at the expense of life and property in Palestine. At the same time the Commission wishes to express its horror at the lynchings of Israeli military reservists in Ramallah on 12 October 2000, the killing of Israelis at a bus stop in Tel Aviv by a Palestinian bus driver on 14 February 2001 and similar incidents that have done much to inflame Israeli public opinion against the Palestinian uprising.

52. There is no evidence that the IDF has taken serious steps to investigate the killing or wounding of Palestinians, except in a handful of cases, even where the circumstances strongly suggest that soldiers had behaved in an undisciplined or illegal manner. The excuse that no investigations are required on account of the characterization of the conflict as armed conflict is not convincing and shows a disregard for the provision of the Fourth Geneva Convention which requires the occupying Power to prosecute those guilty of committing grave breaches and other infractions of the Convention (art. 146). Equally unconvincing are the reasons given by the Palestinian Authority for its failure to investigate and prosecute the killings of Israelis, particularly those responsible for the Ramallah lynchings.

VI. EXTRAJUDICIAL EXECUTIONS/POLITICAL ASSASSINATIONS

53. Extrajudicial executions or targeted political assassinations carried out by the IDF have resulted in only a small number of deaths and cannot compare in magnitude with the more widespread suffering caused to the Palestinian population. The Commission has, however, decided to pay special attention to these killings, because they have been officially acknowledged, promoted and condoned.

54. Israel has long been accused of being responsible for the assassination of targeted Palestinian individuals, but it is only during the second intifada that such a practice has been officially acknowledged and defended at the highest levels of the Government of Israel. In early January 2001, the Israeli Deputy Minister of Defence, Ephraim Sneh, justified the policy in the following language: “I can tell you unequivocally what the policy is. If anyone has committed or is planning to carry out terrorist attacks, he has to be hit ... It is effective, precise and just.” At a meeting of the Foreign Affairs and Defence Committee, Prime Minister Ehud Barak put the claim more broadly: “If people are shooting at us and killing us, our only choice is to strike back. A country under terrorist threat must fight back.” And more directly, while visiting a military command on the West Bank, Mr. Barak was quoted as saying, “The IDF is free to take action against those who seek to harm us”.

55. There is further official confirmation of the Israeli claim of right with respect to extrajudicial killings. When the IDF West Bank military commander, Brigadier-General Beni Gantz, was asked whether Israel was pursuing a “liquidation” policy with respect to the Palestinians, he responded as follows: “You said liquidation, not me. We will initiate action as necessary. We will not stop such action as long as there is a threat.” Israel’s Chief of Staff, Shaul Mofaz, invoked the legal opinion issued by the Military Advocate-General, Menachem Finkelstein, that it was permissible in exceptional cases to kill Palestinian terrorists,

expressed in the following guarded language: “This is not routine, but an exceptional method whose goal is to save human lives in the absence of any other alternative ... It is used against people [who have] definitely [been] identified as having worked, and are working, to commit attacks against Israel.” It should be noted that the Military Advocate-General uses more circumscribed language than do the political and military leaders, but his guidelines are self-applied, depending upon the accuracy of Israeli intelligence and upon good faith in limiting such tactics to circumstances of an exceptional character.

56. One prominent instance of a political assassination involved the sniper shooting of Dr. Thabat Ahmad Thabat in Tulkarem, West Bank, as he was driving his car from his house in the morning of 9 December 2000. Dr. Thabat, a dentist, 50 years of age, father of three, held official positions in the Palestinian Health Ministry and was a lecturer on public health at Al Quds Open University. He was the Fatah secretary in Tulkarem and was in regular contact with Israeli NGOs working in the area of health and human rights. Several Israeli witnesses appearing before the Commission expressed dismay about the killing of Dr. Thabat, describing him as their “friend” and “partner” in the search for peace. Such expressions do not preclude the possibility that Dr. Thabat may have had a double identity, but Israel has produced no evidence of his complicity in violence against Israeli targets, beyond the vague allegation of his involvement in “terrorist activities”. Press reports indicated that Israeli Special Forces undertook this action against Dr. Thabat as part of a military operation that consisted of “cleansing” Fatah security capacities in view of the demonstrations inside the Palestinian territories, and specifically at Tulkarem. Ms. Siham Thabat, the widow of Dr. Thabat, submitted a petition to the Supreme Court of Israel asking for an end to Israel’s “cleansing policy”, described as imposing “capital punishment without trial”. The petition was dismissed. As far as is known, the prosecution submitted no further evidence specifically implicating Dr. Thabat.

57. While the Commission was present in the Palestinian territories, another prominent instance of extrajudicial killing occurred. It involved the use of a Cobra helicopter gunship to attack Massoud Iyyad with three rockets on 14 February 2001 while he was driving his car in Gaza near the Jabalya refugee camp. Mr. Iyyad was a lieutenant colonel and high-ranking member of Force 17, an elite security unit specifically assigned the task of protecting Yasser Arafat. Israeli security forces claimed credit for the assassination, contending that Mr. Iyyad was a leader of a Hezbollah cell in Gaza that was intending to transform the second intifada into a Lebanon-style war of attrition of the sort successfully waged by Hezbollah in the 1990s. Aside from the legality of such tactics, the allegations were never substantiated by the release of documentary or other evidence.

58. Such extrajudicial executions during the second intifada number at least 11, but the figure is probably much higher. Palestinian and independent sources put the figure at somewhere between 25 and 35. On at least one occasion, the killing of Hussein Ábayat on 9 November 2000 by anti-tank missiles fired at his car from helicopters, two women bystanders were also killed and three other Palestinians were seriously injured.

59. In a disturbing escalation of language associated with such violence, a designated spokesperson of the settler movement, Yehoshua Mor-Yosef, has been quoted as saying “Arafat is an enemy, he was never a partner. After seven years of war and him sending his own people to kill, we need to assassinate him”. (International Herald Tribune, 27 February 2001, p. 8).

60. There have been several important political condemnations of extrajudicial killings. The Government of the United States has expressed a critical attitude towards extrajudicial killing in a detailed exposition of the practice contained in the “Occupied Territories” section of the Country Reports on Human Rights Practices-2000 issued by the Department of State. On behalf of the European Union, its Presidency issued a declaration on extrajudicial killings, calling them “unacceptable and contrary to the rule of law”, and urging Israel “to cease this practice and thus respect international law”. (Brussels, 13 February 2001, 5928/01 (Presse 47)). This declaration was formally submitted by the Council of the European Union to the Secretary-General of the United Nations with a request that it be circulated as a document of the General Assembly.

61. It is the view of the Commission that, whatever the truth of various allegations directed against specific individuals, the practice of political assassination is a fundamental violation of international human rights standards, as well as a grave breach of the Fourth Geneva Convention. Several human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, affirm the right to life and specifically prohibit executions of civilians without trial and a fair judicial process.

62. Because the law of occupation also applies, provisions of this lex specialis take precedence over human rights. (For clarification of this conclusion, see the discussion on the legal status of the conflict in section IV above.) Thus, whether a particular loss of life is to be considered an arbitrary loss of life contrary to article 6 of the International Covenant on Civil and Political Rights can only be decided by reference to the law of occupation in the Fourth Geneva Convention. Article 4 of the Fourth Geneva Convention defines persons protected by the Convention as “those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals”. The phrase “in the hands of” simply means that the person is on territory that is under the control of the State in question and implies control that is more than mere physical control. Civilians lose the protection under the Fourth Geneva Convention when they become combatants by taking a direct part in hostilities (art. 51 (3) of Additional Protocol I). Israel contends that the victims of targeted political assassinations were combatants. This is unconvincing for two related reasons: they were not participating in the hostilities at the time they were killed; and no evidence was provided by Israel to back up its contention of a combat role despite their civilian appearance.

63. There is no legal foundation for killing protected persons on the basis of suspicion or even on the basis of evidence of their supposedly menacing activities or possible future undertakings. On the contrary, article 27 of the Fourth Geneva Convention provides for the respect of protected persons, article 32 explicitly prohibits their killing under such conditions, and article 68 places restrictions on the application of the death penalty and, in any event, requires a prior judicial trial.

64. As the evidence indicates, Dr. Thabat and several others who were targets of political assassinations could have been arrested when, as was the case in this instance, he made almost daily trips to points under Israeli security control. The Commission concludes that the practice of targeted political assassination, which is fully acknowledged by the Government of Israel at its highest levels, violates a number of provisions of the Fourth Geneva Convention. It also

represents a grave breach of the Convention, which in article 147 refers to “wilful killing” in this connection. Further, article 146 calls upon High Contracting Parties to enforce this prohibition in relation to those responsible for its violation.

VII. SETTLEMENTS

65. Jewish settlements in the West Bank (including East Jerusalem) and Gaza feature prominently in the present conflict between Israel and the Palestinian people. This report focuses on the implications of the settlements for human rights and international humanitarian law during the second intifada.

66. Israel argues that the issue of Jewish settlements is a political one to be resolved in negotiations between Israel and the Palestinians over the political future of the OPT. Palestinians, on the other hand, see the settlement issue as a major impediment to the peace process and a question governed by international law. They argue that settlements are unlawful as they violate article 49 (6) of the Fourth Geneva Convention, which prohibits an occupying Power from transferring parts of its own civilian population into the territory it occupies. The international community has given its overwhelming support to the Palestinian position. Repeated resolutions of both the Security Council and the General Assembly condemn Jewish settlements in the West Bank and Gaza as a violation of the Fourth Geneva Convention. The same attitude is adopted by the International Committee of the Red Cross.

67. The Commission is itself of the opinion that Jewish settlements in the West Bank and Gaza violate article 49 (6) of the Fourth Geneva Convention and place a serious obstacle in the way of durable peace.

68. Since 1967, Israel has been responsible for establishing, financing and protecting Jewish settlements in the West Bank and Gaza. Initially this programme of creeping annexation pursued by means of the requisitioning and occupation of Palestinian land was justified by Israel on security grounds. This pretext has long been abandoned. Indeed, Yitshak Rabin, while he was Prime Minister and Minister of Defence, acknowledged that most of the settlements added nothing to security and in fact were a burden on the army. Most settlements are today inhabited by civilian settlers motivated either by the ideology of Zionist expansion or by the comforts of a suburban way of life, subsidized by the Government of Israel. From the perspective of the Government, settlements create factual situations on the ground that serve to establish political control over the occupied Palestinian territories.

69. Today there are some 190 settlements in the West Bank and Gaza, inhabited by approximately 380,000 settlers, of whom some 180,000 live in the East Jerusalem area. Settlements have expanded considerably since the start of the Oslo peace process and accelerated under the Prime Ministership of Mr. Barak. Settlements have continued to expand since the start of the second intifada. The map in annex III gives an indication of the extent to which settlements are scattered throughout the territories, and the population of the different settlements. Settlements differ considerably in size and location. Some number over 10,000 inhabitants, while others have less than 100 inhabitants. Some are situated at a considerable distance from Palestinian towns, whereas others are situated within a Palestinian city, as, most prominently, in the case of the Jewish settlement in Hebron, or on the doorstep of a

Palestinian village or refugee camp. The settlement of Neve Dekalim, for instance, is situated adjacent to the crowded refugee camp of Khan Yunis. It was here that the Commission came under gunfire from the IDF.

70. In Gaza, settlement roads run through Palestinian territory and cross roads used by Palestinians, causing great traffic congestion for Palestinians whose vehicles are required to halt every time a settler or military vehicle approaches a crossroad. In the West Bank, on the other hand, Israel has built a vast road system, running for some 400 km, which bypasses Palestinian population centres and enables settlers and military forces protecting them to move speedily and safely through the West Bank. To achieve this, 160,000 dunums of land were requisitioned, much of it under cultivation by Palestinian farmers. Moreover, in some instances, Palestinian homes were demolished without compensation for the purpose of constructing this network of bypass roads. These roads prevent the expansion of Palestinian villages and undermine the economic development of Palestinians by restricting Palestinian movement and impeding the flow of commerce and workers from one Palestinian area to another. The scale of the investment in this road network raises troubling questions about Israel's long-term intentions for the West Bank.

71. The relationship between settlers and Palestinians is an unhappy one and each side views the other with hostility, anger and suspicion. Protected by the Israeli military, and exempt from the jurisdiction of the courts of the Palestinian Authority, settlers have committed numerous acts of violence against the Palestinians and destroyed Palestinian agricultural land and property. Israeli justice has often either turned a blind eye to such acts or treated them with leniency bordering on exoneration. Inevitably, this has fuelled the resentment of Palestinians, who regard Israeli justice as biased in favour of settlers. Since the beginning of the intifada on 29 September 2000, incidents of settler violence have dramatically increased. Palestinian hostility to settlers has grown alarmingly since the start of this intifada and most of the Israelis killed in the present conflict have been settlers or soldiers charged with the task of protecting settlements and roads leading to settlements.

72. Settlements are a major obstacle in the way of peace between Israelis and Palestinians. First, they virtually foreclose the possibility of a viable Palestinian State as they, together with the road system connecting them, destroy the territorial integrity of Palestine. In this sense, they act as a major impediment to the exercise of the right to self-determination within the internationally recognized self-determination unit of Palestine, i.e. the territory occupied by Israel after the 1967 war. Secondly, settlements provide daily evidence of the violation of international law and the failure of the international community, acting through the United Nations and the High Contracting Parties to the Geneva Conventions, to remedy such a situation. The despair and cynicism in the Palestinian community about the willingness of the international community to enforce the rule of law is in large measure due to its failure to halt the growth of the settler population and to persuade the Government of Israel to reverse this practice.

73. The link between settlements and violence in the present intifada is clear. Many of the acts of violence carried out by the IDF and settlers that have resulted in Palestinian deaths and injuries have occurred on the heavily defended roads leading to settlements or in the proximity of settlements. Settlements provide a visible and proximate target for the anger fuelled by years of

Israeli occupation. The IDF convoys and bases in the proximity of settlements aimed at the protection of such settlements have been the focal point of Palestinian demonstrations, violence and sharpshooting. Likewise, much of the Palestinian property bulldozed by the IDF has been destroyed not in the interests of military security, but the security of settlers. Homes, fruit and olive trees and crops have been destroyed by the IDF in order to make settlers feel more secure and to facilitate their access to their settlements by means of protected roads.

74. Settlers, too, have suffered from their proximity to the Palestinian people. As the most visible symbols of occupation, they are obvious targets for Palestinian gunmen.

75. Without settlements or settlers, there can be no doubt that the number of deaths and injuries in the present intifada would have been but a small fraction of their current number and, quite possibly, the present intifada might not have occurred. Both Israelis and Palestinians are therefore paying a high price in terms of life, bodily integrity and property for a programme that violates a cardinal principle of international humanitarian law.

76. Settlements act as a perpetual reminder to the Palestinian people of the humiliation of military occupation. This sense of humiliation is aggravated by the apparently comfortable way of life of the settlers, whose standard of living contrasts sharply with the poverty of their Palestinian neighbours. Refugees in crowded camps, with poor sanitation and limited water resources, inevitably view with envy and anger settlements with swimming pools and well-watered lawns.

77. Palestinian witnesses before the Commission, from all sections of the community, despite being of different political persuasions and from different income groups, spoke with equal anger and resentment about the presence of settlements and settlers in their territory. Many claimed settlements were a prime cause of the present intifada, a view shared by international organizations working in the West Bank and Gaza.

78. The Commission reaffirms that settlements in the West Bank and Gaza constitute a major violation of international humanitarian law and identify the presence of settlements and settlers as a primary cause of many violations of human rights in the OPT.

VIII. DEPRIVATION OF THE ENJOYMENT OF ECONOMIC AND SOCIAL RIGHTS: EFFECTS OF CLOSURES, CURFEWS, RESTRICTIONS ON MOVEMENT AND DESTRUCTION OF PROPERTY

Introductory note

79. It needs to be kept in mind that the Palestinian population in the occupied territories is, even under normal conditions, very poor, particularly the 50 per cent of the Palestinians living in refugee camps. To impose additional burdens on such a population is inevitably to create patterns of severe material, social and psychological hardships. These hardships entail denials of basic human needs, as protected by international human rights standards, which raises important issues of international law. To claim a security justification for policies that inflict such pronounced harm imposes a heavy burden of persuasion on the claimant, in this case the Government of Israel. The internal closures seem to have a mainly punitive character quite

unrelated to security and are more likely to have the opposite effect of inflaming Palestinian resistance. Even external closures, especially for the import of building materials and the export of agricultural products, would seem to be unrelated to the maintenance of security. The condensed presentation of the effects of closure and related policies in this section of the report must be read with such considerations in mind.

Restrictions on movement

80. Since 29 September 2000, Israel has imposed severe restrictions on freedom of movement in the occupied territories. During the 123-day period from 1 October 2000 to 31 January 2001, the Israeli-Palestinian border was closed for labour and trade flows for 93 days, or 75.6 per cent of the time. Internal movement restrictions and internal closures - partial or severe - were in place for 100 per cent of the time in the West Bank and for 89 per cent of the time in Gaza. The Dahania Airport in the Gaza Strip, the only Palestinian airport, was closed for over half of this period. During this 123-day period, the international border crossings to Jordan from the West Bank and to Egypt from Gaza were closed for more than 20 per cent and 40 per cent of the time, respectively. The safe passage connecting the Gaza Strip and the West Bank was closed from 6 October, greatly obstructing travel for Palestinians and diminishing the governmental effectiveness of the PA.

81. The cumulative effect of these restrictions on the freedom of movement of people and goods is understandably perceived by the Palestinians affected as a siege. It has resulted in severe socio-economic hardships in the Palestinian territory. The internal closures have effectively sealed Palestinian population centres and restricted movement from one locality to another. The restriction on the entry of Palestinians into Israel has meant denial of access to their places of work in Israel to an estimated 100,000 Palestinians. The economic results have been devastating: the families of these workers are now suffering from a complete lack of income, threatening them with destitution. The World Bank's projection that the impact of closure will raise unemployment to 50 per cent and the poverty rate to 43.7 per cent in 2001 has almost been realized.

Internal closure

82. The internal closure has disrupted life within the territories. Workers are unable to reach their places of work. Produce from farms cannot reach markets. Shops and commercial offices are unable to open. From 8 October, numerous limitations were placed on passage between the north and the south of the Gaza Strip and movement between Gaza City and the cities of Khan Yunis and Rafah was prevented almost entirely. Movement within the West Bank has become nearly impossible. Hundreds of IDF checkpoints have been erected throughout the West Bank and entry to and exit from cities requires passing through them. The IDF has placed checkpoints at the entrances to all villages and entry and exit are possible only via dirt roads, entailing enormous hardships. Trips that once took 15 minutes now take several hours. In some of the villages, mostly in areas near settlements and bypass roads, the dirt roads have also been blocked with large concrete blocks and piles of dirt, and residents are imprisoned in their villages. The Commission itself observed such IDF checkpoints and concrete blocks and piles of dirt obstructing access.

External closure

83. The closure of the international border crossings with Jordan and Egypt, as well as the restrictions on movement of goods from Israel to the territories, has had a direct negative effect on all sectors of the economy. The near total interruption of the supply of basic construction materials has closed factories and plants dependent on these materials for their production activities. The construction and building sector in the Palestinian territories has been practically suspended owing to imports of basic construction materials such as cement, steel and timber being denied entry by the IDF through their control of border checkpoints. This, in turn, has resulted in the unemployment of tens of thousands of workers and employees in the construction and building sector. The overall disruption of the economy and unemployment, together with mobility restrictions and border closures, have resulted in an average unemployment rate of 38 per cent (more than 250,000 persons) as compared to 11 per cent (71,000 persons) in the first nine months of 2000. According to one estimate, unemployment now directly affects the income of about 910,000 people or 30 per cent of the population.

Curfews

84. Curfews have been imposed in certain areas of the occupied territories, which in effect imprisons an entire population in their homes. For example, Palestinians in the H2 area of Hebron have been under curfew almost continuously since October 2000. The curfews appear to be imposed for the convenience of settlers in the area as they do not apply to settlers. The character and timing of Israel's restrictions on the freedom of movement challenge the contention that these restrictions are dictated purely by security considerations: Israel has imposed a sweeping closure, curfew and siege on millions of people, rather than on individuals who pose a security threat. In addition, the policy of restrictions of movement discriminates between the two populations living in the occupied territories, namely Palestinians and non-Palestinians, since the restrictions are imposed exclusively on the Palestinian population. In many cases, the explicit aim of the restrictions is to ensure freedom of movement for the settler population at the expense of the local population.

Negative economic impacts

85. In the absence of border closures, per capita income was projected to be about US\$ 2,000 in the Palestinian territories in the year 2000. As a result of border closures and internal movement restrictions, this is estimated to be reduced to US\$ 1,680, a decline of 16 per cent. The gravity of this negative impact is measured, however, by the disproportionately high impact on people living below the poverty line (estimated by the World Bank at US\$ 2.10 per person per day in consumption expenditures). The number of poor is estimated to have increased from about 650,000 persons to 1 million persons, an increase of over 50 per cent. Given the continuing closures and restrictions of movement of people and goods and the resultant unemployment and total deprivation of income to increasing numbers of the population, poverty and near destitution are mounting. Humanitarian assistance has dramatically increased.

Economic losses

86. The direct economic losses arising from movement restrictions are estimated at 50 per cent of gross domestic product (GDP) for the four-month period of the second intifada and 75 per cent of wage income earned by Palestinian workers in Israel. The GDP loss is estimated at US\$ 907.3 million, while the loss of labour income from employment in Israel is estimated at US\$ 243.4 million. The total loss is estimated at US\$ 1,150.7 million. The loss is about US\$ 11 million per working day or US\$ 3 per person per working day during the period 1 October 2000-31 January 2001. Significant decreases in earnings in the transportation sector have been reported as a result of the internal siege. The tourism sector has also reported significant decline.

Public sector revenue losses: revenue losses and increased social spending

87. There have been significant losses to the public sector in the form of lost revenues. Domestic income and value added tax (VAT) revenues have been reduced as a result of lower levels of domestic income caused by disruptions in production and reduced labour flows into Israel. External revenues, mainly customs and VAT revenues associated with imports from Israel and abroad, have been reduced by lower commodity flows caused by movement restrictions and reduced consumer demand. In 1999, 63 per cent of all Palestinian Authority revenues were in the form of transfers of receipts collected by the authorities under the terms of the Paris Protocol on Economic Relations of 1994. VAT, customs, income tax, health fees and other taxes collected by Israel on behalf of the PA are estimated at US\$ 53 million monthly. These revenues have been withheld from the PA since October 2000. As a result of the eroded revenue base, the PA has been unable to pay salaries to its employees.

Destruction of property

88. There has been continued destruction of property, in particular in the vicinity of settlements or bypass and access roads to settlements, allegedly on grounds of military necessity or security considerations. On 7 October 2000, Israeli tanks and bulldozers invaded the Netzarim Junction and destroyed two residential buildings comprising 32 apartments near the Israeli military outpost. On 8 October, the IDF destroyed an iron-processing factory in the Netzarim area, while in the same area bulldozers swept the agricultural land on the south-eastern and south-western sides of the junction. On 16 October, bulldozers swept land to the north of Neve Dekalim settlement. On 19 October, the IDF swept land leading to the Gush Katif settlement bloc. The Commission visited this area and observed the destruction of the farms, the sweeping of the land and the destruction of citrus and olive trees. This process of destruction of farms, cutting down of fruit trees and demolition of greenhouses planted with vegetables continues. The Commission received evidence from victims whose homes and greenhouses had been destroyed, citrus and olive trees uprooted and farmlands swept by bulldozers.

89. According to one estimate, the Israeli authorities demolished 223 Palestinian-owned buildings during 2000: 68 in the West Bank (including East Jerusalem) and 155 in the Gaza Strip.

Effect of closures and movement restrictions on health care

90. The Commission received evidence of the restrictions obstructing access by the sick and the wounded as well as pregnant women to hospitals. There have also been instances where the prolonged closure of outside borders, including the airport in Gaza, impeded the transfer of wounded Palestinians to other countries for treatment. An example of the effect of denial of access to hospitals is provided by statistical data from St. Luke's Hospital in Nablus, which reported a 38 per cent decline in the admission rate, a 29 per cent decline in the occupancy rate, a 53 per cent decline in the number of surgical operations performed, a 20 per cent decline in the number of babies delivered, a 48 per cent decline in the number of patients in the intensive care unit, a 49 per cent decline in the number of general practice patients, a 73 per cent decline in the number of visits to specialty services and a 30 per cent decline in the number of physiotherapy cases in the period October-November 2000 as compared to the same period in 1999.

Effect of closures and movement restrictions on education

91. Since the beginning of October 2000, more than 40 schools are reported to have been closed or unable to operate owing to curfews or closures. In the centre of Hebron, 34 schools have been closed, resulting in unemployment for more than 460 teachers, and 13,000 students were reported to be without educational facilities. Four Palestinian schools in Hebron have been closed by the IDF and turned into military bases: the M'aref School, Usama bin Munkez School, the Johar School and the Al Ukhwa School. Several thousand children are reported also to have had to be permanently moved from school premises as a result of damage to the school structure.

92. Schools near flashpoints - 173 in the West Bank and 23 in the Gaza Strip - were the worst hit. They were subjected to several kinds of assault, including bombing by the Israeli army and shooting by settlers.

Violations of internationally recognized human rights norms and international humanitarian law

93. The measures of closure, curfew or destruction of property described above constitute violations of the Fourth Geneva Convention and human rights obligations binding upon Israel. Destruction of property is prohibited by article 53 of the Fourth Geneva Convention, unless such destruction is rendered absolutely necessary for military operations, which does not appear to be the case for much of the destruction carried out. Other obligations under the Fourth Geneva Convention affected by closures are those under articles 23, 55 and 56. These require the free passage of consignments of medical and hospital stores and the free passage of foodstuffs, clothing and medicines intended for certain vulnerable categories of persons and impose a duty to ensure food and medical supplies to the population and to ensure and maintain medical and hospital establishments and services and public health and hygiene in an occupied territory.

94. Human rights norms are also apposite in the context of the closures because, in the Interim Agreement, Israel and the Palestinian Council accepted that they should exercise their powers and responsibilities pursuant to that Agreement with due regard to internationally accepted norms and principles of human rights and the rule of law.² Human rights violated by

the closures include the right to work, internationally recognized in article 6 of the International Covenant on Economic, Social and Cultural Rights. The severe socio-economic hardships caused by the restrictions on movement constitute a violation of the right to an adequate standard of living recognized in article 11 of that Covenant. Destruction of houses that leaves the occupants homeless also violates this right, since it specifically includes the right to adequate housing. The closures and movement restrictions interfere with the right of everyone to education. Children and students are prevented from attending classes, despite the duty of States to make secondary and higher education accessible to all by every appropriate means. In addition, restrictions on movement are also placed on journalists. This affects their reporting of events and constitutes a violation of their freedom of expression and, indirectly, of the population's right to seek and receive information, recognized in article 19 of the Covenant. This right may be subjected to certain restrictions, but only in certain circumstances and not as a general rule. The Palestinian Authority has also restricted the freedom of movement of journalists.

95. Finally, attention is drawn to article 33 of the Fourth Geneva Convention, which prohibits collective punishment. Israel has invoked security considerations to justify closures and other measures described above. From the Commission's own observations, it would appear that while in some instances security considerations may justify temporary closures, the comprehensive and protracted closures, as well as the scale and nature of the destruction of property of Palestinian civilians, is best regarded as collective punishment.

IX. PALESTINIAN REFUGEES AND THE SECOND INTIFADA

96. The Commission seeks to draw attention to the distinctive vulnerability of Palestinian refugees as a special case of hardship during the course of the second intifada, particularly as a result of the Israeli policies of closure and blockade. It needs to be appreciated that, according to UNRWA figures for 2000, there are 1,407,621 registered Palestinian refugees living in the West Bank and Gaza, comprising over 50 per cent of the Palestinian population in these territories. That figure represents only 38 per cent of the total Palestinian refugee population, the remainder being spread out mainly in Jordan, Lebanon and the Syrian Arab Republic. There are two sets of issues relevant to our inquiry: first, the vulnerability of Palestinian refugees living in refugee camps on the West Bank and Gaza, and second, the so-called "right of return" issue.

97. There is, first of all, the anomalous status of Palestinian refugees due to their exclusion from the protective mechanisms and responsibility of UNHCR. No other refugee community in the world is so excluded. UNRWA was established in 1949 to address the specific concerns of Palestinian refugees and became operational in 1950. This special regime acknowledging the importance of the refugee dimension of the Israel-Palestine relationship was reinforced over the years by critical United Nations resolutions dealing with the conflict. UNRWA was given responsibility for humanitarian aspects of the international effort to alleviate the material suffering of Palestinian refugees, but it was not entrusted with any protective functions. These functions were assigned to a parallel entity called the United Nations Conciliation Commission for Palestine (UNCCP), which, ironically, was established in response to General Assembly resolution 194 (111) calling for the protection of Palestinian refugees. Unlike UNRWA, UNCCP has been incapable of carrying out its functions, encountering political and financial

obstacles from its inception. Although UNCCP continues to exist on paper, it lacks a budget and personnel, and is effectively defunct. Yet, this organizational structure continues to define the legal status of Palestinian refugees.

98. In accordance with the 1951 Convention relating to the Status of Refugees, protection is accorded to all refugees under the authority of UNHCR except for the Palestinians. They are excluded because of article 1D of the 1951 Refugee Convention, which provides:

“This convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.”

Despite the failure of UNCCP to supply the anticipated protection, Palestinian refugees remain in limbo and have never in the more than half a century of their existence been incorporated within the UNHCR regime.

99. Such a result is particularly disturbing as article 1D explicitly recognizes the possibility that alternative forms of protection may fail for one reason or another. The language of the second paragraph of 1D is clear beyond reasonable dispute on this matter:

“When such protection or assistance has ceased for any reason, without the persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.”

There is no discernible reason to refrain from implementing this inclusionary provision, which should have been implemented decades ago.

100. The issue is not trivial. For one thing, the Commission was repeatedly told by a variety of witnesses, supplemented by documentary materials, that the refugees in the camps in the occupied territories were enduring hardships that exceeded those being experienced by the general Palestinian population, and that UNWRA officials felt unable to raise questions of a protective nature, regarding them as outside their humanitarian mandate and of a “political” character.

101. These protective concerns are directly associated with the distinctive pressures exerted by Israeli responses to the second intifada. The refugee camps are often prominent flashpoints in relations with the IDF and the settlements, prompting retaliatory “security” measures, especially prolonged closures, including blockages of access roads. Refugees are trapped in these overcrowded camps, prevented from going to places of employment and often denied access to educational and medical facilities. The incidence of destitution resulting from the impact of the second intifada is significantly higher for refugees than for non-refugees, and is felt more keenly, as refugees lack land for subsistence agriculture or within which to move about. Our visits to several Palestinian refugee camps revealed to us the special sense of material and psychological hardship associated with the confinement and curfews of this period of intifada. Under such conditions, it is hardly surprising that much of the support for Palestinian militancy and armed struggle is generated within the refugee camps.

102. The second, wider question, which is associated with the right of return, concerns the future of refugees outside the territories as well as those within, and is mostly beyond the scope of the Commission's central mandate. Its relevance arises from the degree to which Israelis insist that accepting such a right would be an act of suicide on the part of Israel and that and no State can be expected to destroy itself. Such an apocalyptic approach to the refugee issue obstructs overall moves towards a just peace.

103. In conclusion, the Palestinian refugees within the territories seem worse off than the Palestinian refugee diaspora in neighbouring countries. Further, the deterioration of their circumstances throughout the West Bank and Gaza has been accentuated by the heightened tensions and violence of recent months. These refugees require a variety of emergency protections that can only be provided by a concerted effort on an urgent basis at the international level. UNRWA, with its resources already strained and its operating conditions subject to interference, is not capable of providing the necessary protection.

X. CONCLUSIONS AND RECOMMENDATIONS

104. The commission of inquiry has been deeply mindful of its responsibility to exercise every care to be objective and impartial in gathering information and evaluating the evidence upon which it would base its conclusions and recommendations with the aim of calling attention to violations of human rights and international humanitarian law since 29 September 2000, and encouraging future compliance with international obligations to the extent possible.

105. In making its recommendations, the Commission from the outset emphasizes the need to understand the context and circumstances in which violations of human rights and breaches of international humanitarian law have occurred and the situation which has given rise to an ascending spiral of violence since the end of September 2000, resulting in a serious deterioration of the human rights situation.

106. The historical context is one of conflict and successive wars (over 50 years), prolonged occupation (over 30 years) and a protracted peace process (over 7 years). The peoples affected continue to suffer from a legacy of distrust, humiliation and frustration, only occasionally relieved by glimmerings of hope, which has all but disappeared of late.

107. The most worrying aspect of the recent escalation of violence leading to the loss of lives, disabling injuries caused to thousands, and the destruction of property and livelihoods is that the hopes and expectations created by the peace process are for the moment being smothered by mutual perceptions ascribing the worst of motives to each other, thus generating intense distrust and negative and destructive emotions.

108. It is important to emphasize that both the Palestinian people and the people of Israel have a yearning for peace and security, and that a precondition for achieving a just and durable peace is for every effort to be made on all sides to ease tensions, calm passions and promote a culture of peace. This could be helped if the process through which negotiations for peace are pursued is transparent, so that both Palestinian and Israeli public opinion can be built up in support of the process and of its eventual outcome. In this way, the mutual confidence upon which a durable peace must rest could be nurtured.

109. The Commission was encouraged by the extent to which its own assessments of the main issues addressed in the report substantially coincided with the most trustworthy third party views, including those of diplomatic representatives of the European Union and senior international civil servants with years of experience in the region. Thus, an informed and impartial consensus reinforces the conclusions and recommendations set forth here.

110. It is with an understanding of the tragic history of the peoples involved, and its psychological legacy, that our recommendations, aimed at discouraging the persistence of recent violations of human rights, are set out in three parts. The first part seeks to address the root causes that need to be resolutely addressed and resolved. The second part lists safeguards and procedures that need to be observed while negotiations aimed at a comprehensive, just and durable peace are pursued in good faith. The third part presents a series of measures which can be taken immediately to deter further violence and to end the destruction of lives, property and livelihoods. The fourth part is more ambitious, recommending steps for establishing a climate conducive to the emergence over time of a just and durable peace for the peoples of Israel and Palestine.

1. Conditions for a just and durable peace

111. A comprehensive, just and durable peace is to be sought through negotiations in good faith that would end the occupation and establish a dispensation that meets the legitimate expectations of the Palestinian people concerning the realization of their right to self-determination and the genuine security concerns of the people of Israel.

112. While noting that it is the Israeli position that occupation has in effect ended in much of the occupied territories following the agreements reached leading to the establishment of the Palestinian Authority, as well as the fact that the ultimate disposition of the settlements in those territories is a matter for negotiation between the parties, it needs to be recognized that, from the Palestinian perspective, so long as the settlements remain as a substantial presence in the occupied territories, and Israeli military forces are deployed to protect those settlements, no meaningful end to occupation can be said to have taken place.

2. Human rights and humanitarian law imperatives

113. The framework for a final peaceful settlement and the process through which it is pursued should be guided at all stages by respect for human rights and humanitarian law and the full application of international human rights standards set out in the Universal Declaration of Human Rights and in applicable human rights instruments, in particular those relating to women, children and refugees.

114. An adequate and effective international presence needs to be established to monitor and regularly report on compliance by all parties with human rights and humanitarian law standards in order to ensure full protection of the human rights of the people of the occupied territories. Such an international mechanism should be established immediately and constituted in such a manner as to reflect a sense of urgency about protecting the human rights of the Palestinian people.

115. Protection needs to be accorded to the people of the occupied territories in strict compliance with the 1949 Geneva Convention Relative to the Protection of Civilians in Time of War (Fourth Geneva Convention). The High Contracting Parties, individually and collectively, need urgently to take appropriate and effective action to respond to an emergency situation calling for measures to alleviate the daily suffering of the Palestinian people flowing from the severe breaches of the Fourth Geneva Convention. Article One of the Convention places a duty on the High Contracting Parties “to respect and ensure respect” of the provisions of the Convention “in all circumstances”. The Commission recalls that the Conference of the High Contracting Parties to the Fourth Geneva Convention, convened in Geneva on 15 July 1999, in its concluding statement reaffirmed the applicability of the Fourth Geneva Convention to the occupied Palestinian territory, including East Jerusalem, and reiterated the need for full respect for the provisions of the Convention in that Territory, and further recorded the following decision:

Taking into consideration the improved atmosphere in the Middle East as a whole, the Conference was adjourned on the understanding that it will convene again in the light of consultations on the development of the humanitarian situation in the field.

In view of the serious deterioration of the humanitarian situation in the Territory, the Commission recommends that the High Contracting Parties should act with urgency to reconvene the Conference. Such a Conference should establish an effective international mechanism for taking the urgent measures needed.

3. Urgent measures for the protection of human rights

116. It seems incontestable that the Israeli Security Forces (i.e. the IDF and the Israeli Police Force) have used excessive and disproportionate force from the outset of the second intifada, whether their conduct is measured by the standards of international humanitarian law applicable to armed conflict, the codes of conduct applicable to policing in situations not amounting to armed conflict or by the open-fire regulations binding upon members of the Israeli Security Forces. In these circumstances there is an urgent need for the Israeli Security Forces to ensure that, even in life-threatening situations, great care is taken not to inflict injury on civilians not directly involved in hostile activities and not to cause disproportionate harm and injury. In non-life threatening situations, particularly demonstrations, the security forces should comply fully with the policing codes of 1979 and 1990, as well as their own open-fire regulations. Every effort should be made by the Government of Israel to ensure that its security forces observe these rules, that such rules are made effectively known to members of the security forces, that the rules are not arbitrarily and summarily altered and that it is made clear to the security forces that violations will result in meaningful disciplinary action being taken against them.

117. The Israeli Security Forces should not resort to the use of rubber-coated bullets and live ammunition, except as a last resort. Even in life-threatening situations minimum force should be used against civilians. The Israeli Security Forces should be amply equipped and trained in non-lethal means of response, particularly for dealing with violent demonstrations. Every effort should be made to use well-established methods of crowd control.

118. The use of force by the IDF in the exercise of its role of providing security to settlers is also subject to international humanitarian law standards, including the Fourth Geneva Convention, and cannot be used for pre-emptive shooting of unarmed civilians in areas near settlements or on access and bypass roads leading to settlements or for the destruction of Palestinian property, including the demolition of homes, the cutting down of trees and the destruction of farms, and appropriate instructions to that effect should be issued to all concerned.

119. Targeted shooting of individuals by the IDF or by settlers or by sharpshooters of either side amounts to extrajudicial execution, which is a gross violation of the right to life, constitutes a breach of international humanitarian law and would attract international criminal responsibility. Instructions should be urgently issued and disseminated by all the concerned authorities immediately to end such targeted killing.

120. Complaints regarding the use of lethal force or the excessive use of force which has caused death or serious injury should be investigated and persons found responsible should be held accountable and should not enjoy impunity.

121. Immediate and effective measures need to be taken to end closures, curfews and other restrictions on the movement of people and goods in the occupied territories so that the right to livelihood and normal economic activities are restored, as also the right of access to education and health.

122. Immediate and effective measures need to be taken to prevent the destruction of property in the occupied territories, including the demolition of houses, the cutting down of fruit and other trees, and the destruction of farms and standing crops by the use of bulldozers and other means.

123. Prohibitions and restrictions derogating from the rights of the Palestinian people, including economic and social rights, imposed by invoking security considerations must be specifically justified and are in all cases subject to compliance with international humanitarian law standards.

124. All concerned authorities must refrain from measures that amount to collective punishment. This would include withholding transfer to the Palestinian Authority of taxes and duties collected by the Government of Israel, the imposition of restrictions on movement, or violent acts of reprisal by either side.

125. Instructions need to be issued immediately by all concerned authorities to security forces strictly to refrain from using force against or impeding the provision of medical relief and treatment by those working for the Red Cross, the Red Crescent and Magen David Adom, and in hospitals, and to ensure protection to ambulances and hospitals. These instructions should require all concerned to ensure unimpeded access for the sick, the injured and pregnant women to hospitals.

126. Compensation should be provided to victims of unlawful use of force where this has caused death, disablement, destruction of property or economic loss.

127. All impediments to the flow of humanitarian assistance, now even more urgently needed, should be removed as a matter of urgency and every effort should be made to facilitate the work of the United Nations and other bodies involved in providing humanitarian assistance and medical relief.

128. The life and safety of children and their access to education and health care should be especially protected. Special instructions should be urgently issued prohibiting shooting at unarmed children and pointing out that such acts would engage international and national criminal responsibility. Every care should be taken to ensure that children are not involved in situations where they expose themselves to risk of becoming victims of acts of violence.

129. Steps should be taken to apply article 1D of the 1951 Convention relating to the Status of Refugees to ensure that a regime of protection under the authority of the United Nations High Commissioner for Refugees is extended to Palestinian refugees, especially those currently residing in West Bank and Gaza camps. These refugees have been particularly victimized during the second intifada, are not now protected by the application of the UNRWA framework and urgently require international protection on a priority basis.

130. A mutually acceptable comprehensive settlement must deal equitably with the issue of Palestinian refugees and their rightful claims, including those refugees living outside of the Palestinian Territories. Such arrangements should be negotiated in a manner that is sensitive to legitimate Israeli concerns.

131. All restrictions on access to places of worship and all holy sites should be removed and access to them by all faiths should be respected.

4. Transforming the climate of hostility

132. The Euro-Mediterranean Agreement between the European Communities and their Member States and the State of Israel declares in article 2 that their relationship is to be based on respect for human rights and democratic principles which guide their internal and international policy; this could provide the basis for an initiative by the former to play a more pro-active role in promoting acceptance and implementation of these recommendations and in supporting the holding of consultations and dialogue at all levels between the Palestinian people and the Israeli people.

133. To improve prospects for durable peace, especially given the fundamental gaps in perception that currently separate the two sides, it is strongly recommended that the Commission on Human Rights take concrete steps to facilitate dialogue between representative Israelis and Palestinians at all levels of social interaction, formally and informally. In this regard, the Commission on Human Rights is urged to convene a consultation between leaders of Israeli and Palestinian civil society on a people-to-people basis in Geneva at the earliest possible time. In a similar spirit, to engage Europe more directly in the realities of the crisis the Commission on Human Rights is urged to convene a round table of representatives of European civil society and government to discuss steps that can be taken to alleviate the suffering of the Palestinian people and to ensure greater respect on both sides for human rights standards and for international humanitarian law.

134. In view of the comprehensive denial of human rights and the continuing pattern of behaviour violative of international humanitarian law, this Commission recommends to the Commission on Human Rights that it establish a high profile periodic monitoring and reporting undertaking to consider the degree to which the recommendations of this report to the parties are being implemented.

Notes

¹ The resort to shooting by the Israeli police at Harem-al-Sharif/Temple Mount on 29 September 2000 that started the second intifada was, by reliable accounts, not a response to Palestinian gunfire. This raises a serious question about the insistence on the part of the Government of Israel that lethal weapons have only been used in response to Palestinian gunfire.

² Interim Agreement of 28 December 1995, article XIX. Without this Agreement, Israel would still be bound to ensure civil and political rights that are non-derogable to the population of the occupied territories. Article 1 of the International Covenant on Civil and Political Rights requires that it protect the rights of all individuals subject to its jurisdiction, that is individuals under its effective control. The International Covenant on Economic, Social and Cultural Rights does not refer to individuals under the State's jurisdiction, which makes its application to the population of the occupied territories more doubtful. Israel became a party to the two International Covenants in 1991.

Annex I

**EXTRACT FROM RESOLUTION S-5/1 ADOPTED BY THE
FIFTH SPECIAL SESSION OF THE COMMISSION ON
HUMAN RIGHTS ON 19 OCTOBER 2000**

6. Decides

(a) To establish, on an urgent basis, a human rights inquiry commission, whose membership should be based on the principles of independence and objectivity, to gather and compile information on violations of human rights and acts which constitute grave breaches of international humanitarian law by the Israeli occupying Power in the occupied Palestinian territories and to provide the Commission with its conclusions and recommendation, with the aim of preventing the repetition of the recent human rights violations.

Annex II

HUMAN RIGHTS INQUIRY COMMISSION (HRIC)

**PROGRAMME OF VISIT TO THE OCCUPIED PALESTINIAN
TERRITORIES AND ISRAEL**

11-18 FEBRUARY 2001

Professor John Dugard, Dr. Kamal Hossain, Professor Richard Falk

The Commissioners were accompanied throughout the mission by a Coordinator, a Security Adviser, three professional officers, an interpreter and two secretaries. Additional logistical support and interpretation assistance was provided by the local OHCHR offices, UNRWA and UNSCO. The Security Adviser was in the area continuously from 7 to 20 February.

Saturday, 10 February (Gaza Strip)

2.45 p.m. Arrival at Ben Gurion Airport, Tel Aviv
Drive to Gaza City, Gaza Beach Hotel

Palestinian Authority Headquarters

6-7 p.m. Meeting with the President of the Palestine National Authority
Mr. Yasser Arafat

Gaza Beach Hotel

Sunday, 11 February (Gaza Strip)

Palestinian Authority

9.30-10.15 a.m. Palestinian National Security - General Abdel-Raziq El-Majayda

10.30-11.30 a.m. Ministry of Planning and International Cooperation -
Dr. Ali Sha'ath

11.45 a.m.-12.45 p.m. Ministry of Justice - Mr. Freih Abu Middain (Minister of Justice)

1-2 p.m. Lunch with Minister of Justice

2.45-4 p.m. Consultations at OHCHR Gaza office

4.30-5.15 p.m. Ministry of Social Affairs - Mr. Mahmoud M. Matair
(General Director)

- 5.30-6.15 p.m.** The Palestinian Red Crescent Society - Dr. Fathi Arafat
(Former Director)
- 6.30-8.45 p.m.** Ministry of Health - Dr. Riyad El-Zanoun (Minister of Health)

Monday, 12 February (Gaza Strip)

Gaza Beach Hotel - Meetings with NGOs

- 9-9.45 a.m.** Palestinian Center for Human Rights - Raji Sourani (Director)
- 9.45-10.30 a.m.** Al-Mezan Center For Human Rights - Issam Younis (Director)
- 10.30-11.15 a.m.** Gaza Community Mental Health Programme - Dr. Eyad El Sarraj
(Director)

Palestinian Authority

- 11.15 a.m.-12.30 p.m.** Ministry of Housing - Abdel Rahman Hammad and
Abde Kareen Abdeen
(Professor Dugard)
- 11.30 a.m.-12 noon** Palestinian Agricultural Relief Committees -
Abed El Kareem Ashour
(Professor Falk and Dr. Hossain)
- 12 noon-12.45 p.m.** Palestinian Medical Relief Committees - Abdel Hadi Abu Khosa
Union of Palestinian Medical Committees - Dr. Rabah Mohana
National Palestinian Society for Handicapped - Mohammed Zein
El-Dein
(Professor Falk and Dr. Hossain)

**United Nations Special Coordinator's Office (UNSCO) Headquarters - Collective meeting
with United Nations agencies**

- 1.15-2 p.m.** UNSCO - Francis Okello (Deputy Special Coordinator)
World Food Programme (WFP) - Mushtaq Qureshi
UNICEF - Bertrand Bainzel
World Health Organization (WHO) - Dr. Giuseppe Masala
UNESCO - Veronique Dauge
Office of the Coordinator for Humanitarian Affairs - Nick Harvey

UNSCO Headquarters – Meetings with Palestinian resource persons

- 3.15-3.50 p.m.** Hayder Abdel-Shafi, Commissioner, Palestinian
Independent Commission for Citizens' Rights

3.55-4.30 p.m. Ziad Abu Ammer, member of the PLC, academic expert

4.35-5.10 p.m. Abdel-Rahman Abu El-Nasr
(President of Bar Association)

6.30-7.30 p.m. International Committee of the Red Cross (ICRC)
Stephane Jacquier

Al-Deera Hotel Dinner

8.30 p.m. Hosted by Deputy South Africa Representative, Susan Heher
Also present: Peter Hansen, Francis Okello and Stephane Jacquier

Tuesday, 13 February (Gaza Strip and Jerusalem)

UNRWA (United Nations Relief and Works Agency) Headquarters, Gaza

9-10 a.m. Peter Hansen (Commissioner General),
Karen Koning Abu Ziad (Deputy Commissioner-General),
Mian Qadrud-Din (Chef de Cabinet),
Lionel Brisson (Director of Operations)
(list not exhaustive)

Visits to the sites affected by bombing

10.30 a.m. Stop at Netzarim Junction

11 a.m. Stop at Qarara area, at 640 metres from the Kusufim road, bulldozed land, demolition of houses and wells, uprooting of trees. The Commission interviewed Jomad Mossallam Ali Someiri, head of a household of 23 members. Demolition began at night, during the period of Ramadan.

11.30 a.m. Khan Yunis Camp - visit to Tufah checkpoint where on the previous day a number of Palestinians had been injured during clashes with Israelis. The Commission was caught in an outburst of crossfire initiated by the Palestinian side, which continued while the Commission was in the area. During this time, a child of 14 years was shot in the stomach causing extensive liver damage. The x-ray and the bullet (live .556 round) were recovered by the Commission. One youth of 20 years was shot in the testes.

12 noon Visit to local UNRWA office - interviews

1 p.m. Visit to Khan Yunis hospital - briefing by the Director, Dr Agha.
Visit to patients recovering from exposure to tear gas

- 2 p.m.** Stop on the other side of the Kusufim road in Qarara. Meeting with a family whose house was demolished on 22 November 2000 by the IDF. They only had 10 minutes' notice and could not salvage any movable property. Three bulldozers worked for three days to clear the area. Altogether some 33 families were affected by demolition.
- 3.45 p.m.** Lunch hosted by UNRWA at United Nations Reporting and Evacuation Centre, Gaza

UNSCO Headquarters

- 5-6.45 p.m.** Meeting with victims and their families, (organized by Ministry of Social Affairs, General Workers' Union, Union of Medical Relief Committees and Gaza Community Mental Health Programme) (Dr. Hossain)
- 5-6.15 p.m.** Collective meeting with the press
Suod Abu Ramadan (Journalists Association)
Fayed Abu Shammalah (journalist, BBC)
Rasmalli (Daily newsletter)
(Professors Dugard and Falk)
- 6.15-6.45 p.m.** Meeting with Minister of Environment (Yousif Abu Safya) and colleagues
(Professor Falk)

Departure for the West Bank - American Colony Hotel, Jerusalem

Wednesday, 14 February (Jerusalem)

UNDP office, Jerusalem

- 8-9 a.m.** United Nations Development Programme (UNDP)
Timothy Rothermel, Special Representative

American Colony Hotel, Jerusalem

- 10 a.m.-12.30 p.m.** Meeting with Israeli NGOs
B'Tselem - Yael Stein (Research Director)
The Alternative Information Center (AIC) - Sergio Yahni (Director)
The Association for Civil Rights in Israel - Risa Zoll (Attorney and International Relations)
Hamoked, Center for the Defence of the Individual -
Dalia Kerstein (Director)

I'lam Center, Media Center for the Palestinian Society in Israel -
Maria de Pina (Public Relations Coordinator) and Falastin Ismail
(Director)
Mosawa Center for Arab Rights in Israel - Sana Hammond (Policy
Advocate)
Public Committee against Torture in Israel - Hanna Friedman
(Executive Director)
Arab Association for Human Rights - Mohammed Zeidan
(Director)
Rabbis for Human Rights - Rabbi Jeremy Milgrom and
Rabbi Arik Ascherman
Physicians for Human Rights - Dr. Hedva Radovanitz
(Executive Director)
Ihijaha Union of Arab Community-Based Associations -
Monica Terazi, Ameer Makhoul ADALAH, The Legal Center for
Arab Minority Rights - Anna Massagee, Jamil Dakwar

12.30-2 p.m. Jonathan Krensky (journalist, Jerusalem Post)

2-3.30 p.m. Lunch break

3.30-4.30 p.m. Avishai Margalit (philosopher)

4.30-5.30 p.m. Mordechai Baron (historian)

5.30-6.30 p.m. Ruth Gavison (law professor)

Thursday, 15 February (Ramallah and Jerusalem)

Grand Park Hotel, Ramallah

10.15-11.15 a.m. H.E. Mr. Rafiq Al-Natsheh (Minister of Labour)

11.30 a.m.-12.15 p.m. Dr. Mustafa Al-Barghouti (political analyst)

12.15-1.15 p.m. Luncheon with Palestine Legislative Council (PLC)
Ahmed Qu'rar - PLC Speaker
Ghazi Hananya - PLC Speaker's Deputy
Rawhi Fattouh - PLC Secretary
Aazmi Shun'aybi - PLC Member
Qadoura Fares - Chair of Human Rights Committee
Mahmoud Labadi - PLC Director General

1.30-2.15 p.m. Ghassan Faramand (Director, Law Institute, Birzeit
University (BZU))
Abdul-Karim Barghouti, (Dean of Student Affairs, BZU)

Mudor Kassis, Chairperson, (Department of Philosophy and Cultural Studies and Coordinator of MA program-Democracy and Human Rights, BZU)

- 2.30-3 p.m.** Jonathan Kuttab (Al-Quds University) and Mr. Raja Shehadeh (lawyer)
- 3-3.40 p.m.** Eileen Kuttab (Institute of Women's Studies, Birzeit University)
- 3.45-4.25 p.m.** Charles Shamas (expert in international humanitarian law, Centre for Human Rights Enforcement)
- 4.45-5.25 p.m.** Omar Dajani and Stifany Khouri (Negotiations Affairs Department)
- 5.30-6.10 p.m.** Nader Saed (Development Studies Programme, BZU)
- 6.15-6.55 p.m.** Ali-Jerbawi (Professor of Political Science, Birzeit University)

YMCA House, Jerusalem

- 9 p.m.** Dinner with:
Amiram Goldblum (Settlement Watch, Peace Now Movement)
Mossi Raz (Peace Now Movement)
Eitan Felner (Director of B'tselem)

Friday, 16 February (Jerusalem and Ramallah)

Meetings at the American Colony Hotel - Jerusalem

- 8-9 a.m.** Breakfast meeting with members of the European Union:
Nadim Karkutli and Sylvie Fouet (European Commission)
Lars Adam Rehof and Kim Vinthen (Office of the Representative of Denmark)
Emelie Träff and Elinor Hammarskjöld (Swedish Consulate General)
Aurélie Duhamel and Eric Tison (French Consulate General)
Michael Ohrmacht (German Rep. Office)
Eija Rotinen (Office of the Representative of Finland)
Petros Panayotopoulos (Greek Consulate General)
Leo D'Aes (Belgium Consulate General)
Manuel Salazar (Spanish Consul General)
Gianni Ghisi (Italian Consul General)
Birgitta Tazelaar (Office of the Representative of the Netherlands)
Isolde Moylan-McNally (Representative of Ireland)

9-9.45 a.m. Meeting with Christian and Muslim religious leaders
Adnan Husseini, Head of the Islamic Trust
Sheik Mohamed Hussain, Mufti of Al Aqsa Mosque
Bishop of the Armenian Orthodox Community
Father Theophilos, Greek Orthodox Patriarchate

Meeting at Orient House

10-10.45 a.m. Mr. Faisal Al Husseini (Orient House - Portfolio - PNA)

Grand Park Hotel, Ramallah - Meetings with Palestinian NGOs

12 noon-1 p.m. LAW (Palestinian Society for the Protection of Human Rights and the Environment) - Khader Shkirat (Director), Issa Shawki and Dianne Luping

1.15-2 p.m. Defense for Children International, Palestine - George Abu-Zolof (Director) with Adam Hanieh, Khaled Kuzmar, Simon Awad and Ibrahim Al Masri; Badil Resource Center - Ingrid Jaradat (Director)

2-2.30 p.m. Lunch break - Grand Park Hotel

2.30-5 p.m. Al-Haq - Mohamed Abu-Harthieh (Director)
General Union For Disabled Persons - Ziad Amro (Director)
Jerusalem Center for Human Rights, Jerusalem Legal Aid Center - Ibad Abu Ghosh (Director) and Haifa Alyssa
Democracy and Workers' Rights Center - Mazen Barghouty (Director)
Al-Dameer for Political Prisoners - Khalida Jarrar (Director)
Women's Center for Legal Aid and Counseling - Maha Abu Dayya (Director)
Women's Studies Centre
Mandela Institute for Political Prisoners - Ahmed Al-Sayyad (Director)

During the afternoon, two meetings were held simultaneously, with one Commissioner attending one meeting and two Commissioners the second meeting.

Saturday, 17 February (Hebron/Bethlehem/Beit Jala/Jerusalem)

8-9 a.m. Travel to Hebron

9-11 a.m. Briefing by members of Temporary International Presence (TIP) in Hebron
Director of TIPH

Henrik Lunden (Senior Press and Information Officer)
Velérie Petignat Wright (Head Staff Director)
Angélique Eijpe (Legal Adviser)

- 11-11.30 a.m.** Meeting with Mr. Mustafa Al Natsha, Mayor of Hebron
- 11.30 a.m.-12.15 p.m.** Travel to Bethlehem
- 12.15-2 p.m.** Visit to Aida Refugee Camp in Bethlehem
Aida Basic Girls' School (UNRWA) and two shelled houses
- Richard Cook (Director UNRWA Operations, West Bank)
Brett Lodge (Operations Officer, UNRWA)
Husni Shahwan (Area Officer for Hebron, UNRWA)
Yahia Daage (UNRWA teacher)
Makarem Awad (Relief and Social Service Department, UNRWA)
- 2-3.30 p.m.** Return to Jerusalem, brief lunch
- American Colony Hotel**
- 3.30-4.15 p.m.** Said Zedani (Director of Palestinian Independent Commission for Citizens' Rights)
- 4.15-5.30 p.m.** Collective meeting with journalists
Sam'man Khoury (Palestinian Media Center)
Nabeel Khateeb (Journalist, Director of Media Institute, Birzeit University) with the participation of Dr. Said Zedani
Nabhan Krisha (Palestinian Medical Center) and Akram Haney (Editor-in-Chief, Al Ayyam Daily) were unable to participate as they were stopped at checkpoints.
- 6 p.m.** Old City of Jerusalem
Consultations at hotel

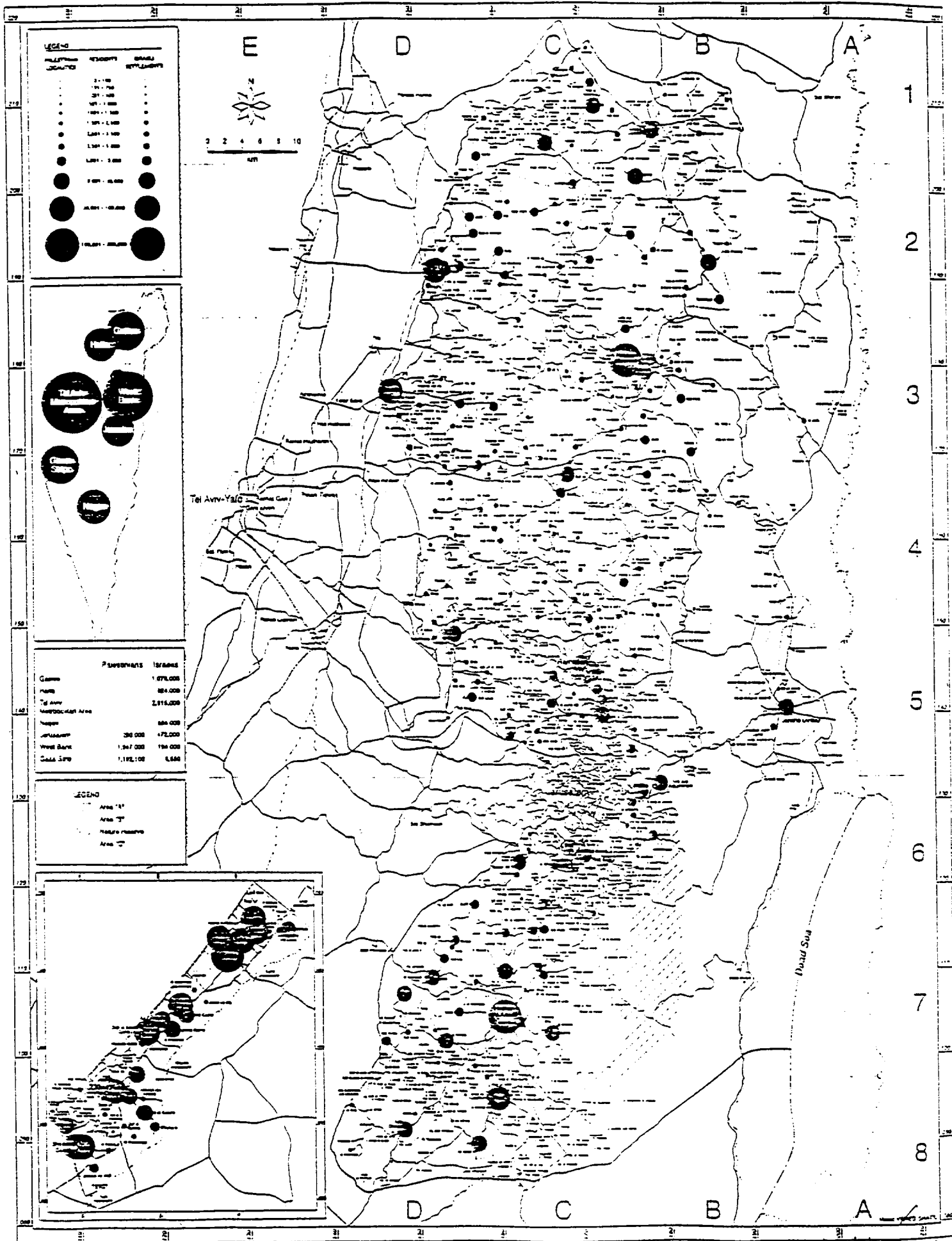
Sunday, 18 February (Jerusalem and Tel Aviv)

American Colony Hotel, Jerusalem

- 9-10 a.m.** Mr. Ilan Pappé (Historian)

Avia Hotel, Tel Aviv

- 12 noon-1 p.m.** General (Ret.) Shlomo Gazit
- 1.30 p.m.** Check-in at Ben Gurion Airport for 16:15 departure



Source: PEACE NOW: The Settlements Watch Team, Israel.
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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 8 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Update to the mission report on Israel's violations of human rights
in the Palestinian territories occupied since 1967, submitted by
Giorgio Giacomelli, Special Rapporteur, to the Commission on
Human Rights at its fifth special session**

1. In response to the grave human rights situation accompanying the escalation of violent confrontations in the occupied Palestinian territories in late September 2000, the Special Rapporteur undertook a mission from 11 to 15 October 2000 in order to assess the situation on the ground. He consulted many interlocutors from Israeli and Palestinian NGOs, international organizations, United Nations agencies, Palestinian Authority representatives and survivors of those killed, as well as individuals wounded in the confrontations.
2. Following a request made on behalf of the Council of Arab Permanent Representatives of Members of the League of Arab States, the Commission on Human Rights subsequently convened its fifth special session from 17 to 19 October 2000 to discuss the grave and massive violations of the human rights of the Palestinian people by the Israeli occupying Power. The Commission's decision to convene the special session provided the opportunity for the Special Rapporteur to present his mission report (E/CN.4/S-5/3) to the Commission's attention as a reference for its deliberations.
3. On 19 October 2000, the Commission, at its fifth special session, adopted resolution S-5/1, which the Economic and Social Council endorsed in its decision 2000/311 on 22 November 2000.

4. Consistent with that resolution, the High Commissioner for Human Rights undertook a visit to the Middle East from 8 to 16 November 2000. On 19 December 2000, the Chairman of the Commission on Human Rights appointed three eminent persons to a human rights commission of inquiry, which was dispatched to the occupied Palestinian territories from 10 to 18 February 2001 to investigate human rights violations and breaches of international humanitarian law. The Commission has before it the reports of both the High Commissioner (E/CN.4/2001/114) and the commission of inquiry (E/CN.4/2001/121).

5. As has been the case for this Special Rapporteur since his appointment in 1999, the Israeli authorities have not cooperated with the thematic rapporteurs who have asked to visit the country since the adoption of resolution S-5/1. On 2 January 2001, Ambassador Yakov Levy informed the thematic rapporteurs: "Israel will not cooperate in the implementation of the operative part of the resolution".

6. The Special Rapporteur draws the Commission's attention, once again, to the determinations of the treaty bodies reaffirming that Israel has maintained "effective control" in all of the occupied Palestinian territories and, therefore, holds treaty obligations to implement human rights there.¹ While this interpretation has not changed, it is worth noting that, since the Commission's special session, the Committee on Economic, Social and Cultural Rights has reiterated its position to the Government of Israel, once again requesting that it submit information on the implementation of economic, social and cultural rights as required under the Covenant.² In order to facilitate Israel's fulfilment of this obligation, the Committee has scheduled to review Israel's belated report at a special meeting during its forthcoming twenty-fifth session, on 4 May 2001.

7. The present report is to be read in conjunction with the reports that the Special Rapporteur submitted to the Commission at its fifty-sixth session (E/CN.4/2000/25) and the report he submitted following his mission to the occupied Palestinian territories in October 2000 (E/CN.4/S-5/3). The Special Rapporteur stands by his previous reports and advice to the Commission. In the meantime, the Special Rapporteur has sought out, received, compiled and analysed relevant information from the prolific record produced by various media, among them sources on the ground, the press, and international organizations, including United Nations agencies, human rights bodies and Member States. The continuing grave and deteriorating conditions since the special session reaffirm the validity of the framework and emphasis of the Special Rapporteur's analysis.

8. The Israeli military have continued to use excessive force in the form of live ammunition, rubber-coated metal bullets and tear gas against civilian demonstrators and bystanders.³ This disproportionate and unrestrained use of force has increased the Palestinian civilian death toll and injuries dramatically, reportedly killing some 400 Palestinians since 28 September 2000 and injuring as many as 14,000.⁴

9. The Special Rapporteur encourages the Commission to take into consideration the continuation and escalation of Israel's previously reported violations of the occupied population's human rights. However, the Special Rapporteur is of the view that a detailed recounting of the statistical data here would be an elusive undertaking that would not essentially alter the message the Special Rapporteur has already presented to the Commission. Rather, the

Special Rapporteur believes that the Commission's deliberations would be served best by a presentation of some aspects of the human rights situation that have come to light since the special session, particularly in the past few weeks. These are discussed below under the following headings:

- A. Emerging patterns;
- B. Cumulative and exponential consequences of ongoing violations;
- C. Developments in the political context.

A. Emerging patterns

10. Certain violations, though not new to the human rights landscape of the occupied Palestinian territories, have graduated from sporadic or incidental occurrences to a noteworthy level of regularity.

Extrajudicial executions

11. Since October, radio and print media have reported Israeli military officers admitting that the army has operationalized a policy of extrajudicial execution against Palestinians it suspects of committing attacks against Jewish settlers or Israeli soldiers in the occupied Palestinian territories. As Israeli spokespersons have explained, "most operations were carried out by snipers".⁵ However, Israeli extrajudicial execution has involved the assassination of at least 13 individuals targeted by way of ambush, employing undercover units, including mostaravim (gunmen posing as Arabs), and heavy weapons, including helicopter-mounted artillery.

12. The relevant humanitarian law standards provide that, in all circumstances, persons accused of illegal acts shall benefit from the safeguards of a proper trial and defence.⁶ Humanitarian law considers such wilful killing to be within the category of grave breaches, as stipulated in the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (art. 147)⁷ and obliges High Contracting Parties to prosecute those responsible (art. 146).

Rights to housing and property

13. House and property demolition has emerged as a consistent pattern. Between September 2000 and February 2001, Israeli forces destroyed at least 773 family homes (180 completely).⁸ In some instances, occupation forces have targeted Palestinian residential areas with artillery, as in the areas of Netzarim, Khan Younis, Rafah and Dayr al-Balah, in the Gaza Strip, and in the Old City of Hebron, Beit Jala, Bayt Sahur, Bethlehem, Jericho and al-Bireh, in the West Bank. The Israeli destruction of Palestinian agricultural lands and crops has escalated dramatically throughout the occupied Palestinian territories. Israeli sources claim that house and farm destruction serves the security needs of Jewish settlers and settlements.⁹ However, this practice violates the Fourth Geneva Convention's prohibitions against collective punishment (art. 33) and illegal acts of destruction (art. 53), as well as the Universal Declaration of Human Rights (art. 25).

The right to food

14. According to United Nations statistics, the poverty rate across the occupied Palestinian territories has increased since the end of September 2000, with the number of Palestinians living on less than US\$ 2 per day growing from 650,000 to 1 million. The combined consequences of Israel's intensified policy of closure have affected civilian livelihoods and raise concern over Israel's denial of Palestinians' right to food.¹⁰ The recent humanitarian response, however inadequate to meet current needs, is an indicator of the crisis. As of November 2000, the World Food Programme (WFP) drew on its emergency food reserves, and subsequently carried out an emergency operation (EMOP) to distribute wheat flour to 13,000 families (outside the refugee camps) newly impoverished by the Israeli closure and economic siege. UNRWA is also struggling to provide basic food supplies to the needy refugee population and has appealed for US\$ 37.2 million in emergency aid, including food aid.

15. On 18 December 2000, Physicians for Human Rights, an Israeli NGO, petitioned the High Court of Israel to order the Minister of Defence and the Israel Defence Forces to ensure the immediate and regular supply of food and medicine to Palestinian residents of the territories.¹¹ At the time of writing, WFP is urgently seeking funds for a three-month EMOP, following a weak donor response to its appeal at the end of last year.¹²

Torture, prisons, detentions and juvenile justice

16. While Israel's alleged use of torture and prison conditions, in general, remain of concern to the human rights community, the Special Rapporteur takes note of the re-emergence of Israel's practice of administrative detention and the detention of juveniles. Recent cases of physical abuse under Israeli detention include Palestinians held for reasons of security, including some as young as 16 years old.¹³

17. Israeli Military Order 132 allows for the arrest and detention of Palestinian children aged from 12 to 14 years. At the beginning of the current *intifada*, some 70 Palestinian minors were reportedly detained in Israeli prisons. Since then, this number has increased to more than 250. These children range in age from 14 to 17 years, of whom at least 105 are from Jerusalem.¹⁴ This category of violation involves subjecting juveniles to detention with adult prisoners and criminal convicts. Such practices contravene provisions of the Convention on the Rights of the Child, the Convention against Torture and Other Forms of Degrading Treatment or Punishment, the Fourth Geneva Convention, the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Standard Minimum Rules for the Administration of Juvenile Justice.

Press freedom

18. Interference with freedom of expression and the press has arisen since the Special Rapporteur's report of March 2000.¹⁵ It has taken the form of Israeli soldiers and settlers carrying out physical attacks on journalists, destruction of their property, arbitrary arrest and other forms of interference through the use of force and abuse of power. As of February 2001, such assaults, ranging from beatings to shooting with live bullets and shrapnel, resulted in at

least 39 journalists being injured, including 7 foreign journalists. Administrative interference with journalistic activities has involved the Israel press authority's arbitrary cancellation of press credentials.¹⁶

B. Cumulative and exponential consequences of ongoing violations

19. The violations of the civilian Palestinian population's individual and collective rights largely replicate the patterns of Israel's behaviour already discussed in the Special Rapporteur's two previous reports. However, the Commission should be aware that, in certain sectors, these ongoing violations have achieved a "critical mass" and pose interrelated consequences.

Economic rights

20. Israeli officials have openly admitted a strategy of restricting the Palestinian economy with the intent and purpose of effecting social control.¹⁷ Israel's specific tactics affecting Palestinian economic rights remain as previously reported,¹⁸ with the added consequences of Israel's withholding of tax revenues due to the Palestinian Authority.

21. In the fourth quarter of 2000, Palestinians in the occupied territories have experienced the most severe Israeli-imposed closure since 1967, with 72 days of lost labour. Estimated wage losses alone amount to US\$ 8.6 million for each of 105 closure days from 9 October 2000 to the end of January 2001, or a total of US\$ 907.3 million in wages lost to Palestinian labourers for that period. The Palestinian unemployment rate has jumped from 11 per cent, before the onset of the current crisis, to 38 per cent (243,000 workers) over the period October 2000-January 2001. Israeli restrictions on civilian movement within the occupied Palestinian territories have dramatically increased transport time and costs for Palestinians on most regularly travelled routes, hampering commerce.¹⁹ It is reported that the cumulative effects of Israel's strategy to cripple the Palestinian economy has cost the occupied territories 50.9 per cent of their GNP, with construction, commerce and the agriculture/fishing sectors being the hardest hit.²⁰ As a result, the poverty rate for Palestinians has risen from 21.1 per cent, in September 2000, to 31.8 per cent, at the end of 2001.

22. The spending of reserves is an important indicator of the economic impact. Both household savings and public sector reserves have been depleted. The Palestinian Authority risks quadrupling its anticipated deficit by the end of 2000 to US\$ 100 million,²¹ making Israel's punitive withholding of some US\$ 50 million in Palestinian Authority tax revenues all the more crushing.²² According to United Nations sources, the impact of Israel's policies in terms of total estimated income losses for the Palestinian economy are many times greater than the total amount of international donor assistance in the same period.²³ Available statistics on economic losses do not include the costs of properties destroyed or damaged by Israel, nor the high cost of health services for the treatment of those Palestinians wounded and disabled in confrontations with occupation forces.

Children's rights

23. The effect of human rights violations on children is both disproportionate and cumulative. From 29 September to end February 2001, Israeli settlers and soldiers killed approximately 145 Palestinian children under 18, of whom at least 59 were under 15 years of age.²⁴ An overwhelming 72 per cent of child deaths have resulted from gunshot wounds in the upper body (head and chest), which may indicate a "shoot-to-kill" policy.²⁵ The Israeli forces have injured more than 2,000 Palestinian children, over 80 per cent of them with live ammunition or rubber-coated metal bullets. It is too early to know the number of permanent disabilities that have been caused by the current violence; one estimate indicates that 1,500 Palestinians have been permanently disabled, many of them children.²⁶

24. In addition to the health consequences for those directly injured by the use of force and firearms, a larger group is prevented from realizing their right to education. Educators, health workers and human rights organizations have reported that many of the 865,540 registered schoolchildren in the occupied Palestinian territories are now suffering high levels of post-traumatic stress disorder and related symptoms as a result of the ongoing violence.²⁷ With Israeli forces having damaged 30 schools and forced 41 to close,²⁸ the achievements in Palestinian education resulting from the considerable efforts of the Palestinian Authority and the international community are now at risk of reversal.

Right to health

25. Amid the prevailing threats to Palestinians' right to life, the Palestinian health system risks collapse, but for the efforts of defenders of the right to health, including medical personnel and relief workers. The nature and sheer scale of the current medical emergency is characterized by live ammunition and artillery injuries, multiple-organ damage and grave case-management problems relating to the long-term treatment and rehabilitation required for the 0.5 per cent of the Palestinian population stricken. Israel's closure and siege of Palestinian areas and movement restrictions undermine the entire primary health-care system, including immunization and other preventive programmes, as well as secondary and tertiary health services. Moreover, Israel's outright damage and destruction of health facilities has involved the injuring and killing of health workers, the destruction of ambulances, utility cuts and artillery strikes on hospitals.²⁹

Territorial and social fragmentation

26. Israel's territorial fragmentation of the occupied Palestinian territories, which the Special Rapporteur has reported previously, is significantly more severe now, separating Jerusalem from the rest of the West Bank, segmenting the Gaza Strip into four parts³⁰ and breaking up the West Bank into some 60 discontinuous zones by blocking the movement of people and goods among them. Since 6 October, the Israeli occupation authorities have closed the "safe passage" between the Gaza Strip and the West Bank. It has been estimated that, in the current circumstances, some 900,000 Palestinians, or 30 per cent of the population of the occupied territories, have been negatively affected by Israeli restrictions on civilian freedom of movement.³¹

27. The social and cultural impact of territorial fragmentation does not lend itself easily to a summary in numerical terms, but the scenario in that area is no less severe than that depicted in relation to the economic rights data. The toll of Palestinian deaths and injuries resulting from Israel's excessive use of force has had cumulative and exponential social effects.³² By all accounts, this has demoralized the civilian population, on the one hand, but has further galvanized Palestinian determination to resist Israeli occupation, with understandable consequences in the political domain.

C. Developments in the political context

28. In his reporting to the Commission, the Special Rapporteur has referred to some of the uncertainties that have created a limbo in the environment in which these human rights issues are played out. While human rights, as such, provide their own independent criteria, their implementation has to be placed in their political context. What is new vis-à-vis the Special Rapporteur's previous reports, and has emerged only a matter of days ago, is that the situation has taken a new turn, as various parties have concluded that the Oslo process is to be put aside.³³ While both parties have expressed a desire to continue the dialogue, the polarization of their positions indicates that the conflict, with its concomitant human rights violations, is bound to continue.

29. It is in this context that the use of force has escalated on both sides. The roles and responsibilities on the Palestinian side, while outside this Special Rapporteur's mandate, remain unclear and difficult to ascertain. This is particularly so in the light of the ambiguities in the Oslo Agreements and their implementation with regard to functions of the Palestinian civil police and security bodies.

30. New developments at the political level, greater polarization between the Israeli and Palestinian societies and increased resort to violent and destructive force in the absence of a peace process characterize the current trend. This presents a backdrop for drafting a new chapter in the analysis of the political context in which, realistically speaking, the human rights standards are to be applied.

Conclusions and recommendations

31. Some interlocutors had expressed the hope that the final collapse of unproductive negotiation efforts under the Oslo process would inspire a new framework for a peace process grounded in human rights and international law. That hope seems to have given way to a sense that the present conflict will continue.³⁴ This paradigm shift makes the international efforts at implementing human rights all the more imperative. In this report of the Special Rapporteur's findings, it remains fitting to point out that only one of the Special Rapporteur's specific recommendations for urgent action has been carried out: establishing a speedy and objective mechanism of inquiry. The remaining recommended actions remain untried.

32. Among those remains the need to apply in earnest the international standards for policing and law enforcement. These standards are part and parcel of the human rights framework to be applied in the remedial measures required to respect, protect, promote and fulfil all human rights. The Special Rapporteur notes the apparent lack of such a civil law-enforcement function among

Israel's forces in the occupied Palestinian territories. While this observation may not reflect a new trend, the militarized situation since September 2000 makes more urgent the need to train and discipline forces on the ground according to international standards. The goal of maintaining law and order underscores the need for demilitarization, especially in the light of the escalating resort to military tactics on both sides.

33. The Special Rapporteur also would like to re-emphasize the importance and urgency of international protection for the Palestinian people in the occupied territories. In so doing, he endorses the recommendations made by the High Commissioner for Human Rights in her report on her visit to the occupied territories (E/CN.4/2001/114) and Security Council resolution 1322 (2000) of 7 October 2000 to that effect.

34. The Special Rapporteur recognizes that, as of today, the purpose of protection enshrined in humanitarian law, in particular in the Hague Regulations and the Fourth Geneva Convention, has not been served in the occupied Palestinian territories. It has to be noted that, while the principal responsibility lies with the occupying Power, all the other High Contracting Parties also bear responsibility for ensuring respect for these provisions. The Special Rapporteur, therefore, welcomes the General Assembly's initiative relating to effective application of the Fourth Geneva Convention and looks forward to the follow-up pledged by the High Contracting Parties at their conference on 15 July 1999. To this end, the Special Rapporteur wishes to acknowledge that there remains a range of options available to ensure respect through collective action, joint action and bilateral measures under the Fourth Geneva Convention, as well as the Charter of the United Nations.

35. The Special Rapporteur remains convinced that the current conflict is rooted in accumulated grievances and resentment at the continuing violations of human rights and humanitarian norms under Israeli occupation. He is particularly concerned that any progress at confidence-building achieved between the two sides may be irretrievably lost. This signals the urgent need to adopt measures towards restoring confidence and rekindling hope in a durable peace. Indeed, the Special Rapporteur stresses, once again, that international law should be respected not only for obvious juridical and ethical reasons, but in the interest of the parties themselves. In fact, international law and, in particular, human rights and humanitarian norms form the indispensable foundation of any just and lasting solution.

Notes

¹ See the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.45) and the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.27), as cited also in the Special Rapporteur's report E/CN.4/S-5/3 of 17 October 2000, para. 6.

² Letter of the Chairperson of the Committee on Economic, Social and Cultural Rights, Virginia Bonoan-Dandan to Mr. David Peleg, the Permanent Representative of Israel to the United Nations Office and Specialized Agencies at Geneva, 1 December 2000.

³ Bureau of Democracy, Human Rights, and Labor, United States Department of State, “Israel” and “Occupied Territories”, Country Reports on Human Rights Practices 2000 (Washington: GPO, February 2001).

⁴ As of 15 March 2001. These figures reflect the number of injured Palestinians treated in health facilities, as reported by the Palestinian Ministry of Health (West Bank) and the Palestinian Center for Human Rights (Gaza). Health, Development, Information and Policy Institute (HDIP) Web site: www.hdip.org. These figures are regularly subject to change.

⁵ “Israel admits ‘shoot-to-kill’ policy against Palestinian militants”, Agence France Presse, 21 December 2000; “IDF source: seeking out terrorists is effective”, The Jerusalem Post, 21 December 2000; Roni Shaked, “Elimination of another PA official: senior Fatah man assassinated”, Yedioth Ahronoth, 1 January 2001, p. 8; Human Rights Watch, “End liquidations of Palestinian suspects Israel” (New York, 29 January 2001).

⁶ Articles 105 and 146.

⁷ Article 147 states: “Grave breaches ... shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”

⁸ Al-Mezan Center for Human Rights Report (February 2001) (www.mezan.org).

⁹ Phil Reeves, “Israeli destruction of homes fuels hatred in Gaza”, The Independent, 7 December 2000.

¹⁰ International Covenant on Economic, Social and Cultural Rights, article 11. Israel ratified the Covenant in 1991.

¹¹ Moshe Reinfeld, “Doctors demand free flow of food and medicine to territories: Physicians for Human Rights asks for High Court’s intervention”, Ha’aretz, 20 December 2000.

¹² World Food Programme, WFP Emergency Report No. 9, 2 March 2001 (revised on 5 March 2001), Web site: www.wfp.org.

¹³ Addameer Prisoners Support and Human Rights Association, “Report on Palestinian Prisoners as of 29 September 2000” (based on visits by Addameer’s attorney Sahar Francis to Israeli interrogation centres), 1 November 2000; see also LAW Society press releases of 30 November 2000 and 23 January 2001.

¹⁴ Defence for Children International/Palestine Section, press release 0001/01, 15 January 2001.

¹⁵ E/CN.4/2000/25 of 15 March 2000.

¹⁶ LAW Society, "Attacking journalists: Israeli forces violate Palestinian right to freedom of expression", press release, 19 February 2001. HDIP notes 44 cases, op. cit., citing Al-Mezan report on Israeli attacks on journalists (25 November 2000) and al-Ayyam newspaper, 26 January 2001.

¹⁷ "Israel targets Palestinian economy", Ha'arezt (English edition) 17 November 2000; "Israel blockade strangles those who survive: the Jewish State is suffocating the Palestinian territories through a tight economic blockade in an attempt to erode the will of its people", Reuters, 29 November 2000; Lee Hockstader, "Sanctions suffocating Gaza's fragile economy", Washington Post, 6 December 2000, p. A01.

¹⁸ E/CN.4/2000/25, pp. 10-11, 14-16.

¹⁹ United Nations Special Coordinator in the Occupied Territories (UNSCO), "The impact on the Palestinian economy of confrontations, mobility restrictions and border closures, 1 October 2000 to 31 January 2001", (Gaza: UNSCO, 25 February 2001), p. 3.

²⁰ *Ibid.*, p. 6.

²¹ *Ibid.*, p. 14.

²² "Waking up to life under Sharon", The Economist (17-23 March 2001), p. 51. Related PA tax and customs revenues are currently at US\$ 45 million per month, or about half the rate during the period January-September 2000. Figures provided by IMF, November 2000-February 2001, in UNSCO, op. cit., p. 12.

²³ United Nations sources estimate losses for the period at \$1,150,700,000, of which \$907,300,000 derive from losses in domestic output/income and \$243,400,000 from losses in labour earnings in Israel. UNSCO, op. cit., p. 9.

²⁴ As of 9 March 2001. Palestinian Ministry of Health, www.pna.org/moh/Alaqsa_stat0903.htm.

²⁵ Amira Hass, "Don't shoot till you can see they're over the age of 12", Haaretz, 20 November 2000.

²⁶ HDIP, Health Care Under Siege II, HDIP, op. cit.

²⁷ For example, see Al-Mezan, "The destruction of civilian properties and the comprehensive closure of the occupied Palestinian territories" (Gaza: Al-Mezan, 9 November 2000); Interview with Dr. Samir Qouta, Gaza Community Mental Health Project, Gaza, 27 November 2000, cited in Save the Children, "Children's rights to education in Palestine" (15 March 2001).

²⁸ Palestinian Ministry of Education report (3 November 2000) and Al-Mezan report on education (8 December 2000), cited in HDIP, op. cit., www.hdip.org.

²⁹ HDIP, Health Care Under Siege II, HDIP, op. cit.

³⁰ Since 23 February 2001, Israeli forces divided the Gaza Strip into four zones: (i) between ash-Shuhada Crossing to the south and Bait Hanun to the north, (ii) between ash-Shuhada Crossing to the north and Kufar Darum to the south, (iii) between Kufar Darum to the north and Rafah to the south, and (iv) the Mawasi area, between Khan Yunis and Rafah.

³¹ UNSCO report, op. cit., p. 11.

³² “Further deterioration of normal societal functions”, Closure Update No. 33 (Gaza: Palestinian Center for Human Rights, 22 February 2001), pp. 7-10.

³³ Lee Hockstader, “Jerusalem is ‘indivisible’, Sharon says: Camp David concessions are called ‘null and void’”, Washington Post, 8 February 2001.

³⁴ See Palestinian public opinion poll conducted on 21-24 December by the Jerusalem Media and Communications Center, released 26 December 2000.



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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the Special Rapporteur of the Commission on Human Rights,
Mr. John Dugard, on the situation of human rights in the Palestinian
territories occupied by Israel since 1967**

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Executive summary

The Special Rapporteur's interpretation of his mandate, as being to investigate violations of international humanitarian law and human rights in the context of military occupation, has been challenged by the Government of Israel in document E/CN.4/2002/129. The Special Rapporteur requests the Commission to give a ruling on this matter.

There are different perceptions of the cause of the violence in the Palestinian Territory. Palestinians see the military occupation of their territory as the principal cause of the present crisis. Israelis, on the other hand, see terrorism as the cause of the crisis. Terrorism is a scourge that threatens Israelis and Palestinians alike and every effort should be made to bring terrorism to an end, whether it is perpetrated by instruments of the State, by organized non-State groups or by individuals. At the same time, it is important to stress that the main explanation for the acts of terrorism committed by Palestinians against Israelis is the military occupation. It is this occupation that is responsible for most of the violations of humanitarian law and human rights in the region.

Since the start of the second intifada, in September 2000, nearly 1,000 Palestinians have been killed and about 17,300 injured. More than 260 Israelis have been killed and about 2,400 injured. Most of those killed and injured have been civilians, many of them children. Violence is escalating rapidly in the region as both parties to the conflict employ more dangerous weaponry and show more determination in causing harm to life and property. In this situation, initiatives for a ceasefire or a cessation of violence as a precondition for the resumption of talks between Israelis and Palestinians seem doomed to fail. Only an effective international presence in the region with the power to monitor and reduce the use of violence can achieve this goal. The Special Rapporteur therefore believes that there is a need for an international peacekeeping mission, structured and composed to meet the circumstances of the region.

Settlements are an ever-visible and aggravating sign of occupation and of Israel's illegal conduct as an Occupying Power. Although Israel has undertaken not to establish new settlements, the existing settlements are expanding both in terms of land and settlers.

The demolition of houses in the Palestinian Territory continues unabated. In the Gaza Strip alone, over 400 houses have been completely destroyed and 200 seriously damaged, leaving over 5,000 persons homeless. Moreover, the creation of buffer zones for bypass roads and settlements has resulted in the "sweeping" of large areas of agricultural land by bulldozers.

Israel's restrictions on freedom of movement, resulting from checkpoints, have caused great personal, social and economic hardships to civilians in no way involved in the conflict. They constitute collective punishment of the kind prohibited by article 33 of the Fourth Geneva Convention.

Children have suffered greatly in the present crisis. Every effort should be made by the Israeli military authorities to ensure that the safety and welfare of schools and schoolchildren are respected. It is further recommended that an investigation be conducted into allegations of inhuman treatment of children under the military justice system and that immediate steps be taken to remedy this situation.

I. INTRODUCTION

1. The current Special Rapporteur, John Dugard (South Africa), was appointed in July 2001. In August 2001 and in February 2002 the Special Rapporteur undertook missions to the Occupied Palestinian Territory and Israel. Meetings were held with Palestinian and Israeli non-governmental organizations, Palestinian and Israeli interlocutors, international agencies in the region and members of the Palestinian Authority, including the President of the Palestinian Authority, Yasser Arafat. Unfortunately, the Special Rapporteur was not able to meet with Israeli authorities as the Government of Israel made it clear at the outset when he was appointed that it would not cooperate because of objections it has to the terms of his mandate. (This matter is discussed below.) On these missions, the Special Rapporteur met with interlocutors in the Gaza Strip, Jerusalem and the West Bank. In August 2001 the Special Rapporteur visited Rafah, Beit Jala and Shu'afat to see the destruction caused to houses and property, and Jericho to examine the manner in which the city had been closed by means of trenches cutting off access roads. In February 2002, he again visited Rafah to see the house demolitions carried out by the Israel Defense Forces (IDF) in January 2002.

2. In February 2002 the Special Rapporteur made a special study of the impact of the present crisis on children. Meetings were accordingly held with education officials of the Ministry of Education of the Palestinian Authority, school principals and teachers, university authorities and non-governmental organizations concerned with the treatment of child prisoners. The Special Rapporteur visited the University of Bir Zeit and the Al-Khader school in the district of Bethlehem and interviewed juveniles who testified about ill-treatment they had been subjected to when they had been arrested and detained by the Israeli authorities.

3. While the Special Rapporteur was in Gaza on 10 and 11 February 2002, Gaza City was subjected to heavy bombing, which caused extensive damage to offices of the United Nations Special Coordinator (UNSCO) in Gaza. The Special Rapporteur was thus able to experience at first hand the military assaults to which the Palestinian people are regularly subjected.

4. In February 2001, the Special Rapporteur visited the area as the chairperson of the Human Rights Inquiry Commission established pursuant to Commission on Human Rights resolution S-5/1 of 19 October 2000. The report of this Commission is contained in document E/CN.4/2001/121.

5. The present report is based on the visits made to the area in August 2001 and February 2002, consultation and discussion with persons in and outside the area, the study of materials on the situation in the Occupied Palestinian Territory and wide media coverage.

6. In October 2001 the Special Rapporteur submitted a report, based on his visit to the region in August 2001, to the Third Committee of the General Assembly. The report, contained in document A/56/440, was duly considered by the Third Committee in November 2001. On 7 December 2001 the Government of Israel submitted a response to this report: see document E/CN.4/2002/129. The criticisms contained in this response and the Special Rapporteur's reply to these criticisms are dealt with in the present report.

II. THE MANDATE OF THE SPECIAL RAPPORTEUR

7. The mandate of the Special Rapporteur is to be found in two resolutions of the Commission on Human Rights. In resolution 1993/2, section A, the Commission decided to appoint a special rapporteur with the following mandate:

(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;

(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;

(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories.

In resolution 2001/7, the Commission welcomed the recommendations contained in the reports of the High Commissioner for Human Rights (E/CN.4/2001/114) and the Human Rights Inquiry Commission (E/CN.4/2001/121), urged the Government of Israel to implement them and requested the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, acting as a monitoring mechanism, to follow up on the implementation of those recommendations and to submit reports thereon to the General Assembly at its fifty-sixth session and the Commission at its fifty-eighth session.

8. In his report of October 2001 (A/56/440), the Special Rapporteur stated that his mandate required him to investigate human rights violations in the Occupied Palestinian Territory within the context of military occupation. In support of this interpretation of the mandate, he reasoned as follows:

“Resolution 1993/2, section A makes it clear that the Special Rapporteur is required to investigate violations of international humanitarian law committed by the occupying authority - *Israel* - until the end of the Israeli occupation of the Occupied Palestinian Territories. There is a close connection between international humanitarian law and human rights - a connection reaffirmed by the General Assembly in its resolution 2675 (XXV). It is therefore impossible to examine violations of international humanitarian law or general international law without reference to human rights norms, particularly in a situation of prolonged occupation of the kind that continues to prevail in the Occupied Palestinian Territories. The mandate therefore includes the investigation of human rights violations committed by Israel in the Occupied Palestinian Territories, but only in the context of military occupation. It is the prolonged military occupation of the Occupied Palestinian Territories which makes the mandate of the Special Rapporteur unusual and which distinguishes it from other special rapporteurships established by the Commission on Human Rights”(para. 5).

9. The Government of Israel has raised a number of objections to this reasoning, which it claims has resulted in an unprecedented expansive interpretation of the mandate. These objections and the responses thereto appear below:

(a) *Objection:* it is inaccurate to describe the situation in the Palestinian Territory as one of *military* occupation on the ground that since the implementation of the Oslo Accords (A/51/889-S/1997/357, annex) and related agreements the control of the lives of over 98 per cent of the Palestinians has passed to the Palestinian Authority, which now has full control over the so-called A areas which include most Palestinian cities and towns.

Response: While it is true that many powers have been transferred by Israel to the Palestinian Authority - including the important area of the administration of justice, in which most violations of human rights occur - the reality is that Israel not only has the power to intervene in the occupied territories, including those designated as A areas, on grounds of security, but that it has *in fact* done so in recent months. The denial that Israel is in military occupation of the territories is impossible to reconcile with recent military incursions into Ramallah, Bethlehem, Gaza, Beit Jala, Beit Rima and Tulkarem, the presence of Israeli tanks outside President Arafat's headquarters in Ramallah and over 150 military checkpoints in the occupied territories that have seriously disrupted the lives of Palestinians living in the A areas. Moreover, it takes no account of article 47 of the Fourth Geneva Convention, which provides that protected persons in an occupied territory shall not be deprived "in any case or in any manner whatsoever" of the benefits of the Convention by any change to the government of the territory resulting from an agreement concluded between the authorities of the occupied territories and the Occupying Power.

(b) *Objection:* International humanitarian law and human rights law are "subject to separate international regimes". The close connection between the two "does not imply that the area of humanitarian law cannot be investigated without extending the mandate of the Special Rapporteur to cover human rights law".

Response: The purpose of the principal international instrument concerned with the protection of civilians under military occupation, the Fourth Geneva Convention of 1949, is to ensure respect for the human rights of protected persons. This is made clear by article 27 of the Convention, which provides that the Occupying Power is to respect the fundamental rights of protected persons. According to the Commentary of the International Committee of the Red Cross on this provision: "The right to respect for the person must be understood in its widest sense: it covers all the rights of the individual, that is, the rights and qualities which are inseparable from the human being by the very fact of his existence and his mental and physical powers; it includes, in particular, the right to physical, moral and intellectual integrity - an essential attribute of the human person" (p. 201). The "rights of the individual" have been proclaimed, described and interpreted in international human rights instruments, particularly the international covenants on civil and political rights, and economic, social and cultural rights of 1966, and in the jurisprudence of their monitoring bodies. These human rights instruments therefore complement the Fourth Geneva Convention by defining and giving content to the rights

protected in article 27. This is borne out by repeated resolutions of the General Assembly (for example, resolution 2675 (XXV)) and by the Vienna Declaration adopted by the World Conference on Human Rights in 1993, which declared that:

“Effective international measures to guarantee and monitor the implementation of human rights standards should be taken in respect of people under foreign occupation, and effective legal protection against the violation of their human rights should be provided, in accordance with human rights norms and international law, particularly the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 14 August 1949, and other applicable norms of humanitarian law.”

(c) *Objection:* In the case of a prolonged occupation, such as that of the Palestinian territories, the law of occupation envisages that “the Occupying Power will not become more bound, but less bound by the legal regime”. In support of this contention, the Government of Israel cites the commentary of the International Committee of the Red Cross on article 6 of the Fourth Geneva Convention to the effect that if the occupation continues for a prolonged period after the general cessation of hostilities, “a time would doubtless come when the application of the Convention was no longer justified, especially if most of the governmental and administrative duties carried out at one time by the Occupying Power had been handed over to the authorities of the occupied territory”(p. 62).

Response: Unfortunately the time has not come in the Occupied Palestinian Territory when the application of the Convention is no longer or less justified. The transfer of governmental and administrative powers to the Palestinian Authority in A areas has not diminished the need for the protection of the people of the territories from the Occupying Power for the reasons set out in the present report. This was made clear in the Declaration adopted on 5 December 2001 by the High Contracting Parties to the Fourth Geneva Convention, which reaffirms the applicability of the Convention to the Occupied Palestinian Territory and reiterates “the need for the full respect for the provision of the said Convention in that Territory” (para. 3).

10. The Government of Israel has raised a number of serious objections to the Special Rapporteur’s interpretation of his mandate which call for attention. The Special Rapporteur requests that the Commission consider this matter at its session in 2002 and issue a directive on the subject so that the scope of the present mandate is not in dispute.

III. OCCUPATION AND TERRORISM

11. There are different perceptions of the cause of the violence in the region. Palestinians see the military occupation of their territory as the principal cause of the present crisis. Every Palestinian is today personally and directly affected by the occupation: freedom of movement is seriously impeded by Israeli military roadblocks (checkpoints) that have transformed short journeys into major excursions; the standard of living has been drastically lowered by the closure/blockade of cities and towns and the livelihood of many is threatened; education has been seriously disrupted and health care undermined; homes have been demolished and agricultural land “swept” by bulldozers; militants (and innocent bystanders) are killed by rockets

from the skies; tanks parade through cities under the administrative control of the Palestinian Authority; fighter jets and helicopters patrol the skies and terrorize the people with their shelling; and Israeli settlers drive along special roads, accompanied by military convoys, to settlements that seem to grow and grow. It is small wonder, therefore, that Palestinians see the military occupation as the denial of their dignity, as an obstacle in the way of Palestinian statehood and as the source of violence in the region.

12. The Israeli perception is very different. Israelis see terrorism as the cause of the crisis. Suicide bombers who enter Israeli shopping districts, suburbs and settlements, snipers who shoot at passing traffic, and gangs who stab pedestrians in the parks have instilled a sense of fear into all Israelis. There is no guarantee of safety on the streets or roads, in shopping malls, restaurants or nightclubs. Palestinian violence is not seen as a response to Israeli military occupation of the Palestinian Territory but as terror directed at the very existence of the State of Israel.

13. Since 11 September, international support for the belief that terrorism is the main problem to be confronted in the region has inevitably grown. That terrorism is a threat to the present world order cannot, and should not, be denied. That terrorism is a scourge that threatens Israelis and Palestinians alike cannot and should not be denied. Every effort should be made to end violence intended or calculated to create a state of terror in the minds of particular persons or the general public, whether it is perpetrated by instruments of the State, by organized non-State groups or by individuals.¹ At the same time, it is important not to ignore the main explanation for the acts of terrorism committed by Palestinians against Israelis - the military occupation. It is the occupation of the Palestinian Territory that gives rise to savage acts of violence, highlighted by suicide bombings. The occupation also has other, less obvious, consequences for the occupier. As Mr. Avraham Burg, the Israeli parliamentary speaker, stated in the Knesset on 28 January 2002:

“An occupying people, even if it was led into being an occupier against its will, ends up being harmed by the occupation and its stains, which change and disfigure it. We should not forget that the jailer and his prisoner remain locked up for most of the day behind the same walls and without hope. To put it in other, more stark terms, respected members, the occupation corrupts.”

¹ In document E/CN.4/2002/129 the Government of Israel criticizes the Special Rapporteur for referring to “*emerging* norms of international law” prohibiting terrorism. Exception is apparently taken to the word “*emerging*”. In response the Special Rapporteur wishes to point out that while the international community has succeeded in criminalizing by treaty species of terrorism such as hijacking, aerial sabotage, hostage-taking, offences against diplomats, seizure of aircraft and terrorist bombing, it has not yet agreed on a comprehensive definition of terrorism. Indeed this issue is currently before the Sixth (legal) Committee of the General Assembly, where the debate over the response to State terror continues to create definitional difficulties.

This reminder of the consequences of occupation for the occupier was echoed in a statement by 60 Israeli army reservists, half of them officers and all of them combat veterans, when they announced that they would refuse to continue serving in the Palestinian Territory:

“We will no longer fight beyond the Green Line for the purpose of occupying, deporting, destroying, blockading, killing, starving and humiliating an entire people” (*International Herald Tribune*, 29 January 2002).

Support for this position is growing daily (*International Herald Tribune*, 20 February 2002).

14. It is against this background that it is necessary to reiterate that it is the military occupation of the Palestinian Territory that is responsible for most of the violations of humanitarian law and human rights described in this report. Similarly it is necessary to recall the applicability of the Fourth Geneva Convention as the governing law. On 5 December 2001, the High Contracting Parties to the Fourth Geneva Convention reaffirmed the applicability of this Convention to the Occupied Palestinian Territory, reiterated the need for full respect for the provision of the Convention and recalled the obligations under the Convention of the parties to the conflict and of the State of Israel as the Occupying Power.

15. The Israeli argument that it is no longer the Occupying Power in respect of the A areas of the Palestinian Territory, accounting for 98 per cent of the population, is not supported by the facts on the ground. The harsh realities of occupation - shelling, tanks and roadblocks - are evident in the A areas, as well as in other areas of the Palestinian Territory. The Palestinian Authority may have powers of administration and local government but ultimately Israel has effective control over the lives of Palestinians throughout the Territory. According to article 42 of the Hague Regulation of 1907, occupation extends only to the territory where the authority of the hostile army “has been established and can be exercised”. It cannot seriously be suggested that this threshold has not in recent months been reached in the Palestinian Territory.

IV. VIOLENCE AND LOSS OF LIFE

16. Since the start of the second intifada, in September 2000, nearly 1,000 Palestinians have been killed and about 17,300 injured. More than 260 Israelis have been killed and about 2,400 injured. Most of those killed and injured have been civilians, many of them children.

17. The first few months of the second intifada were characterized by violent clashes between Palestinian protesters, whose weapons were stones and molotov cocktails, and the IDF. Most deaths and injuries were the result of gunfire from the IDF. In its report, the Human Rights Inquiry Commission found that the Israel Defense Forces had responded in a disproportionate manner to protesters and were guilty of excessive use of force (E/CN.4/2001/121, paras. 44-52). Since then, the situation has changed radically as the Palestinians have moved from protest to armed force and the Israelis have responded by using heavier weaponry. Today, most Palestinian deaths have resulted from missile attacks directed at selected individuals suspected of

terrorism (but which, inevitably, have also killed innocent bystanders), shelling and shootings carried out by soldiers and settlers, often after an exchange of gunfire. Israeli deaths have largely been caused by terrorist bombs in Israel itself and by gunfire directed at settlers on bypass roads or in the proximity of settlements.

18. It is difficult to categorize the present conflict. At times it assumes the character of a law enforcement action by the IDF. But at others it probably qualifies as an armed conflict as a result of the protracted armed violence between the IDF and Palestinian militia (in the language of the *Prosecutor v. Tadić*, International Criminal Tribunal for the Former Yugoslavia, reported in (1996) 35 *International Legal Materials*, at p. 54). In the case of such a conflict both parties are obliged to respect the rules of international humanitarian law. Hence the call by High Contracting Parties to the Fourth Geneva Convention on 5 December 2001 to both parties to the conflict to:

“ensure respect for and protection of the civilian population and civilian objects and to distinguish at all times between the civilian population and combatants and between civilian objects and military objectives. They also call upon the parties to abstain from any measures of brutality and violence against the civilian population whether applied by civilian or military agents and to abstain from exposing the civilian population to military operations”.

19. Both Israelis and Palestinians have violated important norms of humanitarian law and international law as the confrontation has changed its character. Israel’s freely acknowledged practice of selected assassination or targeted killings of Palestinian activists, which has resulted in the killing of some 60 persons, cannot be reconciled with provisions of the Fourth Geneva Convention, such as articles 27 and 32, which seek to protect the lives of protected persons not taking a direct part in hostilities. They also violate human rights norms that affirm the right to life and the prohibition on execution of civilians without trial and a fair judicial process. There is no basis for killing protected persons on the basis of suspicion that they have engaged or will engage in terroristic activities. In addition, many civilians not suspected of any unlawful activity have been killed in these targeted killings, in the bombing of towns and villages or in gunfire exchanges, in circumstances indicating an indiscriminate and disproportionate use of force.

20. The force employed by Palestinians is also contrary to the norms of international law. The shooting of settlers cannot be justified. Despite the fact that the settlements violate article 49 (6) of the Fourth Geneva Convention, and the fact that the settlers’ presence in the Occupied Palestinian Territories is illegal, settlers remain civilians and cannot be treated as combatants, unless, of course, they are engaged as soldiers in the Israel Defense Forces or in vigilante-type military operations. (The growing militarization of settlements and settlers is to be deplored as it encourages the belief that force may be used against settlers.) Indiscriminate attacks against civilians, including bomb attacks carried out by suicide bombers, intended to create a state of terror among the civilian population, violate norms of humanitarian law and general international law. The extent to which these actions are subject to the control of the Palestinian Authority is uncertain. There is, however, no doubt that it could do more to prevent the shooting of settlers and the culture of violence that produces suicide bombers.

21. An unfortunate feature of the present situation is the failure of both parties to the conflict to investigate atrocities and to prosecute and punish those responsible. Israel regularly, and with justification, castigates the Palestinian Authority for its failure to arrest those responsible for the murder of Israelis or to detain those suspected of being responsible for acts of terrorism in Israel. This complaint, which features prominently in the Western media, is used as a justification for refusing to resume negotiations with the Palestinians. Yet Israel is itself at fault in this respect as it too, with its sophisticated police apparatus, has failed to apprehend settler vigilantes responsible for killing Palestinian civilians or to prosecute members of the armed forces guilty of the indiscriminate use of force. In the wake of the killing of a Palestinian family at Idna in July 2001, an Israeli columnist, Gideon Levy, wrote in *Ha'aretz* on the subject of the Israeli restraint in taking action against those responsible for atrocities against Palestinians:

“In a time of increasing Palestinian terror, no day passes without pogroms by settlers, and the police, the Israel Defense Forces and the other security forces stand there, sometimes closing their eyes and sometimes winking ... The restraint over actions by the extreme right includes all governmental authorities: the police, the IDF, the Shin Bet, the courts and the authorities that grant pardons. It is a dangerous restraint, whose putrid fruits led to the most recent murder at Idna: the persons who carried it out believed that their chances of getting caught were infinitesimal ... The restraint ... undermines Israeli arguments regarding the PA's inability to fight terror: it is a little hard to complain about the 'revolving door', the lack of arrests and failure to prevent terror at a time that Israel, a sovereign State rich in security apparatuses, does the same thing when it comes to its own, home grown terror.” (22 July 2001)

22. Violence is escalating rapidly in the region. Israel, with its arsenal of sophisticated weaponry, is taking tougher measures against Palestinians and Palestinian targets. F 16 fighter aircraft and Apache helicopters patrol the skies; heavier bombs pound Palestinian targets; bulldozers plough through more buildings; tanks parade through A area towns; and the military presence at roadblocks intensifies. The Palestinian response is equally tough: while suicide bombers have created terror in the Israeli heartland, militarized groups armed with rifles, mortars and Kassam-2 rockets confront the IDF with new determination, daring and success. In this situation, calls for a ceasefire or a cessation of violence as a precondition for the resumption of talks between Israelis and Palestinians are doomed to fail. Only an effective international presence in the region with the power to monitor and reduce the use of violence can achieve this goal. The Special Rapporteur is aware of Israel's objections to such a proposal: memories of the withdrawal of the United Nations Emergency Force (UNEF) from the Egyptian border facing Israel in 1967; the fear that a United Nations force will be able to curb Israeli conventional violence, but not Palestinian suicide bombers and snipers; and, above all, the argument that this will “internationalize” the conflict. United Nations peacekeeping operations have not met with success on all occasions. This no one can deny. On the other hand, they have served to reduce tensions in many conflicts and, ultimately, to restore peace. The present conflict is already international in the sense that it is one between a State and a nascent State, with many of the characteristics of statehood. The danger is that it will draw in other States in the region. If this is to be avoided and the level of violence brought under control, it seems that there is no alternative to an international peacekeeping mission, structured and composed to meet the special circumstances of the region.

V. SETTLEMENTS

23. The international community is united in its categorization of Jewish settlements in the West Bank and Gaza as contrary to article 49 (6) of the Fourth Geneva Convention, which prohibits an Occupying Power from transferring parts of its own civilian population into the territory it occupies. In numerous resolutions the Security Council and the General Assembly have condemned the settlements as illegal and in their Declaration of 5 December 2002, the High Contracting Parties to the Fourth Geneva Convention reaffirmed this position.

24. Today, there are some 190 settlements in the West Bank and Gaza, inhabited by approximately 390,000 settlers, of whom some 180,000 live in the East Jerusalem area. Settlements are linked to each other and Israel by a vast system of bypass roads (from which Palestinian vehicles are excluded), which have a 50- to 75-metre buffer zone on each side of the road in which no building is permitted. These settlements and roads, which separate Palestinian communities and deprive Palestinians of agricultural land have fragmented both land and people. In effect, they foreclose the possibility of a Palestinian State as they destroy the territorial integrity of the Palestinian Territory.

25. The relationship between settlers and Palestinians is an unhappy one and each side views the other with hostility, anger and suspicion. Protected by the Israeli military, and exempt from the jurisdiction of the courts of the Palestinian Authority, settlers have committed numerous acts of violence against Palestinians and destroyed Palestinian agricultural land and property. Since the beginning of the second intifada, incidents of settler violence have dramatically increased. Palestinian hostility towards settlers has grown alarmingly since the start of this intifada and most of the Israelis killed in the present conflict have been settlers or soldiers charged with the task of protecting settlements and roads leading to settlements.

26. That peace is impossible without a complete freeze on all settlement activity was emphasized by the "Mitchell report" of 20 May 2001 (report of the Sharm El Sheikh Fact-finding Committee). The response of the Government of Israel to that recommendation was far from satisfactory. It declared that "it is already part of the policy of the Government of Israel not to establish new settlements. At the same time, the current and everyday needs of the development of such communities must be taken into account". In other words, the "natural growth" of the settlements will continue.

27. The evidence of the continued expansion of settlement activity is all too clear. During his visits, the Special Rapporteur saw evidence of this in the form of construction activity in the settlements of Har Homa and Pisgat Ze'ev and in the extension of the buffer zones adjacent to bypass/settler roads in the Gaza Strip. He also received evidence of the growth in the number of housing units, the expansion of the territorial limits of settlements by means of caravan outposts established adjacent to settlements, and of an increase in the settler population in the West Bank and Gaza from 203,067 in December 2000 to 205,015 in June 2001. Generous tax breaks and cheap housing in the settlements ensure that their growth will continue.

VI. BUFFER ZONES

28. A new form of Israeli territorial expansion in the Occupied Palestinian Territory is the security buffer zone along the green line in the northern West Bank near to Jenin. This zone, ranging in width from a few metres to several kilometres, is closed to non-residents. It is likely that the IDF will make greater use of such zones in future. This was promised by Prime Minister Sharon in an address to the Israeli nation on 21 February 2002.

VII. DEMOLITION OF HOUSES AND DESTRUCTION OF PROPERTY

29. The demolition of houses in the Palestinian Territory, either for security purposes (as in Rafah) or for administrative reasons (as in Shu'afat) continues unabated. In the Gaza Strip alone, over 400 houses have been completely destroyed, while a further 200 have been seriously damaged, leaving over 5,000 persons homeless. On 10 January 2002, 60 houses were completely demolished in the refugee camp of Rafah, rendering 614 persons homeless. The Special Rapporteur visited the site of the demolished houses in Rafah in both August 2001 and February 2002. He also visited demolished houses in Shu'afat and saw the damage caused to homes by Israeli shelling in Beit Jala.

30. The demolition of houses generally takes place in the middle of the night, without warning being given to residents. The following account of a house demolition given by a resident of Rafah captures the horror of such an event:

“On Thursday [10 January], I was woken at about 2 a.m. by the sound of tanks and bulldozers that had come from the direction of the Israeli army post. I got out of bed and saw that my sons had also woken up. The bulldozers were approaching the house and we decided to leave immediately. We woke up the others and got out. We managed to proceed a few metres when three bulldozers reached the house. Immediately, one of them started to demolish the house. I stood in the rain for a few moments, unable to believe that I wouldn't ever see my house again. The children were screaming and one of them asked me to run away because he was afraid I would get hurt. We fled to the adjacent street. I stood there with my wife, children, grandchildren and others in my family and watched for 10 minutes as the bulldozer destroyed our house.” (*B'Tselem*, “Israel's policy of house demolitions and destruction of agricultural land in the Gaza Strip”, February 2002).

It must be recalled that most persons affected by such demolitions are refugees from the 1948 war. For them it represents the elimination of yet another home. No compensation is paid by Israel.

31. The practice of house demolitions has serious legal consequences. First, it may, according to the Committee against Torture, in certain instances amount to cruel, inhuman or degrading treatment or punishment in breach of article 16 of the Convention against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment, which Israel ratified in 1991 (Conclusions and recommendations of the Committee against Torture of November 2001 on the third periodic report of Israel). Secondly, it may, in terms of article 147 of the Fourth Geneva

Convention, constitute a grave breach of the Convention, involving penal consequences where it constitutes “an extensive destruction ... of property, not justified by military necessity and carried out unlawfully and wantonly”. While there are doubtless instances in which houses have been demolished for genuine security reasons, the extent of the damage and the evidence of witnesses suggests that the destruction of houses in many instances is not “rendered absolutely necessary by military operations” (as required by article 53 of the Fourth Geneva Convention) and instead constitutes collective punishment (prohibited by article 33 of the Convention). Violation of these norms carries with it not only a criminal sanction but also a duty to compensate the victim.

32. The creation of buffer zones for bypass roads and settlements has resulted in the “sweeping” of large areas of agricultural land by bulldozers. A total of 285,808 fruit and olive trees have been uprooted, and wells and agricultural constructions have been destroyed. Lasting harm has been done to the environment by these acts of destruction, designed to secure the comfort and security of illegal settlements.

VIII. RESTRICTIONS ON FREEDOM OF MOVEMENT

33. Since 29 September 2000, Israel has imposed severe restrictions on freedom of movement in the occupied territories. International borders with Egypt and Jordan have been frequently closed; the Gaza Strip has been sealed off from the rest of the Palestinian Territory; Gaza Airport has been closed and damaged; travel within Gaza is frequently obstructed by the closure of the road between north and south; and over a hundred checkpoints have been placed on roads in the West Bank. In the West Bank, the Israel Defense Forces have placed checkpoints at the entrances to villages and entry and exit are often possible only via dirt roads, entailing enormous hardships. Trips that once took 15 minutes now take several hours. In some of the villages, mostly in areas near settlements and bypass roads, the dirt roads have also been blocked with large concrete blocks and piles of dirt, and residents are imprisoned in their villages. In August 2001, the Special Rapporteur visited the city of Jericho, which has been encircled by a deep trench to deny vehicles access to the city except through an IDF checkpoint.

34. Road checkpoints have become a regular feature of Palestinian life. Palestinians are obliged to wait for lengthy periods while Israeli soldiers check vehicles and inspect identity documents. In order to avoid these delays Palestinians often abandon their cars or leave their taxi and cross the checkpoint on foot to catch a taxi on the other side of the checkpoint. This practice suggests that the purpose of this exercise is not to prevent security risks from crossing checkpoints that lead to Israel, as any such person may walk around the checkpoint carrying heavy baggage. Rather, it is to humiliate Palestinians and to put pressure on them to cease resistance to Israeli occupation. In this sense, it is a collective punishment of the kind prohibited by article 33 of the Fourth Geneva Convention.

IX. ECONOMIC AND SOCIAL DISTRESS

35. The cumulative effect of the restrictions on the freedom of movement of people and goods is understandably perceived by the Palestinians affected as a siege. It has resulted in severe socio-economic hardships in the Palestinian Territory. The internal closures have

effectively sealed Palestinian population centres and restricted movement from one locality to another. The restriction on the entry of Palestinians into Israel has meant denial of access to their places of work in Israel to an estimated 115,000 Palestinians. The economic results have been devastating: the families of these workers are now suffering from a complete lack of income, threatening them with destitution. Thirty-six per cent of the Palestinian workforce is now unemployed, compared with 20 per cent before the start of the intifada. Fifty per cent of Palestinians live below the poverty line of US\$ 2 per day, more than double the poverty rate before the intifada. There has been a decrease in the per capita income of 47 per cent; and 45,000 households are classified as special hardship cases requiring emergency assistance registered with the Palestinian Authority's Ministry of Social Affairs. UNSCO estimates that the total income losses to the Palestinian economy during the period 1 October 2000 to 31 December 2001 range between US\$ 3.1 and 4.0 billion, which translates into total income losses ranging between US\$ 6.8 and 8.8 million per day.

36. Access to food and water has been severely obstructed by the closure. Food trucks face difficulties in entering Gaza in particular, while food prices have increased as a result of higher transport costs resulting from the closure. Water resources have been reduced owing to obstacles placed in the way of water trucks, the destruction of wells, rooftop water tanks and rain collection pools by shelling, the damaging of water sources by settlers and soldiers and the high consumption of water by settlers.

37. Health care and education have also suffered. Ambulances and private vehicles transporting the sick to hospitals in emergency situations are held up at checkpoints, sometimes with fatal consequences. Access to regular health care at hospitals and clinics has also been made difficult by checkpoints and the use of medical services has declined substantially. Special attention is paid below to the effect of the crisis on children and education.

38. The closure violates a number of provisions of the International Covenant on Economic, Social and Cultural Rights, notably article 11 (which recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions") and article 12 (which recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health"). It is also impossible to reconcile the closure with articles 23, 55 and 56 of the Fourth Geneva Convention, which require the free passage of consignments of medical and hospital stores and the free passage of foodstuffs, clothing and medicines intended for certain vulnerable categories of persons and impose a duty to ensure food and medical supplies to the population and to ensure and maintain medical and hospital establishments and services, public health and hygiene in occupied territories.

X. REFUGEES

39. It is not within the mandate of the Special Rapporteur to pronounce on the implementation of the right of return of Palestinian refugees recognized in General Assembly resolution 194 (III) of 1948 or on the institutional arrangements for the protection of refugees. No report on the violation of humanitarian law and human rights in the Palestinian Territory

would, however, be complete without special mention of the impact of the present crisis on refugees. Comprising over 50 per cent of the Palestinian population, refugees are particularly vulnerable to Israel's military assaults and economic blockade, on account of the location of many refugee camps near to settlements, settlement roads and the Egyptian border, and the disadvantaged position of most refugees in the labour market. More than half of the Palestinians killed since September 2000 have been refugees. The number of houses demolished or severely damaged in refugee camps is at least twice the number outside refugee camps. According to the United Nations Relief and Works Organization for Palestine Refugees in the Middle East (UNRWA) 320 of the 401 houses demolished in the Gaza Strip were homes to refugees. Unemployment is higher among refugees than non-refugees as is the number of households below the poverty line. Palestinian refugees are particularly vulnerable to higher rates of poverty as a result of negative changes in the economy. This is due to a relative lack of accumulated savings and thus no safety net to protect them from a high dependency on wage labour, the lack of access to land-based forms of subsistence, i.e., agriculture or property, and the large number of dependants per family prevalent in camp populations, which limits the ability of refugee families to absorb drastic and lengthy decreases in income.

XI. CHILDREN

40. Children have suffered severely from the present crisis in terms of personal safety, family life, physical and mental health, education and justice. Although Israeli Military Order No. 132 defines a child as someone under the age of 16, the present report accepts the international standard of 18 (article 1 of the Convention on the Rights of the Child, 1989), which is also the position under Israeli law. By this standard, over half the population of Palestine are children.

41. Over 200 of the Palestinians killed since the start of the second intifada in September 2000 have been children, while over 7,000 children have been injured. Of those injured, 500 will experience long-term disabilities. In the early months of the present intifada many children were killed or wounded by the IDF for participating in demonstrations involving the throwing of stones and molotov cocktails. Live ammunition, rubber-coated steel bullets and tear gas were used to disperse demonstrators in a display of excessive and disproportionate use of force (see report of the Human Rights Inquiry Commission of 16 March 2001, E/CN.4/2001/121, paras. 44-52, 116). In the past year, most of the children killed or injured by the IDF were not engaged in confrontational demonstrations, but were victims of shelling by tanks and helicopter gunships, while they were engaged in normal peaceful pursuits. Particularly disturbing are the deaths of five young boys in Khan Yunis on 22 November 2001, caused by a suspicious explosive device, and of three youths crossing a field near Beit Lahia on 30 December 2001, caused by heavy artillery fire. Calls for a full investigation into these deaths have, as yet, not met with a positive response.

42. Inevitably the economic hardships inflicted on the Palestinian community by the "closure" of the Palestinian Territory has had a serious impact on the lives of children. The majority of children in the West Bank and Gaza now live below the poverty line and families are compelled to reduce food consumption. Domestic violence is on the increase and children are becoming increasingly aggressive themselves. Access to hospitals and clinics is obstructed by military checkpoints. And the constant shelling, gunfire and presence of a hostile occupying army has had serious psychological consequences on all, but particularly on children.

43. Education is a top priority in Palestine. There are about 865,500 children enrolled in primary and secondary schools, administered mainly by the Palestinian Authority and UNRWA. Since 1994, many new schools have opened and student numbers have increased substantially. The Palestinian Authority devotes 13 per cent of its budget to education, while more than half of the UNRWA budget goes to education. Education, at all levels, however, has suffered seriously since 29 September 2000, particularly in the 275 schools, with some 118,600 students, within a 500-metre radius of an Israeli military presence.

44. Some schools have been commandeered by the IDF for use as military outposts; others have been bombed; over a hundred have come under fire, both in the daytime when the schools are in session and at night. On 20 February 2001 the National School for the Blind in the West Bank town of Al-Bireh came under fire for three hours, causing extensive damage and traumatizing the disabled children. On some occasions, the IDF has fired tear gas into schools and ordered children to evacuate. Sometimes schools have been closed by the IDF for alleged security reasons or by the school authorities for the safety of the children. The Al-Khader secondary school in the Bethlehem district, which the Special Rapporteur visited, was closed for 45 days by military order, affecting some 2,500 students. This school has been seriously damaged by the IDF, which has on occasion entered the school premises during teaching hours, assaulted students and used tear gas to disperse students. Schools are also hampered by checkpoints, which prevent both students and teachers from reaching school on time, and by military curfews (particularly in Hebron).

45. The effect of the above actions on education has been severe. Schools have lost considerable teaching time as a result of interruption and closures; absenteeism is rife as schools no longer provide a secure environment; and academic performance has deteriorated. Children are afraid and unable to concentrate. It is impossible to assess the long-term psychological harm caused to children by these assaults on their schools, the killing and wounding of their friends and the growing poverty they experience at home. Many have simply lost their childhood.

46. University education has also been adversely affected by the crisis. The University of Bir Zeit, for instance, has lost several weeks of classes as a result of the closure of access roads to the university, while the military checkpoints leading to the university interfere with the normal life of the institution and provide a daily opportunity for harassment of staff and students by the military. The arrest of students has also had a serious impact on university life and cast a shadow on the free exchange of ideas.

47. The right to education is reaffirmed in the International Covenant on Economic, Social and Cultural Rights (art. 13) and the Convention on the Rights of the Child (arts. 28-29). Moreover, article 50 of the Fourth Geneva Convention provides that the

“Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.”

It is impossible to reconcile Israel's actions against schools and children with these provisions.

XII. CHILDREN AND THE ADMINISTRATION OF JUSTICE

48. Israel is proud of its judicial system and administration of justice. As a nation, Israel is committed to the rule of law and to due process of law in criminal proceedings. There are, however, serious doubts as to whether this commitment extends to the Palestinian Territory, and particularly to the treatment of Palestinian children in the justice system. Consultations with the principal Palestinian, Israeli and international non-governmental organizations working in this field, the study of their carefully prepared reports, backed in some instances by affidavits from their victims, and interviews with several children who were detained, interrogated and imprisoned, reveals an alarming pattern of inhuman treatment of children under the military justice system in the Palestinian Territory. The Special Rapporteur would have preferred to discuss this matter with the Israeli authorities before reporting on it. Unfortunately, the Government of Israel has elected not to cooperate with the Special Rapporteur. In these circumstances, the Special Rapporteur has no alternative but to raise the issue as a *prima facie* case of inhuman treatment to which the Government of Israel should respond.

49. According to the evidence, about 1,000 children under the age of 18 have been arrested and detained since September 2000 in connection with crimes relating to the Palestinian uprising. Most - over 90 per cent - have been arrested on suspicion of throwing stones at Israeli soldiers, which carries a maximum penalty of 6 months' imprisonment for a child between 12 and 14, and 12 months' imprisonment for a child between 14 and 16. Children are tried in Israeli military courts. There are no military courts or judges designated especially for children, no officers trained specifically for the interrogation of children, no probation officers and no social workers to accompany them. At present about 150 children are in detention or prison.

50. The evidence indicates the following pattern of arrest, interrogation, detention, sentencing and imprisonment. Arrests occur late at night with the maximum disturbance to the family, and children are often assaulted in the process of arrest and on the way to detention centres. Interrogation in order to secure a confession continues for several days and is accompanied by beating, shaking, threats, sleep deprivation, isolation, blindfolding and handcuffing. Detainees are forced to sit or crouch in painful positions ("shabeh"), doused with cold water in winter, and shot at with toy pistols with plastic pellets from close range. Their heads are placed in the toilet and the toilet flushed. Detainees are not permitted to see their lawyers at this stage. Interrogation accompanied by treatment of this kind may continue for several days until a confession is obtained. The Israeli Supreme Court, in its 1999 decision outlawing physical methods of interrogation, accepted that inhuman methods of interrogation qualifying as torture might be employed in a case of "necessity" - where it is imperative to obtain information urgently about the "ticking bomb". This alleged exception to the prohibition on torture is clearly inapplicable where the aim of the interrogation is not to extract information about a ticking bomb but about stone-throwing by children.

51. Following interrogation, children are often detained for several months awaiting trial. When tried they are sentenced to several months in prison: usually between 7 and 12 months in the case of children over 14. In addition, they are usually fined about US\$ 250. They are imprisoned in Israel itself, which makes visits by family and Palestinian lawyers extremely difficult as special permission must be obtained to enter Israel. (Visits arranged by the

International Committee of the Red Cross were suspended for several months but have recently been resumed.) These child “political prisoners” are imprisoned with common criminals and complain of assaults perpetrated by both prison guards and common-law prisoners.

52. Complaints about inhuman treatment to medical doctors (both in detention centres and in prison) and to the trial judges in the military courts are generally not investigated or taken seriously.

53. The inhuman treatment of juvenile offenders described above falls short of international standards contained in the Convention on the Rights of the Child (art. 37), the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (arts. 1, 16), the Standard Minimum Rules on the Treatment of Prisoners of 1957 and the Fourth Geneva Convention (arts. 27, 31, 32, 76). These are serious allegations which require a serious response from the Israeli authorities. The Special Rapporteur recommends that the Israeli authorities conduct a thorough investigation into these allegations (detailed more fully in reports of non-governmental organizations) carried out by an independent body outside the military, police and prison services. At the same time, immediate steps should be taken to transfer those imprisoned in Israel to prison facilities in the occupied territory (as required by article 76 of the Fourth Geneva Convention) that comply with international standards relating to the imprisonment of children. It is also recommended that the military authorities appoint an Israeli judge or other independent Israeli criminal justice expert outside the military to visit detention centres to monitor interrogations and the treatment of juveniles in detention centres before they are brought to trial.

XIII. CONCLUSIONS AND RECOMMENDATIONS

54. The parties to the conflict are themselves either incapable of or unwilling to bring the violence in the Occupied Palestinian Territory and Israel to an end. In these circumstances, the need for an international presence, either in the form of monitors or peacekeepers, is surely imperative to reduce violence, restore respect for human rights and create conditions in which negotiations can be resumed. (See further, paragraph 22 above.)

55. International humanitarian law and human rights norms have been seriously violated in the present conflict by both parties. Both Israelis and Palestinians should make every endeavour to respect the rule of law, human rights and humanitarian law. Targeted killings of selected Palestinians by guided missiles, terrorist bombings in Israel, the demolition of homes in the Palestinian Territory and the indiscriminate killing of civilians by both sides must cease.

56. Israel’s restrictions on freedom of movement, resulting from checkpoints, have caused great personal, social and economic hardships to civilians in no way involved in the conflict. They constitute collective punishment of the kind prohibited by article 33 of the Fourth Geneva Convention. Moreover, sufficient doubts have been cast on both the purpose and the effectiveness of checkpoints as a means of promoting security to warrant a serious reconsideration of their retention by the Government of Israel.

57. Settlements are an ever-visible and aggravating sign of occupation and of Israel's illegal conduct as an Occupying Power. It is not enough merely to impose a freeze on settlements. Steps must now start to dismantle settlements.

58. Children have suffered greatly in the present crisis. Every effort should be made by the Israeli military authorities to ensure that the safety and welfare of schools and schoolchildren are respected. It is further recommended that an investigation be conducted into allegations of inhuman treatment of children under the military justice system and that immediate steps be taken to remedy this situation. (See the recommendations contained in paragraph 53 on this subject.)



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**REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND FOLLOW-UP TO THE
WORLD CONFERENCE ON HUMAN RIGHTS**

**Report of the High Commissioner for Human Rights submitted
pursuant to decision 2002/103**

INTRODUCTION

1. In its decision 2002/103 of 16 April 2002, the Commission on Human Rights, urged the High Commissioner for Human Rights to report urgently to the Commission on Human Rights on the deteriorating human rights situation in the occupied Palestinian territory on the basis of reports from all concerned organizations present in the occupied territories. In response to this request and guided by General Assembly resolution 48/141, the High Commissioner submits the present report.
2. It takes into account the pronouncements of the Security Council on the situation inasmuch as they raise human rights issues, and is based on information obtained from sources within the United Nations system and reputable organizations in a position to have firsthand knowledge of the situation, and information provided by the Permanent Missions of Palestine and Israel. The material received is in the files of the Office of the High Commissioner for Human Rights (OHCHR) secretariat.
3. As a follow-up to the Secretary-General's call for the leadership of the two sides to make solemn statements committing themselves to respect basic norms of human rights and humanitarian law, the High Commissioner has written to the Prime Minister of Israel and the President of the Palestinian Authority endorsing his call.

4. In presenting this report, the High Commissioner recalls the two statements she made to the Commission on Human Rights at its fifty-eighth session on the situation in the occupied Palestinian territory, as well as the status report of the visiting mission established pursuant to Commission resolution 2002/1.

5. This report is mindful of the fact that the Security Council, in resolution 1405 (2002), welcomed the initiative of the Secretary-General, Kofi Annan, to develop accurate information regarding recent events in the Jenin refugee camp. On 22 April, the Secretary-General announced the establishment of a team to look into those events.

6. The High Commissioner recalls the report on her visit to the occupied Palestinian territory, Israel, Egypt and Jordan from 8 to 16 November 2000 (E/CN.4/2001/114) and draws attention to those recommendations which have not as yet been implemented. She is conscious that the human insecurity of Israelis has worsened sharply since then owing to suicide bombings carried out by Palestinians, while Palestinians see the prolonged occupation and current military reoccupation as violating the fundamental individual and collective rights of Palestinians.

7. Israel, in the material submitted by it, vigorously denies any wrongdoing, asserting that military operations under "Operation Defensive Shield" were necessary to break an infrastructure of terrorist activity. The submission of the Palestinian Authority maintains that the military operation has been gravely disproportionate and that the very infrastructure of the Palestinian Authority itself has been disabled.

8. Throughout the military operations in the West Bank the Israeli courts have remained open. They have received and rapidly responded to petitions from Israeli NGOs challenging the actions of the Government and the Israeli Defense Forces (IDF).

I. HUMAN RIGHTS SITUATION IN THE OCCUPIED PALESTINIAN TERRITORY

9. The following sections of this report deal with issues of fundamental human rights that have been the subject of international concern in the current situation.

A. The right to life

10. It is indisputable that there has been extensive loss of life on the Palestinian as well as the Israel side. The recent series of suicide bombings carried out by Palestinians in Israel has resulted in 62 people being killed and 363 injured, many of them seriously. Extrajudicial executions have reportedly been carried out on both sides - of alleged terrorists and of alleged collaborators.

11. Since 29 March 2002, when the IDF reoccupied Ramallah and other towns, including Qalqilya, Tulkarem, Jenin and Nablus, numerous Palestinian civilians have been killed. According to the Palestine Red Crescent Society (PRCS), the IDF incursions into Palestinian towns and villages resulted in 217 Palestinian deaths and 498 injured during the period from 29 March to 21 April 2002. These figures will still require confirmation since there has not been access to all areas.

12. On 12 April 2002, the Special Rapporteur on extrajudicial, summary or arbitrary executions distributed a press release in which she stressed the “urgent need to investigate the allegations [of extrajudicial and summary executions by Israeli forces in connection with recent operations in the Jenin refugee camp] promptly”.

B. Destruction of property and infrastructure

13. According to a report by the Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) on the situation in the occupied Palestinian territory, Israeli forces have forcibly entered hundreds of private residences in search of wanted persons and arms, damaging or destroying homes and household property. In specific areas, such as Tulkarem, Qalqilya, Jenin, Nablus, Bethlehem and Ramallah and the adjoining refugee camps, heavy weaponry used by Israeli forces has damaged or destroyed large numbers of homes. UNRWA estimates that in the Jenin camp 800 dwellings have been destroyed and many more damaged, leaving 4,000 to 5,000 people homeless.

14. According to UNRWA, during the first three months of 2002 Israeli military forces demolished more than 200 refugee shelters and damaged more than 2,000 others in the Gaza Strip and the West Bank. The total damage to refugee shelters during the first three months of 2002, not including the large number of shelters destroyed in April 2002, is equal to more than half of the entire damage resulting from Israeli military assaults since the beginning of the Palestinian uprising in September 2000.

15. It is a matter of record that numerous Ministries, offices and facilities of the Palestinian Authority, as well as public institutions such as schools, have been destroyed. Computer hard drives were removed and equipment smashed.

16. The United Nations Department of Public Information reported on 5 April 2002 the following statement by Peter Hansen, the Commissioner-General of UNRWA: “The application of violence is very generalized: there is not a question here of pinpointing and targeting a few suspects on a wanted list, but there is entry into homes, house after house, destruction of what is in the houses, often destruction of the houses. In the West Bank alone, we are now beginning to catch up, if you will, with Gaza: there are more than 2,500 destroyed or partially destroyed shelters. In Gaza, we are talking about even more.” He continued: “I have not myself been able to go to the camps [since] about a week ago or so, but I am told from the reports we are getting in from the camps (we have our staff inside there) that the situation is really unprecedented. There is this massive destruction of shelters and destruction of infrastructure, water lines; electricity is being cut off. Of course many installations that the Israeli army has used have also suffered very bad damage. It is quite appalling to see, and I have seen it myself, how some installations, for instance in the health and medical area, have been destroyed and medicines smashed, a dentist’s chair kicked over and ripped out of the floor, threatening graffiti written in Hebrew on the wall.”

C. Arrest and detention

17. The number of Palestinians arrested to date and held in administrative detention remains uncertain. On 14 April 2002, an Israeli Cabinet communiqué announced that around 1,200 people involved in terrorism had been arrested since the start of “Operation Defensive Shield”. They were said to include many of Israel’s most wanted men. B’Tselem, an Israeli NGO, reported on 16 April that it had information from the IDF to the effect that 2,521 Palestinians remained in detention. It is alleged that a number of them have been transferred to a prison camp in Israel. Prior to the launch of “Operation Defensive Shield”, 60 Palestinians had been held in administrative detention.

18. Reports from the Palestinian Authority and non-governmental organizations refer to the IDF practice of conducting house-to-house searches in areas under its control, which frequently result in arrests. Another practice was illustrated by the following example: on Friday, 29 March 2002, all male residents of a district of Al-Bireh town aged between 15 and 45 were told to assemble in a nearby school. The majority were forced to remain in the school throughout the day and night. The next morning some of those held throughout the night were released while others were taken away in buses.

19. UNRWA local staff members have been among those detained by the IDF. UNRWA has requested from the Israeli authorities access to and information about its detained staff members. The Agency also complains that its buildings have been used repeatedly as detention centres. For example, on 9 April 2002 special Israeli forces and army units broke into the UNRWA Ramallah Men’s Training Centre, arresting 104 trainees and the Dean of the Centre. UNRWA has protested to the Israeli authorities, calling for the immediate release of the detainees and access for the UNRWA legal team to them. The Agency has reminded the Israeli authorities of their responsibility for the security of UNRWA staff and the inviolability of its facilities, and has stressed that military incursions into its facilities are unacceptable.

D. Torture and cruel, inhuman or degrading treatment or punishment

20. Following the release of some Palestinian detainees, Israeli human rights organizations began to receive information about difficult conditions in the detention centres and the violent treatment of detainees. Detainees reported overcrowding, denial of food for many hours and the fact that some of them were forced to sleep outdoors. Hygiene and sanitation conditions in the reopened Ketziot military detention centre in the Negev Desert in southern Israel reportedly fail to meet minimum international standards for conditions of detention, including those laid down in article 85 of the Fourth Geneva Convention. There is little or no protection from the harsh desert weather conditions, including temperatures ranging from 54 degrees during the day to zero degrees at night.

21. According to information received by B’Tselem on 5 April 2002, incidents of torture occurred during interrogations at the Ofer military camp, including the breaking of detainees’ toes.

E. Civilians used as human shields

22. There are numerous reports of the Israel Defense Forces using Palestinians as human shields. For example, on 3 April 2002 Israeli military forces are alleged to have entered the Palestinian Ministry of Education in Ramallah and to have taken four employees hostage, using them as human shields while they searched the building. It is alleged that the military then used the same four persons as human shields while searching a nearby elementary school and the Palestinian Legislative Council building. The same tactic has reportedly been used by the IDF during raids on medical institutions. On 12 April 2002, the International Committee of the Red Cross (ICRC) stated that at least eight Red Crescent personnel has been used as human shields by the Israeli military on that date.

23. On 18 April 2002, Adalah (the Legal Centre for Arab Minority Rights in Israel) sent a pre-petition to the Attorney-General's office demanding that it compel the IDF to stop using Palestinian civilians as human shields in military operations.

24. Eyewitnesses and victims described to NGOs on the ground how friends, neighbours and relatives of "wanted" Palestinians were taken at gunpoint to knock on doors, open strange packages and search houses in which the IDF suspected armed Palestinians were present. Some families found their houses taken over and used as military positions by the IDF during an operation, while they themselves were ordered to remain inside. The Israeli authorities have accused Palestinian gunmen of attacking them from civilian homes and of booby trapping civilian structures.

F. Freedom of the press

25. In a statement released on 18 April, Reporters Without Borders announced that its data indicated that 7 journalists had been wounded; 4 journalists had been detained; 15 journalists had been arrested; 60 journalists had been targeted by gunfire; and 20 journalists had been roughed-up or threatened in Israel and the occupied Palestinian territory since 29 March. The organization also reported that the Israeli authorities had confiscated journalists' passports, press cards or equipment in 20 cases and had occupied or ransacked 10 Arab media offices. It also documented one case in which a journalist had been deported.

26. During the recent military operations in the occupied Palestinian territory, the Israel Defense Forces declared at least six West Bank towns "closed military areas" and therefore off limits to the press. The six towns were Ramallah, Qalqiliya, Jenin, Tulkarem, Nablus and Bethlehem. The IDF claimed that this was for the protection of journalists.

G. Human rights defenders

27. Constraints in place since 29 March have severely impeded local and foreign human rights defenders from systematically monitoring and documenting human rights violations in the West Bank. Many human rights defenders in the West Bank have been confined to their homes under curfew. They have been unable to reach many areas because those areas have been declared "closed military areas" by the IDF.

H. Restrictions on freedom of movement and curfews

28. Since 29 March 2002, the increasing restrictions on population movements have evolved into the imposition of curfews, directly affecting some 600,000 people, or nearly 30 per cent of the population of the West Bank, excluding East Jerusalem.

29. The curfew regime, with interruptions once or twice a week for two to four hours, makes it extremely difficult for the great majority of civilians in reoccupied areas to sustain their livelihoods. Curfews entail round-the-clock confinement of the population to their homes and the prohibition of any movement in the streets of occupied areas. The curfews are enforced by the deployment of armoured vehicles in city and town centres and at key positions throughout the affected areas.

I. Right to health and access to medical assistance

30. The ICRC has repeatedly expressed concern about the flagrant lack of respect for medical services, has condemned attacks against medical staff and installations and has reiterated its call for respect for medical services by all parties involved. It has expressed alarm at the increasing restrictions imposed by the IDF on both PRCS medical services and its own humanitarian mission in the occupied Palestinian territory.

31. The United Nations Population Fund (UNFPA) has also been deeply concerned about the adverse impact of closures and prolonged curfews on Palestinian villages and towns, which severely restrict the access of civilians, especially women, to life-saving services such as emergency obstetric care. UNFPA has also noticed that the present crisis has adversely affected not only Palestinians' general physical health and health care facilities, but also their psycho-social well-being.

32. In a press release dated 4 April 2002, the World Health Organization (WHO) warned that the health system was "in danger of collapse. The crisis is reflected in a shortage of medicine/antibiotics used to treat injuries encountered, the inability of health personnel and patients to access health facilities, the lack of food, water, electricity, access to services and access to dead bodies".

33. For example, on 4 April 2002 it was reported that there were 28 kidney patients in Jenin who could not reach the hospital for dialysis treatment. Attempts made by the Association for Civil Rights in Israel to coordinate their travel to the hospital were unsuccessful. On 7 April, after at least four days without dialysis treatment, 4 of the 28 were taken to hospital. Sources at the hospital in Jenin do not know what happened to the remaining 24 patients. The electricity supply to the hospital was reportedly cut off at certain times and an IDF armoured vehicle was reportedly stationed at the entrance to the hospital, preventing anyone leaving or entering. The Israeli authorities maintain that they provided assistance to kidney patients seeking to reach hospital.

34. The Palestine Red Crescent Society (PRCS) has reported systematic interference in its functions by the Israeli authorities. According to the PRCS, this has included denial of access to ambulances, the delaying of ambulance services, the denial of access to medical services,

medicines and vaccinations for the civilian population, the arrest of patients from ambulances, the targeting of emergency and humanitarian workers, shooting at PRCS emergency response teams, the deliberate abuse and torture of Red Crescent emergency workers, and misinformation aimed against the PRCS.

35. According to the Israeli authorities, there are countless examples of coordination between Israeli and Palestinian authorities for the passage of ambulances and other vehicles transporting the ill and delivering supplies to hospitals.

36. According to the IDF, incidents involving ambulances are due to the increasing use of ambulances and medical vehicles by terrorist organizations. Palestinian fighters are allegedly working on the premise that these vehicles do not undergo thorough examinations when they pass through IDF roadblocks and checkpoints.

37. On 8 April 2002, the Israeli High Court dismissed petitions filed by human rights organizations challenging the IDF's prevention of access to medical treatment for the sick and wounded; restriction of access of medical personnel and transport to the areas; and obstruction of the right to bury the dead in a respectful manner. In the judgement, Justice Dorner stated:

“Unable to express a position regarding the specific events mentioned in the petition, which, prima facie, seem severe, we see fit to emphasize that our combat forces are obliged to abide by the humanitarian rules regarding care for the wounded, the ill, and the bodies of the deceased. The abuse committed by medical personnel in hospitals and in ambulances obliges the IDF to act in order to avoid such activities, but does not, in and of itself, make sweeping breach of humanitarian rules permissible. And, indeed, this is the declared position of the State. This position is appropriate not only as far as international law, on which the Petitioners based their argument, is concerned, but also in light of the values of the State of Israel as a Jewish and democratic State.”

J. Humanitarian assistance

38. Accusations of denial of humanitarian access have been highlighted in a large number of reports from a variety of sources. This has included access to provide food, water and other essential supplies to civilian populations and, most recently, access to assist with search and rescue efforts in the Jenin refugee camp. According to Israeli Government accounts, humanitarian access has been facilitated except where security concerns have made it impossible.

39. On 12 April 2002, Mr. Paul Grossrieder, Director-General of the ICRC, described as absolutely unacceptable the fact that “useless humiliations take place and are taking place” against Red Cross and Red Crescent staff and delegates in the field.

40. Israeli military operations in towns and refugee camps have resulted in heavy demand for urgently needed medical and humanitarian assistance for Palestinian civilians. In order to alleviate the problem and to provide emergency relief and food aid, UNRWA Operations

Support Office has, since the beginning of April 2002, been sending out humanitarian aid convoys on a day-to-day basis to refugee camps and towns to provide Palestinian civilians with food, water and medical supplies. United Nations agencies such as the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the Office of the United Nations Special Coordinator in the Occupied Territories (UNSCO) and UNRWA have been coordinating and combining efforts to carry out these humanitarian missions. Other United Nations agencies have been providing international staff members as volunteers to work with the UNRWA Operations Support Office to clear the movement of convoys with the IDF and to assist their passage through IDF checkpoints.

41. The movement of United Nations humanitarian aid convoys in and out of cities, towns, villages and refugee camps during the period since 28 March 2002 has been difficult and, as of 24 April 2002, remains slow owing to the heavy Israeli military presence in Areas A and B, ongoing curfews, full closures and long delays at checkpoints and road blocks.

42. The Office for the Coordination of Humanitarian Affairs (OCHA) reported on 18 April 2002 that all movements of humanitarian goods and personnel remained subject to prior authorization/clearance by the IDF. However, overall accessibility was significantly better on 18 April compared to previous days. On 18 April UNRWA convoys delivered food supplies and water to Jenin and Balata refugee camps. UNRWA also delivered food supplies to Fawar refugee camp and to Al-Bireh. Humanitarian NGOs delivered food to Tulkarem. The ICRC delivered medical supplies to Annabeh, Tulkarem district and hospitals in Hebron and Ramallah. The ICRC also distributed water in Jenin refugee camp and food in Hebron city and Nablus. All reports agree that while deliveries of essential supplies have now improved, the situation of civilians who have been displaced by the fighting, left homeless by the destruction of residential areas or who have exhausted their savings and therefore have no cash to buy food remains serious.

K. Impact on the economic situation in the occupied Palestinian territory

43. Available information indicates a sharp intensification of the hardships faced by the population. There has been a near complete cessation of productive activity in the main West Bank centres of manufacturing, construction and commerce, and of private and public services. Activities in these centres account for at least 75 per cent of the value of goods and services produced in the West Bank.¹

44. The production stoppage has entailed immediate income losses for employees and owners of businesses, as well as losses in tax revenues for the Palestinian Authority. In addition, suppliers and buyers in the directly affected urban areas have close economic links to rural areas; the isolation of the former has significant negative effects on the latter. This is also true of the relationship between businesses in Jerusalem and the rest of the West Bank.

45. The premises of an as yet unknown number of official, public, private and non-governmental organizations have been damaged, in some cases severely. Numerous Palestinian Authority Ministries, municipalities, medical facilities, schools, religious buildings

and relief and development organizations report raids on their installations by Israeli military personnel since 29 March 2002. It is alleged that this has often entailed the gratuitous destruction of offices, office equipment and the ransacking and/or theft of files, including computer drives, as in the case of the Ministry of Education in Ramallah. Other public institutions reported to be similarly affected include the Ministry of Industry, the Ministry of Civilian Affairs and the Land Registration Office. Ramallah/Al-Bireh, in addition to being the centre for Palestinian Authority agencies, is the hub for most West Bank NGOs. According to BADIL Resource Center for Palestinian Residency and Refugee Rights, it will take time, resources and effort to restore the physical, communications and logistics capacity of the Palestinian Authority, the municipalities and the NGOs to levels attained prior to the reoccupation. Many institutions remain occupied by Israeli military forces and independent observers are unable to assess damage and destruction. In institutions to which individuals have gained access, they have found widespread destruction of computers, files and office equipment, confiscation of computer hard drives and documents, including financial records and structural damage.

46. The growth of poverty is especially severe for the thousands of households dependent, in whole or in part, on wage income earned in Israel.²

L. The situation in Jenin refugee camp

47. The Israeli army launched an offensive on the Jenin refugee camp on 3 April 2002 and withdrew on 18 April. During this period, the United Nations, humanitarian relief agencies and the media were denied access to the camp. During the same period, there were unconfirmed reports of high casualties, mainly Palestinian civilians, and widespread destruction of the camp.

48. Following the withdrawal of the Israeli army, humanitarian relief organizations and the foreign media were able to enter the camp and make on-the-spot visual assessments. The United Nations Special Coordinator for the Middle East Peace Process, Terje Roed-Larsen, was among international personalities who visited the camp on 18 April. He described the scene as "horrific beyond belief" and stated: "It is totally destroyed; it is like an earthquake; we have expert people here who have been in war zones and earthquakes and they say they have never seen anything like it." He added that it was "morally repugnant" that the Israelis had not allowed rescue teams in after the fighting was over.

49. On 17 April 2002, the ICRC asked the Israeli authorities to allow foreign rescue teams immediate access to the Jenin refugee camp so that they could help to clear the rubble.

50. On 19 April 2002, the Security Council unanimously adopted resolution 1405 (2002), in which it welcomed the initiative of the Secretary-General to develop accurate information regarding recent events in the Jenin refugee camp through a fact-finding team and requested him to keep the Security Council informed.

51. On 22 April 2002, United Nations Secretary-General Kofi Annan announced that Martti Ahtisaari, the former President of Finland, will head a fact-finding mission mandated by the Security Council to obtain accurate information regarding recent events in the Jenin refugee camp. In addition to Mr. Ahtisaari, the team will comprise the former United Nations High Commissioner for Refugees, Sadako Ogata, and the former President of the International Committee of the Red Cross, Cornelio Sommaruga.

M. The Church of the Nativity in Bethlehem

52. On 3 April 2002, more than 200 Palestinians, combatants and civilians, finding themselves surrounded by the Israeli army, took refuge in the Basilica of the Nativity in Bethlehem. The Israelis immediately surrounded the entire complex. Since then the Palestinians have imposed their presence in the convents of the various communities who conduct their religious services there. As of 18 April 2002, over 200 Palestinians, as well as 24 Franciscan monks, 4 Franciscan nuns and some Greek and Armenian Orthodox monks, are still surrounded in the complex of the Basilica.

53. The humanitarian situation inside the compound appears to be critical. The IDF has reportedly cut water, electricity and telephone lines to at least some parts of the compound. There is also a lack of food. On 11 April the Minister General of the Order of Friars Minor announced: "Since yesterday evening, the supplies of water and food have run out; the removal of the body of the young Palestinian killed has not been permitted; it is not possible to provide suitable care to the other gravely wounded Palestinian; the supply of electric power, available in adjacent buildings, has been cut off from the Franciscan convent alone."

54. OCHA has expressed concern about the situation of 400 families living around Manger Square, as they have remained virtually without any humanitarian assistance since the inception of a non-stop curfew regime on 3 April.

N. The situation in Ramallah

55. On 29 March the IDF imposed a siege around the compound of President Arafat, which they say has been done in an attempt to force the handover of certain Palestinians inside. Mr. Arafat is currently confined to two rooms in the compound. The IDF has intermittently cut off supplies of electricity and running water.

56. The IDF has sought to prevent unauthorized persons, including journalists, from entering the compound. On 5 April, the IDF fired stun grenades and rubber bullets at reporters seeking to cover a meeting between the United States Middle East Envoy Anthony Zinni and President Arafat.

II. OBSERVATIONS

57. The situation in the occupied Palestinian territory remains grave. The High Commissioner appeals to everyone in a position to do so to help the two sides to return to negotiations for a peaceful outcome consistent with international human rights and humanitarian law.

58. The military operation must be brought to an end. Equally, all attacks against Israeli civilians must end. All actors on the ground must bear in mind their responsibility for ensuring respect for international human rights standards. In particular, such responsibility is vested in those in positions of power who, by virtue of international norms, should be held accountable for its abuse.

59. A peaceful and stable future in the region can only be achieved on the basis of international human rights and humanitarian law. Full compliance with international human rights standards as laid down in the Universal Declaration of Human Rights and the two International Covenants is essential to guarantee respect for the equal dignity of all people in Israel and the occupied Palestinian territory.

60. Full application of the Fourth Geneva Convention is vital to guarantee respect for the fundamental human rights of civilian populations in time of war and occupation. Article 1 of the Convention places a duty on all the High Contracting Parties "to respect and to ensure respect" for its provisions "in all circumstances". The principle of distinction requires that parties to the conflict shall "at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives". The principle of proportionality prohibits an attack on a military target which may be expected to cause incidental loss of civilian life, injury to civilians, and damage to civilian objects which would be excessive in relation to the concrete and direct military advantage anticipated. All parties to the conflict must respect these principles.

61. It is essential for both parties to end the violence and immediately launch a process that will eventually lead to peace. The Secretary-General has offered United Nations assistance in this regard, including a proposal for a ceasefire to be monitored by international armed forces. This proposal should be implemented without delay. It is essential that the peace efforts and any eventual peace agreement should be based on respect for the human rights of all Israelis and Palestinians.

62. There needs to be accountability on all sides for what has happened, as well as steps taken to ensure that in future proper rules and safeguards are in place to prevent violations of the human rights of both peoples, Palestinians and Israelis. In this context, there is an urgent need for a comprehensive investigation into alleged breaches of international human rights and humanitarian law, an investigation that would be independent of the parties but conducted with their full cooperation. OHCHR would be prepared to make available for that purpose all the material submitted to it in compiling this report. International human rights bodies such as the treaty bodies might be in a position to make a contribution to the investigation.

63. Failure to investigate widespread allegations of serious human rights violations and to seek accountability risks undermining the integrity of the international human rights system.

64. OHCHR stands ready to facilitate human rights dialogue between Palestinian and Israeli NGOs and other civil society representatives in order to enhance mutual understanding.

Notes

¹ UNSCO estimates based on national income account data provided by the Palestinian Central Bureau of Statistics (PCBS), January 2001. The assumption here is that nearly all manufacturing and the bulk of commerce, construction and services are produced in the urban areas of the West Bank. At the time of writing, Israeli military incursions had not taken place in Gaza.

² The World Bank has noted the strong correlation between employment in Israel and Palestinian poverty rates. See World Bank, *Poverty in the West Bank and Gaza* (Washington, January 2001), chapter 2.

Annex

Sources of information for the report of the High Commissioner submitted pursuant to decision 2002/103

1. Official communications

Permanent Mission of Israel to the United Nations Office at Geneva
Permanent Observer Mission of Palestine to the United Nations Office at Geneva

2. United Nations

United Nations Headquarters
United Nations Development Programme
United Nations Relief and Work Agency for Palestine Refugees in the Near East
Office of the United Nations Special Coordinator in the Occupied Territories
World Health Organization
United Nations Children's Fund
Office for the Coordination of Humanitarian Affairs
United Nations Population Fund

3. Non-governmental organizations/professional associations

Adalah: The Legal Center for Arab Minority Rights in Israel
Addameer Prisoners' Support and Human Rights Association
Al-Haq Institute
Al-Mezan Center for Human Rights (on the situation in Gaza)
Amnesty International
BADIL Resource Center for Palestinian Residency and Refugee Rights
B'Tselem
Committee to Protect Journalists
Defence for Children International - Palestine
Democracy and Workers' Rights Centre
HaMoked - Center for the Defense of the Individual
International Rehabilitation Council for Torture Victims
Human Rights Watch
LAW - The Palestinian Society for the Protection of Human Rights and the Environment
Magen David Adom
Miftah Institute
Palestinian Red Crescent Society
Palestinian Agriculture Development Association
Palestinian Bar Association
Palestinian Centre for Human Rights
Palestinian Counselling Center in Jerusalem

Palestinian Independent Commission for Citizens' Rights

Physicians for Human Rights

Public Committee Against Torture in Israel

Reporters Sans Frontières

Union of Palestinian Medical Relief Committees

World Council of Churches

4. International Committee of the Red Cross



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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Report of the Special Rapporteur on adequate housing as a component of the
right to an adequate standard of living, Mr. Miloon Kothari**

Addendum

**Visit to the occupied Palestinian territories*
(5-10 January 2002)**

* The content of this report was originally introduced orally by the Special Rapporteur on 9 April 2002 during the fifty-eighth session of the Commission (E/CN.4/2002/SR.32). In a letter addressed to the Chairperson of the Commission on 26 April 2002, the Special Rapporteur requested that the report “be processed under item 10, in accordance with applicable rules and procedures of the Commission on Human Rights”.

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Introduction

1. The Special Rapporteur visited Israel and the occupied Palestinian territories from 5 to 10 January 2002, at the invitation of Ben Gurion University and Adalah: Legal Center for Arab Minority Rights in Israel. The Special Rapporteur availed himself of the opportunity to meet with a group of non-governmental organizations, United Nations and intergovernmental agencies and Palestinian authorities, in order to collect information necessary pursuant to Commission on Human Rights resolution S-5/1 of 19 October 2000, in which the Special Rapporteur, along with several other thematic rapporteurs, was requested to “carry out immediate missions to the occupied Palestinian territories and to report the findings to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its fifty-fifth session”.
2. Unfortunately, the Special Rapporteur was not able to fulfil this request immediately owing to Israeli visa requirements. On 6 December 2000, he sent a letter to the Permanent Representative of Israel to the United Nations Office at Geneva requesting an invitation, to which the Government responded that it “would not cooperate in the implementation of the operative part of this resolution”. On 27 June 2001, at the annual meeting of special rapporteurs and independent experts, he once again requested an invitation from the Government, together with other thematic rapporteurs mentioned in the resolution. To date, there has been no reply from the Government. Prior to undertaking the visit, the Special Rapporteur informed the Permanent Representative of Israel to the United Nations Office at Geneva, in a letter dated 3 January 2002, of his intention to use the opportunity of the visit to gather information with a view to reporting to the Commission as requested in resolution S-5/1.
3. To assess the situation of housing during the visit, the Special Rapporteur met with Palestinian and Israeli non-governmental organizations, United Nations and other international agencies in the region and members of the Palestinian authority, including from the Ministries of Housing, Planning and International Cooperation, and Health. The Special Rapporteur visited East Jerusalem including the “walled city” and Shu’fat refugee camp, Bethlehem, Beit Jala, Ramallah and the Gaza Strip, including the refugee camps of Khan Younis and Rafah.
4. In carrying out his assessment, the Special Rapporteur was guided by the mandate given to him by the Commission and his interpretation of the mandate as outlined in his first two reports to the Commission (E/CN.4/2001/51 and E/CN.4/2002/59). Keeping in view the indivisibility of all human rights, this approach sees the right to housing as including dimensions of land rights, forced evictions, population transfer, the right to a safe environment and the right to water. The Palestinian people’s deep historical understanding of the right to housing (including through a particular affinity with their land) and its widespread violation in the occupied Palestinian territories validates the approach adopted by the Special Rapporteur. A number of congruent rights take on a particular, if tragic, meaning in the occupied Palestinian territories: the right to life; the right to an adequate standard of living; the right to freedom of movement and residence; the right to popular participation; the right not to be subjected to arbitrary interference with one’s privacy, family and home; and the right not to be subjected to cruel, inhuman and degrading treatment or punishment.

5. The principle features of the condition of housing rights in the occupied Palestinian territories arise from breaches of the laws of war and humanitarian law. These include not only violations of the Geneva Convention, relative to the Protection of Civilian Persons in Time of War, on which Israel has reneged, but even more basic prohibitions of the Hague Regulations of 1907, which the Israeli judiciary and military have formally accepted as applying.¹

6. Since the massacre of Palestinian civilians at the Noble Sanctuary and the emergent wave of Palestinian resistance in September 2000, the Israeli military forces have targeted Palestinian homes with unprecedented use of destructive force. On January 2002, during the visit of the Special Rapporteur, Israeli forces carried out a night attack on the refugee camp at Rafah (Gaza Strip), destroying at least 58 Palestinian refugee family homes. The serial destruction of Palestinian households, property and patrimony is a continuous process that has culminated dramatically in the current phase of the conflict over Palestine. The number of Palestinian homes destroyed by Israeli administrative and military acts climbs almost daily.

7. Before the Noble Sanctuary massacre, Israel's occupation authorities had ordered 10,000 Palestinian homes demolished in Arab East Jerusalem and the West Bank. Human rights organizations assert that actually some 28,000 Palestinian homes in Jerusalem alone are threatened with demolition by Israel. The occupation imposes spatial restrictions on Palestinian physical development by imposing planning criteria and supplanting local codes in violation of the international laws of war and humanitarian provisions applying to occupied territories. Israel favours illegal settlers with generous land allotments, subsidies, impunity for violent criminal activity, State-sponsored and private financing, and all manner of services at the expense of the indigenous Palestinian host population and international peace and security. Essentially, the institutions, laws and practices that Israel had developed to dispossess the Palestinians (now Israeli citizens) inside its 1948 border (the Green Line) have been applied with comparable effect in the areas occupied since 1967, the actual focus of this report.

8. A number of special rapporteurs, the Commission of Inquiry and the United Nations High Commissioner for Human Rights have also examined the state of house demolition and its devastating effects on the population in the occupied Palestinian territories. In his most recent report to the Commission (E/CN.4/2002/32), Mr. John Dugard, the current Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967, devoted a separate section to the issue of demolition of houses and destruction of property; he did the same in his report to the General Assembly (A/56/440). The High Commissioner for Human Rights, during her visit to Rafah refugee camp in November 2000, inspected a number of private houses and apartments that had been heavily damaged (E/CN.4/2001/114, paras. 39-40). The Commission of Inquiry also examined this issue in detail and concluded that such demolition "has caused untold human suffering to persons unconnected with present violence" (E/CN.4/2001/121, para. 50). Both Mr. Dugard and the Commission of Inquiry point out that the demolition of houses and destruction of properties, as well as the restriction on movement, constitute a violation of the right to an adequate standard of

living, including the right to adequate housing, under article 11, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights (*ibid.*, para. 94). The previous Special Rapporteur, Mr. Giorgio Giacomelli, also stated that measures of collective punishment such as closures and house demolitions have caused disruption on the fabric of society, with particularly serious effects on the family, including children (see E/CN.4/2001/30, para. 13 and E/CN.4/2000/25, paras. 38, 43 and 62).

9. Following the above, this analysis of housing rights in the occupied Palestinian territories addresses State behaviour on two levels: (a) through the continuum of dispossession by administrative means as a constant feature of the occupation; and (b) the upsurge of Israeli military action against Palestinian civilians' homes and habitat since the September 2000 Noble Sanctuary massacre and the ensuing al-Aqsa intifada. The latter is the principal focus of the present report; however, it would be a disservice to the Commission not also to remind it of Israel's long record of depopulation and demographic manipulation by way of expulsion, destruction of homes and villages, and implantation of settlers prior to and since its establishment as a State.

I. THE RIGHT TO LAND

10. Land, as a housing resource, is an essential element of the right to housing. This is most conspicuous in the breach of individual and collective land tenure rights, as seen in the practice of ethnic cleansing and expulsion of land-based people and communities, as has historically been the case in Palestine.² It should be recalled that population transfer constitutes a particularly grave violation of human rights and humanitarian law that, regrettably, persists in the recent and ongoing conflicts. In this connection, the Special Rapporteur notes the increase in forced eviction of Palestinians and implantation of settlers in the territories and period covered by this review.

11. Israel's confiscation of land and properties belonging privately and collectively to the Palestinians in the occupied Palestinian territories is a dominant feature of the occupation and an essential component of Israel's population transfer programme. This practice violates the long-established public law principle of the unacceptability of the acquisition of territory by force, as well as specific resolutions concerning Israel's confiscation of land and settlement activities.³ Since 1967, Israel has confiscated land for public, semi-public and private (Jewish) use in order to create Israeli military zones, Jewish settlements, industrial areas, elaborate "bypass" roads, nature reserves, "green areas" and quarries, as well as to hold "State lands" for exclusive use by Israeli citizens and others whom Israeli law entitles with the status of "Jewish nationality".⁴

12. The land confiscation complement to population transfer, including the implantation of settlers, has actually escalated during the political process following the Oslo Agreements. This "Oslo Phase of Occupation", as it has become known, has witnessed Israel's confiscation of hundreds of thousands of dunams (one thousand square metres).

13. In the period leading up to Oslo, when Ariel Sharon served as Minister of Housing, Israel (in collaboration with the World Zionist Organization/Jewish Agency) launched a settlement campaign in the construction of the "Seven Stars" colonies straddling the Green Line. More

recently, Israel's military closure of Bayt Sira, Qattana and Midia villages in the West Bank has actually moved the Green Line demarcation points, adding Palestinian land to Israel. In the case of Midia village, Israeli authorities ordered five houses, 500 metres from new line, to be demolished and confiscated 2,200 dunams of village land. This case remains a subject of litigation.

14. One example of land confiscation during the recent period was marked by the announcement by then Prime Minister Ehud Barak and Israeli Defense Forces (IDF) Deputy Chief of Staff Moshe Allon, on the same day as the Sharm al-Sheikh Agreements were signed, that the Israeli Government had newly confiscated 250,000 dunams of Palestinian land. The Wye River negotiations extracted a Palestinian non-contestation of Israel's construction of bypass roads serving the settler colonies. This resulted in the confiscation of a further 1.54 per cent of West Bank land, and the roads served as scissors cutting the Palestinian geographical body into 64 pieces.⁵

15. Estimates place the proportion of Palestinian land confiscated by Israel at more than 70 per cent of the West Bank and 33 per cent of the Gaza Strip; at least 32.5 km², or approximately 33 per cent, of Palestinian land in East Jerusalem has been confiscated,⁶ and all but 7 to 8 per cent of the area has been closed to Palestinian construction.⁷

II. BANNING PALESTINIAN CONSTRUCTION

16. In the occupied Palestinian territories, planning since 1967 has been assumed by the military authorities and, for instance, continues to be carried out for Areas B and C in the West Bank by the civil Israeli administration based in the Jewish settlement of Bayt El. Immediately after seizing East Jerusalem, the West Bank and Gaza Strip in 1967, Israel disbanded the regional councils that were legally responsible for physical planning. Thus, the Israeli occupation forces have dismissed those legally responsible for planning in favour of the occupiers' military and demographic imperatives. This practice violates the Hague Regulations (1907), which prohibit an occupying Power from altering the legal system in occupied territories (art. 43).⁸ Israeli domestic laws, including Basic Laws, military orders and planning regulations, are applied with discrimination against, and disadvantage to the Palestinian population.

17. These planning regulations are legally invalid and discriminatory by nature. Israel simultaneously grants vast areas of land for the planning of illegal Jewish settlements on Palestinian territories, in addition to the facilities and services Israeli institutions provide to them. (See discussion of settlement implantation below.) The consequences for the indigenous Palestinian population involve, among other things, increased housing density, acute land shortage, depletion of water resources and exorbitant land prices.

III. ADMINISTRATIVE HOUSE DEMOLITIONS

18. While applying very tight restrictions and granting very few building permits, Israeli occupation forces frequently carry out punitive and violent demolitions of Palestinian homes for lack of licence. Interlocutors reported myriad difficulties confronting and discrimination

practised against Palestinians seeking to obtain building permits and information about imposed master plans. Sometimes the punishment is retroactive to the establishment or public disclosure of a master plan. This practice leaves Palestinian families underhoused, and those whose houses Israel demolishes are left homeless and often impoverished. Since 1987, at least 16,700 Palestinians (including 7,300 children) have lost their homes under this policy.

19. The rate of Israel's demolition of Palestinian homes in the West Bank and East Jerusalem has not fallen since 1993, and has remained at a high level. In fact, although the number of Palestinians living under constant and direct Israel civilian control and the areas where they live are smaller (jurisdictional Areas C), the average yearly demolition of Palestinian homes showed an increase throughout 1995-1999.⁹ Since September 2000, Israel's administrative actions against Palestinian homes in East Jerusalem alone have destroyed at least 70 housing units.¹⁰ In the past year, the municipality of Jerusalem has targeted multifamily residences built by local contractors, with devastating consequences for businesses in the construction sector.¹¹ These demolitions in Jerusalem alone have left 405 evictees, including 238 children, and destroyed three water wells.¹² During his visit to the occupied Palestinian territories, the Special Rapporteur learned of eight demolition orders in Jerusalem that became known on 6 January 2002. Some 28,000 Palestinian homes in Jerusalem remain under threat of administrative demolition by the municipality of Jerusalem. The Special Rapporteur is aware of 57 current demolition orders against Palestinian families' homes in al-Khalil/Hebron (mixed jurisdiction, West Bank). Some 50 are pending in the West Bank (in Areas C), where demolition orders are most common near settler colonies and their adjacent bypass roads.¹³

20. The 23 demolition orders carried out against Shu'fat homes came in response to complaints from settlers at Pisgat Ze'ev.¹⁴ In addition, there are six current orders known against Palestinian homes near the Har Homa colony on Jabal Abu Ghunaym.

21. The Special Rapporteur visited the demolished home of Salim Shuwamira, in Shu'fat refugee camp, Jerusalem. There the Special Rapporteur witnessed the scale of destruction and loss to poor families, collateral damage to neighbours' homes and the residual suffering and quiet anger that naturally follows. He observed also that, whatever the pretext in terms of builders breaking administrative norms, such destruction and suffering cannot be justifiable under the principles of necessity and proportionality in the State's use of force in the application of civil law.

22. Israel's administrative housing destruction as a punitive action does not comply with the norms of the rule of law with a view to ensuring human rights. The demolitions ordered either for lack of permit or another pretext have a military dimension and a gratuitously cruel nature. Orders are often issued without specifying the affected home(s), without indicating the date of the order or demolition, and without sufficient warning to inhabitants. Some administrative demolitions are carried out with no orders at all. In most cases of demolition for lack of permit, authorities wait until construction is complete before coming to destroy the home, inflicting the heaviest possible material loss to the victim. With regard to the arbitrary, disproportionate and discriminatory nature of this form of Israeli punishment, housing rights defenders note that even the Israeli assassin of former Prime Minister Yitzhak Rabin was not subjected to the demolition of his family's home, the common collective punishment for Palestinians merely suspected of a real or potential act of resistance.

23. Israel's demolition policies have been a subject of discussion at the meetings of the United Nations treaty bodies each time a report of the State party is examined. The Committee on Economic, Social and Cultural Rights (CESCR) has been seized with the issue since its review of Israel's implementation of the Covenant in 1998, deploring "the continuing practices ... of home demolitions, land confiscations and restrictions on family reunification and residency rights, and its adoption of policies [which] result in substandard housing and living conditions, including extreme overcrowding and lack of services ...".¹⁵ Most recently, the Committee against Torture (CAT) expressed concern that "Israeli policies on house demolitions ... may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment".¹⁶

24. The Human Rights Committee, examining Israel's report on its implementation of the International Covenant on Civil and Political Rights, stated in 1998 that it "deplores the demolition of Arab homes as a means of punishment. It also deplores the practice of demolitions, in part or in whole, of 'illegally' constructed Arab homes ... The Committee considers the demolition of homes to conflict directly with the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (article 17), the freedom to choose one's residence (article 12) and equality of all persons before the law and equal protection of the law (article 26)" (CCPR/C/79/Add.93, para. 24).

IV. MILITARY DESTRUCTION OF HOUSING

25. Israeli military shelling has heavily damaged and/or destroyed 7,571 Palestinian homes.¹⁷ In the week preceding the Special Rapporteur's visit, Israeli military forces destroyed four Palestinian homes without any known security or military purpose. In the course of militarily destroying Palestinian housing, Israel has killed at least 136 people (mostly civilians) by shelling from land and air at Bethlehem, Ramallah, Khalil and Jenin.¹⁸ In addition to the toll on homes and human life, Israel has shelled public buildings, demolishing at least 73 Palestinian National Authority (PNA) buildings, 49 educational institutions, 22 religious buildings and 7 health facilities.

26. Often, the pattern shows no military objective, rather the fulfilment of settler colony designs. As in the typical case of Abu 'Ajlin, in the Dayr al-Balah area of the Gaza Strip, Palestinian residents have been sandwiched between the Kissufim and Gush Qatif settler colonies, which continuously expand towards them from both sides. In a move that seeks to implement the planned contiguity of the settler colonies by eliminating the indigenous population and their land tenure, the Israeli army surrounded a cluster of Abu 'Ajlin homes in the early morning of Tuesday, 19 February and announced that the residents had until that afternoon to evacuate. The Israeli occupation forces began their bulldozing at 10.30 a.m., destroying 1 home and threatening 18 more. In this case, human rights organizations were able to obtain an order nisi (temporary injunction) to ward off the remaining demolitions.

**Number of buildings damaged in the West Bank, by building use,
28 September 2000-3 September 2001**

Use of building								
Residential	Commercial	Educational	Government	Charities	Health	Religious	Tourism	Total
4 994	51	269	21	12	24	65	4	5 440

Source: Ministry of Housing of the Palestinian Authority, "Damages to public and private buildings and infrastructure facilities, 28/9/2000-3/9/2001".

27. These figures are already out of date, but demonstrate the pattern of Israeli destruction of an overwhelming number and proportion of residential structures. During the Special Rapporteur's visit, from 10 to 12 January, Israeli forces in Gaza destroyed, severely damaged or made uninhabitable an additional 211 Palestinian homes.¹⁹ On 10 January,²⁰ Israeli forces at Block "O" along the Rafah border with Egypt demolished at least 58 homes in a night blitz that set sleeping families running for their lives and rendering 614 people homeless. The next morning, Israeli forces demolished another 18 homes in the al-Barama section of Rafah Refugee Camp.²¹ As relief workers were scrambling to rehouse these evictees in tents, the news was still reverberating in the press and among the public of the burning death of five children from the Hunaydiq family, when cooking oil set alight their International Committee of the Red Cross relief tent on 6 January; Israeli settlers shelling their homes had forced them to take refuge east of Khan Yunis, where unforeseen, secondary hazards awaited.

28. In addition to the cost to life and limb during Israel's destructive actions against Palestinian homes, negative psychological effects are in evidence. The violent and abrupt loss of one's home has a collective dimension for Palestinians.²² It invokes the long history of Israel's forcible transfer and dispossession, which adds feelings of humiliation to the personal sense of loss.

29. Social science research has highlighted the psychological effects of house demolitions for both victims and witnesses. These include high levels of compound mental anxiety manifesting as dread of the occupation army, diminished concentration, constant weeping and re-experiencing the traumatic event. Witnesses shared the effects in the form of dread of the occupation army, bouts of volatility, and night terror.²³ In addition to the other causes of stress and trauma, the experience of house demolition has had enduring psychological consequences for the victims. Women have been shown to have longer and more severe bouts of depression - in both the loss and witness groups - as they cope with the hardship. Children tend to suffer disproportionately the violent loss of homes, shelter and possessions.²⁴

30. Former Commander of the IDF Southern Command General Yom-Tov Samia in a September 2001 radio interview summarized the strategic rationale for military demolition of Palestinian homes:

"The IDF must raze all the houses [in the Rafah Refugee Camp adjacent to the Egyptian border] within a strip of 300 to 400 metres in width ... Arafat must be punished, and after each incident another two to three rows of houses must be razed ... We must apply this extreme instrument; it is workable ... and I am happy it is being used. Sadly, in steps which are too small. It must be done in one big operation."²⁵

31. Israel's active military command has rationalized house demolitions and the use of lethal force on the pretext that it is operating a combat zone, and that the Hague Regulations therefore apply as a justification for measures taken under its own criteria for "security" and "necessities of war", including civilian house demolitions, and crop and agricultural land destruction (e.g. by bulldozing away topsoil).²⁶

32. In Areas C, Palestinian farmers, their homes, property and crops are often the targets of Israel's military tactic of economic devastation of Palestine. Since the massacre at al-Aqsa mosque, farmers have lost an estimated US\$ 431 million from destruction. The occupation army has destroyed 150 agricultural roads. Infamous is the Israeli practice of extirpating productive fruit and olive orchards. One example among many is the Israeli army and settlers' destruction of thousands of 60- to 70-year-old olive trees at 'Abud village.²⁷

33. Settlers also have resorted to rustling livestock belonging to rural Palestinians, such as the case of 61 head of sheep that Israeli settlers stole from 'Awarta village.²⁸ Israeli military operations and property destruction have concentrated on potential Palestinian tourism zones, such as Bethlehem, occupying hotel and other tourism facilities, militarizing religious sites (see E/CN.4/2001/30) and stifling an important Palestinian economic sector. The physical damage to structures alone has been estimated at US\$ 135-165 million from October 2000 to June 2001;²⁹ over 70 per cent account for agricultural losses and nearly 28 per cent are losses from damaging or destroying private buildings. From figures covering only through June 2001, out of the US\$ 27.7 million in destruction, US\$ 19.7 million was to residential buildings.³⁰

34. New estimates from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) indicate that a value of no less than US\$ 3.8 million was lost in structures in Israel's operation against the refugee camps and Gaza City in March 2002. This includes the destruction of at least 141 refugee shelters valued at US\$ 2.3 million alone.³¹

V. IMPLANTATION OF SETTLEMENTS AND SETTLERS

35. The Special Rapporteur can only add his confirmation to the conclusion that Israeli settlements in the occupied territories are an obstacle to peace. As stated above, the implantation of settlements and settlers is also, *prima facie*, a violation of the basic principles of international humanitarian law³² and also has been recognized as a violation of human rights norms, particularly economic, social and cultural rights.³³ Illegal settlement activity is a significant factor in Israel's confiscation of more than 70 per cent of the West Bank and 33 per cent of the Gaza Strip and East Jerusalem.

36. At the beginning of 2001, Israel maintained 19 Jewish settlements in the Gaza Strip that occupy 23,000 dunams of confiscated Palestinian land, surrounded by more than 23,000 additional dunams of confiscated land. In the West Bank, Israel maintains some 205 Jewish settlements, including some 16 Jewish settlements in occupied Jerusalem. In addition, Israel established 74 outposts (habitations built that are non-contiguous with the established settlements) after signing the Oslo Accords.³⁴

37. According to the Yesha Council for settlers, the total settler population currently numbers 227,000, excluding the settlers in West Jerusalem (since 1948) and East Jerusalem (since 1967).³⁵ Since the current Israeli Government came to power in February 2001, Israel has set up an additional 34 settlements in the occupied Palestinian territories.³⁶

38. In January 2002, the Special Rapporteur witnessed the continued construction of some 6,500 housing units for the new Jabal Abu Ghunaym/Har Homa settlement on 2,056 dunams of confiscated Palestinian land, completing the circle of Jewish settlements around occupied Jerusalem. He also visited areas of new construction in the West Bank and Gaza Strip settlement.

39. Israel has built 6,000-8,000 housing units for settler colonies in occupied Palestinian territories between 1967 and 1998. While Israel maintains that this reflects “natural” population growth, the 11-12 per cent annual increase in settler numbers far exceeds the 2 per cent population growth inside Israel.³⁷ The active and sustained implantation of Jewish settler colonies serves the geostrategic purpose of acquiring territory and natural resources and limiting the living space of the Palestinian host population. By contrast, Israeli planning authorities assign jurisdictional areas to Jewish settlements in vast disproportion to the restricted land use for comparable Palestinian population centres in the occupied Palestinian territories.³⁸ Illustrative of this is Migilot settler colony in the Judean desert. Israeli settlement planners have attributed 700,000 dunams of land to its settler population of 900.

40. Colonial settlements implanted near Palestinian built-up areas impose a 500-metre “buffer zone”, removing Palestinian homes and buildings within that distance from the settlement’s edge. In addition, the ganglia of settler bypass roads also impose the demolition of structures and closure of over 150 m of Palestinian lands to each side. Israel claims that the closure of these areas to their Palestinian owners and destruction of Palestinian properties there conform to local law and planning regulations. However, at the base of these practices is a breach of international law of treaties, as pointed out above.³⁹

41. Since the advent of the Ariel Sharon (Likud) Government, local residents report an increase in settler paramilitary activity, notably in the confiscation of lands (as well as crops, farm equipment and livestock). In that context, Jewish settlers, already favoured by the Israeli-controlled physical planning regime, since September 2000 are imposing their own boundaries and using physical force and death threats to intimidate Palestinian land holders, as in the case of settler colonies at ‘Ayn Yubrid (West Bank).⁴⁰

42. In addition to the 34 new settler colonies, Prime Minister Sharon’s Government has approved 14 new settlement plans. For the 2002 budget of Israel, US\$ 154 million were proposed for infrastructure projects, industrial investment grants, housing, agricultural programmes and educational subsidies for the illegal settlements in 2002. This is in addition to private and other sources of settlement funding, including that allotted by the Jewish National Fund and World Zionist Organization/Jewish Agency. The Israeli Government finances 50 per cent of settlement costs in the occupied Palestinian territories, while it finances 25 per cent of housing inside the Green Line. Illegal Jewish settlers in the occupied Palestinian territories, who recorded the highest per capita income of Israelis in the 1990s, receive

US\$ 520.22 per capita in subsidies from the budgets publicly disclosed, while, in the communities of Arab citizens of Israel, the most disadvantaged, individuals receive the equivalent of US\$ 234.83 in public benefits.⁴¹

VI. VIOLENCE AGAINST PALESTINIAN RESIDENTIAL COMMUNITIES

43. The Israeli occupation army frequently imposes curfews on Palestinian towns and villages in the occupied Palestinian territories. Typically, residents are allowed only four hours (between 10.00 a.m. and 2.00 p.m.) to move from their homes to carry out their daily business. There have been cases in which Jewish settlers have destroyed and confiscated Palestinian property while these communities are under curfew. Since September 2000, settlers have used firearms and other forms of violence under Israeli army and police cover, killing 18 Palestinians to date.⁴²

44. In an apparently positive development, on 27 February 2002, the Israeli High Court agreed to accept for consideration a petition requesting the Minister of Police, represented by the State Attorney's Office, the Attorney-General and the Commander of the Hebron police to respond to numerous requests for information regarding criminal complaints filed by Palestinian victims of violence committed by Israeli settlers.

45. Isolated villages and historical urban centres suffer especially. Access and movement are restricted, especially in those areas near Jewish settlements, suppressing livelihood activities and rendering impossible the maintenance and supply of households. Israel's land grabbing and a lack of ability to upgrade construction have led Palestinian communities to opt to build low-grade structures in the historical heritage areas. Gaza City, with virtually no vestige of its three millennia of urban heritage, exemplifies this phenomenon. Assaults by Jewish settlers and uniformed Israeli military have harassed and forced many Palestinian residents of al-Khalil/Hebron to leave their recently renovated homes.

46. The Special Rapporteur interviewed Ms. Na'ila al-Zaru, who was evicted twice from her historic home in the Old City of Jerusalem. The first time, she had regained her right to remain in her house following litigation brought by Israeli settlers who had squatted in her home and stolen all of her family's possessions, under Israeli police protection, while she was attending to her ailing mother in Amman, Jordan, in June 1985. Then, during the term of former Prime Minister Benjamin Netanyahu - who had pledged to occupy more Palestinian homes in the Old City - settlers brought a new case in the Jerusalem Central Court. On the morning of 25 May 1998, Israeli army and police violently evicted the widowed Ms. al-Zaru and her two children following a politicized trial in which the Israeli judge ruled on the basis of settler ideology, rather than law. Since that date, the al-Zarus have lived in a converted space in the Red Crescent Society clinic, without adequate housing or tenure. That Ms. al-Zaru owed the occupation authority-imposed "arnona" tax was used as a pretext in the original attempt to evict her from her ancestral home, to which she had title. This is one administrative device that Israel uses to carry out forced evictions and supplant the indigenous residents of the Old City with privileged Jewish settlers.⁴³

VII. GENERAL HOUSING CONDITIONS

47. Among the most common complaints of Palestinians, when asked about their housing rights, is the palpable and constant problem of high housing density. Palestinian families and communities crave space to live in and develop, as is natural for indigenous people in their own country. However, the Israeli occupation forecloses such a choice by imposing domination by a colonizing population.

48. As explained above, population transfer, confiscation of land and the combined effect of other Israeli measures have concentrated the majority of the remaining Palestinians into refugee camps, dilapidated historic city centres, high-density villages and slums. Forty per cent of the 3 million Palestinians in the occupied Palestinian territories live in housing that is inadequate by any definition.⁴⁴ Refugees are the most consistently and gravely affected victims of the *rekuz* (“concentration”) pattern of living preferred by Israeli planners for Palestinians, but additional thousands of non-refugee residents share comparably squalid living conditions. Under present conditions, the proportion and numbers of Palestinians underhoused in the occupied territories are expected to burgeon.

49. The combined factors of the conflict over the past 18 months have caused impoverished families whose houses have been demolished to camp with relatives and neighbours, sharing rents and space, and the economically destitute to seek inadequate temporary housing. This leads to further concentration of people in an already overcrowded space. The Special Rapporteur heard testimony about 16 families living on one floor in Betunia/al-Tirah (West Bank). Social and health problems naturally arise from such high density and cause secondary forms of suffering for the displaced. That all of these problems have become worse in the currently depressed economic conditions is obvious in both villages and cities, including East Jerusalem.

VIII. CLOSURE, IMPOSED ECONOMIC DEPRESSION AND HOUSING

50. Closure of the occupied Palestinian territories has remained a standard practice since 1993, in what is locally known as the “Oslo Phase of Occupation”. During the period under review (from October 2000 to September 2001), the main Gaza crossings were closed to Palestinians 74 per cent of the time. However, nominal openings meant that only 20 per cent of the previously restricted level of 29,000 passages were allowed. Only the Karni/Muntar (commercial) crossing in Gaza remained closed for 8 per cent of the time, while others (Erez/Bayt Hanun and Sufa/Qarara) remained completely closed for 61 per cent of the time.⁴⁵

51. In the West Bank, the 90,000-100,000 daily passages dropped in the last quarter of 2000 to approximately 20,000 crossings, with some increase in 2001. However, an unknown number of people were entering clandestinely.

52. The Israeli occupation forces closed the international border with Egypt at Rafah 55 per cent of the time, and sealed the borders with Jordan for 56 per cent of the time. Gaza airport remained closed 98 per cent of the time, and Israeli shelling and bombing have damaged and completely closed it.⁴⁶ In addition to the military closures of the occupied Palestinian territories, Palestinian access to Israeli ports has been restricted by arbitrary and administrative obstructions that have multiplied the costs of processing and storage, as well as by arbitrarily imposed duties and fees.

53. In the Israel-PNA negotiation process between Oslo I and Oslo II, Palestinians lost two of the three safe passage roads originally agreed upon. The only remaining "safe passage" that Israel allowed open was closed on 6 October 2000, and has remained closed ever since.

54. The closure has had devastating effects on the housing sector, including needed construction, as it has become impossible to build in the absence of free movement of personnel and materials. Consequently, investment has decreased and capital has withdrawn from the housing market, while investment resources are being spent to subsidize losses and cover dearer, more immediate needs in terms of dwellings.

55. The manufacture of construction material has fallen to 65 per cent of capacity in the occupied Palestinian territories, owing to transport, storage, raw material and other cost increases. Profits drop and clients with plunging incomes have difficulty paying, so that greater portions of company assets are tied up in accounts receivable, leading to liquidity shortages. The delays and inflation in the Israeli-controlled cement market alone amounted to a US\$ 230 million loss for Palestinian companies.⁴⁷

56. Under present conditions, the Palestinian Legislative Council cannot function and there are other constraints on legal infrastructure redevelopment; the contractual environment is hazardous and repels risk-averse investors, including the banking sector. The Israeli military attacks on and attempts to engage the civil police as if they were "combatants" have weakened law enforcement capacity further coupled with low investor and public confidence in court-based dispute resolution and the general rule of law. Building has declined which causes fiscal crises in many Palestinian municipalities, such as Bethlehem and Jerusalem, that rely not on utilities-use collections, but on building permit fees for revenue to fund local services.

57. Much of donor assistance has been repackaged as "emergency assistance", or shifted to basic food and other survival services and has shifted away from labour-intensive activities, including construction (which is often a large part of a project).⁴⁸ With incomes dropping, as many as 50 per cent of families in a recent survey reported delaying payment of an average of three utility bills.⁴⁹

58. The secondary impacts of the closure have meant a 25 per cent drop in employment in the West Bank in the first quarter of the current uprising period (October 2001). Some later improvement was attributed to emergency donor infusions.⁵⁰ In certain blighted areas, as in the southern Gaza Strip, as much as 72 per cent of Palestinians are living under the poverty line. The closure has forced many Palestinian residents of the southern Gaza Strip to remain permanently in Gaza City, since they can no longer commute to their source of livelihood. As a result, the increased demand has boosted minimum Gaza City monthly rents to US\$ 250. Many

local Palestinians seeking housing cannot afford available rental units, and some local Palestinian governmental and non-governmental institutions have provided emergency grants and loans to those hardest hit.

59. The movement of construction materials and personnel has been nearly impossible for international and United Nations redevelopment efforts as well. The closure has inflated the costs of donor-supported projects through the loss of productive time, inflated transportation costs, and road closures and damage, among other factors. The losses measured in either capital stocks or revenue flows reveal a scenario of plummeting resources for livelihood, but these indicators (emerging through available methods) tell only part of the story.

60. Based on the indicators available, it is expected that the general economy would recover to its pre-crisis level in two years only if Israel were immediately to lift all economic constraints from the occupied Palestinian territories and commerce were to develop unimpeded for that biennium.⁵¹ The alternative is economic implosion and hardships yet unseen.

61. The emerging situation is what the World Bank asserts that “all rational participants wish to avoid”. The continuing conditions “would not [be] a sustainable scenario in any conventional sense, and would lead in all probability to a functional collapse of normal civil governance within a year, a reversion from any semblance [of] modern business activity into barter trade and subsistence farming, and a growing dependence on donor food aid, as under such conditions a monetized economy can scarcely function (thus dampening the impact of further conventional donor contributions). Unemployment could climb to about 40 per cent by the end of 2002, poverty rates could reach 60 per cent of the population, and [gross national income] per capita could fall a further 30 per cent, leaving GNP per capita at only half the pre-intifada level.”⁵²

IX. REFUGEES

62. Palestinian refugees made homeless as a consequence of war (principally in 1948 and 1967) and interim expulsions remain inadequately housed since their displacement. They are victims of land, home and other property confiscation and large-scale demolition of their villages by Israel. Currently, at least 1,460,396 Palestinian registered refugees and other holders of the right of return (as well as compensation and/or restitution) reside in the territories.⁵³ The majority of these refugees still live in 30 camps created after the 1948 war (8 in Gaza and 22 in the West Bank, including Jerusalem).

63. The Special Rapporteur found the continuing violation of the right of return to be a vivid issue in his meetings with communities, human rights organizations and service providers during his visit. Refugees feel that they are the subjects of continuing violation, while serving as potentially expendable bargaining chips for political purposes outside the rule of law. Although the international community continues to provide services for Palestinian refugees, the refugees and their defenders emphasize also that there is a lack of adequate protection because they do not fall under the 1951 Convention relating to the Status of Refugees, and because the United Nations institution theoretically responsible for protection and restitution (the Palestine

Conciliation Commission) is defunct. While it is arguable that the United Nations (and, particularly, the Member State of Israel) also bear a responsibility to provide protection for these civilians, the present suffering of Palestinian refugee victims of house demolitions emphatically demonstrates the failure of the international community to offer Palestinian refugees the minimum rights to which they are entitled.

64. Israel is the primary duty holder for the implementation of the right of return without delay,⁵⁴ but has demonstrated no will to do so. The Commission and the international community must respond practically within a human rights framework, noting that violations of the right of return increase with the number of rights holders and the values of their potential compensation and restitution claims. It is not a dilemma that will soon recede. In fact, the political and logistical tasks of implementation are made more complicated and difficult with the passing of time and changing demographic conditions.

X. MISUSE AND HOARDING OF WATER RESOURCES

65. In addition to land, access to safe and sufficient water - including drinking water - is an essential element of adequate housing. Patterns of land use and consumption indicate severe discrimination against Palestinians in access to water throughout the occupied Palestinian territories, and lavish consumption by the occupying population.⁵⁵ Water is not only an essential human need, but its place in human rights lies at the confluence of human rights and housing, health and food.

66. The Special Rapporteur observed six principle methods of institutionalized Israeli violations of the Palestinian people's right to water affecting housing and habitat in the occupied Palestinian territories. These involve:

- (a) Destruction by military and paramilitary (settlers) of Palestinian water sources, pumps, wells and distribution infrastructure;
- (b) Non-provision of water infrastructure, including networks and facilities for local solutions;
- (c) Lack of proper maintenance of existing infrastructure so as to prevent leakage and water loss;
- (d) Outright prevention of Palestinians from drilling and constructing water-delivery facilities, most notably in areas of Jewish settler colonies;
- (e) Discriminatory distribution and insufficient water supply to Palestinians in areas that the Israeli water utility (*Mekorot*) controls; and
- (f) Pollution and contamination of Palestinian aquifers through the combined dumping of lethal waste, hazardous use of chemical fertilizers and overpumping, leading to salinization.

67. The Palestinian use of the Jordan River before 1967 involved the use of some 140 pumping units. Israel either confiscated or destroyed all of those facilities. In addition, Israel closed as military zones the large, irrigated areas of the Jordan Valley used by Palestinians that later were transferred to Jewish settlers.

68. Palestinian entitlements to water include the West Bank and Gaza aquifers, in addition to their rightful shares as riparians of the Jordan River. The West Bank's hydrological system includes three major aquifers: the western, north-eastern and eastern basins. The annual renewable freshwater yield of this aquifer ranges from 600 million cubic metres (MCM) to 650 MCM.

69. At present, Israel extracts more than 85 per cent of the Palestinian water from the West Bank aquifers, accounting for about 25 per cent of Israel's water use. As a result of Israeli-imposed restrictions, under typical circumstances (before the intifada), Palestinians use 246 MCM of the water resources to supply nearly 3 million Palestinians in both the West Bank and Gaza Strip with their domestic, industrial and agricultural needs. This compares with Israel's use of 1,959 MCM for its population of approximately 6 million. That translates into a per capita water consumption by Palestinians of 82 m³ as compared with 326.5 m³ for Israeli citizens and settlers. Figures for daily per capita water use indicate that Israelis - at 350 litres - use five times more than Palestinians (70 litres). In the water-scarce Gaza Strip, Israeli settlers consume 584 litres per day, or about sevenfold the Palestinian per capita consumption there.⁵⁶ Owing to leakage from undermaintained networks, the actual Palestinian per capita consumption is assumed to be lower than this indicator.⁵⁷ Both the United States Agency for International Development (USAID) and the World Health Organization (WHO) recommend 100 litres per capita for minimum daily consumption.⁵⁸

70. By contrast, Israel provides its illegal Jewish settlers with a continuous and plentiful water supply, largely from Palestinian water resources. Much of the administration and distribution of water for urban consumption in the occupied Palestinian territories remains controlled by Israel, especially in the West Bank (56 per cent).⁵⁹ The supply to Palestinians is intermittent, especially during summer months. At present, over 150 Palestinian villages (population 215,000), and perhaps as many as 282 communities in the West Bank have no direct access to a public water-distribution system.⁶⁰ When Israel nominally turned over the maintenance of the water sector to the PNA, 20 per cent of the Palestinian residents of the occupied Palestinian territories were not connected to a water network. These factors conspired to raise costs for Palestinians and reportedly have led to a black market in water in the occupied Palestinian territories.

71. Some communities, such as Burin (population 2,002), south-west of Nablus (West Bank), have no independent water supply. The closures and movement restrictions have cut them off completely from any water source. Settlers and uniformed Israeli military destroy cisterns and contaminate collection tanks and damage pumps. Under the pretext of retaliating for resistance, Israeli soldiers have destroyed water supplies of refugee camp families by shooting holes in rooftop cisterns.⁶¹

72. Aerial photos show the Gaza border as demarcating a land deprived of water. The only significant green area in the northern Gaza Strip east of Bayt Hanun has been the site where the Israeli army recently razed some 26,000 trees.⁶² Other green areas, such as Mawasi on the south Gaza coast, is one of the sites of intense settler activity and the current subject of Israeli military siege and comprehensive curfew, where adequate housing is one of the gamut of human rights denied to 15,000 Palestinian citizens.

73. The institutionalized nature of the Israeli occupation of Palestinian water resources was further entrenched in the Interim Arrangements with the Palestinian National Authority. Israel has retained the power to veto any water project through the mechanism of the Joint Water Committee and its "Civil Administration". Although this constitutes a violation of international law with regard to State responsibility, the principle concern of this review is the violation of the right to housing, of which access to safe, clean water is an integral element.

XI. ENVIRONMENTAL ISSUES

74. The "right to a safe place to live in peace and dignity" cannot be realized without also realizing the right to a safe and clean environment. In the occupied Palestinian territories, however, Israelis dump solid waste without restriction on Palestinian land, fields and side roads. The solid waste generated in West Jerusalem, for example, is transferred to the unsanitary dumping site east of Abu Dis, adjacent to the area where Israel has dumped the serially displaced Jahhalin Bedouin. That site in the West Bank overlays the infiltration area of the eastern sector of the water aquifer, and is adjacent to the area where Israel has forcibly evicted the Jahhalin Bedouin (originally evicted from the Negev, inside the Green Line, in 1979-1980) to transfer their commonly held lands to the sprawling Ma'ale Adumim settler colony. Also, the settler colonies of Ari'el, Innab, Homesh Alon Morieh, Qarna Shamron, Kadumim and others dispose of their solid waste in the West Bank, as do military camps and Israeli settler colonies inside the Green Line.

75. Israeli settler colonies in the West Bank and Jerusalem are typically placed on high ground, serving to enhance strategic domination over, and intimidation of the lower-lying Palestinian towns and villages. While wastewater from many settler colonies is collected and discharged into the nearby valleys without treatment, this also facilitates the settler colonies' pollution of Palestinian lands. The Special Rapporteur observed that the Kfar Darom Israeli settler colony in the Gaza Strip releases its sewage and chemical waste from the industrial plants into the Palestinian Al-Saqa Valley in the central part of the Gaza Strip.

76. Industrial, chemical and human waste are dumped in the West Bank and Gaza (e.g. near Salfit). A German-funded treatment plant for Salfit was planned in Area C, west of Salfit, and the municipality obtained a permit from the civil authority, but only on the condition that the plant be used for the Ariel settler colony's sewage treatment.⁶³

77. The Israeli Government has constructed at least seven industrial zones in the West Bank and one major centre in Gaza (Erez). The West Bank examples occupy a total area of approximately 302 hectares, located mainly on hilltops, from which they dump industrial wastewater onto adjacent Palestinian lands. Information as to the nature of the enterprises in the Israeli industrial zones is not accessible to the Palestinians. They can only guess on the basis of

the liquid waste flowing from the industrial area and from the solid waste found in nearby areas. Palestinian sources estimate that at least 200 Israeli factories operate in the West Bank. Some of the products are identifiable. The aluminum, leather tanning, textile dyeing, battery manufacture, fiberglass, plastics and chemicals industries are among those known to exist within these Jewish settler colonies, but detailed information on quantities produced, and waste generated is not available.

78. The Barqan industrial zone in the West Bank is a clear example of environment pollution. Aluminum, fiberglass, plastics, electroplating and military industries are known to operate inside Barqan. The industrial wastewater flows untreated to the nearby valley and damages agricultural land belonging to the neighbouring Palestinian villages of Sarta, Kafr al-Dik, and Burqin, polluting the groundwater with heavy metals. Access and resource problems are leading to deteriorating solid waste collection and disposal, with clear public health consequences.

XII. CONCLUSIONS AND RECOMMENDATIONS

79. This attempt by the Special Rapporteur to appraise the cumulative damage to the Palestinian home and land validates the assessment of the international community, including the Commission on Human Rights and the United Nations treaty bodies, that Israeli occupation has had a devastating impact on the Palestinians' housing and living conditions and that Israel bears legal responsibility. The policies of belligerent occupation and collective punishment have been marked by land confiscations, punitive house demolitions, implantation of settlements and settlers, the dismemberment of the Palestinian territories through the building of bypass roads and other infrastructure to serve illegal settlers, and the control or theft of water and other natural resources in the occupied territories. All of these have had the result of consolidating occupation on the lands occupied by force in 1967.

80. The Special Rapporteur commends the work of many local PNA institutions, non-governmental organizations and international agencies that have monitored, informed, defended and sought to remedy housing rights violations and improve the living conditions of the Palestinian civilian population in the occupied Palestinian territories under the harshest possible conditions. By no means the least of such efforts have been carried out by all of the United Nations implementing agencies, including UNDP and UNRWA, as well as the World Bank and the European Commission programmes to alleviate poverty and mitigate the impact of Israel's military occupation. The Special Rapporteur notes, however, that Israel continues to impede the United Nations and other international development operations by closing off access to the United Nations personnel and other international staff, imposing arbitrary restrictions on the movement of materials, unlawful searches and detentions, and even assaults on United Nations staff and vehicles.

81. It is ironic that the methods used to consolidate occupation have accelerated under the guise of the Oslo Peace Accords. Since the massacre of Palestinian civilians at the Noble Sanctuary, however, and the resultant Palestinian resistance marked by the second intifada, the

violence of occupation has assumed unprecedented proportions. A particularly destructive strategy has involved the use of missiles, tanks and the Israeli army's practice of "walking through the walls" used to serially damage homes in the February-March 2002 attacks on the Palestinian refugee camps.

82. The Special Rapporteur therefore concludes that Israel has:

(a) Failed to fulfil its obligations under the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child;⁶⁴

(b) Manipulated the ethnic character of the West Bank (including Jerusalem) and the Gaza Strip through the illegal implantation of settlers and settlements, and denied residency status and family unification to Palestinian Jerusalemites; and

(c) Impeded development activities, including those of the United Nations and other international agencies, aimed at fulfilling housing rights and building infrastructure for the Palestinian community.

83. It is in light of these effects of Israeli occupation that the international community of States remains duty bound to intervene to protect the Palestinian community, their homes and lands from further destruction and to ensure that the occupying Power is held to account for breaches of humanitarian law and other treaty obligations so as to ensure restitution of the Palestinian's human right to housing, including their public and private lands and other natural resources. The Special Rapporteur, therefore, presents the following practical recommendations for the Commission's consideration:

(a) Fulfilment of the right to adequate housing and all other economic, social and cultural rights should constitute a framework for any political initiatives and negotiations towards a resolution of the conflict in Israel and the occupied Palestinian territories and the preservation of regional peace and security;

(b) In order to restore peace and order, it is imperative that an international protection force (under the jurisdiction of the United Nations) be dispatched to the occupied territories on an urgent basis. Such a force must have as a priority the protection of Palestinian homes and lands from further incursions by Israeli authorities and the safe and unimpeded conduct of the United Nations and other international development efforts within the provisions of international law;⁶⁵

(c) The occupation should end completely including:

(i) Dismantling of all illegal settlements, including an immediate halt to new Jewish settlement and other outpost planning and construction, expansion of existing settlements and outposts, and planning and construction of bypass roads and tunnels;

- (ii) A moratorium on land confiscations and house demolitions for any purpose, and the cancellation of all existing demolition orders;
- (iii) A halt to further construction of bypass roads, tunnels and other infrastructure for Jewish settlements;
- (iv) Restoration of public and private Palestinian land and properties to their rightful owners;
- (v) A complete halt to, and diligent prosecution of all criminal acts by settlers, particularly the use of firearms, other forms of violence, occupation, theft and damage to homes, lands and infrastructure; and
- (vi) The prompt and complete withdrawal of all Israeli forces and agents from all areas occupied in 1967, in accordance with binding Security Council resolutions;

(d) Immediate respect for and restoration of the economic, social and cultural rights of Palestinians, including their rights to housing, through international cooperation with the Palestinian National Authority and implementation of the Palestinian National Human Rights Plan of Action. International cooperation may also include active involvement of the United Nations Housing Rights Programme, and its lead agencies (OHCHR and UN-HABITAT) to address the grave housing crisis in the occupied Palestinian territories;

(e) Reparations⁶⁶ for the material losses of Palestinian civilian victims based on replacement value, loss of livelihood/income, unauthorized use of property, as well as adequate compensation for non-material losses, including the physical and psychological impact of home demolitions and land confiscations and the resulting displacements, including the creation of refugees;

(f) The Special Rapporteur suggests that he should continue consulting with official and non-governmental institutions concerned with monitoring the right to housing and, particularly, to work with international and local partners to develop and apply a common methodology for quantifying the losses and costs in cases of housing rights violations.⁶⁷ This would serve to understand more clearly the consequences, reconstruction priorities and terms of adequate compensation;

(g) The Special Rapporteur requests that the Commission call for an assessment of the United Nations operations in the occupied Palestinian territories with a view to providing local capacity in legal affairs to respond to military and other obstacles to civil projects, particularly in view of the fact that it is the Israeli Military Government that controls areas of the occupied Palestinian territories where the United Nations agencies operate, and Israeli breaches of international law require a specialized response beyond the administrative capacity of the United Nations field operations;

(h) The Special Rapporteur requests the Commission to authorize another mission to the occupied Palestinian territories that would allow him to continue his monitoring activities on the housing rights situation in the occupied Palestinian territories and report to the Commission and to comply with the Commission's call in resolution S-5/1 for up-to-date information to be presented to the General Assembly;

(i) In light of the grave situation regarding a range of economic, civil, cultural, social and political rights in the occupied Palestinian territories, the Commission may wish to reiterate its request to all relevant thematic special rapporteurs urgently to conduct visits to the occupied Palestinian territories and report to the Commission and to the General Assembly.

Notes

¹ Since the Beit El case (High Court of Justice 606, 610/78, *Suleiman Tawfiq Ayyub et al. v. Minister of Defence et al*, Piskei Din 33 (2)), the High Court of Justice has ruled that the Hague Regulations (1907) are customary law, therefore automatically part of municipal law and judiciable in Israel.

² Under its article 20 (a) (vii), the International Law Commission's Draft Code of Crimes against the Peace and Security of Mankind sets forth that unlawful deportation or transfer of a population constitutes a war crime. Populations transfer, once considered a bygone feature of war, has returned alarmingly to several cases of armed conflict in the past decade. In other areas, it remains an aspect of standard policy and practice for the purpose of demographic manipulation. Owing to the grave human consequences of the practice in history, humanitarian law norms, notably the Fourth Geneva Convention (art. 49) prohibits forcible population transfer and the Rome Statute of the International Criminal Court, defines "forcible transfer of population" (art. 7.2 (d)) and identifies it as a crime against humanity (art. 7.1 (d)), and therefore a war crime, a grave breach of the Fourth Geneva Convention (art. 8.2 (a) (vii)) and a serious violation of international law (art. 8.2 (b) (viii)). The United Nations Special Rapporteurs on the human rights dimensions of population transfer identified population transfer (E/CN.4/Sub.2/1993/17) as a prima facie violation of international law, and the International Law Commission also identified it as a crime against humanity in its Draft Code of Crimes against the Peace and Security of Mankind (art. 18 (g)).

³ General Assembly resolution 51/190 "Permanent sovereignty of the Palestinian people in the occupied Palestinian territories, including Jerusalem, and of the Arab population in the Syrian Golan over their natural resources", of 16 December 1996; and Security Council resolutions 446 (1979) of 22 March 1979, 452 (1979) of 20 July 1979, 465 (1980) of 1 March 1980, 471 (1980) of 5 June 1980, and 904 (1994) of 18 March 1994; and Security Council resolutions concerning Jerusalem: 252 (1968) of 21 May 1968, 267 (1969) of 3 March 1969, 298 (1971) of 25 September 1971, 476 (1980) of 30 June 1980, and 478 (1980) of 20 August 1980.

⁴ Under Israeli law, anyone considered eligible for “Jewish nationality” can obtain this preferential status on the basis of (a) a claim to profess the Jewish religion and (b) arrival in the country. By contrast, a citizen of the State of Israel who is not bona fide as Jewish can never hold this status, even if s/he is born there. In the case of *George Tamarin v. the State of Israel* (1971), a Jewish Israeli petitioned the High Court of Israel unsuccessfully to have the official registration of his nationality changed from “Jewish” to “Israeli.” The High Court ruled that “there is no Israeli nation separate from the Jewish nation ... composed not only of those residing in Israel but also of Diaspora Jewry”. Then President of the High Court Justice Shimon Agranat explained that acknowledging a uniform Israeli nationality “would negate the very foundation upon which the State of Israel was formed”, *New York Times*, 21 January 1972, p. 14; cited in Oscar Kraines, *The Impossible Dilemma: Who is a Jew in the State of Israel* (New York: Bloch Publishing, 1976). Nationality status in Israel is not linked to origin from, or residence in a territory, as is the norm in international law. Rather, the basic theocratic character of the Israeli legal system establishes ethnic criteria as the grounds for the enjoyment of full rights. The Israeli Citizenship Law (*ezrahut*), officially mistranslated as “Nationality Law”, establishes a civil status distinct from “Jewish nationality”.

⁵ Since the signing of the Wye River Accord, an estimated 27,385 dunams have so far been confiscated: 12,238 dunams up to the end of 1998 and a further 15,147 dunams in the first three months of 1999. The expropriated land will be used for the construction of bypass roads, settlement expansion and construction of industrial zones, among other purposes. According to field work by the LAW Society for Human Rights and the Environment, Israeli authorities have confiscated 3,459 dunams to construct gas stations and industrial zones on the Palestinian village lands of Kufur Qaddum, Asamou, Jab’a, Tal Mariam, Bayt Sira and Athahiriah. The land confiscations in the first three months of 1999 took place in: Ramallah (2,395 dunams), Hebron (1,558 dunams), Bethlehem (580 dunams), Jenin (558 dunams), Salfit and Nablus (3,290 dunams), Tulkarem (200 dunams), Qalqilya (450 dunams), Jerusalem (4,019 dunams), Gaza (17 dunams), Rafah (50 dunams) Khan Yunis (30 dunams), and Jericho and the northern Jordan Valley (2,000 dunams).

⁶ “Greater Jerusalem” (Washington: Foundation for Middle East Peace, Summer 1997). As of May 1999, the source indicated, Israel had confiscated 5,845 acres (23,380 dunams): “Israel’s Uncertain Victory in Jerusalem” (Washington: Foundation for Middle East Peace, Spring 1999). This does not account for the Palestinian lands, villages, homes and other properties Israel seized in the conquest of West Jerusalem in 1948, and continues to possess.

⁷ 7.3 per cent cited on <http://www.badil.org>; 8 per cent cited in Department of International Relations, Orient House, “Forced Eviction and Dispossession of Palestinians in Occupied Jerusalem by Current Israeli Policies” (February 2000), p. 13.

⁸ The Hague Convention of 18 October 1907 and Annexed Regulations concerning the Laws and Customs of War on Land (Convention No. IV of 1907). Article 43 reads: The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

⁹ Amnesty International, "Israel and the Occupied Territories - Demolition and dispossession: the destruction of Palestinian homes" (London: Amnesty International, December 1999).

¹⁰ In Shu'fat, Bayt Hanina, Ashqariya and Qaddum/Silwan. Land and Housing Research Centre, "Annual statistical report on house demolition in Jerusalem", 10 January 2002.

¹¹ For example, occupation forces demolished 11 housing units belonging to Jerusalem contractor Ibrahim Julani on 20 August 2001.

¹² These numbers do not include the homes families are forced, under court order, to demolish by themselves.

¹³ Meeting with Land and Housing Research Center (Jerusalem), 6 January 2002.

¹⁴ Land and Housing Research Center, "Israel destroys 23 houses in Jerusalem on one day" (July 2001).

¹⁵ E/C.12/1/Add.27 of 4 December 1998, para. 22. See also paras. 11, 12, 22, 28 and 41, in which CESCR addressed the practice of demolishing Palestinian homes and policies leading to declining living conditions on both sides of the Green Line (Israel's 1948 border). CESCR reiterated its concern in its subsequent letter to the Permanent Representative of Israel to the United Nations Office at Geneva, of 1 December 2000, its letter to the Economic and Social Council of 4 May 2001, and in its concluding observations of 31 August 2001 (E/C.12/1/Add.69).

¹⁶ Under article 16 of the Convention. See conclusions and recommendations of CAT CAT/C/XVII/Concl.5 of 23 November 2001, para. 6 (j).

¹⁷ According to data collected by al-Haq: Law in the Service of Man (Ramallah). Special Rapporteur's meeting with Sha'wan Jabareen, al-Haq, Ramallah, 6 January 2002.

¹⁸ According to data collected by the LAW Society for Human Rights and the Environment (Jerusalem). Special Rapporteur's meeting with Hasib Nashashibi, LAW, Ramallah, 6 January 2002.

¹⁹ Facsimile letter from Raji Sourani, Director, Palestinian Centre for Human Rights, to the Special Rapporteur, 15 January 2002.

²⁰ While operating under the 16 December 2001 ceasefire.

²¹ Palestinian Centre for Human Rights, Press Release 4/2001, 12 January 2002.

²² E. El-Sarraj, A.A. Tawahina and F. Abu Hein, “The Story of Uprooting”, presented at the first International Conference on the Mental Health and Psychological Well-being of Refugees and Displaced Persons, Stockholm, 6-11 October 1991, cited in S. Quota, Raija-Leena Punamäki and E. El-Sarraj, “House Demolition and Mental Health: Victims and Witnesses”, *Journal of Social Distress and the Homeless*, vol. 6, No. 3, 1997, p. 210.

²³ A study of the mental health effects on victims of Israel’s demolition of Palestinian homes at al-Ammal and Bayt Labia (Gaza) in February 1993 records the experiences of a loss group, witness group and control group. See Quota, Punamäki and El-Sarraj, *op. cit.*

²⁴ See for example, “The First GCMHP Study on the Psychosocial Effects of the Al-Aqsa Intifada: Significant Increase in Mental Disorders and Symptoms of PTSD among Children and Women”, forthcoming (2002) from the Gaza Center Mental Health Programme (GCMHP).

²⁵ Jeff Halper, “Rafah: Holding Israel Accountable”, at <http://www.mediamonitors.net/halper7.html>.

²⁶ Submission by the Executive Assistant to Israeli State Prosecutor Yehuda Shaefer, 17 January 2001.

²⁷ Randy Engel, “The Bishops’ Collective: A Report and Commentary on the NCCB/USCC [National Conference of Catholic Bishops/United States Catholic Conference] Atlanta Meeting, 14-16 June 2001”, at <http://www.catholictradition.org/cfn-bishops.htm>; also testimony of Palestinian Agricultural Relief Committee (PARC). Special Rapporteur’s meeting with Jawda Abdalla, PARC, Ramallah, 6 January 2002.

²⁸ Testimony of a West Bank NGO in meeting with the Special Rapporteur, Ramallah, 6 January 2002.

²⁹ See World Bank, “One Year of *Intifada*”, Jerusalem, February 2002, p. 23. The price of cement increased from NIS 330 to NIS 650 per ton, according to a Ministry of Planning and International Cooperation (MoPIC) assessment.

³⁰ US\$ 11.38 million in Gaza and US\$ 8.28 million in the West Bank. “One Year of *Intifada*”, *ibid.*, Sectoral Damage Tables, pp. 87-89. See also Ministry of Housing Table (in the text), also reflecting similarly high proportions of residential building destruction.

³¹ “Israeli attacks on the camps imposes heavy costs on UNRWA”, UNRWA press release, 20 March 2002, at <http://www.un.org/unrwa/arabic/news-ar/>.

³² Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), art. 49.

³³ See *supra* note 15.

³⁴ Special Technical Unit (STU), MoPIC, January 2000, at <http://www.palestinemonitor.org/factsheet/settlement.html>.

³⁵ Ibid. The combined figures indicate more than 403,249 settlers in the West Bank, 211,788 of whom live in East Jerusalem.

³⁶ Figures as of 19 March 2002, reported by Settlement Watch Project of Peace Now, at <http://www.peacenow.org.il/English.asp?Redirect=4&CategoryID=45&ReportID=236>.

³⁷ As of figures for December 1999 released by the Council for Jewish Communities in Judea, Samaria and Gaza and compared with Israeli Central Bureau of Statistics counts in December 1998. Nadav Shragai, "Number of Jews in settlements skyrockets", *Ha'aretz*, 21 February 2000.

³⁸ According to findings of B'Tselem (Jerusalem). Special Rapporteur's meeting with Ezekiel Lein and Jessica Montell (B'Tselem), 7 January 2002, and subject of a forthcoming B'Tselem study, "Land grab: Israel's settlement policy in the West Bank", at <http://www.btselem.org>.

³⁹ In addition to references supra, the Vienna Convention on the Law of Treaties (art. 27) provides that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."

⁴⁰ Testimony of Isa Samandar, Land Defence Committee, in meeting with Special Rapporteur, Ramallah, 6 January 2002.

⁴¹ Based on exchange rate of 4.45 new Israeli shekels to the US dollar. Figures provided in the Adva Center, "Governmental Funding of the Israeli Settlements in the West Bank, Gaza Strip and Golan Heights in the 1990s of Local Governments, Home Construction, and Road Building", 27 January 2002, summarized in Nehemia Strasler, "Every settler a king", *Ha'aretz Daily*, 1 February 2002.

⁴² See detailed list in Palestinian Human Rights Monitoring Group, "Summary of Palestinian Fatalities from 29/9/2001 till 18/3/2002", at www.phrmg.org/aqsa/settlers.htm.

⁴³ See also Jerusalem Center for Women, "Settler attacks: in the eyes of the women of Jerusalem", November 2001.

⁴⁴ Viktoria Waltz, "A Social Orientated Housing Program and Policy for Palestine" (Ministry of Housing, 10 November 1999).

⁴⁵ World Bank, op. cit., pp. 9-11.

⁴⁶ Ibid., pp. 10-11.

⁴⁷ Ibid., p. 93.

⁴⁸ Ibid., p. 71 and note 95. As much as 66 per cent is typically spent on construction. Construction projects can have a labour content of 45 per cent.

⁴⁹ Ibid., p. 41.

⁵⁰ Ibid., p. 19.

⁵¹ Ibid., p. 17 and chap. 5.

⁵² Ibid., p. 80.

⁵³ UNRWA figures as of 30 June 2001, including Jerusalem. "UNRWA in Figures" (Gaza: UNRWA Public Information Office, June 2000). The figures are considered to be a "guideline", as true numbers are likely greater.

⁵⁴ Under General Assembly resolution 194 (III) of 10 October 1948, para. 11; 2963 (XXVII) D of 13 December 1972; 3089 (XXVIII) of 7 December 1973 and 3236 (XXIX) of 22 November 1974, esp. para. 2; and Security Council resolution 237 (1967) of 14 June 1967.

⁵⁵ See CESCR concluding observations E/C.12/1/Add.27, op. cit., paras. 10, 24, 32, 41 and E/C.12/1/Add.69, op. cit., paras. 42, 20, 23 and 26.

⁵⁶ B'Tselem, *Thirsty for a Solution*, position paper (Jerusalem: B'Tselem, 2000), p. 6.

⁵⁷ Loss could be as much as 25-36 per cent, as explained in *ibid.*, pp. 53-54.

⁵⁸ United States Agency for International Development, "Report of the West Bank and Gaza Mission" (Washington: USAID, 1999), at <http://www.usaid-wbg.org/water.html> and WHO, "Guidelines for Drinking Water Quality" (Geneva: WHO, 1998), at http://www.who.int/water_sanitation_health/GDWQ.

⁵⁹ "Palestinian Water Consumption" in B'Tselem, op. cit.

⁶⁰ B'Tselem, op. cit., cites 150, while the Palestinian Ministry of Planning and International Cooperation (MoPIC) counts 282. MoPIC, *Regional Plan for the West Bank Governorates Water and Waste Water Existing Situation* (Gaza: PNA, 1998), at http://planning.pna/wastewater/water_wastewater.html.

⁶¹ See E/CN.4/2001/30 and B'Tselem, "Not Even a Drop: The Water Crisis in Palestinian Villages without a Water Network" (Jerusalem: B'Tselem, 2001), p. 9.

⁶² The World Bank counts 23,000 by early November 2001. See "One Year of *Intifada*" op. cit., p. 92. Subsequent figures are taken from the Applied Research Institute of Jerusalem-ARIJ (Bethlehem). Special Rapporteur's meeting with Jad Isaac (ARIJ), Bethlehem, 7 January 2002 .

⁶³ ARIJ, *ibid.*

⁶⁴ See concluding observations (Israel) of the Committee on the Elimination of Racial Discrimination, CERD/C/304/Add.45; concluding observations (Israel) of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.27 of 4 December 1998, with particular reference to the obligations to uphold the right to housing, paras. 10, 21-28 and 41 and concluding observations (Israel), E/C.12/1/Add.69 of 31 August 2001, with reference to housing rights, para. 15; report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/S-5/3 of 17 October 2000), para. 6.

⁶⁵ With particular reference to the full implementation of the Convention on the Privileges and Immunities of the United Nations (1946) and the Convention on the Privileges and Immunities of the Specialized Agencies (1947).

⁶⁶ See, in this context, the Basic principles and guidelines on the right to reparation for victims of [gross] violations of international human rights and humanitarian law, prepared by Mr. Theo van Boven, former Special Rapporteur of the Sub-Commission (E/CN.4/1997/104, annex) and subsequently revised (“Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law”) by Mr. Cherif Bassiouni, independent expert of the Commission (E/CN.4/2000/62, annex) for consideration by the Commission.

⁶⁷ The Special Rapporteur notes, in particular, the “housing rights barometer/tool kit” developed by the Habitat International Coalition (available at <http://www.hic-mena.org>).



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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the Special Rapporteur of the Commission on Human Rights,
Mr. John Dugard, on the situation of human rights in the Palestinian
territories occupied by Israel since 1967, submitted in accordance with
Commission resolutions 1993/2 A and 2002/8**

Executive Summary

In the past year the situation in the occupied Palestinian territory (OPT) has deteriorated substantially from the perspective of human rights. In large measure this is the result of repeated military operations carried out by the Israel Defence Forces (IDF) in the West Bank and Gaza.

The IDF has justified its actions as self-defence and anti-terrorism measures. That Israel has legitimate security concerns cannot be denied. That it is entitled to take strong action to prevent suicide bombings and other acts of terror is not disputed. On the other hand, there must be some limits on the extent to which human rights may be violated in the name of anti-terrorism. A balance must be struck between respect for basic human rights and the interests of security. The principal balancing factor - proportionality - is the main focus of this report.

Neither party to the conflict in the region has paid proper respect to civilian life and the death toll has continued to rise. Since the start of the second intifada in September 2000, over 2,000 Palestinians and over 700 Israelis have been killed. Most have been civilians.

The IDF military incursion of March to May, code-named Operation Defensive Shield, caused material devastation in many cities - particularly Jenin and Nablus. This was followed by Operation Determined Path in June which resulted in the reoccupation of seven of the eight major cities in the West Bank. Curfews imposed on Jenin, Qalquiliya, Bethlehem, Nablus, Tulkarem, Ramallah and Hebron have subjected over 700,000 persons to a regime similar to house arrest. The curfews are complemented by a system of roadblocks and checkpoints which have effectively divided the West Bank into some 50 separate "cantons", between which movement is difficult and dangerous. The reoccupation has affected every feature of Palestinian life. There have been shortages of basic foodstuffs; interference with medical services by the denial of access to doctors and hospitals; interruption of family contacts; and stoppages of education. Unemployment has now reached over 50 per cent and 70 per cent of the population live in poverty. In this situation there is a desperate need for humanitarian assistance. It has, however, been suggested that such assistance in effect means that the international donor community funds the military occupation.

Military operations have led to widespread arrests and detentions.

Children have probably suffered most from the present conflict. Both Palestinian and Israeli children have been exposed to threats to personal safety, while Palestinian children have, in addition, felt the breakdown of family life, health care and education.

Israeli territorial expansion has accelerated in the past year as a result of seizure of Palestinian land to build a security wall and for the continued growth of settlements.

The report concludes that it is difficult to characterize the Israeli response to Palestinian violence as proportional when it results in an excessive use of force that disregards the distinction between civilians and combatants, a humanitarian crisis that threatens the livelihood of a whole people, the killing and inhuman treatment of children, the widespread destruction of property and territorial expansion.

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I. Introduction

1. The Special Rapporteur visited the occupied Palestinian territory (OPT) and Israel twice in 2002. The first visit, in February, laid the foundation for the report to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2002/32), while the second, in late August, provided the basis for the report to the General Assembly (A/57/366 and Add.1). The present report, written four months before its presentation in order to comply with administrative requirements relating to the submission of reports, will be supplemented by an addendum written after a further visit to the region in February 2002.

2. In 2002 the situation in the region deteriorated substantially from the perspective of human rights. Repeated Israeli military operations in the West Bank and Gaza have left physical, economic and social devastation in their wake. This devastation, coupled with the curfews imposed in the major Palestinian cities and the intensification of checkpoints that obstruct mobility between towns and villages have brought about a humanitarian crisis which has added poverty to the woes of the Palestinians. The serious violation of economic, social and cultural rights has been accompanied by the continued violation of civil rights and international humanitarian law. The death toll in both Palestine and Israel has risen sharply, largely as a result of indiscriminate suicide bombings in Israel and the excessive use of force against civilians by the Israel Defence Forces (IDF) in Palestine. Detentions, inhuman treatment and the destruction of property have also multiplied. Meanwhile, Jewish settlements in the West Bank and Gaza continue to grow despite unanimous international condemnation and assurances from the Government of Israel that restrictions have been placed on such growth.

3. Much will happen in the region between the writing of this report and its presentation in March 2003. Elections in Israel and, possibly, Palestine are anticipated early in 2003, and the threat of war in Iraq remains a reality. The effect of events of this kind, and the consequences of the ongoing violence, are impossible to predict with accuracy. One prediction, however, seems sure: the situation will deteriorate further unless, miraculously, serious negotiations between Israelis and Palestinians resume.

I. HUMAN RIGHTS AND TERRORISM

4. Many of the rights contained in the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights have been violated by IDF in their actions against the Palestinian people. Many of the obligations of international humanitarian law have likewise been violated. That this is so is not seriously contested by Israel. Loss of life, inhuman and degrading treatment, arbitrary arrest and detention without trial, restrictions on freedom of movement, the arbitrary destruction of property, the denial of the most basic economic, social and educational rights, interference with access to health care, the excessive use of force against civilians and collective punishment are instead justified as self-defence and legitimate anti-terrorism action. That Israel has legitimate security concerns cannot be denied. That it is entitled to take strong action to prevent suicide bombings and other acts of terror is not disputed. On the other hand, there must be some limits on the extent to which human rights may be violated in the name of anti-terrorism action. Even

in the present international environment, in which anti-terrorism measures challenge old liberties and freedoms, it is not denied that a balance must be struck between respect for basic human rights and the interests of security.

5. In searching for this balance many factors must be considered, including the causes of the terrorism, the possibility of achieving a peaceful end to terrorism by addressing its causes, and the proportionality of the response taken to the acts of terrorism. The Special Rapporteur remains convinced that Israel's military occupation of the Palestinian territory is a major cause of terrorism and that the ending of the occupation is politically achievable. The Government of Israel has previously condemned these assessments as political judgements falling outside the mandate of the Special Rapporteur. Consequently, the principal balancing factor - proportionality - will be the main focus of this report. The violation of human rights and international humanitarian law will be described and the question asked whether the measures taken by Israel to defend itself can legitimately be said to fall within the bounds of proportionality. It is not possible to adopt an armchair attitude in making this assessment. Israel is entitled to a wide margin of appreciation in its response. But, even allowing for this, it may be that Israel's response to terror is so disproportionate, so remote from the interests of security, that it assumes the character of reprisal, punishment and humiliation.

II. LOSS OF LIFE AND THE KILLING OF CIVILIANS

6. For both human rights law and international humanitarian law the protection of human life is the primary goal. Article 6, paragraph 1, of the International Covenant on Civil and Political Rights states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." While accepting that combatants engaged in an armed conflict will be exposed to life-threatening situations, international humanitarian law seeks to limit harm to civilians by requiring that all parties to a conflict respect the principles of distinction and proportionality. The principle of distinction, codified in article 48 of the Additional Protocol I to the Geneva Conventions of 1949, requires that "the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives." Acts or threats of violence, the primary purpose of which is to spread terror among the civilian population, are prohibited (art. 51, para. 2). The principle of proportionality codified in article 51, paragraph 5 (b) prohibits an attack on a military target which may be expected to cause incidental loss of civilian life, injury to civilians and damage to civilian objects which would be excessive in relation to the concrete and direct military advantage anticipated. That these principles apply to both Israelis and Palestinians was confirmed by the High Contracting Parties to the Fourth Geneva Convention when, in a declaration issued on 5 December 2001, they called on both parties to the conflict to:

"... ensure respect for and protection of the civilian population and civilian objects and to distinguish at all times between the civilian population and combatants and between civilian objects and military objectives. They also call upon the parties to abstain from any measures of brutality and violence against the civilian population whether applied by civilian or military agents and to abstain from exposing the civilian population to military operations.¹

7. Sadly, neither party to the conflict in the region has paid proper respect to these principles as the death toll has continued to rise. Since the start of the second intifada in September 2000, over 2,000 Palestinians and over 700 Israelis have been killed and 25,000 Palestinians and 4,700 Israelis have been injured. Most have been civilians.

8. Within Israel, most deaths have been caused by suicide bombers who have carried their lethal weapons of destruction onto buses and into busy shopping centres. Israel has been subjected to more than 1,100 terrorist attacks since September 2000. Between March and June 2002, when there was a spate of suicide bombings in Israel, more than 250 Israelis were killed, of whom 164 were civilians and 32 children.² Despite condemnation from the Palestinian Authority and prominent Palestinian community leaders - and the international community - this instrument of terror, which shows no regard for either the principle of distinction or that of proportionality, continues to be used by paramilitary Palestinian groups.³

9. IDF, well educated in the rules of international humanitarian law, have likewise shown little regard for the principles of distinction or proportionality. Military incursions into the West Bank and the reoccupation of Palestinian towns and cities in 2002 resulted in heavy loss of civilian life. According to Amnesty International, in the four months between 27 February and the end of June 2002 - the period of the two major IDF offensives and the reoccupation of the West Bank - IDF killed nearly 500 Palestinians. Although many Palestinians died during armed confrontations many of these killings by IDF appeared to be unlawful and at least 16 per cent of the victims - more than 70 - were children.⁴

10. Disregard for civilian life was evident in Operation Defensive Shield, in March and April 2002, in which the refugee camp of Jenin and the city of Nablus were subjected to heavy bombardment from air and land before IDF troops entered, employing bulldozers to facilitate their movement and allegedly using Palestinian civilians as human shields against snipers. Of the 80 persons killed in Nablus, 50 were civilians, and of the 52 killed in Jenin, 22 were civilians. Since November 2000, IDF has targeted and killed a number of selected militants in precision bombings. These assassinations have often been carried out, however, with no regard for civilians in the vicinity. Of the 179 persons killed in such actions, at least one third have been civilians. The following incident starkly illustrates the manner in which such attacks have sometimes been made. On 22 July, IDF carried out a late-night air strike aimed at Hamas military leader Salah Shehada while he was in a densely populated residential area of Gaza City; the raid killed 15 persons (including 9 children) and injured over 150 others.

11. No attempt is made to seek an equivalence between civilian deaths caused by suicide bombings carried out by non-State actors, where civilians are deliberately targeted, and civilian deaths that result from "collateral damage" in military action carried out by a State actor with reckless disregard for human life. Terror bombings and military offensives in civilian areas conducted without adequate regard for the safety of civilians serve completely different purposes. But the result is the same: loss of innocent civilian lives. From a moral perspective both are reprehensible: the former, because they deliberately disregard the lives of innocent civilians; the latter because they recklessly disregard human life.

III. THE HUMANITARIAN CRISIS CAUSED BY MILITARY OCCUPATION

12. In the past year Palestinian society has been subjected to a military occupation that has damaged, possibly beyond repair, political institutions, commercial enterprises, public services, hospitals, schools, families and lives. The IDF military incursion of March to May, code-named Operation Defensive Shield, caused material devastation in many cities - particularly Jenin and Nablus. This was followed by Operation Determined Path in June which resulted in the reoccupation of seven of the eight major cities in the West Bank and adjoining refugee camps and villages. Curfews imposed on Jenin, Qalquiliya, Bethlehem, Nablus, Tulkarem, Ramallah and Hebron have subjected over 700,000 persons to a regime similar to house arrest which confines them to their homes, except every third or fourth day when the curfew is lifted for several hours to allow residents to obtain essential supplies. The curfew is strictly enforced by IDF and there have been many incidents of shooting of civilians who failed to observe the curfew. By October 2002 15 civilians, mainly children, had been shot dead by IDF soldiers enforcing curfews. Curfews have been lifted and reimposed according to the security situation. In September 2002, 688,000 Palestinians in 39 towns, villages and refugee camps in the West Bank were confined to their homes under curfew for varying numbers of days.

13. Military action and curfews are not the only instruments of repression. Military checkpoints and roadblocks complement these instruments. There are some 300 roadblocks of which 120 are manned. According to the ex-Minister of Defence, Benjamin Ben-Eliezer, "The directive of the Military Command is to freeze all traffic on West Bank roads, including taxis, buses, private vehicles and others according to security needs."⁵ The "freezing" of traffic on the West Bank has resulted in the strangulation of Palestinian society as the West Bank is now effectively divided into some 50 separate "cantons" and movement between them is both difficult and dangerous. Checkpoints are largely manned by young soldiers who are given arbitrary power to allow or refuse vehicles and pedestrians permission to continue their journeys.

14. Humanitarian considerations are often not taken into account by those manning checkpoints. Vehicles carrying humanitarian aid are stopped and searched, with resulting delays. Still worse, ambulances are sometimes denied access to hospitals or delayed unnecessarily, with resulting loss life. In November, IDF first shot United Nations Relief and Works Agency for Palestine Refugees in the Near East official John Hook and then allowed him to bleed to death by denying the ambulance carrying him access to a hospital in time.

15. Equitable access to scarce water resources is a central feature of the Palestine-Israel conflict. According to the Humanitarian Plan of Action 2003 for the Occupied Palestinian Territory compiled by the United Nations Technical Assessment Mission of October 2002:

"In the West Bank alone, more than 200,000 people who depend on supplies brought in by water tankers are left without adequate water supply for long periods because of curfews and closures. In addition to problems caused by access, a number of water systems (water pipes, pumps and wells) were destroyed by the IDF during 'Operation Defensive Shield' and the ongoing reoccupation of the Palestinian self-rule Areas.

Furthermore, a sizeable number of wells and reservoirs in rural areas have been damaged, destroyed or made inaccessible because of violence. A number of the West Bank villages adjacent to Israeli settlements have been and are currently suffering from recurrent closures of main valves on their water networks.”⁶

16. The reoccupation has affected every feature of Palestinian life. There have been shortages of basic foodstuffs, interference with medical services by the denial of access to doctors and hospitals, interruption of family contacts and stoppages of education. Municipal services, including water, electricity, telephones and sewage removal, have been terminated or interrupted, and IDF has denied permission to repair damaged municipal service supply units. There has also been a near complete cessation of productive activity in manufacturing, construction and commerce as well as private and public services, which has had serious consequences for the livelihood of most of the population.

17. Unemployment, which stood at 9 per cent in September 2002, has now reached 50 per cent, 60 per cent or 80 per cent in different areas. Poverty, defined as living on less than US\$ 2 per day per capita, is at 70 per cent. A total of 1.8 million Palestinians receive food aid or other forms of emergency humanitarian support from a variety of sources, notably UNRWA, the World Food Programme and the International Committee of the Red Cross. (And, sadly, to add to the woes of the Palestinians, settlers have stolen their olive crops in some areas.) Twenty-two per cent of children under the age of five suffer from acute or chronic malnutrition, while 20 per cent suffer from iron-deficiency anaemia. Mental health problems have increased alarmingly among children. Health care has suffered drastically as a result of the unavailability of medication and the inability to reach health centres. As usual, the situation in the refugee camps is particularly bleak, as was evident when the Special Rapporteur visited the Balata refugee camp near Nablus in August.

18. Many provisions of the International Covenant on Civil and Political Rights have been violated by the reoccupation, notably articles 6 (right to life), 7 (freedom from inhuman and degrading treatment), 9 (freedom from arbitrary arrest), 12 (freedom of movement) and 17 and 23 (right to family life). But it is the economic, social and cultural rights of Palestinians that have suffered most as a result of the reoccupation. The right to work and to earn a living (International Covenant on Economic, Social and Cultural Rights, arts. 6 and 7), to adequate food, clothing and housing (art. 11), to physical and mental health (art. 12), and to education (art. 13) are meaningless in a society subject to curfew and closure. How action that causes so much suffering to so many can ever be seen as a proportional response to terrorism is beyond comprehension.

IV. THE DILEMMA OF HUMANITARIAN ASSISTANCE

19. The law governing occupation, reflected in international custom, the Hague Regulations Respecting the Laws and Customs of War on Land of 1907 and the Fourth Geneva Convention, is designed to ensure that, notwithstanding the security needs of the occupying Power, the day-to-day lives of civilians in an occupied territory will continue normally. In today's world, this means that civilians must have adequate food, shelter, electricity and water; that municipal services such as garbage and sewage removal will continue; that the sick will have access to proper medical care; and that education will not be obstructed.

20. The Fourth Geneva Convention elaborates on the responsibility of the occupying Power to ensure that the basic needs of the inhabitants of an occupied territory are provided. It imposes obligations on the occupant to ensure “the food and medical supplies of the population” and to “bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate” (art. 55); to ensure and maintain “the medical and hospital establishments and services, public health and hygiene in the occupied territory” (art. 56); and to facilitate “the proper working of all institutions devoted to the care and education of children” (art. 50). Moreover, article 60 provides that “[r]elief consignments shall in no way relieve the Occupying Power of its responsibilities under Articles 55 [and] 56”. Obligations to provide postal services, telecommunications and transport and to maintain public welfare institutions may also be inferred from the Fourth Geneva Convention and the Hague Regulations.⁷ Together, these provisions amount to an obligation on the occupant to establish an adequate civil administration in an occupied territory.

21. In terms of the Oslo Accords, the responsibility for civil administration in the West Bank and Gaza was transferred to the Palestinian Authority. Today, however, the identity of the authority responsible for the civil administration of the West Bank and Gaza is not so clear. The military operations of 2002 have effectively destroyed much of the infrastructure of the Palestinian Authority. Electricity and water supplies have been cut, municipal services terminated, access to food denied, health care obstructed and education seriously interrupted. Consequently, responsibility for the civil administration of OPT would seem to have shifted to Israel. Israel has, however, made it clear that, although it anticipates a prolonged occupation, it does not intend resuming responsibility for the civil administration of the territory.⁸

22. The current situation is untenable. Israel cannot, in terms of international humanitarian law, deny the Palestinian Authority the capacity to provide an adequate and functioning civil administration, and at the same time refuse to accept any responsibility for such an administration itself. In law, it is obliged either to assume this responsibility or to permit the Palestinian Authority to provide the services that comprise an adequate civil administration. There is a heavy burden on all parties to the Fourth Geneva Convention to take measures to ensure the restoration of a proper civil administration in the Palestinian territory in accordance with their obligation under article 1 of the Convention “to ensure respect” for the Convention “in all circumstances”.

23. The international community’s response has been to provide humanitarian aid itself, rather than insist on Israel’s duty to provide such relief. Undoubtedly this is the only possible response in the present crisis. If the international community does not respond generously by providing humanitarian assistance, the Palestinian people will suffer irremediable harm. The Special Rapporteur therefore endorses, and adds his own voice to, calls for humanitarian assistance from the international community.

24. At the same time, it must be made clear that, by providing aid of this kind, the international donor community relieves Israel of the burden of providing such assistance itself and in this way might be seen to be contributing to the funding of the occupation. This dilemma was considered by the United Nations Technical Assessment Mission in October 2002 which in the *Humanitarian Plan of Action 2003 for the Occupied Palestinian Territory* stated:

“In presenting its plans, the mission was acutely aware of the central dilemmas before it. At its most fundamental, this is whether to respond to growing needs of the civilian population at all. Many of the Palestinians and donors the mission spoke with argued that, by meeting these needs, the international community would be ‘financing the occupation’ and enable Israel to continue its current policies. It would de facto relieve Israel of its own responsibilities, as the Occupying Power, to ensure adequate supplies of food, medicines and other basic needs for the population under its occupation. At the same time, not to meet urgent needs of the population when the international community has some capacity to do so, and when Israel is unwilling to do so, would doubly punish the civilian population - and fly in the face of the humanitarian imperative to save lives and protect the victims of conflict. Absent political decisions to address the causes of this humanitarian emergency, the international aid community thus has no choice but to help relieve suffering as the crisis continues to deepen.”⁹

V. DESTRUCTION OF PROPERTY

25. It is the Israeli policy and practice of destroying property - residential homes, commercial buildings, Palestinian Authority offices, olive trees and agricultural property - that raise the most serious questions about Israel’s willingness to respond proportionately to Palestinian violence.

26. For the first 18 months of the second intifada the Gaza Strip was the main target of Israel’s policy of destruction. Hundreds of homes in the refugee camps of Khan Yunis and Rafah were reduced to rubble, buildings in Gaza City were bombed and fertile agricultural land “swept” by bulldozers to create wasteland buffer zones for roads specially reserved for settlers. Commenting on this action B’Tselem (The Israeli Information Center for Human Rights in the Occupied Territories) comments:

“Examination of the circumstances in which Israel implemented its policy - the extreme magnitude of the house demolitions, the uprooting of trees, the destruction of agricultural fields, the manner in which Israel chose to implement its policy - clearly and unequivocally indicate that these contentions [that the damage caused by IDF was proportional and justified by military necessity] are baseless. The injury to the civilian population was excessive in proportion to the military advantage that Israel ostensibly sought to achieve by implementing this policy. ...

“A policy that harms thousands of innocent people and whose consequences are so horrendous and long lasting constitutes collective punishment, which is forbidden by international humanitarian law”.¹⁰

27. In 2002 it was the turn of the cities in the West Bank for destruction of property as IDF launched offensives against Jenin, Nablus and Ramallah following a spate of suicide bombings in Israel. Statistics, reports of non-governmental organizations (NGOs) and the Special Rapporteur’s own observations in August strongly suggest that retribution and punishment guided IDF action rather than military necessity and regard for the principle of proportionality.

28. During Operation Defensive Shield, from 29 March to 7 May, 800 dwellings were destroyed in Jenin leaving 4,000 people homeless. Losses were estimated by the World Bank at US\$ 83 million. According to Amnesty International much of the destruction of the Jenin refugee camp occurred after 11 April, after the last group of Palestinian fighters had surrendered. In the opinion of its delegate, Major David Holley:

“There were events post 11 April that were neither militarily justifiable nor had any military necessity: the IDF levelled the final battlefield completely after the cessation of hostilities. It is surmised that the complete destruction of the ruins of battle, therefore, is punishment for its inhabitants.”¹¹

29. In Nablus 64 buildings in the Old City, including 22 residential buildings, were completely destroyed or badly damaged, and a further 221 buildings partially damaged. Repair costs were estimated by the World Bank at US\$ 114 million. According to Amnesty International:

“A number of religious or historical sites were partially destroyed or severely damaged in what frequently appeared to be wanton destruction without military necessity.”¹²

30. Refugees were the hardest hit in the military offensives of 27 February to 17 March and 29 March to 7 May. Over 2,800 refugee housing units were damaged and 878 homes destroyed or demolished, leaving 17,000 persons homeless or in need of shelter rehabilitation. The World Bank estimates that Operation Defensive Shield caused physical damage amounting to US\$ 361 million in the West Bank as a whole, compared with the US\$ 305 million caused by damage in the first 15 months of the second intifada.¹³ Private businesses suffered the most (US\$ 97 million), followed by housing (US\$ 66 million), roads (US\$ 64 million) and cultural heritage sites (US\$ 48 million).

31. In the past, there has often been a disciplined, retributive approach to the destruction of property. The destruction of property in Operation Defensive Shield, however, had a wanton character that surprised even the harshest critics of IDF. In many houses entered by IDF, soldiers broke holes through the walls in order to reach neighbouring houses. Sometimes, holes were made from one apartment to another where it was possible for soldiers to have entered from a veranda or window. Worse still, there were reports of vandalism, of wanton destruction of televisions and computers in homes, schools and office buildings and of looting.¹⁴

32. The demolition of the homes of families as punishment for crimes committed against Israel by a family member has long been an Israeli practice. In August, the Israeli High Court denied judicial review in such cases, as had previously been the position, thereby giving military commanders complete discretion to order the demolition of houses. Since then the demolition of the homes of suicide bombers and Palestinian militants has accelerated. In many instances the families of militants had been unaware of their activities, but they were punished nonetheless. Between July and November 61 homes were demolished, leaving more than 500 persons homeless, more than 220 of them children.

33. Collective punishment is a serious violation of international humanitarian law. Article 50 of the Hague Regulations of 1907 contains a prohibition on such conduct as does article 33 of the Fourth Geneva Convention, which provides that “No protected person may be punished for an offence he or she has not personally committed”. Moreover, article 147 of the Fourth Geneva Convention criminalizes, as constituting grave breaches under international law, the “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”.

VI. DETENTIONS

34. The assaults on Palestinian towns in March and April in Operation Defensive Shield and subsequent military operations in the West Bank resulted in widespread arrests and detentions. In the period between 29 March and 5 May alone, some 7,000 Palestinians were arrested. In many towns and refugee camps, all males between the ages of 16 and 45 were arrested. Most were held for several days only. Arrests of this kind constitute a form of collective punishment as in most instances there is no regard for the personal responsibility of those arrested. In many cases, arrested persons were subjected to humiliating and inhuman treatment. They were stripped to their underpants, blindfolded, handcuffed, paraded before television cameras, insulted, kicked, beaten and detained in unhygienic conditions. Those not released have been held without trial or access to a lawyer. Some are held in administrative detention; others are held under the terms of Military Order 1500, issued on 5 April to permit lengthy detention of those arrested since 29 March. There have been widespread allegations of torture, consisting of sleep deprivation, severe beating, heavy shaking, painful shackling to a small chair, subjection to loud noise and threats of action against family members.

VII. DEPORTATION/ASSIGNED RESIDENCE

35. On 3 September, the Israeli High Court of Justice issued a ruling allowing the deportation of two Palestinians from their home town of Nablus to the Gaza Strip on the ground that they had allegedly assisted their brother (extrajudicially executed by Israeli forces on 6 August) to commit attacks against Israelis. The Court held that, although every person has a basic right to retain his place of residence, article 78 of the Fourth Geneva Convention recognizes that there are circumstances in which this right may be overridden. Article 78 of the Fourth Geneva Convention provides:

“If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.”

The Court further held that in the circumstances of the case, the preconditions set out in article 78 were fulfilled. The West Bank and the Gaza Strip were to be regarded as one territory subject to a belligerent occupation, and therefore the case did not involve the transfer of a person outside the area subject to the belligerent occupation. For this reason the Court held that article 49 of the Fourth Geneva Convention prohibiting deportation to the territory of the occupying Power or to that of another country was not applicable.

VIII. CHILDREN IN THE CONFLICT

36. Children have probably suffered most from the present conflict. Both Palestinian and Israeli children have been exposed to threats to personal safety; while Palestinian children have, in addition, felt the breakdown of family life, health care and education. In his report to the Commission in March 2002 (E/CN.4/2002/32, paras. 40-53), the Special Rapporteur drew attention to the plight of Palestinian children, particularly those arrested and detained, and appealed to the Israeli authorities to investigate allegations of inhuman treatment. Sadly, there has been no response to this appeal. Since then UNICEF and NGOs such as Defence for Children International¹⁵ and Amnesty International¹⁶ have likewise addressed the suffering of children and appealed to all groups involved in the conflict to protect children. On 15 November 2002 the Third Committee of the General Assembly adopted a draft resolution in which the Committee, concerned that Palestinian children under Israeli occupation remain deprived of many basic rights under the Convention on the Rights of the Child, stressed the urgent need for Palestinian children “to live a normal life free from foreign occupation, destruction and fear, in their own State” and called upon the international community “to provide urgently needed assistance in an effort to alleviate the dire humanitarian crisis being faced by Palestinian children and their families”.

37. Over 400 Palestinian and 100 Israeli children have been killed since September 2000 and thousands seriously injured. Israeli children have mainly been killed in suicide bombings and attacks on settlements. Palestinian children have often been shot and killed in stone-throwing assaults on IDF but in most cases, particularly in the past year, Palestinian children have been killed when IDF randomly opened fire, shelled or bombarded residential neighbourhoods at times when there was no exchange of fire and in circumstances in which the lives of IDF soldiers were not at risk. Others have been killed in the course of the assassination of Palestinian militants, when vehicles or houses have been subjected to missile attack. The loss of children’s lives is often simply dismissed as “collateral damage”. The evidence seems to indicate that neither IDF nor Palestinian militant groups have shown concern for children’s lives.

38. Over 1,500 Palestinian children under the age of 18 have been arrested and detained since September 2000 in connection with crimes relating to the uprising. Most have been arrested on suspicion of throwing stones at Israeli soldiers. On 28 August, Defence For Children International reported that 350 children were detained by the Israeli authorities, 15 being held in administrative detention. During the period March to May some 700 children were arrested and detained, albeit for short periods. As stated in the report to the Commission (paras. 48-53), there are serious reports of torture and inhuman treatment of juveniles while they await trial or after they have been imprisoned. Whether torture is justified in the case of the “ticking bomb” scenario remains a question of debate within Israel. This debate is, however, irrelevant to the treatment of children arrested for stone-throwing. There can be no justification, legally or morally, for the torture or inhuman treatment of children.

39. Military offensives and curfews severely disrupted the education of Palestinian children during the spring and summer of 2002. After the start of the new school year in September the situation remained serious, although most children had either returned to school or were receiving alternative schooling. UNICEF reported in October that more than 226,000 children and over 9,300 teachers were unable to reach their regular classrooms owing to IDF-imposed

restrictions on movement. Moreover, over 580 schools had been closed because of military curfews and closures. This has resulted in the creation of a substitute schooling system in which children are taught at homes or in mosques. Many parents are unable to send their children to school. According to UNICEF some 317,000 Palestinian schoolchildren are in desperate need of financial assistance.

40. The humanitarian crisis resulting from repeated military incursions, house demolitions, curfews and closures has left its mark on Palestinian children. Thousands have been rendered homeless; two thirds live below the poverty line; 22 per cent under the age of 5 suffer from malnutrition; and most have been psychologically traumatized. Children, who comprise 53 per cent of the Palestinian population, live in a hostile environment resulting from Israel's military occupation in which they are continuously exposed to life-threatening attacks, deprived of a proper family life, adequate nutrition and health care, denied a normal education and, frequently, confined to their homes in time of curfew. Such treatment inevitably engenders hatred of the military occupant which augurs ill for the future.

IX. TERRITORIAL EXPANSION: THE WALL AND SETTLEMENTS

41. The prohibition on the acquisition of territory by the use of force, even where force has been used in self-defence, is an accepted principle of international law (see the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, General Assembly resolution 2625 (XXV)). This explains why the international community has consistently refused to recognize Israel's annexation of East Jerusalem (Security Council resolution 478 (1980)) and the Golan Heights (Security Council resolution 497 (1981)). When territorial expansion occurs openly, as in the case of the purported annexation of East Jerusalem and the Golan Heights, the response of the international community, speaking through the United Nations, has been clear and firm. The response to Israel's present annexation by stealth has not, however, received the same strong condemnation.

The wall

42. The erection of a security wall between Israel and OPT is widely portrayed as a security measure. Had the wall strictly followed the Green Line marking the 1967 borders between Israel and OPT, it might have been possible to confine the debate over the wall to the question whether a security wall of that kind would achieve its purpose. But when it is intended that the wall encroach deeply upon Palestinian territory, enclosing an estimated 7 per cent of Palestinian land, including fertile agricultural land, water resources and villages, it is difficult to resist the conclusion that it is a case of de facto annexation in which the security situation is employed as a pretext for territorial expansion.

Settlements

43. Settlements may be seen as another part of this strategy. The international community has made it clear that the settling of members of Israel's own civilian population in OPT violates article 49, sixth paragraph, of the Fourth Geneva Convention and has repeatedly called on Israel to "freeze" settlement growth pending a peace settlement which will result in the dismantling of

all settlements. Israel's response that it will limit the expansion of settlements to "natural growth" is now widely seen to be untrue. Indeed, it is the continued growth in the number of settlers (5.6 per cent since January 2001), the expansion of settlements (by the devious method of redrawing the boundaries of existing settlements by establishing outposts on these settlements) and the financial incentives to settle in OPT that brought about the collapse of the Government coalition between Likud and Labour. It is now clear that the Government of Israel is unwilling to dismantle illegal settlements and is determined to encourage new settlers and settlements. In November, following a gun battle between Palestinians and Israelis in Hebron, which left 12 Israeli security officers dead, the Government announced that it would allow the construction of a new settlement to link Kiryat Arba, a settlement near Hebron with a population of about 7,000 residents, with the Jewish enclave in Hebron, accommodating 450 settlers.

44. It will no doubt be argued that comment on territorial expansion by means of the "Great Wall", settlements, and the wide security roads that link settlements with each other and Israel does not fall within the Special Rapporteur's "human rights mandate". This is not so. Territorial expansion is of concern to international humanitarian law and human rights law for three reasons: first, because the settlements violate the Fourth Geneva Convention; second, because Israeli territorial expansion and the territorial fragmentation of OPT by settlements interferes with the right of the Palestinian people to self-determination; third, because actions of this kind raise serious questions about the genuineness of Israel's claim that it conducts a proportional response to Palestinian violence. Territorial expansion, accompanied by the influx of new settlers, can hardly be seen as a proportional response to terror.

X. CONCLUSION: PROPORTIONALITY REVISITED

45. It is not the function of the Special Rapporteur to pronounce judgement on the proportionality of measures taken by Israel in response to Palestine violence. This is a matter for the Commission on Human Rights or the Security Council to decide. The task of the Special Rapporteur is simply to raise the issues that should be considered on this subject.

46. As has already been said, Israel has legitimate security concerns. Its right to respond to terror attacks and to prevent further attacks cannot be disputed. When this response takes the form of life-threatening military action against militants and their bases, few will question the military necessity of such action or the link between attack and response. But when this action results in an excessive use of force that disregards the distinction between civilians and combatants, a humanitarian crisis that threatens the livelihood of a whole people, the killing and inhuman treatment of children, the widespread destruction of property and territorial expansion, serious questions must be asked about the proportionality of Israel's response and the boundaries of military necessity.

Notes

¹ Declaration issued by the participating High Contracting Parties to the reconvened Conference of High Contracting Parties to the Fourth Geneva Convention, 5 December 2001, paragraph 8.

² Amnesty International, *Israel and the Occupied Territories and the Palestinian Authority: Without Distinction: Attacks on Civilians by Palestinian Armed Groups* (AI Index: MDE 02/003/2002), July 2002.

³ See Human Rights Watch, *Erased in a Moment: Suicide Bombing. Attacks against Israeli Citizens* (October 2002), for a full account of the impact of suicide bombings on Israeli society.

⁴ Amnesty International, *Israel and the Occupied Territories: Shielded from Scrutiny: IDF Violations in Jenin and Nablus* (AI Index: MDE 15/143/2002), November 2002.

⁵ Reported in *Ha'aretz*, 4 November 2002 (Danny Rubinstein, "A Land of Roadblocks and Barriers").

⁶ *Humanitarian Plan of Action 2003 for the Occupied Palestinian Territory*, United Nations, New York and Geneva, November 2002, p. 30.

⁷ M. Greenspan, *The Modern Law of Land Warfare*, Berkeley, CA, University of California Press, 1959, pp. 230-235. See, too, E. Benvenisti, *The International Law of Occupation*, Princeton, NJ, Princeton University Press, 1993.

⁸ See the statements by Mr. Ben-Eliezer, Minister of Defence, and Major General Amos Gilad reported in the *International Herald Tribune*, 24 June 2002.

⁹ *Op. cit.*, p. 2.

¹⁰ *Policy of Destruction. House Demolitions and Destruction of Agricultural Land in the Gaza Strip*, February 2002, pp. 32, 35.

¹¹ Amnesty International, *op. cit.* at note 4, p. 41.

¹² *Ibid.*, p. 57.

¹³ *International Herald Tribune*, 16 May 2002.

¹⁴ Amnesty International, *Israel and the Occupied Territories: The Heavy Price of Israeli Incursions*, 12 April 2002.

¹⁵ *Violations of Children's Rights Stemming from the Israeli Occupation* (August 2002).

¹⁶ *Israel and the Occupied Territories and the Palestinian Authority: Killing the Future. Children in Line of Fire*, MDE 02/005/2002 (October 2002).



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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The right to food

**Report submitted by the Special Rapporteur on the right to food, Jean Ziegler,
in accordance with Commission on Human Rights resolution 2002/25**

Executive summary

The Special Rapporteur submits this report to the Commission on Human Rights in accordance with its resolution 2002/25.

At the time of writing this report, the Special Rapporteur is gravely concerned by the suffering and hunger of 38 million people across Africa, principally in southern Africa and in Ethiopia and Eritrea. He is also extremely concerned that in The State of Food Insecurity in the World 2002 the Food and Agriculture Organization of the United Nations (FAO) highlights the fact that progress in reducing world hunger has virtually come to a halt. The number of undernourished people around the world has increased to 840 million. Over 2 billion people worldwide suffer from “hidden hunger”, or micronutrient deficiencies, meaning, for instance, that children fail to grow and develop normally, their bodies are stunted and sometimes deformed, as are their intellectual capacities and immune systems. Every day, every seven seconds, another child under the age of 10 dies from hunger or hunger-related diseases.

In this report, the Special Rapporteur reports on his activities to promote greater awareness and implementation of the right to food, including his official missions. His report on the situation of the right to food in Brazil is submitted to the Commission as an addendum to this report. This report then focuses on two key initiatives being taken at the international level: the development of international “voluntary guidelines” on the right to food, under the auspices of FAO, and the production of a new General Comment No. 15 on the right to water by the Committee on Economic, Social and Cultural Rights. In fulfilling his mandate, which includes water as a fundamental element of nourishment, the Special Rapporteur calls attention to this new development, and then discusses concrete examples of how food and water are inextricably linked in practice. The Special Rapporteur believes that these two groundbreaking developments will strengthen the understanding of the right to food around the world and, with hope, engage Governments in taking real action to eradicate hunger.

In a third section of the report, the Special Rapporteur describes the process in place for receiving and responding to allegations of violations of the right to food around the world. The aim of receiving and responding to allegations is to reduce the impunity that surrounds violations of the right to food around the world.

Finally the Special Rapporteur ends with conclusions and recommendations.

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Introduction

1. In accordance with his mandate,¹ the Special Rapporteur has previously submitted two general reports to the Commission (E/CN.4/2001/53 and E/CN.4/2002/58). He has also submitted a country report on Niger to the Commission (E/CN.4/2002/58/Add.1), and now submits a country report on Brazil as an addendum to the present report. A report on Bangladesh will be submitted in early 2003. The Special Rapporteur has also submitted general reports to the General Assembly (A/56/210 and A/57/356). In its last resolution on the right to food, resolution 2002/25, the Commission requested the Special Rapporteur to contribute to the review of the implementation of the 1996 Rome Declaration on World Food Security and Plan of Action at the 2002 World Food Summit: five years later.
2. The Special Rapporteur therefore reports here on his activities over the last year. In the fulfilment of his mandate, activities have included two country missions in 2002: Brazil (1-21 March 2002) and Bangladesh (24 October-4 November 2002). The mission report on Brazil looks at the many positive initiatives that Brazil has taken with respect to the right to food, but also records the continuing problems of poverty and malnutrition in the country. The report on Bangladesh offers some very different perspectives. The Special Rapporteur would like to thank both Governments which warmly received the Special Rapporteur and his team and ensured that his missions were open and fruitful.
3. As requested by the Commission, the Special Rapporteur actively contributed to, and attended, the World Food Summit: five years later held in Rome in June 2002. He submitted a series of recommendations to the Office of the High Commissioner for Human Rights (OHCHR) and the Food and Agriculture Organization of the United Nations (FAO). He also contributed as a keynote speaker to the important side-event on the right to food organized by FAO, which discussed the initiative to elaborate voluntary guidelines on the right to food (see section I of this report). The Special Rapporteur also attended the parallel NGO meeting "Forum for Food Sovereignty", and was received by the Italian Senate in a meeting sponsored by the Inter-Parliamentary Union to raise awareness of the right to food amongst parliamentarians from all around the world.
4. Prior to the World Food Summit: five years later, the Special Rapporteur and his team also worked with different Governments and NGOs to prepare for the Summit. This work included participation at the conference "The right to adequate food: focus on national implementation" sponsored by the Government of Norway in April 2002 and the international workshop "Policies against hunger" held in May 2002 in Berlin, sponsored by the Government of Germany and the co-organizing Governments of Chile, India, Italy, Norway and South Africa. This workshop brought together Ministers of Agriculture and 200 participants from both governmental and non-governmental sectors from more than 70 countries. The Special Rapporteur and his team also had the opportunity to engage in discussions on the right to food with government representatives of Switzerland.
5. Following the Summit, the Special Rapporteur and his team have continued to cooperate with Governments, NGOs, United Nations agencies and treaty bodies to prepare for the establishment of voluntary guidelines on the right to food. This has included meetings with OHCHR and with members of the Committee on Economic, Social and Cultural Rights.

Activities have also included participation at a meeting to raise awareness of the right to food amongst French NGOs in Paris in October 2002, and at the first international NGO working meeting to prepare proposals for the guidelines, held in Mulheim, Germany, in November 2002 and sponsored by FIAN (Foodfirst Information and Action Network). Over the coming year, the Special Rapporteur will also actively contribute proposals to the meetings of the Intergovernmental Working Group established to elaborate the voluntary guidelines.

6. His report to the General Assembly reviewed the outcomes of the World Food Summit: five years later. The Special Rapporteur was encouraged by the small but path-breaking decision in the Declaration to establish a set of voluntary guidelines on the right to food. It also addressed the question of agrarian reform and the right to food, and showed that truly transformative agrarian reform can have a substantial impact on reducing poverty and hunger of landless peoples.

7. In its resolution 57/227 on the right to food, the General Assembly commended the Special Rapporteur for his work and expressed its appreciation for his contribution to the World Food Summit: five years later. The Assembly also welcomed the decision of the FAO Council to establish an Intergovernmental Working Group to elaborate a set of voluntary guidelines on the right to adequate food, and stressed that FAO will work with the Special Rapporteur.

8. During the year, the Special Rapporteur and his team also contributed comments to the drafting of a new general comment on the right to water by the Committee on Economic, Social and Cultural Rights. The Special Rapporteur welcomes the adoption of General Comment No. 15 on the right to water (E/C.12/2002/11), to which he devotes a chapter of this report. Activities also included participation at the Social Forum organized by the Sub-Commission on the Promotion and Protection of Human Rights in August 2002. The Special Rapporteur also contributed comments to the Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies. The Special Rapporteur welcomes these guidelines and strongly advocates the incorporation of human rights into Poverty Reduction Strategy Papers.

9. In order to generate greater understanding of the right to food, and of economic, social and cultural rights in general, the Special Rapporteur has developed with his team a university course entitled "The theory and practice of defending economic, social and cultural rights". The week-long intensive course will be held in March 2003 at the Graduate Institute of Development Studies in Geneva, and will be aimed at teaching post-graduate students and members of international and non-governmental organizations. Outstanding leaders in the human rights academic field will be invited to the seminar to present on their key fields of expertise, including Dr. Giorgio Malinverni, Professor of Constitutional Law at the University of Geneva, and Dr. Georges Abi-Saab and Dr. Andrew Clapham, Professors of International Law at the Graduate Institute of International Studies in Geneva.

10. In maintaining liaison with universities and academic circles, the Special Rapporteur also addressed a meeting held by Action contre La Faim in Paris in October 2002. In December 2002, he addressed the Students League of Nations at the Palais des Nations in Geneva and the Forum of Intellectuals at UNESCO in Paris.

11. During the year, working relationships have also been intensified with United Nations organizations, other international bodies and non-governmental organizations. These include OHCHR, FAO, the World Food Programme (WFP), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP), the Office for the Coordination of Humanitarian Affairs (OCHA), and the International Committee of the Red Cross (ICRC) and the Inter-Parliamentary Union (IPU). In addition, the Special Rapporteur benefited from the collaboration of the Special Rapporteur on adequate housing and the Special Rapporteur on torture. He has also maintained contact with the Committee on Economic, Social and Cultural Rights and supported their new initiatives, notably to develop an interpretation of the right to water. In addition, he has benefited from the collaboration of numerous NGOs and other organizations including: FIAN (Germany), the International Federation for Human Rights Leagues, Action contre La Faim (France), the World Alliance for Nutrition and Human Rights, Antenna (Switzerland), the International Project on the Right to Food in Development (Norway), International Service for Human Rights (Switzerland), the International Jacques Maritain Institute (Italy), Amnesty International and the Centre for Economic and Social Rights (United States).

12. The Special Rapporteur wishes to refer to some exchanges that have taken place following his response to a journalist's question on 15 October 2002.

13. On this matter the Special Rapporteur wishes to clarify his position of principle as follows:

The Special Rapporteur is aware that food aid is provided by Governments with the best of intentions and out of a spirit of humanitarian solidarity;

The Special Rapporteur is aware that there are differences of views on the health aspects of genetically modified foods.

14. The Special Rapporteur believes that there is a duty of care in dealing with this issue and considers that further dialogue would be important, respectful of all positions.

15. At the time of writing this report, the Special Rapporteur is gravely concerned at the suffering and hunger of 38 million people across Africa, principally in southern Africa and Ethiopia and Eritrea. He is also extremely concerned that in The State of Food Insecurity in the World 2002 FAO highlights that progress in reducing world hunger has virtually come to a halt. However, there are exceptions: China and Ghana, for instance, have made impressive progress in assuring food security to their people. FAO report estimates that the number of undernourished people around the world has increased to 840 million: 799 million in developing countries, 30 million in countries in transition and 11 million in industrialized countries. Every seven seconds a child under the age of 10 dies, directly or indirectly, of hunger somewhere in the world.² More than 2 billion people worldwide suffer from "hidden hunger", or micronutrient malnutrition, which has effects that are not always visible; micronutrient deficiencies mean that children fail to grow and develop normally, their bodies are stunted and sometimes deformed, but so are their intellectual capacities and their immune systems, condemning them to a marginal existence. Hunger also has effects through the generations, as undernourished mothers give birth to children that will never fully develop.

16. Hunger, like poverty, is still a predominantly rural problem. Of the 1.2 billion people who suffer from extreme poverty in the world today, 75 per cent live and work in rural areas.³ This is a paradox in a world that, according to FAO, already produces more than enough food to feed the world. The rural poor suffer from hunger because they lack access to resources such as land, do not hold secure tenure, are bound by unjust sharecropping contracts, or have properties that are so small that they cannot grow enough food to feed themselves. It is clear that reducing hunger does not mean increasing the production of food in rich countries, but rather in finding ways of increasing access to resources for the poor in the poorest countries.

17. Persistent hunger is neither inevitable, nor acceptable. Hunger is not a question of fate; it is manmade. It is the result either of inaction, or of negative actions that violate the right to food. It is therefore time to take action. It is time to recognize the right to food as a human right and to realize the right to food across the world. The human right to food entails an obligation to ensure that each and every human being on this planet should be free from hunger. The right to food is defined in the authoritative legal interpretation of General Comment No. 12 of the Committee on Economic, Social and Cultural Rights, as follows:

“The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”⁴

18. The right to food does not mean handing out free food to everyone. Rather, the right to food means that Governments must respect, protect and fulfil the right to food, as clarified in General Comment No. 12. The obligation to respect means that Governments must not violate the right to food (e.g. evict people from their land, destroy crops). The obligation to protect means that Governments must protect their citizens against violations by other actors (e.g. by instituting regulations on food safety). The third obligation to fulfil the right to food means that the Government must first facilitate the right to food by providing an enabling environment for people to feed themselves (e.g. engage in land reform, stimulate employment), and secondly the Government must be the provider of last resort in cases where people cannot feed themselves for reasons beyond their control (e.g. social safety net programmes, food stamps, food in prison).

I. INTERNATIONAL GUIDELINES ON THE RIGHT TO FOOD

19. In the struggle to recognize and realize the right to food across the world, one new initiative stands out as fundamentally important. This is the new and valuable international initiative to establish voluntary guidelines on the right to food which has recently been started under the auspices of FAO. As reported by the Special Rapporteur in his review of the outcome of the World Food Summit+5 (A/57/356), one encouraging development to come out of the Summit was the decision by Governments to establish voluntary guidelines. This could be an encouraging step forward and provide small seeds of hope in the fight against hunger. The Special Rapporteur hopes that the process of drawing up the guidelines will provide the impetus for all Governments, and other actors, to recognize the right to food as a proper human right and to engage in a practical debate on the best ways of realizing the right to food.

20. This section describes the process and outlines some potential ideas for the contents of the guidelines. The final Declaration of the World Food Summit+5 recognizes the “the right of

everyone to have access to safe and nutritious food”.⁵ We should recall here that the right to food means the right to have physical and economic access to adequate food, as per General Comment No. 12.⁶ In the Declaration, in paragraph 10, Governments also call for the elaboration of a set of voluntary guidelines to be drawn up by an “Intergovernmental Working Group”.⁷

21. The Intergovernmental Working Group will elaborate the guidelines over the next two years, in a participatory process.⁸ Although Governments will be responsible for drawing up the guidelines, other stakeholders, including “relevant international and regional institutions, as well as non-governmental organizations, civil society groups, parliamentarians, academic institutions and foundations and the private sector” will be invited to participate.⁹ This means that other organizations, including NGOs, can submit position papers and participate in the meetings.¹⁰ The first NGO working meeting on the guidelines, hosted by the NGO FIAN, held in Germany in November 2002, began the process of drawing up a joint NGO contribution. The Special Rapporteur urges the Intergovernmental Working Group to listen to the voices of civil society.

22. The Special Rapporteur also urges the Intergovernmental Working Group to draw on the experiences of the United Nations human rights bodies. The FAO secretariat, which will service the Working Group, has been mandated to work closely with all the “relevant United Nations bodies, in particular the United Nations High Commissioner for Human Rights, the Committee on Economic, Social and Cultural Rights and the Special Rapporteur”.¹¹ The Special Rapporteur welcomes this decision and has accepted an invitation from FAO to contribute to the elaboration of these guidelines over the next two years.¹² The first official international meeting to discuss the guidelines is scheduled for March/April 2003. This meeting will consider proposals and elements for the contents of the guidelines.

23. So what should the guidelines include? The guidelines should be a simple, clear and practical document, outlining what the right to food means and giving examples of how to implement it. They should repeat, and illustrate in practical ways, the existing authoritative interpretation of the right to food, General Comment No. 12. The guidelines can therefore be based on General Comment No. 12 in terms of both structure and content, but should give concrete examples.

24. The fundamental importance of the guidelines will lie in bringing together the concepts of food security and the right to food. Food security is an extremely important concept, but it can also be strengthened by the obligations entailed by the right to food. The right to food includes all the elements of food security - availability, access and utilization - but also goes further than this, by making food security a human rights obligation, not simply a preference or policy choice, or just an aspirational goal. The right to food implies that action is taken progressively by the Government to ensure that hunger and malnutrition are, progressively, eradicated. The human rights approach means that progress should be monitored and Governments held accountable if they do not take adequate action. The right to food is subject to the principle of progressive realization and is limited by the availability of resources, but Governments are still obliged to begin immediately taking steps towards the realization of the right to food. As the Special Rapporteur pointed out in his last report, the obligations to respect

and protect the right to food, the obligation of non-discrimination and the obligation to provide a basic minimum subsistence are immediately effective, since they are not subject to progressive realization.¹³

25. In his last report to the General Assembly (A/57/356), the Special Rapporteur outlined the following basic elements that should be included in the guidelines, based on the suggestions made by the participants at the side-event on the right to food organized by FAO at the World Food Summit:¹⁴

1. Reaffirmation of existing legal obligations
 - Emphasizing General Comment No. 12
2. International obligations of States
 - Obligations at the national level
 - “Extranational” obligations of States towards citizens of other countries
3. Practical guidelines for national implementation
 - Establishment of framework law on the right to food
 - National strategy to implement the right to food
 - Examples of good practices
 - Benchmarks and indicators
 - National monitoring mechanisms
 - Remedies and accountability
4. International obligations and responsibilities of other actors
 - International organizations
 - Private actors
 - Non-governmental organizations
5. International monitoring mechanisms
 - Mechanism of Committee on Food Security to monitor compliance

- Make use of existing monitoring mechanisms (Committee on Economic, Social and Cultural Rights, etc.).

26. The primary obligation to realize the right to food rests with national Governments. The key focus of the guidelines should therefore be national obligations to respect, protect and fulfil the right to food of its own citizens. The first step should be to set up a national strategy for the implementation of the right to food. This would imply a comprehensive review of existing government policies and legislation with respect to the protection of the right to food, before producing an overall policy and framework legislation to ensure comprehensive protection. Examples of good practice and illustrations of the different State obligations to respect, protect and fulfil the right to food could be included in the guidelines to guide the development of a national strategy. A gender-based perspective should also be incorporated into any national strategy. Special attention should be paid to ensuring that national strategies include policies and resources to cope with natural and other disasters, to guard against famine.

27. The Special Rapporteur emphasizes that the primary obligation to meet the right to food rests with national Governments. National Governments therefore also identify problems and the obstacles to the realization of the right to food in their countries, and take action to address them. For example, a key obstacle to the right to food can be corruption of Government, which diverts essential resources away from social spending. Another obstacle might be the use of food as a political weapon or a means of ensuring political and economic control over resources. A good national strategy would therefore include measures for taking action to combat such problems and should include mechanisms for redress and accountability. The measures to combat corruption outlined in NEPAD, the New Partnership for Africa's Development, could serve as a valuable example.¹⁵

28. Although the key focus of the guidelines should be on national obligations, the guidelines should also go beyond the national level to include the obligations of States towards the citizens of other countries, which could be called the "extranational obligations". Of all human rights, the commitment of States to cooperate is expressed most strongly in the commitment to the right to food, recognizing the need for international cooperation as provided in article 11, paragraph 2 of the International Covenant on Economic, Social and Cultural Rights.¹⁶ The Committee on Economic, Social and Cultural Rights states that international cooperation for the realization of economic, social and cultural rights is an obligation of all States, in accordance also with Articles 55 and 56 of the Charter of the United Nations and well-established principles of international law.¹⁷ The Committee has further clarified in General Comment No. 12 that "States parties should take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required."¹⁸

29. It is certainly clear that in an increasingly globalized world, the actions of one Government can often have repercussions (positive and negative) on the right to food of people in another country (e.g. in the case of agricultural trade). Governments should therefore have a responsibility to ensure that national policies do not have negative effects on the right to food of people in other countries. In the context of extranational obligations, to *respect* the right to food means that States must not take actions that negatively impact on the right to food of people in another country, (e.g. refrain from food embargoes, or from using food as an instrument of

political and economic pressure, or ensuring that their trade relations do not violate the right to food of people in other countries). The obligation to *protect* implies that States have a duty to regulate their companies and corporations that operate in other countries to prevent violations. The obligation to *facilitate* access to food requires the State to build a social and international order in which the right to food can be fully realized.¹⁹ States should also take account of their “extranational obligations” in their deliberations in multilateral organizations, including the IMF, World Bank and the World Trade Organization (WTO).

30. Therefore, Governments should also have the obligation to refrain from taking action that negatively affects the right to food in other countries. The Committee on Economic, Social and Cultural Rights has stated, for example, that international obligations under the right to food mean that States “should refrain at all times from food embargoes or similar measures which endanger conditions for food production and access to food in other countries. Food should never be used as an instrument of political and economic pressure.”²⁰ In the 1993 Vienna Declaration and Programme of Action, States reaffirmed that “food should not be used as a tool for political pressure”.²¹ The long-standing unilateral embargo against Cuba could be seen as a violation of this obligation. Although Cuba has been allowed to import some food from the United States since the disaster of Hurricane Michelle in November 2001, the embargo is nonetheless creating severe problems for the import of adequate foodstuffs to feed Cuba’s population. This is the opinion of the General Assembly which, on 12 November 2002, for the eleventh year in a row, condemned the unilateral sanctions of the United States against Cuba and reiterating that these constitute a violation of the Charter of the United Nations and international law. The Special Rapporteur has been invited to make an official visit to Cuba to verify the impact of the embargo on the right to food.

31. The obligations in the guidelines should also be extended to include international organizations and private actors, including transnational and other corporations. International multilateral organizations, such as the World Bank and IMF, should be bound to respect human rights obligations in their policies, first by virtue of the fact that many of their States members are parties to the International Covenant on Economic, Social and Cultural Rights, and second by virtue of the fact that they are subjects of international law and therefore have to respect the Universal Declaration of Human Rights, which explicitly recognized the right to food in article 25.²² In other words, as the policies of the World Bank and IMF are made by States members, those States which are party to the Covenant should take account of their obligations in their deliberations on IMF and World Bank policy. By extension, this means that the policies and programmes of IMF and the World Bank should take the right to food into account. The Special Rapporteur recognizes the significant advances made by the World Bank under the leadership of Mr. Wolfensohn, including the publication of the report Development and Human Rights: The Role of the World Bank, in which the Bank states that creating the conditions for the attainment of human rights is a central and irreducible goal of development.²³

32. In terms of transnational corporations, under the right to food, Governments have a clear duty to regulate the activities of corporations (in their own countries and in other countries) through the obligation to protect the right to food. However, it is increasingly important also to find ways of ensuring that transnational corporations accept themselves to abide by human rights standards. In the world today, where States are no longer always the most powerful actors and where the budgets of many multinational companies greatly exceed those of many countries, it is

time to see new duty-bearers, including private corporations, as subjects of international human rights law. As part of this process, the guidelines should enunciate a set of principles to ensure that corporations and private actors respect the right to food. The guidelines could draw from similar processes already under way, specifically the initiative of the Sub-Commission to set up the “Norms of Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights”.²⁴ The Special Rapporteur recognizes the advances already made by the corporations that have signed up to the United Nations Global Compact, committing themselves to respecting human rights, as well as labour and environmental standards.²⁵

33. The guidelines should also cover the broad spectrum of issues that the right to food implies. They should make reference to the protections of the right to food under international humanitarian law, as well as human rights law. As pointed out in his previous reports (A/56/210 and E/CN.4/2002/58), international humanitarian law contains many provisions that protect the right to food. These include the prohibition of starvation as a method of warfare, the prohibition of displacement, numerous rules providing for protection and relief assistance to vulnerable groups, particularly women and children, as well as principles governing humanitarian assistance. Links could also therefore be made to other existing instruments, including the 1999 Food Aid Convention and the Sphere Project guidelines.

34. The guidelines should cover the importance of nutrition and water as key elements that constitute the right to food. The definition of the right to food in General Comment No. 12 suggests that the right to food must be understood broadly to include nutrition and food safety issues. Indeed, it is impossible to deny the link between food and nutrition, given that in today’s world “hidden hunger”, or micronutrient malnutrition, is as significant as protein-energy malnutrition. Given its close link with the definition of food security, the right to food should not only include availability and access as key elements of the definition, but also the “utilization” of food as a third key element. “Utilization” means the proper biological use of food, which requires a diet adequate in energy and nutrients, as well as safe drinking water and adequate sanitation. This also implies knowledge of the basic principles of nutrition and proper childcare, as well as of safe food storage and processing techniques.²⁶ This means that parallel measures in health care, sanitation and drinking water are elements that must be included in the right to food. As these are already elements widely included in the broad definition of “food security”, this should not be perceived as a problem in terms of broad understanding of the right to food.

35. The key element of water must also be a fundamental element of the right to food. It is impossible to discuss nutrition and food security without including safe drinking water. Safe drinking water is essential to adequate nutrition. Another element of the right to food must be water used for irrigation purposes, given that this is essential for food production and for ensuring food availability, particularly in countries where the poor depend primarily on their own production. These fundamental links between water and the right to food are the main subject of the next chapter.

II. WATER AND THE RIGHT TO FOOD

A. General Comment No. 15 on the right to water

36. Another new and very important development occurring at the international level has been a new breakthrough in the legal protection of the right to water. This is the development of a new General Comment No. 15 on the right to water, which will greatly improve the legal framework protecting the right to water by providing the authoritative legal interpretation of the Committee on Economic, Social and Cultural Rights. The Special Rapporteur believes that he has the responsibility to raise awareness of this new development, as water forms part of his mandate on the right to food. The Commission on Human Rights extended the mandate of the Special Rapporteur on the right to food to cover the issue of drinking water: “to pay attention to the issue of drinking water, taking into account the interdependence of this issue and the right to food”.²⁷

37. In his message on World Food Day, 16 October 2002, the Secretary-General said:

“We must develop new and innovative approaches in water development and management if we are to feed the more than 800 million hungry people in the world, and ensure safe drinking water for more than 1.1 billion people who have currently no access to it.”²⁸

38. So far, the Special Rapporteur has addressed the question of drinking water in a preliminary fashion in his last report to the General Assembly (A/57/210) in which he highlighted that more than a billion people around the world still do not have access to clean drinking water, and the risks of water-borne diseases and the increasing scarcity of fresh water. In the present report, he explores new developments in the legal protection of the right to water and, secondly, explores the complex interdependence of food and water, based on concrete examples in the countries that he has visited during his missions. This highlights both the importance of including water as an element of the right to food, as well as institutionalizing the right to water as a separate human right.

39. The Special Rapporteur welcomes the initiative of the Committee on Economic, Social and Cultural Rights to establish a new General Comment on the right to water. This General Comment adds a contribution to the interpretation of the legal protection of the right to water, which is already recognized in international human rights law, and also in international humanitarian law and international watercourses law (the law governing the sharing of water between countries). The General Comment clarifies that: “The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”²⁹

40. It also clarifies that the right to water does not mean that free water should be given to everyone. Rather, it implies the obligations to respect, protect and fulfil the right to water. These are defined in the new General Comment as follows: the obligation to *respect* requires that States parties refrain from interfering, directly or indirectly, with the enjoyment of the right to water. The obligation to *protect* requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water. The obligation to *fulfil* is

disaggregated into the obligations to *facilitate*, *promote* and *provide*. The obligation to *facilitate* requires the State to take positive measures to assist individuals and communities to enjoy the right. The obligation to *promote* obliges the State party to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage. States parties are also obliged to *fulfil (provide)* the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal. The General Comment also goes further to define in greater detail what these obligations to respect, protect and fulfil the right to water mean in practice.³⁰

41. The General Comment highlights that water is essential for life and emphasizes the fundamental importance of access to “sufficient, safe, and acceptable” drinking water. In recognizing the importance of drinking water to nutrition, the General Comment also highlights how the right to water is inextricably related to the right to food and requires that: “Priority should ... be given the water resources required to prevent starvation and disease.”³¹

42. The Special Rapporteur welcomes the fact that the Committee has recognized that access to water for the irrigation of food crops must form a key part of the right to food, particularly for subsistence farming and vulnerable peoples. As I. Serageldin, formerly of the World Bank, has argued “In the near future, availability of water rather than land will be the main constraint to agricultural production in many areas.”³² The General Comment reads:

“The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (see General Comment No. 12). Attention should be given to ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology. Taking note of the duty in article 1 (2) of the Covenant, which provides that a ‘people may not be deprived of its means of subsistence’, States parties should ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.”³³

43. The General Comment also makes clear reference to three sources of international law that give legal protection to the right to water: the relevant international human rights instruments, the relevant provisions in international humanitarian law and those in international watercourses law. For example, many international human rights treaties make reference to the importance of the protection of access to water and the right to water is increasingly recognized in regional and national legislation as a justiciable right.³⁴ Under international humanitarian law, similar rules and principles apply to the right to water as to the right to food,³⁵ which is important because, as ICRC points out, the destruction of water resources and distribution points during armed conflict often kills more people than actual weapons.³⁶ International watercourses law clarifies that in the event of conflicts over the resources of international rivers, human needs must be prioritized, which means that “special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and water required for production of food in order to prevent starvation”.³⁷ This is essential as the planet’s 250 rivers that cross international boundaries provide water for over 40 per cent of the world’s population and some are becoming a serious source of conflict.

B. Linkages between the right to water and the right to food: concrete examples

Niger

44. Niger is a vast and landlocked country of the Sahel, inhabited by some of the greatest civilizations of humanity - the Songhai, the Djerma, the Hausa, the Tuareg, the Peul, etc. Most of its 1.2 million km² of land is desert or semi-arid and only 3 per cent is cultivable. Despite its earlier riches based on the dominance of trans-Saharan trade, today Niger is the second poorest country in the world.³⁸ Food insecurity, hunger and malnutrition are widely prevalent and this is largely as a result of the lack of access to water in rural areas.³⁹ With frequent drought and an arid climate, one of the obstacles to realizing the right to food in Niger has been the lack of access to water resources, both for irrigation and for drinking. The people of Niger, the majority of whom are peasant farmers or pastoralists living in rural areas, survive on millet crops which can only be produced during the rainy season, and do not last through the dry season. Yet, if existing water resources were better harnessed, the people of Niger would be able to produce food, both millet and fruit and vegetables, which would have a huge impact on hunger and malnutrition in the country. Although Niger is an arid country, it does have significant water resources, including the Niger River, over 1,000 temporary lakes and accessible groundwater. The Government of Niger has made important efforts to develop irrigation and dry season cultivation. However, there have not been enough resources to invest broadly in small-scale irrigation - even though this would fundamentally improve food security for the poorest. There are some impressive efforts at promoting small-scale irrigation and providing wells in some villages, but these efforts should be extended if food security is really to be achieved (although all the risks of different methods of water harvesting must also be analysed, given potential dangers - see the case of Bangladesh below).

45. Safe drinking water is an essential part of healthy nourishment. Yet in more urbanized areas of Niger where running drinking water is available, there remain some dangers given the occasional lack of strict regulation of the safety of drinking water. The Special Rapporteur's attention was drawn to the case of the tragic poisoning by tap water of hundreds of children in Tibiri, 720 km from Niamey. It has been documented that, as a result of poisoning, 425 children have contracted skeletal fluorosis, a disease which causes terrible deformities of the bones and leaves children paralysed. They are disabled for life and every movement is painful. This is owing to extremely high levels of fluoride in the water provided by the national water company, the Société nigérienne des eaux (SNE), since 1984. The water is said to contain 4.77-6.6 milligrams of fluoride per litre, far over the maximum of 1.5 milligrams per litre recommended by WHO. The Niger Association for the Defence of Human Rights, with the International Federation of Human Rights Leagues, has produced an impressive report and proposes to seek justice and compensation for the children from the SNE.⁴⁰ The Association has also said that it will be pursuing an investigation into this case.

Bangladesh

46. Bangladesh is an extremely fertile country located on the vast alluvial delta at the meeting point of the three greatest rivers of Asia. Its 144,000 km² are home to 134 million people, more than 47 million (35 per cent) of whom are undernourished.⁴¹ Food

insecurity and malnutrition in Bangladesh are largely due to poverty and lack of access to resources. However, food security is improving, as, given the energetic efforts of government authorities, Bangladesh has become self-sufficient in food (cereal) production since 1996. Considerable progress has also been made in improving access to water across Bangladesh, thanks to the efforts of the Government, United Nations agencies and civil society. Millions of small-scale tubewells have been sunk in Bangladeshi villages which have provided access to water for many millions of people, for both drinking water and irrigation. This has brought with it some great advances: using drinking water from groundwater, rather than surface ponds, has radically reduced the prevalence of waterborne disease, including diarrhoea, which was one of the major causes of premature death, especially of small children and babies. Increased availability of water for irrigation purposes has improved food security by enabling agriculture outside of the rainy season and significantly improving productivity.

47. However, at the same time, a tragic new problem has arisen. Unforeseen in the development of tubewells was the terrible problem of arsenic contamination of the groundwater. The water of many of Bangladesh's village tubewells has been examined and identified as being contaminated by arsenic. Thousands of people have begun to suffer the effects of arsenic poisoning, which is a dreadful, hidden disease that poisons the body over 5-10 years, eventually destroying internal bodily organs and evolving into cancer. The arsenic is believed to be naturally occurring in rock, washed down in the great rivers from the Himalayas and other watersheds into the flat delta which is Bangladesh, and the concentration of arsenic is high compared to other regions. Although responsibility for this tragedy is difficult to establish because the risks were unknown before, the key requirement now is to take urgent action to mitigate the effects. This must include, as an initial and immediate measure, reducing the dependence on groundwater used for drinking water by, for example, building small family cisterns that collect rainwater for drinking. Taking remedial action will be possible, given that Bangladesh enjoys high rainfall and has abundant access to surface water, however, it will require immediate and strong political will on the part of the Government. The Government of Bangladesh is fully aware of this problem and, in partnership with other actors, is taking decisive and strong action.

48. Another concern that must urgently be addressed, and which demonstrates again the clear linkages between food and water, is the growing concern about the possible uptake of arsenic into the food chain. It has been demonstrated in a few studies that there is a risk that if crops, especially fruit and vegetables, are irrigated using arsenic-contaminated water, the arsenic may become present in the food produced.⁴² More broad-based and comprehensive studies will be needed to establish if this is the case.

49. Another important issue in Bangladesh is the sharing of the water of the great rivers of Asia that flow through it. Although Bangladesh often suffers from floods, as the rivers coming down from India, Nepal and Bhutan overflow with the meltwaters of the Himalayas, it is also a country that is also dependent on vast water resources, particularly for food crops. It is imperative that upper riverine countries therefore reach agreements with Bangladesh over the fair sharing of water resources, acknowledging the effects of dams on the lower riverine nation of Bangladesh and according priority to drinking water and water required for food production.⁴³

Brazil

50. Brazil is one of the most dynamic, complex and vibrant democracies on earth. Today it has the tenth largest economy in the world and is one of the world's largest food exporters. Yet, according to the Government, of a total population of 168 million people, 22 million people continue to live below the extreme poverty line, which means that they cannot buy enough food to eat each day.⁴⁴ The newly elected President, H.E. Luiz Ignacio Lula da Silva, declared that the fight against hunger will be the first priority of his presidency. Food insecurity is largely due to poverty and lack of access to, and control over, resources.⁴⁵ Whilst in Brazil, the attention of the Special Rapporteur was particularly drawn to the case of the semi-arid region of Juazeiro in the State of Bahia. In this arid region, food security is also threatened by the lack of access to water, given that poor families can only rely on rainfall for four months of the year. Important initiatives have been started by Church and civil society organizations to build 1 million small sustainable family water storage cisterns that would transform the living conditions for families living in this arid region; this shows what can be done to improve the realization of the right to food and water. These cisterns can collect 17,000 litres of water during the four months of rain, enabling families to have access to their own water, which is treated with chlorine, for the remaining eight months of the year.

51. However, during his mission, the Special Rapporteur was concerned at reports that some local political and economic elites, including some municipal authorities, had attempted to prohibit or obstruct civil society efforts to construct water cisterns. This seems to have arisen because of the efforts of powerful actors to limit and control access to water in order to secure their own power. Relations of clientelism have long dominated this region of Brazil, with powerful actors controlling access to water, which is brought in periodically by trucks, in exchange for loyalty and votes from the poor. The Special Rapporteur highlights in this case the need to break patterns of dependency and clientelism that can limit access to water. The instrumentalization of water, and food, as a means of maintaining power and control over poor populations must urgently be challenged. The federal government authorities in Brazil have taken strong action to address clientelism and to increase the control of local populations over their own resources.

III. ALLEGATIONS OF VIOLATIONS OF THE RIGHT TO FOOD

52. In the mandate given by the Commission on Human Rights, the Special Rapporteur is requested inter alia, to seek, receive and respond to information on all aspects of the realization of the right to food, including the urgent necessity of eradicating hunger.

53. In accordance with this mandate, the Special Rapporteur has set up, with the aid of OHCHR, an official system for receiving and responding to allegations with respect to violations of the right to food. Once he receives allegations of violations in different countries, he writes to the relevant Governments to ask them to verify the allegations and to take action where necessary to ensure redress and accountability. He reminds them of their obligations under international law and the right to food and asks them to respond to him to document action taken. However, the following States have not responded to his appeals and therefore he repeats the allegations here for their response.

Zimbabwe

54. On 11 July 2002, the Special Rapporteur wrote to the Government of Zimbabwe concerning the famine in the country and allegations of violations of the right to food. Despite the famine, the Special Rapporteur had received allegations from non-governmental and international organizations that government actions were contributing to the deterioration of the food situation, notably alleging that in some regions food relief was being distributed in priority to government supporters. The Special Rapporteur requested the Government to provide further information on these allegations. He reminded the Government of the obligation to respect the right to food and emphasized the principle that food should never be used as an instrument of political or economic pressure.

Myanmar

55. On 4 October 2002, the Special Rapporteur wrote, in a joint letter with the Special Rapporteur on the situation of human rights in Myanmar, to the Government of Myanmar. Allegations were received from non-governmental organizations concerning violations of the right to food. These related to actions that inhibit access to food, including forced relocation of civilian populations, restrictions on freedom of movement, and the persistence of the use of forced labour despite important efforts by the Government to adopt legislation to ban this practice. Allegations also related to reports of the theft and destruction of crops, food stores and livestock by the military. Farmers are also compelled to sell their rice stocks to the Government at levels well below the market price. The Special Rapporteur reminded the Government of its obligations to respect and protect the right to food.

Occupied Palestinian territories

56. On 20 August 2002, the Special Rapporteur wrote to the Government of Israel regarding reports of rapidly increasing malnutrition levels in the occupied Palestinian territories as a result of possible violations of the right to food in the territories. A joint submission from Palestinian, Israeli and international non-governmental organizations documented evidence of the deteriorating nutritional status, particularly of Palestinian children. A recent assessment for the United States Agency for International Development by Care International indicates an increase in the number of malnourished children with 22.5 per cent of children under 5 suffering from acute (9.3 per cent) or chronic (13.2 per cent) malnutrition.⁴⁶ A recent resolution by the World Health Assembly also records the deterioration in health conditions (WHA55.2). Allegations relate to the escalation in closure, curfew and siege policies by the Israeli occupying authorities since September 2000, and invasions and reoccupation of the Palestinian areas since March/April 2002. These policies have been instituted in response to Palestinian attacks on Israeli soldiers, settlers and civilians. However, it is alleged that these policies have resulted in widespread violation of the Palestinian population's right to food and water. Restrictions of movement are alleged to directly deny access to food, water and work, causing growing malnutrition and poverty. Instances of deliberate destruction of food and water sources necessary for the survival of the civilian population, including the destruction of agricultural land and crops, roof water tanks, groundwater wells and irrigation networks are also reported, and allegations also suggest that closure and siege policies have obstructed the delivery of food aid and emergency assistance. The Special Rapporteur also received, on 29 November 2002, an

updated urgent appeal from the same coalition of Israeli, Palestinian and international NGOs, which records a further deterioration of the situation. The Special Rapporteur reminded the Government of Israel of the obligations to respect the right to food under international human rights and humanitarian law.

IV. CONCLUSIONS AND RECOMMENDATIONS

57. In his address to the General Assembly on 4 November 2002, the High Commissioner for Human Rights spoke of the power of the rules and principles of the human rights and international law:

“The very power of these rules lies in the fact that they protect even the most vulnerable, and bind even the most powerful. No one stands so high as to be above the reach of their authority. No one falls so low as to be below the guard of their protection.

“Thus, the basic rules in defence of all our rights address every State and every political movement, every regular army and every armed irregular, every public institution and every private corporation, every group and every individual.”⁴⁷

58. The strength of international law is that it provides standards and demands accountability. These standards and levels of accountability must also be applied in the case of hunger and malnutrition. Persistent hunger in today’s world is neither inevitable nor acceptable. Hunger is not a question of fate; it is manmade. It is the result either of inaction, or of negative actions that violate the right to food. It is therefore time to take action. It is time to recognize the right to food as a human right and to eradicate hunger.

59. At the World Food Summit+5, it became clear that so far little action has been taken to meet the 1996 goal to halve the number of victims of hunger by 2015. However, one small step forward at the Summit was the Government recognition of the “right to food” and the decision to start a process of discussion of voluntary guidelines on the right to food. The right to food is a concept adds to the concept of “food security” because it makes addressing hunger and malnutrition a legal obligation, not simply a policy choice or preference. The Special Rapporteur recommends that the discussions to develop the international voluntary guidelines on the right to food be used as a forum to engage in a practical debate on the best ways of realizing the right to food.

60. The second important recent development occurring at the international level has been a new breakthrough in the legal protection of the right to water. The new General Comment No. 15 of the Committee on Economic, Social and Cultural Rights represents a significant advance in defining the content of the right to water and the obligations that this entails. The Special Rapporteur welcomes the recognition in the General Comment that both drinking water and the water used for irrigation by vulnerable people who only have access to the food they grow themselves must be key elements of the right to food.

61. The Special Rapporteur recommends that:

(a) The voluntary guidelines on the right to food be developed to strengthen the implementation of the right to food. The guidelines should be based on, and not undermine, the authoritative legal interpretation of the right to food, General Comment No. 12. They should outline the obligations of States at national and extranational levels, and the obligations of non-State actors. The guidelines should include the wide range of issues implied by the right to food, including adequate nutrition, access to water, gender and emergency famine response policies, and should also outline the obligations in situations of armed conflict by referring to the principles of international humanitarian law. Mechanisms for monitoring, accountability and appropriate remedy for violations of the right to food should also be included. The guidelines should be elaborated in a participatory process with the vital participation of the United Nations human rights bodies as well as NGOs;

(b) General Comment No. 15 on the right to water should be widely disseminated and debated to improve understanding of the right to water and the obligations that this entails to respect, protect and fulfil (facilitate and provide) the right to water. The close links between the right to food and the right to water should also be recognized, given that violations of the right to food are very often linked to problems in relation to the lack of access to water, or control over water supplies;

(c) Tolerance of violations of the right to food should be ended. Governments should take conscious actions to fulfil their obligations under the International Covenant on Economic, Social and Cultural Rights, including to ensure that they respect, protect and fulfil the human right to food, as defined under General Comment No. 12 on the right to food of the Committee on Economic, Social and Cultural Rights. The Special Rapporteur urges Governments to respond to the allegations that he has received;

(d) Urgent action should be taken by Governments to meet the commitment made at the 1996 World Food Summit to halve the number of victims of hunger by 2015. We know that one child under the age of 10 dies every seven seconds of hunger and hunger-related disease. Time is not an abstract entity. Time is human life;

(e) Finally, Governments should enshrine the right to food in a national law to meet their international obligations, develop a national strategy to realize the right to food, and take all necessary actions, including ensuring good governance and macroeconomic stability, to help combat hunger and malnutrition on their national territory. As Rousseau said, "*Entre le faible et le fort, c'est la liberté qui opprime et c'est la loi qui libère*".⁴⁸ Freedom from hunger will come through the implementation of the right to food under national and international law.

Notes

- ¹ Commission resolution 2000/10.
- ² World Food Programme, *World Hunger Map*, WFP, Geneva, 2001.
- ³ International Fund for Agricultural Development, *Rural Poverty Report 2001: The Challenge of Ending Rural Poverty*, Oxford University Press, New York, 2001.
- ⁴ General Comment No. 12 (E/C.12/1999/5), para. 6.
- ⁵ See the Declaration at <http://www.fao.org/DOCREP/MEETING/005/Y7106E/Y7106E09.htm#TopOfPage>.
- ⁶ General Comment No. 12, op. cit.
- ⁷ The proposal to develop these guidelines came out of a compromise at the 2002 World Food Summit: five years later to develop a code of conduct on the right to food.
- ⁸ See Food and Agriculture Organization of the United Nations, Council Decision, Draft Report of the Hundred and Twenty-third Session, Rome, 28 October-2 November 2002.
- ⁹ Ibid.
- ¹⁰ NGOs can contact FIAN (Foodfirst and Information Network) for more information.
- ¹¹ FAO, op. cit.
- ¹² Letter to the Special Rapporteur from Hartwig de Haen, Under-Director-General, Economic and Social Department, and Giuliano Pucci, Legal Counsellor of FAO, 27 June 2002.
- ¹³ See E/CN.4/2002/58.
- ¹⁴ Based on Michael Windfuhr's proposals for the content of a proposed code of conduct.
- ¹⁵ See Government of Canada at <http://www.g8.gc.ca/kananaskis/afraction-en.asp>.
- ¹⁶ See text of article 2, paragraphs 1 and 11 of the Covenant.
- ¹⁷ General Comment No. 3, paragraph 14, in HRI/GEN/1/Rev.5.
- ¹⁸ General Comments No. 12, para. 36 and No. 15, paras. 30-36.
- ¹⁹ Universal Declaration of Human Rights, art. 28.
- ²⁰ General Comment No. 12, para. 37.

- ²¹ Vienna Declaration and Programme of Action (A/CONF.157/23), Part I, para. 31.
- ²² See also the preamble to the Universal Declaration of Human Rights.
- ²³ World Bank Group, *Development and Human Rights: The Role of the World Bank*, 1998.
- ²⁴ E/CN.4/Sub.2/2003/WG.2/WP.1.
- ²⁵ See the list of companies at <http://65.214.34.30/un/gc/unweb.nsf/content/actors.html>.
- ²⁶ See for example, USAID definition at http://www.usaid.gov/pubs/ads/pps/foodsec/fs_foodsec.html.
- ²⁷ Commission resolution 2001/25, para. 9.
- ²⁸ Message on World Food Day 2002.
- ²⁹ General Comment No. 15 (E/C.12/2002/11), para. 2.
- ³⁰ Ibid., paras. 20-29.
- ³¹ Ibid., para. 6.
- ³² I. Serageldin, "Comment résoudre la crise de l'eau", *Notre Planète*, vol. 8, No. 3, 1996, p. 4.
- ³³ General Comment No. 15, para. 7.
- ³⁴ For example, a Supreme Court decision in India indicates "the right to access to drinking water is fundamental to life and there is a duty on the State under article 21 to provide clean drinking water to its citizens". 2000 SOL Case No. 673. See also arrêt No. 36/98 of 1 April 1998 of the Belgian Court of Arbitration.
- ³⁵ See General Comment No. 15, paragraphs 21-22 and E/CN.4/2002/58.
- ³⁶ ICRC, *Water in armed conflict*. ICRC Publications, November 1994.
- ³⁷ Statement of Understanding accompanying the United Nations Convention on the Law of Non-Navigational Uses of Watercourses (1997), General Assembly document A/51/869 and Corr.1 (11 April 1997).
- ³⁸ UNDP, *Human Development Report 2002*.
- ³⁹ See E/CN.4/2002/58/Add.1.
- ⁴⁰ FIDH, Right to Water in Niger, 2002, at www.fidh.org.

⁴¹ UNDP, op. cit.

⁴² See E/CN.4/2003/54/Add.2.

⁴³ Ibid.

⁴⁴ *A Segurança Alimentar e Nutricional e o Direito Humano a Alimentação no Brasil: Documento elaborado para a visita ao Brasil do Relator Especial da Comissão de Direitos Humanos da Organização das Nações Unidas sobre Direito a Alimentação.*

⁴⁵ See E/CN.4/2003/54/Add.1.

⁴⁶ www.usaid.gov/wbg/report_1htm.

⁴⁷ Address by Sergio Vieira de Mello, United Nations High Commissioner for Human Rights, to the United Nations General Assembly, New York, 4 November 2002.

⁴⁸ Jean-Jacques Rousseau, *The Social Contract*, 1762.



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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the Special Rapporteur of the Commission on Human
Rights, John Dugard, on the situation of human rights in the
Palestinian territories occupied by Israel since 1967, submitted
in accordance with Commission resolution 1993/2 A**

Summary

The situation in the Occupied Palestinian Territory (OPT) continues to be a matter of grave concern. Although the road map promoted by the Quartet offers some prospect of peace in the region, it is important to record that the past six months have seen continued violations of human rights and international humanitarian law.

The Government of Israel has justified its actions in the OPT on the grounds of self-defence and portrayed them as anti-terrorism measures. That Israel has legitimate security concerns cannot be denied. On the other hand, some limit must be placed on the violation of human rights in the name of counter-terrorism. A balance must be struck between respect for human rights and the interests of security.

During the past few months the construction of the Wall, separating Israel from the West Bank, has been frenetically pursued. The Wall does not follow the Green Line, which marks the de facto boundary between Israel and Palestine. Instead, it incorporates substantial areas of the West Bank into Israel. Over 210,000 Palestinians will be seriously affected by the Wall. Palestinians living between the Wall and the Green Line will be effectively cut off from their farmlands and workplaces, schools, health clinics and other social services. This is likely to lead to a new generation of refugees or internally displaced persons.

The Wall has all the features of a permanent structure. The fact that it will incorporate half of the settler population in the West Bank and East Jerusalem suggests that it is designed to further entrench the position of the settlers. The evidence strongly suggests that Israel is determined to create facts on the ground amounting to de facto annexation. Annexation of this kind, known as conquest in international law, is prohibited by the Charter of the United Nations and the Fourth Geneva Convention. The Special Rapporteur submits that the time has come to condemn the Wall as an unlawful act of annexation in the same way that Israel's annexation of East Jerusalem and the Golan Heights has been condemned as unlawful. Similarly, no recognition should be given by the international community to Israel's control over Palestinian territory enclosed by the Wall.

The restrictions on freedom of movement continue to create a humanitarian crisis in the OPT. Although curfews have not affected as many people in 2003 as in the previous year, they still disrupt Palestinian life on a broad scale. The number of checkpoints has increased during the past six months. These restraints on the movement of goods and persons give rise to unemployment, poverty, poor health care and interrupted education and, in addition, they result in the humiliation of the Palestinian people.

The death toll in the conflict continues to rise as a result of suicide bombings and military incursions. The Israeli practice of assassinating suspected terrorists has inflicted death and injury not only on those targeted but on a substantial number of innocent civilians in the vicinity of such actions. The legality of such measures is highly questionable.

There are some 6,000 Palestinians in Israeli prisons and detention centres. Although Israel has agreed to release 540 of them, its refusal to release more prisoners constitutes a major obstacle in the way of peace in the region. Sadly, allegations of torture and inhuman and degrading treatment continue to be made. The Special Rapporteur therefore calls for an independent inquiry into such allegations.

The destruction of property in the OPT continues unabated. During the past eight months, Gaza has been particularly affected by military action that has caused large-scale devastation to houses and agricultural land.

Israel's undertaking to curb the growth of settlements has not been implemented. On the contrary, settlements have continued to grow at an unacceptable pace. This phenomenon, together with the construction of the Wall, suggests that territorial expansion remains an essential feature of Israel's policies and practices in the OPT.

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I. INTRODUCTION

1. The Special Rapporteur visited the Occupied Palestinian Territory (OPT) and Israel from 22 to 29 June 2003. In the course of this mission he visited Gaza, Ramallah, Nablus, Bethlehem, Jericho and Jerusalem. He met with President Arafat, ministers of the Palestinian Authority (PA), members of the Palestinian Legislative Council (PLC) and the Governor of Nablus, who briefed him fully on the situation. He also met with prominent Palestinian and Israeli interlocutors and Palestinian and Israeli non-governmental organizations (NGOs) who informed him about the human rights situation in the OPT. Accompanied by the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Peter Hansen, he visited Beit Hanoun in the Gaza Strip, the scene of massive destruction of homes and agricultural lands. In Ramallah he visited the Surda and Kalandiya checkpoints, where he observed the restrictions on freedom of movement imposed on Palestinians. The Wall/Fence/Barrier (hereinafter “the Wall”) separating Israel from the West Bank featured prominently in the Special Rapporteur’s mission. He observed the construction of the Wall near Jayyous village and Bethlehem.

2. Unfortunately, the Government of Israel continues to withhold its cooperation from the Special Rapporteur. In part, the Special Rapporteur’s failure to hear the Government’s response to the issues described in this report was overcome by attendance at the presentation of Israel’s second periodic report (CCPR/C/ISR/2001/2) on its compliance with the International Covenant on Civil and Political Rights (ICCPR) before the Human Rights Committee on 24 and 25 July 2003. This two-day dialogue between representatives of the Government and the Human Rights Committee covered many of the issues considered in the present report and provided the Special Rapporteur with a clear understanding of the Israeli position. In the course of its presentation, the Government reiterated its argument that its actions in the OPT are to be measured against the rules of international humanitarian law and not those of international human rights law, contained in ICCPR. The Human Rights Committee confirmed that it was unable to accept this argument and reaffirmed its determination to judge Israel’s actions in terms of both these legal regimes. This remains the approach of the Special Rapporteur.

3. The Special Rapporteur left the region shortly before the declaration of a ceasefire by militant groups in the OPT. At the time of writing this report there is relative calm and there is some ground for hoping that the road map, leading to peace between Palestine and Israel and the ultimate creation of a Palestinian State, will succeed. Serious obstacles remain, however, in the way of the successful implementation of the road map. Most of these obstacles have a human rights dimension and are discussed in this report. Peace in the region cannot succeed without a return to the rule of law and respect for human rights and international humanitarian law. It is unfortunate that the road map, like the Oslo Accords, fails to give sufficient weight to this factor.

4. Previous reports have followed an all-too-familiar pattern, describing deaths, detentions, the humanitarian crisis, destruction of property, the suffering of children and settlements. This report will follow a different sequence. After the necessary disclaimer of sympathy for terrorism, the report will focus on two issues that, in the opinion of the Special Rapporteur, most seriously demand the attention of the international community - the unlawful annexation of Palestinian territory and the restrictions on freedom of movement. Thereafter, the report will turn to deaths, detentions, the demolition of property and settlements which, unhappily, continue to characterize the situation.

II. HUMAN RIGHTS AND TERRORISM

5. At the outset, it is necessary for the Special Rapporteur to reaffirm his opposition to terrorism and his commitment to human rights. Many of the rights contained in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights have been violated by the Israel Defence Forces (IDF) in their actions against the Palestinian people. Many of the obligations of international humanitarian law have likewise been violated. These violations are, however, justified by Israel as action taken in self-defence and legitimate anti-terrorism action. That Israel has legitimate security concerns cannot be denied. That it is entitled to take strong action to prevent suicide bombings and other acts of terror is not disputed. On the other hand, there must be some limit to the extent to which human rights may be violated in the name of counter-terrorism. Even in the present international environment, in which anti-terrorism measures challenge old liberties and freedoms, it is not denied that a balance must be struck between respect for basic human rights and the interests of security. Here the principle of proportionality recognized by international humanitarian law has a key role to play. It is not possible to adopt an armchair attitude in assessing Israel's response to suicide bombings and Palestinian violence. Israel is entitled to a wide margin of appreciation in its response. But, even allowing for this, it is suggested, on the basis of the evidence provided in this report, that Israel's response to terror is disproportionate. On occasion, Israel's action in the OPT is so remote from the interests of security that it assumes the character of punishment, humiliation and conquest.

III. ANNEXATION AND THE WALL

6. Language is a powerful instrument. This explains why words that accurately describe a particular situation are often avoided out of fear that they will too vividly portray the situation which they seek to depict. In politics euphemism is often preferred to accuracy in language. So it is with the Wall that Israel is presently constructing within the territory of the West Bank. It goes by the name of "Seam Zone", "Security Fence" or "Separation Wall"¹. The word "annexation" is avoided as it is too accurate a description and too unconcerned about the need to obfuscate the truth in the interests of anti-terrorism measures. However, the fact must be faced that what we are presently witnessing in the West Bank is a visible and clear act of territorial annexation under the guise of security. There may have been no official act of annexation of the Palestinian territory in effect transferred to Israel by the construction of the Wall, but it is impossible to avoid the conclusion that we are here faced with annexation of Palestinian territory.

7. Israel is presently building a wall between Israel and the West Bank that, when completed, will be some 450 (possibly 650) kilometres in length. At the time of writing some 150 kilometres have already been completed and building constructors are working frenetically to finish it as soon as possible. At times this barrier takes the form of an eight-metre-high wall (near Qalqiliya). Mostly it takes the form of a barrier some 60 to 100 metres wide, which includes buffer zones with trenches and barbed wire, trace paths to register footprints, an electric fence with sensors to warn of any incursion, a two-lane patrol road and fortified guard towers at regular intervals. No-go areas of over 100 metres wide on each side of the barrier will be policed by IDF. Israel has undertaken to install some 27 agricultural crossings and 5 general crossings for traffic and persons through the barrier but as yet little progress has been made on these crossings.

8. Possibly, the Wall will assist in the achievement of the Government's publicly declared goal - to prevent suicide bombers from reaching Israeli territory. Even this, however, is doubted by some who point to the fact that most suicide bombers have passed through checkpoints and that the Wall will not deter persons determined to cross into Israel to commit acts of terrorism. That this is a valid complaint is borne out by the comment of the Israeli State Comptroller in his report of July 2002 that "IDF documents indicate that most of the suicide terrorists and car bombs crossed the seam area into Israel through the checkpoints, where they underwent faulty and even shoddy checks".²

9. The Wall does not follow the Green Line, that is the 1967 boundary between Israel and Palestine which is generally accepted as the border between the two entities. Instead, it follows a route that incorporates substantial parts of Palestine within Israel. At present the Wall intrudes six to seven kilometres within Palestine, but there are proposals to penetrate still deeper into Palestinian territory in order to include the settlements of Ariel, Immanuel and Kedumim. In some places the winding route creates a barrier that completely encircles Palestinian villages while at many points it separates Palestinian villages from the rest of the West Bank and converts them into isolated enclaves. Qalqiliya, a city with a population of 40,000, is completely surrounded by the Wall and residents can only enter or leave through a single military checkpoint open from 7 a.m. to 7 p.m. Palestinians between the Wall and the Green Line will effectively be cut off from their land and workplaces, schools, health clinics and other social services. Much of the Palestinian land on the Israeli side of the Wall consists of fertile agricultural land and some of the most important water wells in the region. The Wall is constructed on Palestinian lands expropriated by Israeli military order, justified on grounds of military necessity. Many fruit and olive trees had been destroyed in the course of building the barrier. B'Tselem, a leading Israeli human rights NGO, estimates that the barrier will cause direct harm to at least 210,000 Palestinians living in 67 villages, towns and cities.

10. Palestinians, unconvinced by Israel's assurances that they will be allowed to pass through the crossings to be erected in the Wall, are moving from their homes in the affected areas to the security of what remains of Palestine. It is reported that already some 600 shops and enterprises have closed in Qalqiliya as a result of the construction of the Wall. The Wall will therefore create a new generation of refugees or internally displaced persons.

11. It is impossible to give complete facts about the Wall as its final trajectory is still surrounded in secrecy and uncertainty. The path of the Wall changes regularly in response to demands from settlers and other political interest groups within Israel. There is no transparency surrounding the construction of the Wall and its final course seems to be known only to an inner circle of the military and political establishment within Israel. It is, however, widely expected that, following the completion of the Wall separating Israel from the West Bank on the western side, an eastern wall will be constructed, along the mountain ridge west of the Jordan Valley, which will separate Palestine from the Jordan Valley.

12. The Wall must be seen in the context of settlement activity (discussed later) and the unlawful annexation of East Jerusalem. Settlements in East Jerusalem and the West Bank are the principal beneficiaries of the Wall and it is estimated that approximately half of the 400,000 settler population will be incorporated on the Israeli side of the Wall. Needless to say, it is extraordinary that such action should be taken to incorporate illegal settlements that form the

subject of negotiations between Israel and Palestine. The Wall will be built at great cost to Israel: it is projected that US\$ 1.4 billion will be spent on its construction. This simply confirms the permanent nature of the Wall.

13. The Wall has serious implications for human rights. It further restricts the freedom of movement of Palestinians, restricts access to health and education facilities and results in the unlawful taking of Palestinian property. However, the Wall has more serious implications as it violates two of the most fundamental principles of contemporary international law: the prohibition on the forcible acquisition of territory and the right to self-determination.

14. Like the settlements it seeks to protect, the Wall is manifestly intended to create facts on the ground. It may lack an act of annexation, as occurred in the case of East Jerusalem and the Golan Heights. But its effect is the same: annexation. Annexation of this kind goes by another name in international law - conquest. Conquest, or the acquisition of territory by the use of force, has been outlawed by the prohibition on the use of force contained in the Kellogg-Briand Pact of 1928 and Article 2, paragraph 4, of the Charter of the United Nations. The prohibition on the acquisition of territory by force applies irrespective of whether the territory is acquired as a result of an act of aggression or in self-defence. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV) of 24 October 1970, annex) declares that “the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal”. This prohibition is confirmed by Security Council resolution 242 (1967) and the Oslo Accords, which provide that the status of the West Bank and Gaza shall not be changed pending the outcome of the permanent status negotiations.³ The Geneva Convention relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention) provides that protected persons in an occupied territory shall not be deprived of the benefits of the Convention “by any annexation ... of the occupied territory” (art. 47).

15. The right to self-determination is closely linked to the notion of territorial sovereignty. A people can only exercise the right of self-determination within a territory. The amputation of Palestinian territory by the Wall seriously interferes with the right of self-determination of the Palestinian people as it substantially reduces the size of the self-determination unit (already small) within which that right is to be exercised.

16. The Special Rapporteur submits that the time has come to condemn the Wall as an act of unlawful annexation in the language of Security Council resolutions 478 (1980) and 497 (1981) which declare that Israel’s actions aimed at the annexation of East Jerusalem and the Golan Heights are “null and void” and should not be recognized by States. Israel’s claim that the Wall is designed entirely as a security measure with no intention to alter political boundaries is simply not supported by the facts.

IV. RESTRICTIONS ON FREEDOM OF MOVEMENT AND THE HUMANITARIAN CRISIS

17. Previous reports have described the serious restrictions on freedom of movement imposed on the Palestinian people by the Occupying Power. Checkpoints, closures and curfews are words that fail to capture the full enormity of what is happening today in the West Bank and Gaza. A checkpoint is not simply a military outpost on a highway that checks the documents of pedestrians and traffic that seek to proceed along the road. Every day thousands of Palestinians must pass through these checkpoints in order to travel from home to work, to reach schools and hospitals and to visit friends and family. Every day Palestinians are compelled to waste hours passing through these checkpoints. Frequently, Palestinians are obliged to leave their vehicles at one checkpoint and to walk along dusty roads to another checkpoint to take a taxi to their destination. Accounts of rudeness, humiliation and brutality at the checkpoints are legion. Ambulances are often delayed and women give birth to children at checkpoints. Checkpoints are not so much a security measure for ensuring that would-be suicide bombers do not enter Israel, but rather the institutionalization of the humiliation of the Palestinian people. Similarly, a curfew is not simply a restriction on leaving one's home. It is the imprisonment of the people within their own homes. Unable to go to work, to buy food, to go to school, to visit hospitals or to bury their dead, they are confined within the walls of their own homes while the IDF patrols their streets. Statistics of checkpoints and curfews cannot accurately portray the obscenity of the situation. Unfortunately, Israelis are protected from seeing what their army is doing to their subjugated neighbour by laws that restrict Israelis from seeing what is happening. The acclaimed Palestinian author, Raja Shehadeh, described the situation in his recent book *When the Bulbul Stops Singing: A Diary of Ramallah Under Siege*:⁴ "During the first intifada, the movement of both people into the land of the other continued to be possible. ... All sorts of relations developed between the people on the two sides of the divide. None of this has been possible this time. With the exception of a few determined Israeli journalists, it was left to the army to present to the Israeli people the reality of the Occupied Territories. The prohibition against travel by both sides to each other's territories meant that the demonization could continue unchallenged."

18. The task of the Special Rapporteur is to report on facts. Curfews continue, but without the severity of 2002. From November 2002 to April 2003, an average of 390,000 civilians were under curfew compared with 520,000 in the second half of 2002. However, people under curfew in Hebron, Jenin and parts of Gaza were frequently under tighter and more continuous curfew in 2003.

19. There are some 300 checkpoints or roadblocks, including about 140 checkpoints manned by the military. However, in late July 2003 a number of roadblocks were removed within the context of the implementation of the road map. Checkpoints vary in nature and include permanent checkpoints, mobile checkpoints, unmanned roadblocks, dirt walls, earth mounds, concrete blocks, iron gates and trenches dug around villages and towns. Sometimes tanks or military vehicles are used as roadblocks. These checkpoints or roadblocks, around every town and major road junction, divide the OPT internally. Eight commercial checkpoints divide the West Bank into the separate cantons of Hebron, Bethlehem, Jericho, Ramallah, Nablus, Tulkarem, Qalqiliya and Jenin. Each district has one official commercial entrance. Commercial goods must be unloaded and transferred to another vehicle on the other side of the checkpoint ("back-to-back transport"). Checkpoints for ordinary people likewise sometimes

require back-to-back transfer. These checkpoints divide the West Bank into a patchwork of cantons. Since March 2002, permits have been required to travel from one district to another. Gaza is totally isolated from the rest of Palestine. It too, however, is partitioned into three separate cantons by checkpoints. These measures have not prevented the movement of militants between different towns or regions or between Palestine and Israel. They do not protect settlements which are already well protected by the IDF. Instead, internal checkpoints restrict internal trade within the OPT and restrict the entire population from travelling from village to village or town to town. They must therefore be seen as a form of collective punishment. Writing in *Ha'aretz* on 27 July 2003, the columnist Gideon Levy wrote that the purpose of checkpoints is "to make the lives of the local residents as miserable as possible". Unfortunately, the Israeli representatives appearing before the Human Rights Committee on 24 and 25 July 2003 made no serious attempt to address the issue of checkpoints. Indeed, there seemed to be no appreciation on their part of the hardships and humiliation caused by checkpoints.

20. Checkpoints, closures and curfews have had a major impact on the Palestinian economy. According to a World Bank report of May 2003, "The bulk of Palestinian economic losses stem from closure and curfew."⁵ This has resulted in unemployment (which now stands at 40 per cent in the West Bank and Gaza) and poverty (60 per cent of the people live on less than US\$ 2 per day; 2 million live in poverty, dependent on food from international donor agencies). Checkpoints and curfews have also led to a drop in health standards resulting from inability to access hospitals and clinics, the impossibility of carrying out health-care programmes (for example, vaccinations) and the psychological trauma arising from the physical, economic and social consequences of occupation. Checkpoints have also resulted in the failure to acquire nutritious food and sufficient clean water. The obstruction of ambulances at checkpoints remains a serious problem. In the past year, about 60 ambulances per month were held up at checkpoints of which a quarter were denied passage. In March 2003, 15 ambulances were fired upon. Children have suffered dramatically. Schools are closed by curfew and checkpoints make it difficult for both teachers and children to reach schools. Twenty-two per cent of children under the age of 5 suffer from acute or chronic malnutrition while the breakdown of family life has had a severe impact on children.

21. There is a humanitarian crisis in the West Bank and Gaza. It is not the result of a natural disaster. Instead, it is a crisis imposed by a powerful State on its neighbour.

V. LOSS OF LIFE AND THE KILLING OF CIVILIANS

22. For both human rights law and international humanitarian law the protection of human life is a primary goal. Article 6 (1) of the International Covenant on Civil and Political Rights states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." While accepting that combatants engaged in armed conflict would be exposed to life-threatening situations, international humanitarian law seeks to limit harm to civilians by requiring that all parties to a conflict respect the principles of distinction and proportionality. The principle of distinction, codified in article 48 of Protocol I Additional to the Geneva Conventions of 12 August 1949, requires that "the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives". Acts or threats of violence the primary purpose of which is

to spread terror among the civilian population, are prohibited (art. 51 (2)). The principle of proportionality, codified in article 51 (5) (b), prohibits an attack on a military target “which may be expected to cause incidental loss of civilian life, injury to civilians, [or] damage to civilian objects ... which would be excessive in relation to the concrete and direct military advantage anticipated”. That these principles apply to both Israelis and Palestinians was confirmed by the High Contracting Parties to the Fourth Geneva Convention when, in a declaration issued on 5 December 2001, they called upon both parties to the conflict to:

“... ensure respect for and protection of the civilian population and civilian objects and to distinguish at all times between the civilian population and combatants and between civilian objects and military objectives.”

23. Sadly, neither party to the conflict in the region has paid proper respect to these principles as the death toll has continued to rise. Since the start of the second intifada in September 2000, over 2,755 Palestinians and over 830 Israelis have been killed and 28,000 Palestinians and 5,600 Israelis have been injured. Most have been civilians. Five hundred and fifty children have been killed, of whom 460 were Palestinians and 90 Israelis. The number of Palestinian children killed, mainly in air and ground attacks, has increased in 2003. Within Israel, most deaths have been caused by suicide bombers.

24. The assassination of Palestinian militants has intensified. From October 2000 to April 2003, the IDF has killed more than 230 Palestinians, including 80 children, women and innocent bystanders, in assassination actions. Over 300 persons have been injured in these actions. In the period 10-14 June 2003, the IDF killed 27 Palestinians and wounded dozens of others in a series of extrajudicial killings carried out by helicopter gunships in the Gaza Strip. These attacks included an unsuccessful assassination attempt on Dr. Abdel Aziz Al-Rantisi, a senior political leader of Hamas. Four people were killed and 35 injured while 29 nearby apartments were damaged. On 12 June 2003, IDF helicopters bombarded the car of Yasser Taha. He was immediately killed, together with his wife and young daughter. In addition, five other civilians were killed in the attack and 36 were wounded, including 10 children.

25. In June 2003, a number of NGOs commenced legal proceedings to stop assassinations. This matter is still before the Israeli High Court of Justice, which has refused a request for a temporary injunction against further assassinations. Judge Antonio Cassese, former President of the International Criminal Tribunal for the Former Yugoslavia, has submitted an expert opinion to the Court in which he asserts that assassinations of this kind could be considered as war crimes. In his opinion, he maintains that the killing of civilians suspected of terror activity, when no direct belligerent operation in which they are involved is taking place, substantively infringes the basic principle that armed forces must distinguish between combatants and civilians. He further argues that suspects should be arrested and tried, which is often possible in the light of Israel's control of the OPT.

26. Israel justifies its policy and practice of assassinations on grounds of self-defence and claims that it is not possible to arrest and try suspects, particularly where they are in areas controlled by the Palestinian Authority. The evidence on this point is inconclusive as there are certainly some instances in which arrests could have been made in the light of Israel's capacity

to exercise its jurisdictional power within the areas controlled in theory by the Palestinian Authority. The failure to attempt such arrests inevitably gives rise to suspicions that Israel lacks evidence to place such persons on trial and therefore prefers to dispose of them arbitrarily.

27. The indiscriminate use of violence is further illustrated by the use of flechette shells in Gaza. The use of such anti-personnel weapons in such a densely populated area as Gaza exposes civilians to great risk and fails to take account of the need to distinguish between civilians and military objectives. On 27 April 2003, the Israeli High Court of Justice refused to intervene in the army's choice of weapons because flechettes are not banned outright under international law.

28. The failure of the IDF to investigate crimes committed by its members in the OPT has long been criticized. In June 2003, this criticism was confirmed when the Judge Advocate General stated that a mere 55 investigations into shooting incidents had been opened since the beginning of the second intifada, resulting in only six indictments.⁶

VI. PRISONERS

29. At the time of writing this report, there are some 6,000 Palestinians in Israeli prisons and detention centres. Some have been tried, some have not. The number of those detained includes 175 juveniles and 70 women. Approximately 800 persons are held in administrative detention, that is detention by administrative order rather than judicial procedure. The issue of prisoners has become a major obstacle in the implementation of the road map. Israel is reluctant to release more than 540 prisoners while the Palestinian Authority demands that all prisoners be released.

30. There are serious complaints about the treatment of prisoners that are supported in varying degrees by respectable non-governmental organizations such as the Public Committee Against Torture in Israel (PCATI), the World Organization against Torture (OMCT), the Defence for Children International - Palestine Section, LAW - The Palestinian Society for the Protection of Human Rights and the Environment, Al-Haq and the Mandela Institute For Human Rights. These complaints cover all prisons and detention centres and include men, women and children held in imprisonment as well as administrative detainees. On the one hand, these complaints cover allegations of overcrowding, disgusting prison conditions and lack of proper medical care. On the other hand, they include serious allegations of inhuman and degrading treatment, sometimes amounting to torture.

31. In 1999 the Israeli High Court of Justice ruled that various methods of torture employed by the General Security Service (GSS), such as violent shaking, covering the head with a sack, tying to a small tilted chair or position abuse (*shabeh*), sleep deprivation and painful shackling were, when applied cumulatively, illegal. Despite this, there is considerable evidence that these methods are still employed during the interrogation of adults and juveniles. In a publication entitled *Back to a Routine of Torture* covering the period September 2001 to April 2003, PCATI estimated that for the first half of 2003, "each month, hundreds of Palestinians have been subjected to one degree or another of torture or other cruel, inhuman or degrading treatment, at the hands of the GSS and bodies working on its behalf. ... The bodies which are supposed to keep the GSS under scrutiny and ensure that interrogations are conducted lawfully act, instead,

as rubber stamps for decisions by the GSS". These allegations are difficult to reconcile with the assurance given by the representatives of the Israeli Government before the Human Rights Committee on 24 and 25 July 2003 that allegations of this kind had been properly investigated and proved to be unfounded or justified on grounds of necessity.

32. The Special Rapporteur finds himself in an awkward situation when it comes to assessing evidence of this kind. Allegations of torture and inhuman treatment are supported in varying degrees by highly respected NGOs that have taken statements from former prisoners and consulted with lawyers working within the system. Moreover, there are serious doubts about the impartiality of the investigations of these complaints carried out by the Israeli authorities. The Special Rapporteur is denied access to Israeli prisons and detention centres and to government officials who might assist in the task of assessing the validity of allegations on this subject. The Special Rapporteur therefore urgently calls upon the Israeli authorities either to permit an independent international committee to investigate such complaints or to conduct a full-scale independent judicial inquiry into such allegations itself. It has often been said that the degree of civilization of a State can be measured by the way in which it treats prisoners. At present Israel, which prides itself on a high standard of criminal justice within its own borders, runs the risk of forfeiting this reputation by its consistent refusal to respond to criticisms of treatment of prisoners from the OPT.

VII. DESTRUCTION OF PROPERTY

33. The destruction of property in the OPT continues unabated. Three principal reasons are advanced by Israel for the destruction of homes and agricultural property. First, the interests of security or military necessity may require houses to be destroyed and agricultural land to be cleared ("shaved" or "swept") to prevent such houses or trees from being used to provide cover for militants bent on attacking settlements or IDF positions. This has resulted in the creation of wide buffer zones adjacent to settlements and roads used by settlers. Secondly, the homes of those who have committed crimes against Israel are destroyed by way of punishment (although the Israeli Government prefers to describe this as a form of deterrence). Thirdly, houses built without administrative permission, in a system in which permits are seldom granted, are destroyed to assert respect for Israel's administrative regime. These three reasons have been invoked by the Israeli authorities to destroy thousands of homes and to lay bare vast areas of fertile agricultural land.

34. The situation is particularly acute in Gaza. According to the Commissioner-General of UNRWA, "At the end of May 2003, a total of 1,134 homes [had] been demolished by the Israeli military in the Gaza Strip, making almost 10,000 individuals homeless. Unfortunately, this is not a policy on the wane. During the first two years of the intifada, the average number of homes demolished in Gaza - a statistical category both depressing and surreal - was 32 per month. Since the start of 2003, the average has risen to 72. Disturbingly, the publication of the road map to peace has so far had no impact."⁷ The Special Rapporteur had the opportunity to observe the devastation caused in Beit Hanoun at first hand when he visited on 24 June 2003. Parts of this town had been reduced to a wasteland as a result of the destruction of homes and orchards. It appears that this act of large-scale devastation was in part a punitive measure taken against homes and orchards in the neighbourhood of a roadside bomb aimed at an Israeli military vehicle.

35. The collective punishment of Palestinians in the form of destruction of property has had serious consequences for the Palestinian people and the environment of Palestine. According to Jeff Halper, the Director of the Israeli Committee against House Demolitions, "The bulldozer has become as much a symbol of Israeli occupation as the rifle and the tank".

VIII. SETTLEMENTS

36. The international community is united in its opposition to Israeli settlements in the OPT. It has repeatedly described them as being in violation of the sixth paragraph of article 49 of the Fourth Geneva Convention which prohibits the Occupying Power from transferring parts of its own civilian population into the territory it occupies. The road map makes it clear that the dismantling of settlements is an important issue in the resolution of the Israeli-Palestinian conflict.

37. There are at present some 200 settlements in the OPT containing a total population of over 400,000. In the West Bank there are more than 120 settlements with over 230,000 settlers, while in the Gaza Strip there are 16 settlements with some 7,000 settlers. About 180,000 settlers live in the neighbourhoods of East Jerusalem. Settlements often comprise fully developed towns and villages. For instance, Ma'aleh Adumim has a population 28,000 settlers. Roads constructed to link settlements with each other and to allow access to Israel have also resulted in the taking of Palestinian land.

38. Israel has given an equivocal undertaking to restrict the growth of settlements to "natural growth" and to dismantle "unauthorized settlements", that is outposts and extensions to existing settlements not authorized under Israeli law. Despite this, new settlements are being built, as the Special Rapporteur saw on several occasions, and existing settlements continue to grow. The population growth in the settlements is three times that of Israel itself. In 2002, the population in the Israeli settlements in the West Bank grew by 5.7 per cent compared with 1.9 per cent in Israel.⁸ The Israeli Government continues to offer financial inducements to Israelis to settle in the OPT and in 2003 Israel budgeted 1.9 billion new Israeli shekels for settlements. Further evidence of the determination of the Israeli Government to entrench the settlements is provided by the erection of the Wall (discussed in chap. III above), the continued clearing of Palestinian land within the proximity of settlements for security purposes and the allocation of heavy military resources to protect settlements. (For example, the 532 settlers who live in the centre of Hebron are protected by some 100 Israeli soldiers.)

39. Settlements fragment Palestinian territory and seriously undermine the prospects for Palestinian self-determination within a viable territorial unit. A recent study carried out by B'Tselem estimates that 41.9 per cent of the total land area of the West Bank is effectively under the control of settlements, including developed areas, non-developed municipal areas and land reserves.

40. The harsh truth is that there is no "freeze" on the construction or growth of settlements. Moreover, the Israeli Government is taking no steps to reverse this pattern of growth. A poll conducted by the Israeli group "Peace Now" in July 2003 has shown that 74 per cent of the settlers in the OPT would leave their homes in return for compensation. If the Israeli

Government were serious about its undertaking to halt the growth of settlements, it might give serious attention to budgeting funds for the repatriation of settlers and their compensation rather than allocating such substantial funding to the settlements and to the building of the Wall.

IX. CONCLUSION

41. The occupation of the OPT continues to result in widespread violations of human rights, affecting both civil and socio-economic rights, and of international humanitarian law. Israel's justification for these actions is that they are necessary in the interests of its own national security. As indicated at the beginning of this report, the lawfulness of Israel's response is to be measured in accordance with the principle of proportionality. The Special Rapporteur finds it difficult to accept that the excessive use of force that disregards the distinction between civilians and combatants, the creation of a humanitarian crisis by restrictions on the mobility of goods and people, the killing and inhuman treatment of children, the widespread destruction of property and, now, territorial expansion can be justified as a proportionate response to the violence and threats of violence to which Israel is subjected. As stressed in this report, the construction of the Wall within the West Bank and the continued expansion of settlements, which, on the face of it, have more to do with territorial expansion, de facto annexation or conquest, raise serious doubts about the good faith of Israel's justifications in the name of security.

Notes

¹ In Palestine, the term "Apartheid Wall" is frequently used to describe the Wall. Strictly speaking, this historical metaphor is inaccurate as no wall of this kind was erected between Black and White in apartheid South Africa.

² State Comptroller, *Audit Report on the Seam Area*, p. 35.

³ Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, 28 September 1995, chap. 5, art. XXXI, para. 7.

⁴ Also published as *When the Birds Stopped Singing: Life in Ramallah Under Siege*.

⁵ *Twenty-Seven Months - Intifada, Closures and Palestinian Economic Crisis: An Assessment*, The World Bank West Bank and Gaza Office, Jerusalem, chap. 2, para. 2.5.

⁶ *B'Tselem Newspaper*, 29 June 2003.

⁷ *International Herald Tribune*, 23 June 2003.

⁸ *The Jerusalem Post*, 28 July 2003.



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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the Special Rapporteur of the Commission on Human Rights,
John Dugard, on the situation of human rights in the Palestinian territories
occupied by Israel since 1967***

* In accordance with General Assembly resolution 53/208 B, paragraph 8, this document is submitted late so as to include the most up-to-date information possible.

Summary

The situation in the Occupied Palestinian Territory (OPT) is characterized by serious violations of general international law, of human rights law and of international humanitarian law. It is not helpful to suggest that a solution can be found to the conflict in the region by ignoring norms of international law. A sustainable peace in the region must take place within the framework of international law and relevant resolutions of the United Nations.

Terrorism is a constant feature of the conflict in the OPT and neighbouring Israel. Both Palestinians and Israelis have been responsible for inflicting a reign of terror on innocent civilians. Measures must be taken to prevent terrorism, but not at the expense of fundamental principles of law. The Wall presently being constructed by Israel, insofar as it is built on Palestinian territory, cannot be justified as a legitimate or proportionate response to terrorism.

The present report focuses on the Wall in the West Bank. This should not result in a failure to pay proper attention to the situation in Gaza where death and destruction remain a feature of daily life. House demolitions continue unabated and the number of homeless persons rises steadily - particularly in the Rafah refugee camp. Moreover, the people of Gaza are subjected to regular military incursions in which scant regard is paid to civilian life.

The Wall being built by Israel in the name of security penetrates deep into Palestinian territory and has resulted in the creation of a zone between the Green Line (the de facto border between Israel and Palestine) and the Wall inside the OPT, which Israel has designated as "closed" to all Palestinians. Palestinians who live, farm, work or go to school within this closed zone require special permits from the Israeli authorities. Both the construction of the Wall and the operation of the permit system for the "Closed Zone" between the Wall and the Green Line have caused great hardships to Palestinians and violated norms of human rights law and international humanitarian law.

The construction of the Wall has resulted in the large-scale destruction of Palestinian property. Olive and citrus trees have been uprooted and agricultural land reduced to a wasteland. The seizure of land for the building of the Wall has taken place without due process of law. Notice of seizure of land has been served in an arbitrary manner and there is, in the circumstances, no real remedy available to landowners to contest the seizure of land. The Wall has infrequent gates for the purpose of crossing. Consequently, those farmers granted permits to farm their land have difficulty in accessing their land.

The permit system for the Closed Zone is administered in an arbitrary and humiliating manner. Permits are frequently withheld, even for landowners and residents of the Closed Zone, or granted for short periods only. The failure to grant permits to farmers to cultivate their lands will result in neglect and ultimate decay of fertile agricultural land. The permit system has also drastically interfered with education, health care and family life. This system, which subjects Palestinian freedom of movement to the whim of the Occupying Power, creates anger, anxiety and humiliation among the population. In the result, it is likely to create insecurity for Israel rather than security.

There is a real prospect that life will become so intolerable for those villagers living in the Closed Zone that they will abandon their homes and migrate to the West Bank. Farmers whose lands are in the Closed Zone are also likely to abandon their farms under pressure from an arbitrary permit system.

The main beneficiaries of the Wall are settlers: 54 settlements and 142,000 settlers (that is 63 per cent of the West Bank settlement population) will find themselves on the Israeli side of the Wall, with access to land separated from its Palestinian owners.

The Wall might have been justified as a legitimate security measure to prevent would-be suicide bombers from entering Israel had it followed the course of the Green Line. The manner in which it has been built - largely on Palestinian territory - cannot, however, be justified on security grounds. The building of the Wall, in such a way that it separates farmers from their land, isolates villages from employment, schools and health care, brings settlers within the de facto borders of Israel and confirms the unlawful annexation of East Jerusalem, suggests that the main purpose of the Wall is the annexation, albeit by de facto means, of additional land for the State of Israel.

The Wall violates the prohibition on the acquisition of territory by forcible means, and seriously undermines the right to self-determination of the Palestinian people by reducing the size of a future Palestinian State. Moreover, it violates important norms of international humanitarian law prohibiting the annexation of occupied territory, the establishment of settlements, the confiscation of private land and the forcible transfer of people. Human rights norms are likewise violated, particularly those affirming freedom of movement, the right to family life and the right to education and health care.

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Introduction

1. This is an addendum to the Special Rapporteur's report of 8 September 2003 (E/CN.4/2004/6).
2. The Special Rapporteur visited the Occupied Palestinian Territory (OPT) and Israel from 8 to 15 February 2004. He met with members of the Palestinian Authority (PA), Palestinian and Israeli interlocutors and non-governmental organizations (NGOs), United Nations agencies, and Palestinian men, women and children who have suffered as a consequence of the Israeli occupation. This visit focused upon human rights violations in Gaza and the impact on human rights of the wall, or barrier,* being built in Palestinian territory in the West Bank. In Gaza, the Special Rapporteur visited Gaza City and the Rafah refugee camp, where he examined the damage caused to homes adjacent to the wall built by Israel along the border with Egypt and met with teachers and children in United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) schools who had suffered as a result of Israeli military incursions and shelling. In the West Bank the Special Rapporteur visited many sections of the Wall or barrier and discussed its impact on affected communities with local residents and NGOs active in monitoring the situation. The following towns and villages along the Wall were visited:

Bethlehem region: Al Walaja, Beit Jala, Beit Sahur, Al Khas and Bethlehem;

Jerusalem: Abu Dis, Al Eizariya;

North-West Jerusalem: Beit Surik, Biddu, Qatanna;

Qalqiliya region: Sanniriya, Beit Amin, Azzun Atma, Ras Atiya, Ras A-Tira and Qalqiliya;

Tulkarm region: Far'un, Jubara, Al-Jarushiya, Attil, Zeita, Baqa Ash-Sharqiya and Tulkarm.

3. The mandate of the Special Rapporteur is to investigate Israel's "violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons of 1949" in the OPT (Commission resolution 1993/2). This requires the Special Rapporteur to ascertain, on the basis of the available evidence, whether Israel has violated fundamental principles of international law, international human rights law and international humanitarian law and, if so, to report it to the Commission. In some quarters, it is being suggested that reports of this kind are unhelpful to the peace process in the Middle East. It is argued that the principal parties to the conflict in the region should resolve their differences and agree upon matters such as boundaries, Israeli settlements in the OPT, the return of refugees and access to religious sites free from the restraints of international law. The Special Rapporteur does not share this view. There are universally

* The terms "wall" and "barrier" are both used in this report. "Wall" is the term used by the General Assembly in resolution ES-10/14 of 3 December 2003.

accepted rules of international law prohibiting the acquisition of territory by force, the signing of treaties under duress, the mistreatment of civilians of occupied territories, the settling of a belligerent occupant's population in occupied territory and the violation of human rights. There are also a host of resolutions of the United Nations applying these rules to the OPT. An internationally acceptable peace in the region must take place within the framework and constraints of these rules. By reporting on violations of these rules the Special Rapporteur therefore advances rather than hinders the peace process.

I. TERRORISM, SECURITY AND THE VIOLATION OF INTERNATIONAL LAW

4. Terrorism, unfortunately, is a feature of the conflict in the region. Palestinian suicide bombers have caused death and devastation within Israel. Innocent Israeli civilians, in buses and public places, have been killed and wounded by fanatical Palestinians prepared to spread terror throughout Israel. At the same time, the Israel Defence Forces (IDF) have inflicted a reign of terror upon innocent Palestinians in the course of their assassination of militants in densely populated towns, their destruction of homes, and their random firing in built-up areas - not to mention the methodical intimidation and humiliation of civilians at checkpoints. In this environment of terror and intimidation both Israelis and Palestinians understandably yearn for security. But security cannot be achieved at the expense of basic principles of international law. There are limits to the measures that may be taken to achieve security. Israel cannot under international law advance its security by forcibly seizing the land of its neighbour and subjecting its neighbour to an oppressive regime in which basic human rights are violated. International law permits the use of force in self-defence, the departure from some principles of humanitarian law on grounds of military necessity and the derogation from some human rights in emergency situations. But these are exceptional measures that are subject to the restraints of both proportionality and legitimacy. In the view of the Special Rapporteur many of the measures taken by Israel against Palestine are seriously disproportionate to the dangers to which Israel is subjected. Moreover, the question must be asked whether some of the actions taken by Israel that are described in this report are primarily concerned with the achievement of security. Checkpoints seem to have as one of their goals the humiliation of the Palestinian people while the Wall, when it enters Palestinian territory, seems to be mainly aimed at the seizure of land for purposes unrelated to security. These are serious matters. But they are matters that must be addressed in any evaluation of Israel's compliance or non-compliance with international law. States throughout the world have exploited international concerns about terrorism in the post-11 September era to their advantage. Israel is no exception.

II. THE VIOLATION OF HUMAN RIGHTS IN GAZA

5. Death and destruction continue to be the fate of Gaza. During the visit of the Special Rapporteur 15 Palestinians, including 3 civilians, were killed and 62 wounded in gun battles with the IDF. The targeted killing of militants in densely populated areas is carried out with little regard for civilians. Innocent passers-by, often children, have consequently been killed or wounded in these attacks. Of the 95 persons killed or injured in targeted killings in Gaza since 1 January 2003, most were civilians. As pointed out in earlier reports, targeted killings and assassinations are illegal and may constitute war crimes. Moreover, the principle of distinction, a fundamental tenet of international humanitarian law, obliges States to distinguish at all times between civilians and combatants in their military operations. The IDF often fails to pay due

regard to this principle and, moreover, does not in most cases investigate the killing of civilians or prosecute those responsible. Although over 2,500 Palestinians have been killed by the IDF since the start of the second intifada in September 2000, only 15 soldiers have been indicted for causing death or grievous injury to Palestinians. Impunity of this kind in an international order committed to accountability for international crimes and the criminal responsibility of commanders for crimes committed by their troops is a matter of serious concern.

6. The demolition of houses and the destruction of property continue unabated. A total of 1,640 homes have been destroyed or damaged beyond repair in the Gaza Strip since 2000, rendering 2,705 families - about 15,000 persons - homeless. The IDF has been particularly active in its demolition of homes in Rafah, adjacent to the border with Egypt. A total of 1,063 homes have been destroyed or damaged beyond repair since 2000 rendering 1,846 families - about 9,970 persons - homeless. Since January 2003 the number of homes destroyed has increased dramatically. In October 2003 alone 198 homes were destroyed in Rafah. Here, as elsewhere, the defence of military necessity and security must be carefully scrutinized. An eight-metre metal and concrete wall along the Egyptian border protects IDF patrols along the border from sniper fire. That tunnels from Egyptian territory into Rafah exist cannot be disputed. Nor can it be disputed that these tunnels are used for the smuggling of goods and arms. On the other hand, the question must be asked whether the high-tech IDF does not have the expertise to discover and destroy these tunnels in the vacant territory adjacent to the wall. Is it really necessary to destroy more and more houses in the vicinity of the boundary wall on the pretext of destroying tunnels?

7. While in Rafah the Special Rapporteur visited UNRWA schools close to the razed zone near the boundary wall. Teachers at one school told of random shooting in the direction of the school that terrorized children and disrupted school activities. Shell holes in the school walls confirmed the veracity of these statements. At another school, teenage girls at a trauma counselling session attended by the Special Rapporteur spoke with tears and pain about their experiences of military occupation: of neighbours shot by the IDF and savaged by IDF sniffer dogs; of homes destroyed without proper notice; and of their desire to live normal lives like children in other countries. To deny childhood to children is unforgivable. Moreover, to create feelings of hatred in the youth of Palestine in this way is impossible to reconcile with the security concerns that Israel claims guide its actions. From the perspective of international law it must be noted that the actions of the IDF violate many provisions of the Convention on the Rights of the Child.

III. THE WALL (OR BARRIER) AND INTERNATIONAL LAW

8. In his report of 8 September 2003 the Special Rapporteur described the nature of the Wall. At times it takes the form of an eight-metre-high concrete wall, at other times it takes the form of a barrier some 60-100 metres wide with buffer zones protected by barbed wire and trenches and patrol roads on either side of an electric fence. The first phase of the Wall, running for 180 kilometres, has been completed. It is estimated that, when completed, it will be 687 kilometres in length, penetrating some 22 kilometres into Palestinian territory at one point to include the settlements of Ariel, Immanuel and Kedumim. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimated in its report of 9 November 2003, that approximately 680,000 persons - that is 30 per cent of the population of the West Bank - will be directly harmed by the Wall; 280,000 Palestinians living in 122 towns and villages will be

enclosed in the area between the Wall and the 1949 Armistice Line or Green Line (the de facto border between Israel and Palestine) or in enclaves completely surrounded by the Wall while another 400,000 living to the east of the Wall will need to cross it to get to their farms, jobs and services. Other studies put the estimated number of Palestinians likely to be affected by the Wall at over 860,000, that is about 36 per cent of the population. OCHA estimates that 14.5 per cent of West Bank land (excluding East Jerusalem) will lie between the Wall and the Green Line. Estimates of this kind may not be completely accurate. However, they are supported by studies from reliable sources and it is significant that they have not been seriously challenged by Israel.

9. Israel has designated the area between the Wall and the Green Line as a “Closed Zone” in which Israelis may travel freely, but not Palestinians. Thus, over 13,500 Palestinians who live in the “Closed Zone” are obliged to have permits to live in their own homes. (See Order Regarding Security Regulations (Judea and Samaria) (No. 378) 5730-1970 [Declaration concerning Closing an Area No. S/2/03 (Seam Zone)]). This means that it has become a privilege for Palestinians to live in their own homes while Israelis have the right to travel freely in this area. Surely this provides yet further evidence of Israel’s intention to annex this territory?

10. Palestinians living within the West Bank with farms inside the “Closed Zone” require permits to cross the Wall into this zone, as do others from the West Bank who wish to visit the Zone for personal, humanitarian or business reasons. To make matters worse, passage through the wall or barrier at checkpoints is administered in an arbitrary manner, apparently designed to pressure Palestinians into leaving their homes to relocate on the other side of the wall, thereby creating a new generation of internally displaced persons.

11. The barrier has been, and is being, built with no regard for the environment. Beautiful hills and valleys have been scarred by the wide barrier. Thousands of olive and citrus trees have been uprooted and fertile agricultural land reduced to a wasteland. There is no evidence that Israel carried out an environmental impact assessment before it embarked on the construction of the Wall.

12. In his earlier report the Special Rapporteur described the construction of the wall in Palestinian territory as an act of de facto annexation in violation of basic norms of international law. The International Court of Justice has been asked by the General Assembly to give an advisory opinion on this subject and, at the time of writing this report, this has still to be done. The view of the Special Rapporteur on this subject remains unchanged. Indeed, his view has been strengthened by his visit to several sections of the Wall inside Palestinian territory in the Qalqiliya/Tulkarm region, which cannot be explained in terms of security.

13. Most of the Wall is built in Palestinian territory. Where the Wall penetrates Palestinian territory it snakes around villages, separating villages and people from agricultural land. Security could just as easily, and probably more effectively, have been achieved by building the Wall to the west along the Green Line. It is difficult to resist the Palestinian claim that the Wall has been built in this way in order to put agricultural land out of the reach of farmers - and within the reach of settlements adjacent to these lands. Israel clearly wants land, not people. Hence the construction of the Wall around villages, leaving land on its westward side to Israel. Enclaves within the Closed Zone between the Green Line and the wall cannot be explained in terms of security. What conceivable security goal does the enclave enclosing the village of Ras-A-Tira achieve? Is it not easier to explain enclaves of this kind as a measure to isolate villages so that

their inhabitants will ultimately withdraw to the eastern side of the Wall, leaving more vacant land to Israel? And is not this the fate intended for villages like Jubara in the Closed Zone? How is the Wall separating Palestinians at Abu Dis in Jerusalem to be justified on security grounds? If the purpose of the Wall is to prevent Palestinian suicide bombers from crossing into Israel, why is Israel unconcerned about the security risk posed by the thousands of Palestinians who are situated in villages on the Israeli side of the Wall (between Green Line and Wall)? Or is the final aim to compel them to relocate to the West Bank side of the Wall? These are questions that must be satisfactorily answered by Israel if it is to persuade the international community that the latter is confronted with a good faith attempt to provide security for its people rather than forcible territorial expansion.

14. Israel claims that the taking of land for the purposes of the Wall has been done in accordance with due process of law; and that the people affected have been treated humanely, particularly in respect of the granting of permits and access to schools and medical facilities. The Special Rapporteur found no evidence to substantiate these claims.

15. The justification advanced by Israel for the seizure of land between the Green Line and the Wall is security. Notices of land seizure in many instances have simply been served by placing an order of seizure under a stone or on a tree. Sometimes the order is written in Hebrew only, with no Arabic translation. In theory, the seizure of the land is temporary, until 31 December 2005, but there is every likelihood that such seizures will be renewed. Thus, it seems that this is a case of constructive confiscation. Owners are given one week in which to lodge an appeal, but this has not occurred in most instances for reasons ranging from shortness of notice, lack of funds to prosecute an appeal properly, and the widespread distrust of the Israeli judicial system resulting from the lack of success of Palestinian landowners in other cases involving the taking of land. The process of land taking has also been destructive. Olive and citrus trees have been uprooted - and sometimes sold in Israel! The Special Rapporteur visited an area near the Wall at Al-Jarushiya where 30 dunums of olive trees had been destroyed by error in the course of construction of the Wall.

16. The Wall may be crossed at checkpoints only. These checkpoints are infrequent - only 31 in the first 180 kilometres - and most open for limited periods of the day only. Consequently, farmers generally have to travel great distances to reach their lands adjacent to their homes, but across the Wall. Schoolchildren likewise have to travel considerable distances to reach school. Checkpoints are staffed in an intimidating manner: those crossing the barrier are carefully searched, at gunpoint. The situation is aggravated by the arbitrary manner in which gate crossings are opened. During October 2003 gates were closed for several weeks because of Jewish holidays. Moreover, gates are not regularly opened at the scheduled time or kept open for the scheduled period of time.

17. Farmers separated by the Wall from their land require permits to farm their land. In many instances permits are refused. Reasons advanced for refusal are:

(a) Failure to prove ownership - a difficult requirement in a country with archaic land ownership laws and one in which landowners often leave their land to several sons without formal registration of ownership;

(b) Security - interpreted generously by the IDF to exclude anyone with a security record;

(c) Age - in practice elderly farmers receive permits but not their younger, able-bodied sons who might constitute a security risk.

18. Permits are not granted to those who rent land only. Nor are they granted to labourers to cultivate land or to harvest crops. To aggravate matters, permits are sometimes granted for very short periods, normally from two to six months. The Special Rapporteur met a farmer granted a permit to farm his land for only 12 days. The system is administered in a highly bureaucratic manner in which applicants are required to provide clear evidence of their residence and land ownership and to satisfy the IDF that they pose no security risk. As a result farms are sometimes worked by men seen as too old to be a security risk or boys who have received permits to attend school in the Closed Zone. Moreover, permits are often denied to heavy vehicles to cross the Wall.

19. The permit system has already had a devastating effect upon agriculture in Palestine. Citrus trees are dying due to lack of irrigation. In the village of Jayyus, 90 per cent of the guava crop was lost, and poultry farming is coming to an end in the Closed Zone and enclaves because of the impossibility of providing food for poultry. There is a marked decline in agricultural productivity and production as many crops and orchards to the west of the Wall remain uncultivated by their owners who live on the eastern side of the Wall. Inevitably, this decline in food production from the agricultural heartland of Palestine will have serious consequences for the Palestinian people.

20. In some instances children are required to cross the barrier to attend school. The school at Azzun Atma, for instance, has 219 pupils of whom 80 live in Beit Amin on the other side of the Wall. The Special Rapporteur saw school crossings at Beit Amin/Azzun Atma, Ras Atiya/Ras-A-Tira and Jubara. Permit policy varies from place to place. In some places the crossing point simply keeps a list of children's names, while in other places permits are required for children over the age of 12. Children not infrequently have to wait for long periods of time at crossing points, without shelter from the rain. There are serious complaints of harassment of children at such crossing points. The Special Rapporteur's observation of the school crossing at Ras Atiya/Ras-A-Tira was painful: he saw young girls carefully searched by one soldier while another pointed a gun at her. Parents are not given permits to visit their children's school. (Would such a practice be tolerated by Israeli parents?) The Al-Quds University of Abu Dis is also directly affected by the Wall. Students will be obliged to travel considerable distances to reach a campus which, geographically, is not far from their homes.

21. There are no hospitals in the Closed Zones. Those living in such zones must therefore cross the barrier at a checkpoint to reach hospitals. Inevitably, this causes delays in emergency situations and there are already reports of deaths en route to hospital. A stark example of the change in access to hospitalization is presented by Abu Dis. Before the construction of the Wall residents might be treated at a hospital in Jerusalem. Now they must travel to Bethlehem - a journey of some two hours along a poor road and through checkpoints. Although there are primary health-care clinics isolated between the Wall and the Green Line they do not extend to ophthalmology, gynaecology, dermatology, paediatrics or diabetes services. Many clinics do not

offer medication and there are difficulties in gaining access to pharmacies. Moreover, many doctors do not live in the same village as their clinic and have the usual problems in gaining access to their clinic.

22. Family life is a victim of the Wall. Within the Closed Zone not all members of a family are granted permits to reside within the Zone. In some localities, such as Jerusalem, married couples are divided by their identity documents. The husband may have a West Bank identity document, the wife a Jerusalem identity document. Such couples will either have to move to the West Bank or face separation. Moreover, the quality of family life suffers from unnecessarily long journeys to reach checkpoints to work or to school. Visits to family members resident on the other side of the Wall are subject to the usual uncertainties of the permit system.

23. The permit system regulating movement between the Wall and the Green Line and into the Closed Zone is intrinsically unfair and arbitrarily administered. There are different kinds of permits. (Lily Galili, writing in *Haaretz* on 13 February 2004, estimates that there are 11 different kinds of permit for persons wishing to visit the Closed Zone!) If they are granted, they are granted for short periods of time and require repeated renewal with all the attendant bureaucratic difficulties. Often they are refused without reason or for no apparently good reason. They subject the freedom of movement of Palestinians to the whim of the Occupying Power. The uncertainty and unpredictability of the permit system creates anger, anxiety and humiliation.

24. The Wall aggravates a humanitarian crisis that is already acute in the West Bank as a result of curfews, closures and checkpoints. The cities of Qalqiliya and Tulkarm have become ghost towns: their commercial life has been destroyed by their isolation from the West Bank; while farmers in the vicinity of these cities are no longer able to market their produce. Some 600 shops have reportedly closed in Qalqiliya and an estimated 6,000 persons have left the area.

25. At present those affected by the Wall are determined to stay. But there is a real possibility that the residents of villages within the Closed Zone, and those near to the Wall who have been separated from their lands, will admit defeat and move east, the victims of strangulation by permit, intimidation and isolation. Palestinians in Jerusalem face a similar fate. The Wall at Abu Dis has already led to a 60 per cent depreciation in property values and both residents and shopkeepers now contemplate migration. "Voluntary" population transfer of this kind is seen by Palestinians as the principal aim of the Wall.

26. The immediate beneficiaries of the Wall are the settlers: 54 settlements containing 142,000 settlers (that is 63 per cent of the West Bank settlement population) will find themselves on the Israeli side of the Wall, with the prospect of access to and, in due course, appropriation of new land separated from its Palestinian owners. The rhetoric of a "freeze on settlements" has lost its meaning and settlements feel free to expand, both in terms of new buildings and asserted security zones. Settlements may be illegal in terms of the sixth paragraph of article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (the Fourth Geneva Convention), but they have achieved a new

recognition and status under Israeli law as a result of the Wall. However, it is important to stress that the illegal nature of settlements makes it impossible to justify the penetration of the Wall into Palestinian territory as a lawful or legitimate security measure to protect settlements. This also applies to the building of the Wall within the illegally annexed part of East Jerusalem.

27. The Special Rapporteur is compelled to conclude, on the basis of evidence made available to him and the benefit of on-site inspection, that the Wall does not serve a legitimate security purpose when it enters into Palestinian land. Rather, this penetration seems designed to expand Israeli territory and to bring illegal settlements into Israel. It must therefore be seen as an instrument of annexation, in violation of international law. As shown above, the Wall has serious implications for human rights and international humanitarian law. Space does not permit a detailed account of the norms violated. The following violations are, however, the most obvious.

28. *General international law.* As pointed out in the report of 8 September 2003, the construction of the Wall constitutes de facto annexation of Palestinian territory by forcible means and therefore violates the prohibition on the acquisition of territory by forcible means contained in Article 2 (4) of the United Nations Charter and General Assembly resolution 2625 (XXV) of 24 October 1970 on the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations. (See further E/CN.4/2004/6, para. 14.)

29. *International humanitarian law.* The Wall violates, directly or indirectly, a number of important principles of international humanitarian law. These include the prohibition on annexation of occupied territory (Fourth Geneva Convention, art. 47), on settlements (*ibid.*, art. 49, sixth paragraph), on confiscation of private property (The Hague Regulations, respecting the Laws and Customs of War on Land, art. 23 (g) and 46), on mass forcible transfers of the population of occupied territory (Fourth Geneva Convention, art. 49, first paragraph) and on the destruction of private property where such destruction is not “rendered absolutely necessary by military operations” (*ibid.*, art. 53). The Wall has also resulted in the failure on the part of Israel to facilitate the education of children and to ensure that the occupied population has adequate food and medication, in violation of articles 50 and 55 of the Fourth Geneva Convention.

30. *International human rights law.* A number of basic human rights are violated as a result of the Wall. These include freedom of movement, and the rights to family life, to work, to health, to an adequate standard of living, including adequate food, clothing and housing, and to education. The prohibition on discrimination contained in many international conventions is clearly violated in the Closed Zone in which Palestinians, but not Israelis, are required to have permits.

31. *Self-determination.* As pointed out in the report of 8 September 2003, the Wall interferes with the Palestinian right of self-determination as it substantially reduces the size of the self-determination unit within which the right is to be exercised (E/CN.4/2004/6, para. 15).

IV. CONCLUSION AND RECOMMENDATIONS

32. This addendum to the report of 8 September 2003 (E/CN.4/2004/6), and the report itself, identify serious violations of the international law prohibiting the acquisition of territory by force, of international human rights law and of international humanitarian law. The correct response on the part of States to such violations of international law is explicit non-recognition of the acquisition of territory by forcible means occasioned by the Wall and the condemnation of the violation of human rights and international humanitarian law that follow from this. It is recommended that the Commission call upon States to take such action. It is also recommended that the Commission establish a firmer presence of the Office of the High Commissioner for Human Rights in the region. This should be done by expanding the mandate of the Office in the region to include monitoring of human rights violations in addition to technical assistance.



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The right to food

Report by the Special Rapporteur, Jean Ziegler

Addendum

Mission to the Occupied Palestinian Territories*

* The summary is being circulated in all official languages. The report itself, contained in the annex to the summary, is being circulated in the language of submission and Arabic only.

Summary

The Occupied Palestinian Territories (OPT) are on the verge of humanitarian catastrophe, largely as the result of extremely harsh security measures imposed by the occupying Israeli forces since the outbreak of the second intifada in September 2000.

The Special Rapporteur on the right to food carried out a mission to the OPT from 3 to 12 July 2003, in accordance with his mandate and in response to widespread concern about an emerging humanitarian crisis. Numerous recent United Nations reports have highlighted this growing crisis, including reports from the World Bank, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the Office of the United Nations Special Coordinator in the Occupied Territories (UNSCO) and the Office for the Coordination of Humanitarian Affairs (OCHA), and from Catherine Bertini, Personal Humanitarian Envoy of the Secretary-General, whose mission to the OPT in August 2002 was aimed at securing specific commitments from Israel to facilitate humanitarian access to the Palestinians, particularly for food and water.

The Special Rapporteur expresses his deep compassion and sympathy for both Israelis and Palestinians, who are living through a horrifying tragedy, but he cannot ignore the terrible situation of malnutrition that is being created in the OPT today.

According to a study funded by the United States Agency for International Development (USAID), "the Palestinian Territories, and especially the Gaza Strip, face a distinct humanitarian emergency in regard to ... malnutrition". The report of the Personal Humanitarian Envoy of the Secretary-General also points to a humanitarian crisis. Over 22 per cent of children under 5 are now suffering from malnutrition and 15.6 per cent from acute anaemia, many of whom will suffer permanent negative effects on their physical and mental development as a result. More than half of Palestinian households are now eating only once per day. The World Bank states that food consumption has fallen by more than 25 per cent per capita. Food shortages, particularly of proteins, have been widely reported. The World Bank has also pointed to economic crisis in the OPT. The formerly vibrant economy has almost collapsed and the numbers of the extreme poor have tripled since September 2000. Around 60 per cent of Palestinians are now living in acute poverty (75 per cent in Gaza and 50 per cent in the West Bank). Even when food is available, many Palestinians cannot afford to buy it, given the rapid rise in unemployment. Over 50 per cent of Palestinians are now completely dependent on food aid, and yet humanitarian access is frequently restricted.

The Special Rapporteur found that, although the Government of Israel, as the Occupying Power in the Territories, has the legal obligation under international law to ensure the right to food of the civilian Palestinian population, it is failing to meet this responsibility. Security measures, including curfews, road closures, permit systems and security checkpoints, are severely restricting the movement of people and economic trade, impeding physical and economic access to food and water and causing economic collapse. The continued confiscation and destruction of Palestinian land and water resources is also reducing the capacity of the Palestinians to be able to feed themselves and amounts to the gradual dispossession of the

Palestinian people. The building of the security fence/apartheid wall through Palestinian land is also threatening the right to food of thousands of Palestinians, leaving many Palestinians separated from their lands or imprisoned by the winding route of the fence/wall or in the closed military zone along the edge of the fence/wall.

The Special Rapporteur would not question the security needs of Israel, and he understands the daily risks run by Israeli citizens. However, in his view, the current security measures being taken are totally disproportionate and counterproductive because they are provoking hunger and malnutrition among Palestinian civilians, including innocent women and children, in a way that amounts to the collective punishment of Palestinian society. It is prohibited under international law to punish the whole population for the actions of a few of its members. The Special Rapporteur is also particularly concerned by the pattern of land confiscation, which many Israeli and Palestinian intellectuals and non-governmental organizations have suggested is inspired by an underlying strategy of "Bantustanization". The building of the security fence/apartheid wall is seen by many as a concrete manifestation of this Bantustanization as, by cutting the OPT into five barely contiguous territorial units deprived of international borders, it threatens the potential of any future viable Palestinian State with a functioning economy to be able to realize the right to food of its own people.

Recommendations are made to the Government of Israel to improve access for humanitarian relief, to take immediate action to reverse the humanitarian crisis, to lift closures in the Territories and to end the confiscation and the disproportionate destruction of Palestinian lands, water and other resources. The Government of Israel should halt the programme of "Bantustanization", stop the building of the fence/wall, and improve respect for the right to food under international human rights and humanitarian law. Serious consideration must be given to the viability of a future Palestinian State with sustainable access to, and control over, its own food and water supplies. Finally, as Ilan Pappé, of the Research Institute for Peace, has stated, "The tedious and hackneyed truth remains that the end to violence of all kinds (including indiscriminate violence against the innocent) will come only with the end of the Occupation".

Annex**REPORT OF THE SPECIAL RAPPORTEUR ON THE RIGHT TO
FOOD, JEAN ZIEGLER, ON HIS MISSION TO THE OCCUPIED
PALESTINIAN TERRITORIES (3-12 July 2003)****CONTENTS**

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Introduction

1. The Special Rapporteur carried out a mission to the Occupied Palestinian Territories (OPT) from 3 to 12 July 2003. The mission was welcomed by the Government of Israel in a letter dated 23 May 2003. The mission was carried out during a moment of hope when negotiations for the “road map” were making progress and the ceasefire was holding. The road map process, an outline for peace in which the United Nations has played a vital role as a participant in the Quartet, holds the promise of bringing an end to the terrible suffering of both Israelis and Palestinians. The Special Rapporteur expresses his deep sympathy and compassion for all those killed and injured in the current violence. Both the Palestinian and the Israeli populations are living through a horrifying tragedy. Israelis live under the threat of suicide attacks by Palestinian bombers. Palestinians also live in fear as women and children are often killed in their homes or in crowded streets by Israeli military operations targeting Palestinian leaders. Since the start of the second intifada in September 2000, 820 Israelis and 2,518 Palestinians have been killed, many of them innocent women and children.¹ Thousands of Israeli and Palestinian civilians have been severely injured.

2. This mission was undertaken in accordance with the mandate of the Special Rapporteur and in response to the emergence of a humanitarian crisis in the OPT. The objectives of the mission were to gain a greater understanding of the reasons for the emerging food crisis in the Territories, a crisis which seems absurd in a land so fertile. The mission aimed to examine the malnutrition amongst the Palestinians from the perspective of the right to food. It was not within the mandate of the mission to examine malnutrition in Israel, as while malnutrition does exist amongst the poorest Israelis, it is not currently at crisis levels.²

3. The Special Rapporteur was received by officials of the Government of Israel in Tel Aviv and Jerusalem. He met with the Deputy Director-General of the Ministry for Foreign Affairs and with officials from the Ministry of Defence, including the Deputy Coordinator of Civil Activities in the Gaza Strip and the West Bank, Mr. Camil Abu Rukun. He also met with Mr. Yossef C. Dreizin, Director of the Water Planning Division of the Water Commission. The Special Rapporteur also had the opportunity to meet distinguished opposition party leaders in the Israeli parliament. However, while granted these meetings, the Special Rapporteur was not granted free movement in the West Bank and Gaza Strip and was frequently held up at military checkpoints, despite advance coordination of all travel. At a checkpoint in Qualqilya, an Israeli soldier deliberately took aim with his weapon at very short range at the Special Rapporteur’s vehicle. Fortunately, the soldier did not fire his weapon, but the Special Rapporteur would note that these types of incidents are occurring far too frequently.

4. The Special Rapporteur was received by the Palestinian National Authority in the West Bank and the Gaza Strip, including the Chairman of the Palestinian National Authority, Yasir Arafat, and Chief Palestinian Negotiator, Saeb Erekat, as well as the Ministers of Health, Housing and Agriculture. He also met with representatives from the Ministry of Labour, the Palestinian Water Authority and the Negotiation Unit of the Palestine Liberation Organization and with distinguished members of the Palestinian Legislative Council. The mission also met with Dr. Said Zeidani, Director of the Palestinian Independent Commission for Citizens’ Rights. In the different areas of the West Bank and the Gaza Strip, the mission met with local authority leaders, village and town mayors, unionists and academics.

5. In Jerusalem, he greatly appreciated meetings with senior representatives of the Office of the United Nations Special Coordinator in the Occupied Territories (UNSCO), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the Food and Agriculture Organization of the United Nations (FAO), the World Food Programme (WFP), the United Nations Development Programme (UNDP), the Office for the Coordination of Humanitarian Affairs (OCHA), the United Nations Children's Fund (UNICEF), the United Nations Fund for Population Activities (UNFPA), the United Nations Security Coordinator (UNSECOORD) and the World Bank, and thanks UNRWA Commissioner General Peter Hansen for meeting with him in Geneva. He expresses his appreciation to these agencies for their cooperation, and to the Office of the High Commissioner for Human Rights (OHCHR) particularly its field office, for its efficiency and competence in supporting his mission. The Special Rapporteur also appreciated meeting Dr. Ernst Iten, Ambassador of Switzerland in Tel Aviv, and Mr. Jean Jacques Joris, representative of Switzerland to the Palestinian Authority.

6. The Special Rapporteur also appreciated his meetings with international, Israeli and Palestinian non-governmental organizations in Tel Aviv, Jerusalem, the West Bank and the Gaza Strip. He extends his appreciation to Mr. Michel Dufour, chief delegate of the International Committee of the Red Cross (ICRC), and commends the courageous work of all organizations working to promote human rights. He met with international organizations, including Action Against Hunger, Oxfam, Care International, Save the Children, Terre des Hommes, Physicians for Human Rights and Habitat International Coalition, working to relieve the crisis in the OPT. He also met with Israeli and Palestinian organizations, including B'Tselem, Rabbis for Human Rights, the Mandela Institute, LAW, the Public Committee against Torture, the Palestinian Hydrology Group, the Palestinian Agricultural Relief Committees and the Applied Research Institute-Jerusalem. He also met with important intellectuals, including Mr. Michael Warshawski of the Alternative Information Centre. It is these non-governmental organizations that bring hope, as it is mainly through their work that vital bridges are being built between Israelis and Palestinians.

7. The mission team travelled in the West Bank and the Gaza Strip, the territories that together make up the OPT, occupied and under Israeli military administration since 1967. They have an area of around 5,800 km² in which more than 3.5 million Palestinians live. The Gaza Strip is one of the most crowded places on earth with one of the highest population densities: 1.3 million people in an area of 360 km², 83 per cent of whom live in refugee camps. The mission travelled in the Gaza strip, visiting Beit Hanoun, Jabalia, Khan Younis and the border areas of Rafah. The mission also travelled widely in the West Bank, visiting, among other places, Jerusalem, Bethlehem, Ramallah, Jericho, Qalquilya and Tulkarem, where the huge fence/wall (called the "security fence" by the Israelis and the "apartheid wall" by the Israeli opposition and Palestinian activists), is currently being built. The mission also visited Meggido prison, an Israeli institution holding Palestinian detainees, and a Palestinian prison holding Palestinian detainees in Jericho. During these trips, the Special Rapporteur had the opportunity to speak with a wide variety of Palestinian men and women, including Palestinian farmers, merchants, and academics.

I. MALNUTRITION AND FOOD INSECURITY IN THE OCCUPIED PALESTINIAN TERRITORIES

A. On the verge of humanitarian catastrophe

8. The OPT is on the verge of humanitarian catastrophe, as the result of extremely harsh military measures that the occupying Israeli military forces have imposed in response to the outbreak of the second intifada in September 2000.

9. Malnutrition levels amongst Palestinians have increased rapidly since September 2000. A study by John Hopkins University/Al-Quds University, funded by the United States Agency for International Development (USAID), reports that “the Palestinian Territories, and especially the Gaza Strip, face a distinct humanitarian emergency in regard to acute moderate and severe malnutrition”.³ The report of the Personal Humanitarian Envoy of the Secretary-General, Catherine Bertini (2002) also regards the increase in malnutrition as an indicator of a growing humanitarian crisis.⁴ Over 22 per cent of children under 5 were suffering from malnutrition (9.3 per cent suffering from acute malnutrition and 13.2 per cent suffering from chronic malnutrition) in 2002.⁵ Around 15.6 per cent of children under 5 suffered from acute anaemia,⁶ which for many will have permanent negative effects on their physical and mental development. Severe malnutrition reported in Gaza is now equivalent to levels found in poor sub-Saharan countries, an absurd situation as Palestine was formerly a middle-income economy. Food consumption has fallen by 25-30 per cent per capita. This has been attributed largely to job losses (65 per cent) and curfews (33 per cent).⁷ Food shortages, particularly of proteins, have been widely reported.⁸ More than half of Palestinian households now eat only once per day.⁹ Many Palestinians who the Special Rapporteur met spoke of trying to subsist on little more than bread and tea.

10. A 2003 World Bank report points to economic crisis in the OPT.¹⁰ The economy has almost collapsed and the numbers of the extreme poor have tripled. Around 60 per cent of Palestinians now live in acute poverty (75 per cent in Gaza and 50 per cent in the West Bank). Gross national income per capita has fallen to nearly half of what it was two years ago.¹¹ Even when food is available, many Palestinians cannot afford to buy it. Around 50 per cent of Palestinians have been forced into debt to buy food¹² and over 50 per cent of Palestinians are now completely dependent on food aid, yet humanitarian access remains problematic.

B. Causes of the food crisis

1. Closures and movement restrictions

11. An unprecedented level of restrictions on the movements of Palestinians inside the Occupied Territories is depriving Palestinians not only of their freedom of movement, but also of their right to food. The extensive imposition of curfews, road closures, permit systems, security checkpoints and “back-to-back” truck off-loading systems, which require that most trucks be off-loaded on one side of a checkpoint and reloaded onto another truck on the other side, imposed by the occupying military forces are producing the humanitarian crisis. The USAID-funded study argues that “The onset of the Intifada in September 2000 and the subsequent Israeli military incursions, closure and curfews have devastated the Palestinian economy and undermined those systems the Palestinian civilian population relies on for basic

needs, including food and health”.¹³ The World Bank agrees that “the proximate cause of the Palestinian economic crisis is closure”.¹⁴ Restrictions on movement mean that many Palestinians cannot feed themselves: they cannot go to work, go to harvest their fields or go to buy food. For many Palestinians, the inability to feed their families is leading to a loss of human dignity, often heightened by bullying and humiliation at checkpoints.¹⁵

12. Closures prevent movement between the Palestinian areas and Israel, but also within the OPT. Roads are arbitrarily closed between nearly every village and town in the OPT, using checkpoints manned by soldiers or by physical barriers such as concrete blocks and deep trenches. Journeys that would have taken a few minutes now take several hours or days. The Special Rapporteur saw that it is sometimes possible, in going from one place to another, to take a long way around through mountains if one is fit and able to walk, but not if one is old, weak, hungry or sick. The movement of goods is controlled by the back-to-back off-loading system. With numerous checkpoints, this dramatically increases the cost of transporting food and agricultural produce.¹⁶ Permission to cross at checkpoints for agricultural produce and other food can be refused for days without explanation. At various checkpoints in the West Bank, the Special Rapporteur saw truckloads of fruit and vegetables rotting under the sun.

13. Every Palestinian has to have a permit to travel any long distance or to work in Israel. At the outbreak of the intifada, permits were revoked and more than 100,000 Palestinians lost jobs in Israel, severely affecting economic access to food. The Government of Israel has taken steps to reissue 32,000 permits, but movement restrictions make it difficult for Palestinians even when they have permits.¹⁷ Palestinians are required to apply for permits to travel from one West Bank town to another, but permits are frequently refused without explanation, making it difficult to find work even in the OPT.¹⁸ Curfews, sometimes imposed for days at a time, have kept populations of whole towns inside their homes under virtual house arrest.¹⁹ These measures make life unbearable and are seriously threatening the food security of all Palestinians. Non-governmental organizations (Israeli, Palestinian and international) suggest that these military measures are not serving their security purpose but are being imposed as a form of collective punishment. They do not target specific people who may pose a threat, but rather affect the food security of most of the Palestinian population.

14. Water shortages in the OPT are also very serious. With the system of checkpoints and road closures in place, water tankers cannot always reach villages or are not permitted to cross checkpoints, leaving communities without water for days at a time.²⁰ The situation is most serious for the approximately 280 rural communities in the OPT that have no access to wells or running water and are completely dependent on water delivered by municipal and private water tankers that frequently has to be purchased from the Israeli water company, Mekorot. The price of such water has risen by up to 80 per cent since September 2000 as a result of the increase in transport costs due to closures. The quality of most water brought in by tanker no longer meets World Health Organization drinking water standards²¹ and reports of water-borne diseases continue to rise as a result of increased dependence on poor quality water resources.²²

2. Destruction, expropriation and confiscation of Palestinian land

15. Since the outbreak of the second intifada, an unprecedented level of destruction and confiscation of Palestinian land, water, infrastructure and other resources is also depriving many Palestinians of their right to food and water. The tearing up of farms wells and wide swathes of

agricultural field has contributed to the collapse of agriculture. In Beit Hanoun in the Gaza Strip, the Special Rapporteur saw the devastating destruction of agricultural infrastructure, and farm buildings and the razing of hundreds of olive and citrus trees after a military incursion. He saw the destruction of homes and livelihoods in Khan Younis and in Rafah. He saw the bulldozers of the occupying forces still at work in Rafah in the place where Rachel Corrie, the American peace activist, was killed by an armoured bulldozer whilst trying to save a Palestinian home from destruction in March 2003.²³

16. The expropriation and confiscation of vast swathes of Palestinian agricultural land and water sources is also threatening the right to food. Land is being confiscated to build the security fence/apartheid wall on the western side of the OPT (see below) and in Jerusalem, including the sections that bisect towns such as Abu Dis and Sawahreh. Gideon Levy writes that the wall that cuts Abu Dis in half amounts to “collective abuse bearing no relation to its declared purpose”. The soldiers allow people to climb over the wall if they can. “An entire town scales the wall to get to school, to the grocery store, to work - day after day, evening after evening: old folks, young folks, women and children.”²⁴

17. Land is also confiscated for the extension of settlements, the building of settler-only roads and the building of security buffers around the settlements. On 21 May 2003, for example, the Housing Ministry advertised a tender for the construction of 502 new apartments in Maale Adumim.²⁵ The occupying force is gradually taking greater control over more Palestinian land, following the planned map of settlement and the by-pass road construction which aim at ensuring the continuous rule of Israel, both directly over the confiscated land which was declared “State land”, and indirectly by encircling almost every single Palestinian community by settlements and “fire areas” or military training grounds.²⁶ Settler-only roads cut through Palestinian territories, slicing the area up and operating as another form of closure which prevents movement of Palestinians. Many international, Israeli and Palestinian NGOs argue that the ongoing confiscation of Palestinian land amounts to a slow dispossession of the Palestinian people, depriving them of their means of subsistence.

3. The strategy of “Bantustanization”

18. For many Israeli and Palestinian commentators, the policy of land confiscation is inspired by an underlying strategy of gradually isolating Palestinian communities into separate territorial areas or “Bantustans”. Michael Warschawski has pointed to a conscious policy of “Bantustanization” of the OPT.²⁷ A senior Israeli commentator, Akiv Eldar, has written about the explicit use of the Bantustan concept by Israeli Prime Minister Sharon, who once “explained at length that the Bantustan model was the most appropriate solution to the conflict”.²⁸ The term “Bantustan” historically refers to the separate territorial areas designated as homelands under the South African apartheid State. Creating such “Bantustans” would deprive a future Palestinian State of any coherent land base and international borders, and prevent the building of a Palestinian nation with the capacity to realize the right to food for its people.

19. The building of the security fence/apartheid wall is seen as a concrete manifestation of this “Bantustanization”, as is the extension and building of new settlements and settler roads, which are cutting up the West Bank and the Gaza Strip into barely contiguous territorial units. Looking at detailed maps of the actual and future direction of the security fence/apartheid wall and settlements,²⁹ which the Israeli and Palestinian authorities, as well as NGOs, provided to the

Special Rapporteur, it seems that this strategy is in the process of being realized. According to Jeff Halper, Coordinator of the Israeli Committee against House Demolitions, the road map offers hope, explicitly referring to the “end of the Occupation”, yet it comes at a time “when Israel is putting the finishing touches on its 35-year campaign to render the Occupation irreversible”.³⁰

4. Impeding humanitarian aid

20. The Government of Israel has an obligation under international law to ensure the basic food and water needs of the occupied population and to provide assistance when necessary. Nonetheless, at present, it is the United Nations and other international and non-governmental agencies that are having to step in to provide food aid to the Palestinians. At the time of the mission, UNRWA was providing food aid to 127,000 families in Gaza and 90,000 refugee families in the West Bank.³¹ The World Food Programme (WFP) is providing emergency support to half a million Palestinians in cooperation with the ICRC, which had exceptionally extended its food aid programme. The Government of Israel informed the Special Rapporteur that efforts were being made to assure humanitarian access for food and water. The August 2002 visit of Catherine Bertini, the Secretary-General’s Personal Humanitarian Envoy, was intended to secure specific commitments from the Government of Israel to facilitate access to humanitarian aid. However, many humanitarian organizations stated that their access was frequently restricted or denied through checkpoints, closures and the back-to-back truck off-loading system. Although the Bertini visit had resulted in some improvements in humanitarian access, the commitments made by the Government of Israel to Catherine Bertini (the “Bertini commitments”) were still far from being fully respected.³²

II. LEGAL FRAMEWORK GOVERNING THE RIGHT TO FOOD IN THE OCCUPIED PALESTINIAN TERRITORIES

21. Under international human rights and humanitarian law, the Government of Israel, as occupying Power, has the responsibility to ensure the basic needs of the civilian Palestinian population and to avoid violating the right to food. The right to food is primarily the right to be able to feed oneself through physical and economic access to food, as defined in general comment No. 12 of the Committee on Economic, Social and Cultural Rights. The Special Rapporteur summarizes the right to food as “the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear” (E/CN.4/2001/53, para. 14). The right to food includes access to drinking water and irrigation water necessary for subsistence agricultural production (see A/56/210; E/CN.4/2003/54), as underlined in general comment No. 15.

A. International law status of the Occupied Palestinian Territories

22. Under international law, the West Bank, East Jerusalem and the Gaza Strip are defined as “occupied territory”, and Israel as the “occupying Power”, as confirmed by the United Nations Security Council (resolution 471 (1980)). The Oslo process has not changed the status of the Occupied Territories, as the Security Council (resolution 1322 (2000)), the General Assembly, the ICRC and the High Contracting Parties to the Fourth Geneva Convention have reaffirmed.

23. Both international human rights and humanitarian law are applicable in the OPT, although the Government of Israel contests this. Israel contests the (de jure) application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (but agrees nonetheless to apply its humanitarian provisions de facto) and of human rights law.

24. However, most countries and United Nations bodies have agreed that international humanitarian law does apply. The Security Council, the General Assembly, the ICRC, High Contracting Parties to the Geneva Convention, as well as the Commission on Human Rights have repeatedly reiterated that the Fourth Geneva Convention applies de jure to the situation of the OPT. According to the Israeli High Court,³³ the only regulations that apply are the Regulations concerning the Laws and Customs of War on Land annexed to the Hague Convention No. IV of 1907 of which articles 42-56 relate to occupied territory, as these are part of customary international law. However, the Fourth Geneva Convention also forms part of customary international law, as confirmed by the International Court of Justice³⁴ and the Security Council, as does the Geneva Convention relative to the Treatment of Prisoners of War.³⁵

25. United Nations bodies have also repeatedly reaffirmed the applicability of human rights law in the OPT, including the Security Council (resolution 237 (1967)), Special Rapporteur of the Commission on Human Rights on the situation of human rights in the OPT, John Dugard (see E/CN.4/2002/32) the Committee on Economic, Social and Cultural Rights and other treaty bodies. This is also reaffirmed in the 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (art. XIX). The General Assembly has repeatedly reaffirmed the Palestinian people's right to self-determination,³⁶ which means that Palestinians should be able to freely dispose of their natural wealth and natural resources, and in no case be deprived of their means of subsistence.³⁷

B. Obligations of the Government of Israel

26. The Government of Israel is the occupying Power with certain defined obligations under international humanitarian law. As the Special Rapporteur has outlined in his previous reports (A/56/210; E/CN.4/2002/58), humanitarian law aims to ensure access to adequate food and water in times of conflict and for occupied populations.

27. The first obligation of Israel as the occupying Power is to respect access to food and drinking water of the Palestinian population. According to humanitarian law, private property cannot be confiscated (The Hague Regulations, article 46), collective punishment and annexation are prohibited (Fourth Geneva Convention, articles 33, 47), requisitions cannot be demanded, except for military needs (The Hague Regulations, article 52), and any destruction of property belonging to individuals or collectively to private persons, or to the State, is prohibited (Fourth Geneva Convention, article 53) unless such destruction is rendered absolutely necessary for military operations.

28. As the occupying Power, the Government of Israel also has the obligation to provide food and water if the resources in the Territories are inadequate. The occupying Power should assure the food and water supplies of the population and bring in necessary foodstuffs (ibid. art. 55). If this is not possible, then the occupying Power must allow access for impartial humanitarian organizations (ibid. arts. 23 and 59), but this does not in any way reduce the obligations of the occupying Power (ibid. art. 60).

29. Humanitarian law does take military necessities into account. The occupying Power is not prohibited from taking measures - military or administrative - to ensure the security of its military forces and civilian administration in the occupied territory, as long as the measures taken are absolutely necessary for military operations, are proportional, and do not prevent the occupying Power from respecting its obligations, including the obligation to assure the basic needs of the inhabitants of the occupied territory. On the other hand, according to humanitarian law, the occupying Power does not automatically have the right to take measures related to the security of its civilians living in settlements in the occupied territory, because the establishment of settlements is in itself illegal, as outlined under the sixth paragraph of article 49 of the Fourth Geneva Convention. This has been reaffirmed repeatedly by the United Nations General Assembly, the ICRC, the High Contracting Parties to the Geneva Conventions and the Security Council.

30. The State of Israel has ratified all the principal instruments for the protection of human rights that protect the right to food, including the International Covenant on Economic, Social and Cultural Rights (art. 11), without reservations on the applicability of these conventions in the occupied territories. It should also respect the Universal Declaration of Human Rights (art. 25), which in many respects has become part of customary international law. The Committee on Economic, Social and Cultural Rights, along with other treaty bodies and legal experts, has insisted on the facts that Israel's "obligations ... apply to all territories and populations under its effective control" (E/C.12/1/Add 90, para. 31). A State is also accountable for the actions of its authorities in territories outside of its de jure jurisdiction, including in occupied territories (see E/CN.4/1992/26 and CCPR/CO/78/ISR, and the International Covenant on Economic, Social and Cultural Rights does not include a territorial limitation clause. As noted above, the Covenant states that "[i]n no case may a people be deprived of its own means of subsistence" (art. 1).

31. Under the Oslo Accords, an important part of the responsibilities of the Government of Israel in the OPT was transferred to the Palestinian Authority.³⁸ However, the situation has evolved since September 2000, and the occupying forces have retaken control over most of the OPT within these areas. The vast majority of the OPT is under the effective control of the occupying army, as is entry and exit to areas under Palestinian administration, as the Special Rapporteur witnessed during visits to the Gaza Strip, Ramallah, Bethlehem, Jericho, Qalqilya and Tulkarem. Israel therefore has the primary obligation to respect, protect and fulfil the right to food of the Palestinian population in the OPT, without discrimination (see A/56/210).

C. Obligations of the Palestinian Authority

32. The Palestinian Authority is committed through the Oslo process to respect human rights, including the right to food.³⁹ Under the Oslo process, certain responsibilities were transferred to the Palestinian Authority in Areas A and B in March 2000, including questions relating to food and water. However, given that since September 2000 the occupying Power has regained effective control of most of the OPT, including Areas A and B, the Palestinian Authority does not have the obligation to respect, protect and fulfil the right to food for the Palestinian population living in Areas A and B, except in the few areas where it exercises effective control and to the extent that resources are available.

33. For areas where it does have control, the Palestinian Authority is developing a National Food Security Strategy and is carrying out various social programmes, including supporting 36,000 families under the Special Hardship Cases programme of the Ministry of Social Affairs. The Special Rapporteur was concerned about numerous allegations of corruption in the use of the resources of the Palestinian Authority made by numerous Israeli and Palestinian commentators.⁴⁰ Nonetheless, with respect to the programme for Special Hardship Cases, the World Bank has stated that it is effectively managed and that there is little leakage of benefits.⁴¹ The World Bank states that the Palestinian Authority is undergoing reform and has managed as well as it could have to deliver social services under the difficult circumstances of restrictions on the movement of staff and of its ministers.⁴² However, the Special Rapporteur was concerned at reports, confirmed by NGOs, that numerous detainees in Palestinian prisons complained of having received insufficient food. He would emphasize that the Palestinian Authority has the obligation to respect the right to food of the prisoners it detains, as outlined in the commitments made under the Interim Agreement (art. XI (1)) and the Wye River Memorandum (art II (c) (4)).

D. Other key laws and institutions

34. The law governing the situation in the OPT is complex and includes elements of Ottoman law, the law under the British Mandate, Jordanian law in the West Bank and Egyptian law in the Gaza Strip, Israeli military orders, as well as more recent Palestinian laws and international law.

35. According to the Emergency Regulations instituted by the Government of Israel in 1967, the Military Commander of the occupying Power has the competence to issue military orders that apply to the OPT. Using military orders, the occupying Power has taken control over water resources and thousands of acres of land throughout the West Bank and the Gaza Strip. The following four methods are used to take control of the land: (i) declaration and registration of land as "State land", and of water resources as State property; (ii) requisitions for military needs; (iii) declaration of land as abandoned property and expropriation of wells used for irrigation; and (iv) confiscation of land for public needs. However, article 43 of The Hague Regulations prohibits the occupying Power from altering the legal system in the occupied territory. The Special Rapporteur insists that all seizure of land for the establishment of settlements in the OPT is a violation of the Fourth Geneva Convention, which prohibits the establishment of settlements, and that any confiscation of private property in the OPT is a violation of The Hague Regulations. Moreover, the seizure of any property or resource of the Palestinian population or of the Palestinian Authority is a violation of the right of the Palestinian people to freely dispose of its natural wealth and natural resources, in accordance with its right to self-determination.

36. The Security Council in its resolution 465 (1980) determined that "all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the [Fourth Geneva Convention] and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East" (para. 5).

37. The Oslo Accords are also important for understanding the land- water- and settlement-related issues in the OPT. In terms of water issues, for example, the Government of Israel recognized Palestinian water rights in the West Bank and a Joint Water Committee was

established to deal with water- and sewage-related issues there.⁴³ All decisions of the Joint Water Committee must be reached by consensus, but in practice, NGOs suggested, the Government of Israel has vetoed the building of most new water drilling and sewage projects in the West Bank.⁴⁴

III. MAIN FINDINGS AND CONCERNS

A. The humanitarian crisis

38. The Special Rapporteur is gravely concerned at the rapid increase in the malnutrition and poverty levels in the OPT. The growing dependence of the Palestinian population on food aid, at the same time as restrictions on humanitarian access remain in force, is heightening the vulnerability of the Palestinian population. In discussions with the Special Rapporteur, the Israeli authorities recognized that there was a humanitarian crisis in the OPT. They did not dispute the statistics of increasing malnutrition and poverty of the Palestinians. However, they saw them as the regrettable, but inevitable, consequences of security measures that were necessary to prevent attacks on Israelis. The Special Rapporteur would not question the security needs of Israel, and he understands the daily risks run by Israeli citizens. However, in the view of the Special Rapporteur, the measures currently being taken are totally disproportionate because they are causing hunger and malnutrition among Palestinian civilians in a way that amounts to collective punishment of Palestinian society.

39. The Israeli Ministry of Defence and the Civil Administration officials informed the Special Rapporteur that they were taking measures in some circumstances to alleviate the humanitarian consequences of military action. The web site of the Israeli Defence Forces lists such actions undertaken.⁴⁵ Nonetheless, the Special Rapporteur observed that these isolated measures seem to have had limited effects on alleviating the impacts of military measures. He believes that only by lifting the closure regime can the humanitarian catastrophe be averted. The Special Rapporteur was also gravely concerned at the continued destruction and confiscation of Palestinian land, water tanks and wells and other resources, as this will foreclose the possibility of an independent Palestinian State that can sustain a viable economy and agricultural sector.

B. Violations of the right to food

40. The Special Rapporteur was also concerned at numerous specific violations of the different obligations entailed under the right to food. As outlined in general comment No. 12, these obligations include the obligation to respect, protect and fulfil the right to food.

1. Obligations to respect the right to food

41. The obligation to respect the right to food means that the occupying Power must not disrupt or destroy the Palestinians' existing access to food. It is an immediate (not progressive) obligation and requires the occupying Power to avoid negatively affecting existing availability and physical or economic access to adequate food and water.

Closures and curfews

42. The extensive imposition of closures, curfews and permit systems constitutes a violation of the obligation to respect the right to food, as it threatens the physical and economic access to

food, as well as food availability. The United Nations reported in June 2003 that “due to movement restrictions, the distribution and marketing of food produce has been severely affected, thereby disrupting food supply stability and seriously affecting the economy of farmers/rural population.”⁴⁶ According to the USAID study, “market disruptions from curfews, closures, military incursions, border closures and checkpoints affected [the availability] of key high protein foods, especially meat and poultry and dairy products, and in particular infant formula and powdered milk”.⁴⁷ Curfews have been a primary reason in the West Bank why people are eating less food, notably in Nablus, which was under curfew for 1,797 hours from 21 June-6 September 2002, and in Tulkarem, which was under curfew for 1,486 hours during the same period, with Ramallah and Bethlehem also severely affected.⁴⁸ In discussions with UNRWA, the Special Rapporteur learned that despite a good harvest of 35,000 tonnes of olive oil in 2002, the Palestinians were only able to sell 200 tonnes, owing to restrictions on trade. External closures and the control by Israel over the import and export of Palestinian goods severely affect their access to international trade and therefore their ability to import food supplies when necessary.

43. Closures have also caused water shortages. Communities such as Burin, south-west of Nablus, have no independent water supply and are therefore completely dependent on water deliveries, which are severely disrupted by closures.⁴⁹ The village of Beit Furik, 10 km south-east of Nablus, received no water for at least nine consecutive days since no water tankers were allowed into the village.⁵⁰ A survey by the Palestinian Hydrology Group showed that 24 out of 27 villages surveyed experienced water problems as a result of curfews and closures.⁵¹

Destruction of Palestinian land, water and other resources

44. The direct destruction of livelihoods of Palestinians also amounts to a violation of the obligation to respect the right to food. Humanitarian and human rights provisions prohibit the destruction of objects necessary to the survival of the civilian population, such as water tanks, crops and agricultural infrastructure, as well as the broader economic and social infrastructure.

45. According to the World Bank, damage inflicted on agriculture has reached US\$ 217 million and physical damage to the water and wastewater sector of about US\$ 140 million.⁵² The Palestinian National Information Center (PNIC) suggests that between 29 September 2000 and 31 May 2003, the occupying forces uprooted hundreds of thousands of olive, citrus and other fruit trees, destroyed 806 wells and 296 agricultural warehouses, tore up 2,000 roads and blocked thousands of others with concrete and dirt mounds.⁵³ The Palestinian Hydrology Group recorded the total or partial destruction between June 2002 and February 2003 of 42 water tankers and 9,128 Palestinian roof-top water tanks. OCHA recorded, in Abu Nejeim, in the Bethlehem area, the severing of the water connections by the occupying army by digging up and destroying the pipes.⁵⁴ According to the Governorate of Northern Gaza, 3,684 dunums of land were bulldozed with 95,000 olive and citrus trees, five water wells were destroyed, and many people were killed and houses destroyed during the incursions of the occupying forces between May and June 2003. The ministries and building of the Palestinian Authority have also been particular targets, making the delivery of social support difficult. The World Bank stated that damage to public infrastructure by the occupying forces amounted to US\$ 251 million, including the “widespread ransacking of Palestinian Authority ministry buildings and municipal offices”.⁵⁵

Expropriation of Palestinian land, water and other resources

46. Expropriation of Palestinian land in the OPT constitutes a violation of the obligation to respect the right to food when it deprives Palestinians of their means of existence and when it is for the establishment of settlements, as these are illegal under international law. Although the takeover of land is unilaterally legalized under Israeli military orders applied in the OPT, it still remains a violation of international law, including article 43 of the Hague Regulations.

47. NGOs point out that in 1999, 44 new settlements or outposts were built in the West Bank. In 2001, 34 settlements were established and 14 further settlements approved by the Government of Israel. According to the non-governmental organization ARIJ, the total area that has been confiscated or designated military zones in the Gaza Strip amounts to 165.04 km², or 45 per cent of the Gaza territory. In the Gaza Strip, there are reportedly 6,429 Israeli settlers who use this 45 per cent of the land, compared with over 1 million Palestinians on the remaining 55 per cent of the land. This results in a population density for the Palestinians that is one of the highest in the world, and almost 100 times greater than that of the Israelis.

48. Although three very important fresh water aquifers are located beneath the OPT, there is an extremely inequitable distribution of water resources. The Palestinian entitlements to water include the West Bank (western, north-eastern and eastern) and Gaza aquifers, and the Jordan River. However, statistics for daily per capita water consumption suggest that Israelis receive and use five times more water than Palestinians.⁵⁶ In the year 2002, Palestinians used 70 litres, compared to 350 litres for Israelis in Israel and in the settlements. According to Oxfam, the occupying Power extracts more than 85 per cent of the water from the West Bank aquifers. Irrigated farmland along the Jordan River has been declared a closed military area which Palestinians cannot use. In discussions with the Water Commission of Israel, officials informed the Special Rapporteur that the Government of Israel had offered the Palestinians access to a desalinization plant to take water from the Mediterranean. However, in the view of the Special Rapporteur, it does not appear to be economically viable to bring water from the sea, when aquifers and surface water already exist in the Palestinian Territories. The transport of water would be extremely expensive and physically difficult, particularly given movement restrictions and the construction of the security fence/apartheid wall.

The security fence/apartheid wall

49. The security fence/apartheid wall is a huge barrier, sometimes a fence, sometimes a concrete wall, over 8 m high (around Qualqilya). The building of the security fence/apartheid wall constitutes a violation of the obligation to respect the right to food because it cuts off Palestinians from their agricultural lands, wells and means of subsistence. As the fence/wall does not follow the 1967 border between Israel and the OPT, but cuts through Palestinian lands in the West Bank, it effectively annexes Palestinian land (see E/CN.4/2004/6).

50. According to the Israeli human rights organization B'Tselem, 36 communities (72,200 Palestinians) will be separated from their lands that lie west of the barrier; 19 communities (128,500 people) will be almost completely imprisoned by the winding route of the wall, including 40,000 people who will be trapped in Qualqilya; 13 communities (11,700 people) will be trapped in the land defined as a closed military zone between the wall and the Green Line, cut off from the OPT but forbidden from

entering Israel.⁵⁷ The Special Rapporteur visited a village of 3,500 inhabitants situated in the hills of Qualqilya, in the region of Tulkarem. The mayor's office overlooks the fields of olive and citrus trees and tomato greenhouses, but all these now lie on the other side of the fence/wall. Although one gate has been built in the wall, it has not been possible to use it. The mayor recounted that "the families have tried numerous times to reach their olive fields, but the soldiers set dogs on them, fired shots and beat young women and men, so that now no one tries to risk it".

51. The first phase of the fence/wall will confiscate 2,875 acres of land just for the "footprint".⁵⁸ The land confiscated is some of the most fertile land in the OPT. By constructing the fence Israel will also effectively annex most of the western aquifer system (which provides 51 per cent of the West Bank's water resources). With the fence/wall cutting communities off from their land and water without other means of subsistence, many of the Palestinians living in these areas will be forced to leave. It is estimated that 6,000 to 8,000 people have already left the area of Qualqilya. The Government of Israel informed the Special Rapporteur that legal procedures in place allow every owner of land to file an objection to the requisitioning of their land. Yet, according to a report requested by the international donor community on the socio-economic impacts of the fence/wall, every appeal against the requisitioning of land (numbering in the hundreds) made to the military Appeals Committee has been rejected, although in some cases the amount of land taken has been reduced.⁵⁹ The speed with which the occupying Power is building the wall (24 hours a day) makes it difficult to allow for proper judicial process.

52. The planned second phase of the fence/wall, as outlined in official Israeli documents, will cut right through the middle of the West Bank, from Salem to Bet-Shean.⁶⁰ If this section of the fence/wall is built, it would be a de facto annexation of the whole of the Jordan Valley by Israel. As described in the Israeli newspaper *Yediot Ahronot* in March 2003 and cited in *Between the Lines*, this wall will bite off almost half of the area remaining for the future Palestinian State and will thus eliminate all reasonable options for a settlement of the conflict in the coming years.⁶¹ This would amount to a structural negation of the right to food, as it will effectively forestall the possibility of a viable Palestinian state.

2. Obligation to protect the right to food

53. The obligation to protect the right to food means that the responsible State must protect the civilian population in occupied areas from third parties attempting to restrict, deny or destroy people's existing access to food and water. Violations of this obligation to protect include, in the present case, persistent impunity for settlers who shoot at Palestinians in their fields for harvesting. The Israeli non-governmental organization the Alternative Information Centre makes regular reports on frequent settler violence against Palestinians and their right to food.⁶² In 2002, four Palestinian farmers were killed by settlers and many others injured in their olive fields. Amnesty International has also recorded instances of violence that have not been investigated.⁶³

3. Obligation to fulfil the right to food

54. The obligation to fulfil the right to food entails the obligation to facilitate people's capacity to feed themselves and, as a last resort, to provide food assistance to people who cannot feed themselves for reasons beyond their own control. As the occupying Power, the State of

Israel bears a treaty obligation to facilitate and ensure the access to food of the civilian Palestinian population and to facilitate humanitarian access for impartial organizations providing emergency assistance.

55. Although the Government of Israel has improved levels of humanitarian access in some cases since the August 2002 visit by Catherine Bertini, substantial difficulties for humanitarian agencies remain. UNRWA reported in June 2003, 231 instances of excessive delay or denial of passage at checkpoints (186 incidents of delay, 41 incidents where access was denied and 4 incidents in which staff members were detained).⁶⁴ In December 2002, the occupying army exploded a warehouse being used by WFP, destroying 537 tonnes of food aid largely financed by the European Commission.⁶⁵ In April 2003 full closure was imposed on Gaza from 16 to 27 April and access for WFP and UNRWA was denied.⁶⁶ In its June 2003 monthly monitoring report on the Bertini commitments, OCHA reported that no unmanned barriers had been removed to facilitate movement of water tankers into villages and towns, but additional barriers of earth and concrete had been put up in Ramallah and Nablus governorates, as well as in Balta camp.⁶⁷

56. The lack of provision of adequate food and water to Palestinians detained by the Government of Israel also constitutes a violation of the obligation to fulfil the right to food. Over 5,000 Palestinians are currently being detained, most without official charge or adequate judicial process, without adequate food and water. The Israeli non-governmental organization the Mandela Institute, which monitors prison conditions, presented the Special Rapporteur with information about insufficient, poor quality food at Hawara camp, Qadumin, Kfar Atzen and Bet El. During the Special Rapporteur's visit to Meggido prison, he noted that prisoners had to supplement their often insufficient portions of food by purchasing food from prison shops or by relying on family visits.

IV. CONCLUSIONS AND RECOMMENDATIONS

57. **The humanitarian catastrophe emerging in the Occupied Palestinian Territories must be reversed. While the Special Rapporteur recognizes that the Government of Israel must protect the security of its own citizens, the consequences of the ways in which current security measures are applied in the OPT are entirely disproportionate in the sense that they jeopardize the food and water security of the great majority of the Palestinians and thus amount to collective punishment. As Amnesty International has noted, it is not permissible to punish the whole population for the actions of a few of its members.**⁶⁸

58. **The Special Rapporteur agrees with Catherine Bertini that the current humanitarian crisis is a man-made crisis. It is absurd that in what can be a comparatively wealthy economy given its fertile lands, Palestinian men, women and children should be going hungry. As the occupying Power, the Government of Israel has obligations to ensure the right to food of the Palestinian people. The Special Rapporteur believes that the actions being taken in the OPT by the occupying forces violate the right to food. The level**

of restrictions on humanitarian access for the United Nations and non-governmental organizations, which limit the amount of food aid and water that can reach the Palestinian communities, also amounts to a violation of the right to food under international humanitarian law.

59. The effective “imprisonment” of certain communities, such as Qalqilya, by the new security fence/apartheid wall must be halted immediately. As Ethan Bronner wrote in the *International Herald Tribune*, “Qalqilya is not only blocked off from Israel to its west. It is entirely surrounded by the barrier so it will be isolated from West Bank Jewish settlements to its east. The result for Qalqilya is that it has become - there is no other word for it - a ghetto, a term with chilling resonance for Jews whose forebears were restricted to such areas across Europe not many generations ago.”⁶⁹ Confining the Palestinians into “ghettos” or “Bantustans” will induce greater hunger and misery among the Palestinian population, which is most likely to be counterproductive to achieving the security objective.

60. The confiscation of land, extension of settlements and settler-only roads, and the building of the security fence/apartheid wall, where this deprives thousands of Palestinians of their lands, homes, crops and means of subsistence, is a violation of the right to food. The right to food requires the respect of article 49 of the Fourth Geneva Convention which prohibits settlement, given that settlements by their nature lead to the confiscation of Palestinian lands and other resources.⁷⁰ If there were no settlements, then there would be no need for the harsh internal closures that restrict movement inside the OPT. Avraham Burg, the distinguished former speaker of the Knesset, writes “There is no middle path. We must remove all the settlements - all of them - and draw an internationally recognized border between the Jewish national home and the Palestinian national home.”⁷¹

61. In the short term, it is essential that access for food and water supplies be improved and humanitarian assistance not be blocked, restricted or harmed, but the Palestinian capacity for self-sufficiency must be protected to avoid complete dependence on food aid. Over the longer term, within the context of the road map and a two-State solution, serious consideration must be given to the viability of a future Palestinian State, to ensure that Palestinians are not left dependent on food aid forever. At present, Palestinians are largely dependent on Israel for access to food and water and for international trade, which leaves them in a situation of extreme vulnerability every time political relations deteriorate. There is an urgent need to consider ways in which a future Palestinian State could have sustainable access to, and independent control over, its own food and water supplies. A viable Palestinian State will require a capacity to produce and to trade in order to create a viable economy and stable employment and thereby realize the right to food itself. This will require a land area that is not cut up into separate territorial areas and within which movement is not restricted. It will also require international borders to facilitate international trade.

62. In summary, the Special Rapporteur would recommend that the Government of Israel respect its de jure obligations under international human rights and humanitarian law. The Special Rapporteur specifically recommends that the Government of Israel:

(a) Take immediate action to end restrictions on humanitarian access. The Government of Israel should fully abide by the Bertini commitments, which should be made binding under the road map process. The Government of Israel should also ensure appropriate status for United Nations and NGO staff to enable access and allow humanitarian organizations to operate without excessive constraints on their movement or access to Palestinian populations;

(b) Take immediate action to ease the humanitarian crisis by ending the regime of closures and curfews where these are causing an increase in the malnutrition and poverty levels of the civilian Palestinian population;

(c) Immediately lift internal closures within the OPT, which restrict movement and inhibit the Palestinian civilian population's physical and economic access to food. It is imperative that the OPT not be reduced to complete dependence on international food aid;

(d) End the disproportionate destruction of Palestinian lands, wells and other resources, including the infrastructure for social services of the Palestinian Authority;

(e) Immediately stop the building of the security fence/apartheid wall, in particular that encircling communities in Qalquilya and Tulkarem. The security fence should not be used as a mechanism for separating Palestinians from their land;

(f) Review the permit system and allow an increased number of Palestinians to return to their employment in Israel;

(g) Stop building settlements and recognize article 49 of the Fourth Geneva Convention, given that, in the absence of settlements, there would not be a need for such harsh security measures and the confiscation of land, which threaten the right to food and water of the Palestinian population;

(h) Halt the current movement towards a "Bantustanization" of the OPT and therefore halt the confiscation and expropriation of land that is being used for the building of the security fence/apartheid wall, settler-only roads, security buffers and the extension of settlements;

(i) Prosecute all criminal acts committed by settlers against Palestinians, in particular where they prevent or impede harvesting of crops, in order to ensure that a culture of impunity is not perpetuated;

(j) The Israeli High Court should recognize the Fourth Geneva Convention as part of customary international law, which should be justiciable, as are The Hague Regulations of 1907;

(k) Ensure the provision of adequate food and water for all prisoners and detainees in all detention facilities; detainees should not be detained for lengthy periods without charge;

(l) Review, with the Palestinian National Authority, the operation of the Joint Water Authority in order to ensure the fair sharing of the water resources under the OPT, in accordance with international law;

(m) Encourage international monitoring of the road map obligations by all members of the Quartet that drafted the road map - including the United Nations and the European Union - to ensure that the Government of Israel and the Palestinian Authority abide by their commitments. Monitoring should include a human rights mechanism charged with receiving, investigating and reporting on alleged violations of international human rights and humanitarian law, including the right to food.

63. Under the road map process, an urgent review must be undertaken of the potential for a viable Palestinian State. It must be ensured that the future State of Palestine has a viable territory and control over its own resources, so that it has the capacity to realize the right to food for the Palestinian population. It must also retain international borders in order to facilitate trade, especially the import and export of food products.

64. The Government of Israel should continue to cooperate with the United Nations Special Rapporteur on the right to food in the future by making a commitment to monitor violations of the right to food and the implementation of these recommendations over the long term. The Special Rapporteur also encourages the Government of Israel to receive the visits of other special rapporteurs.

65. Finally, as most of the violations of the right to food stem from the occupation by the Government of Israel of the OPT, the occupation should be ended. As Ilan Pappé, Academic Director of the Research Institute for Peace and senior lecturer at Haifa University, has pointed out, “The tedious and hackneyed truth remains that the end to violence of all kinds (including indiscriminate violence against the innocent) will come only with the end of the Occupation.”⁷²

Notes

¹ As of 15 August 2003. Sources: Palestinian Independent Commission for Citizens Rights (www.piccr.org), Israeli Defence Forces (www.idf.il).

² The malnutrition rate in Israel is 6-7 per cent of children under 5.

³ Johns Hopkins University/Al-Quds University, “Nutritional Assessment of the West Bank and Gaza Strip”, study financed by USAID through CARE International, September 2002.

⁴ Ms. Catherine Bertini, Personal Humanitarian Envoy of the Secretary-General, Mission Report, 11-19 August 2002 (no symbol), paras. 53-54.

⁵ Ibid.

⁶ Ibid.

⁷ World Bank, *Twenty-Seven Months - Intifada, Closures and the Palestinian Economic Crisis: An Assessment*, Jerusalem, May 2003, p. 36; Riccardo Bocco, Matthias Brunner, Isabelle Daneels et al., *Palestinian Public Perceptions on Their Living Conditions*, Geneva, December 2002, p. 51.

⁸ John Hopkins University, op. cit.

⁹ World Bank, op. cit.

¹⁰ Ibid.

¹¹ Ibid.

¹² Johns Hopkins University, op. cit., p. 59.

¹³ Ibid.

¹⁴ World Bank, op. cit., p. xii.

¹⁵ See Gideon Levy, "There's a wall in the way", *Ha'aretz* (Jerusalem) 8 September 2003; Avraham Burg, "The end of Zionism? A failed Israeli society is collapsing", *International Herald Tribune*, 6 September 2003.

¹⁶ World Bank, op. cit., pp.2-3 and 26.

¹⁷ Ibid, p.3.

¹⁸ Amnesty International, "Surviving under siege: The impact of movement restrictions on the right to work", 7 September 2003.

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²⁰ Bertini, op. cit.

²¹ World Bank, op. cit., p. 47.

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²³ BBC, 17 March 2003 at http://news.bbc.co.uk/2/hi/middle_east/2856433.stm.

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- ³² OCHA, Humanitarian Monitoring Report on the “Bertini Commitments” - June 2003.
- ³³ *Beit-El* case. High Court of Justice 606, 610/78, *Suleiman Tawfiq Ayyub et al. v. Minister of Defence et al.*
- ³⁴ ICJ, Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, 1996.
- ³⁵ *Ibid.*
- ³⁶ For example, in resolution 56/204 of 21 December 2001.
- ³⁷ International Covenants on Human Rights, common article 1.
- ³⁸ As defined in the 1995 Interim Agreement, article XI.
- ³⁹ *Ibid.*, article XIX; Declaration of Independence of 15 November 1988.
- ⁴⁰ See, for example, Mohanned Abdel Hamid, “Why Fatah doesn’t participate in the Morass of Reform”, *Between the Lines*, August 2002.
- ⁴¹ World Bank, *op. cit.*, p. 46.
- ⁴² *Ibid.*, p. 42
- ⁴³ 1995 Interim Agreement, annex III, appendix I, article 40.
- ⁴⁴ B’Tselem, “Thirsty for a solution?”, position paper, 2000.
- ⁴⁵ <http://www.idf.il/newsite/english/humanitarianarchive.stm>.
- ⁴⁶ *Humanitarian Plan of Action 2003: Occupied Palestinian Territory*, United Nations, New York and Geneva, November 2002, p. 22.
- ⁴⁷ Johns Hopkins, *op. cit.*, p. 51.

⁴⁸ *Ibid*, p. 60.

⁴⁹ B'Tselem, "Not even a drop: the water crisis in Palestinian villages without a water network", Jerusalem, 2001.

⁵⁰ Bertini, *op. cit.* para. 46.

⁵¹ *Ibid*, para. 45.

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⁵³ Palestinian National Information Center (PNIC), "Palestinian Economic Losses due the Israeli Siege, Closures and Aggressions (Sept. 29, 2000 to May 31, 2003)".
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⁵⁷ B'Tselem "Behind the barrier: human rights violations as a result of Israel's separation barrier", summary position paper, April 2003.

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⁶⁰ Document prepared by the Ministry of Defence and given to the Special Rapporteur at his meeting with the Chief Engineer.

⁶¹ "The Eastern Wall: the last remaining steps for completing Plan Bantustan", *Between the Lines*, June 2003, p. 9.

⁶² *News from Within*, June 2003, p. 8.

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⁶⁴ OCHA, *op. cit.*

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⁷¹ Burg, op. cit.

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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the Special Rapporteur of the Commission on Human Rights,
John Dugard, on the situation of human rights in the Palestinian
territories occupied by Israel since 1967**

Summary

The present report focuses upon military incursions into the Gaza Strip, the demolition of houses, the violations of human rights and humanitarian law arising from the construction of the Wall and the pervasiveness of restrictions on freedom of movement.

In the past year, the Israel Defence Forces (IDF) have carried out intensified military incursions into the Gaza Strip. This has been interpreted as a show of force on the part of Israel so that it cannot later be said that it had withdrawn unilaterally from the territory in weakness. In the course of these incursions, Israel has engaged in a massive and wanton destruction of property. Bulldozers have destroyed homes in a purposeless manner and have savagely dug up roads, including electricity, sewage and water lines. In Operation Rainbow, from 18 to 24 May 2004, 43 persons were killed and a total of 167 buildings were destroyed or rendered uninhabitable in Rafah. These buildings housed 379 families (2,066 individuals). These demolitions occurred during one of the worst months in Rafah's recent history. During the month of May, 298 buildings housing 710 families (3,800 individuals) were demolished. In October the IDF carried out an assault on the refugee camp of Jabaliya, in response to the killing of two Israeli children in Sderot by Qassam rockets. One hundred and fourteen persons were killed and 431 injured. Many of the victims were civilians and 34 children were killed and 170 wounded. Ninety-one homes were demolished and 101 seriously damaged, affecting 1,500 people. The demolition of houses in Rafah, Jabaliya and other parts of Gaza probably qualify as war crimes in terms of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention).

Israel has announced that it will withdraw unilaterally from Gaza. Israel intends to portray this as the end of the military occupation of Gaza, with the result that it will no longer be subject to the Fourth Geneva Convention in respect of Gaza. In reality, however, Israel does not plan to relinquish its grasp on the Gaza Strip. It plans to retain ultimate control over Gaza by controlling its borders, territorial sea and airspace. Consequently, it will in law remain an Occupying Power still subject to obligations under the Fourth Geneva Convention.

The Wall that Israel is presently constructing within the Palestinian territory was held to be contrary to international law by the International Court of Justice in its advisory opinion of 9 July 2004. The Court held that Israel is under an obligation to discontinue building the Wall and to dismantle it forthwith. It dismissed a number of legal arguments raised by Israel relating to the applicability of humanitarian law and human rights law. In particular, it held that settlements are unlawful. A week before the International Court of Justice rendered its advisory opinion, the High Court of Israel gave a ruling on a 40-kilometre strip of the Wall in which it held that while Israel as the Occupying Power had the right to construct the Wall to ensure security, substantial sections of the Wall imposed undue hardships on Palestinians and had to be rerouted.

Israel has not complied with the advisory opinion of the International Court of Justice. Instead, it has continued with the construction of the Wall.

Israel claims that the purpose of the Wall is to secure Israel from terrorist attacks and that terrorist attacks inside Israel have dropped by over 80 per cent as a result of the construction of the Wall. There is, however, no compelling evidence that suicide bombers could not have been as effectively prevented from entering Israel if the Wall had been built along the Green Line (the accepted border between Israel and Palestine) or within the Israeli side of the Green Line.

The following are more convincing explanations for the construction of the Wall:

- The incorporation of settlers within Israel;
- The seizure of Palestinian land;
- The encouragement to Palestinians to leave their lands and homes by making life intolerable for them.

The course of the Wall indicates clearly that its purpose is to incorporate as many settlers as possible into Israel. This is borne out by the fact that some 80 per cent of settlers in the West Bank will be included on the Israeli side of the Wall.

Despite the fact that the International Court of Justice has unanimously held that settlements are unlawful, settlement expansion has substantially increased in the past year. This is prohibited by the International Court of Justice and cannot be reconciled with the decision of the Israeli High Court itself.

A further purpose of the Wall is to expand Israel's territory. Rich agricultural land and water resources along the Green Line have been incorporated into Israel. In recent months, Israel has manifested its territorial ambitions in the Jerusalem area. The Wall is currently being built around an expanded East Jerusalem to incorporate some 247,000 settlers in 12 settlements and some 249,000 Palestinians within the boundaries of the Wall. It must be recalled that Israel's 1980 annexation of East Jerusalem is unlawful and has been declared "of no legal validity" by the Security Council in its resolution 476 (1980).

The construction of the Wall in East Jerusalem makes no sense from a security perspective because in many instances it will divide Palestinian communities. Moreover, it will have serious implications for Palestinians living in and near to East Jerusalem. First, it threatens to deprive some 60,000 Palestinians with Jerusalem residence rights of such rights if they happen to find themselves on the West Bank side of the Wall. Secondly, it will make contact between Palestinians and Palestinian institutions situated on different sides of the Wall hazardous and complicated. Thirdly, it will prohibit over 100,000 Palestinians in neighbourhoods in the West Bank who depend on facilities in East Jerusalem, including hospitals, universities, schools, employment and markets for agricultural goods, from entering East Jerusalem.

A third purpose of the Wall is to compel Palestinian residents living between the Wall and the Green Line and adjacent to the Wall, but separated from their land by the Wall, to leave their homes and start a new life elsewhere in the West Bank, by making life intolerable for them. Restrictions on freedom of movement in the "Closed Zone" between the Wall and the Green Line and the separation of farmers from their land will be principally responsible for

forcing Palestinians to move. The Israeli High Court declared that certain sections of the Wall should not be built where they caused substantial hardship to Palestinians. Logically, this ruling is applicable to sections of the Wall that have already been built. However, the Government of Israel has indicated that it will not honour its own High Court's ruling in respect of the 200-kilometre stretch of the Wall that has already been built.

Freedom of movement is severely curtailed in the West Bank and Gaza. The inhabitants of Gaza are effectively imprisoned by a combination of wall, fence and sea. Moreover, within Gaza freedom of movement is severely restricted by roadblocks that effectively divide the small territory. The inhabitants of the West Bank are subjected to a system of curfews and checkpoints that deny freedom of movement, and they need permits to travel from one city to another. Permits are arbitrarily withheld and seldom granted for private vehicles. Several hundred military checkpoints control the lives of Palestinians. Palestinians are denied access to many roads that are reserved primarily for the use of settlers. The Wall in the Jerusalem area threatens to become a nightmare, as tens of thousands of Palestinians will be forced to cross at one checkpoint each day, namely at Qalandiya. Finally, as already indicated, a permit system governs the lives of residents between the Wall and the Green Line and those adjacent to the Wall. This permit system is operated in an arbitrary and capricious manner.

The restrictions on freedom of movement imposed by the Israeli authorities on Palestinians resemble the notorious "pass laws" of apartheid South Africa. These pass laws were administered in a humiliating manner, but uniformly. Israel's laws governing freedom of movement are likewise administered in a humiliating manner, but they are characterized by arbitrariness and caprice.

In its advisory opinion, which has been approved by the General Assembly, the International Court of Justice indicated that there are consequences of the Wall for States other than Israel. States are reminded of their obligation not to recognize the illegal situation resulting from the construction of the Wall and not to render aid or assistance in maintaining the situation created by the construction of the Wall. Israel's defiance of international law poses a threat not only to the international legal order but to the international order itself. This is no time for appeasement on the part of the international community.

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Introduction

1. The past year has witnessed the worst violence in the Occupied Palestinian Territory (OPT) since the start of the second intifada in September 2000. Successive incursions of the Israel Defense Forces (IDF) into Gaza have resulted in heavy loss of life and personal injury, and in the wanton and large-scale destruction of homes. In the West Bank, the construction of the Wall (or Barrier, as it is sometimes called) has continued despite a ruling by the International Court of Justice (ICJ) that the Wall is illegal and that Israel is obliged to cease the construction of the Wall and to dismantle it. Neither the advisory opinion of the Court on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* rendered on 9 July 2004 nor the subsequent resolution of the General Assembly approving the advisory opinion (ES/10-15) have succeeded in curbing Israel's illegal actions in the OPT or reviving the road map scheme for peace in the region. The death of the President of the Palestinian Authority, Yasser Arafat, in November 2004 heralded in a period of uncertainty in the OPT. All in all, it has been a bad year for the OPT, with a glimmer of hope provided by the ICJ advisory opinion.

I. DEVELOPMENTS IN INTERNATIONAL LAW

2. In its advisory opinion, ICJ held that the Wall presently being built by Israel in the OPT, including in and around East Jerusalem, is contrary to international law, and that Israel is under an obligation to cease its construction on Palestinian territory and to dismantle it forthwith. It also held that Israel is under an obligation to make reparation for all damage caused by its construction in the OPT. Finally, it held that all States are under an obligation not to recognize the illegal situation resulting from the construction of the Wall and that all States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) are obliged to ensure that Israel complies with the provisions of that Convention. Finally, the Court held that the United Nations should consider what further action is required to bring to an end the illegal situation resulting from the construction of the Wall.

3. In its reasoning, the Court dismissed a number of legal arguments raised by Israel which have been fundamental to Israeli foreign policy in respect of the OPT. It found that the Fourth Geneva Convention is applicable to the OPT and that Israel is obliged to comply with its provisions in its conduct in the Territory. In making this finding, it stressed that according to article 49, paragraph 6, of the Fourth Geneva Convention, Israeli settlements in the OPT "have been established in breach of international law" (para. 120). The Court also found that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child are binding on Israel in respect of its actions in the OPT. It moreover emphasized that the Wall "severely impedes the exercise by the Palestinian people of its right to self-determination" (para. 122). Finally, the Court was sceptical about Israel's reliance on a state of necessity to justify the construction of the Wall and held that Israel "cannot rely on a right of self-defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall" (para. 142).

4. On 20 July 2004, the General Assembly adopted resolution ES-10/15, in which it demanded that Israel comply with the legal obligations identified in the advisory opinion. The resolution was adopted by 150 votes in favour, 6 against, and 10 abstentions.

5. Shortly before the ICJ gave its advisory opinion, the High Court of Justice of Israel ruled on the lawfulness of a portion of the Wall.¹ Although the High Court accepted that Israel as the occupying Power had the right to construct the Wall to ensure security, it held that certain sections of it imposed undue hardships on Palestinians and that it had to be rerouted. The Court examined the issue of the Wall largely from the perspective of proportionality, and asked the question whether the Wall's route injured local inhabitants to the extent that there was no proportion between the injury suffered and the security benefit of the Wall. The Court found that some sections of the proposed route caused disproportionate suffering to Palestinian villages as they separated villagers from the agricultural lands upon which their livelihood depended.

6. The unlawfulness of the Wall is now clear under international law as expounded by the International Court of Justice. Moreover, large portions of the Wall would seem to qualify for unlawfulness under Israeli law, as pronounced by the Israeli High Court. The Israeli argument that security considerations provide it with an absolute right to build the Wall in Palestinian territory can no longer stand. Terrorism is a serious threat to Israeli society and it may well be that the Wall prevents suicide bombers from reaching Israel. If this is the case, however, there is no reason why the Wall should not be routed along the Green Line or on the Israeli side of the Green Line. On the relationship between terrorism and the law, one can do no better than refer to the statement of the Israeli High Court in the *Beit Sourik* case:

“We are aware of the killing and destruction wrought by terror against the State and its citizens. As any other Israelis, we too recognize the need to defend the country and its citizens against the wounds inflicted by terror. We are aware that in the short term, this judgement will not make the State's struggle against those rising up against it easier. But we are judges. When we sit in judgement, we are subject to judgement. We act according to our best conscience and understanding. Regarding the State's struggle against the terror that rises up against it, we are convinced that at the end of the day, a struggle according to the law will strengthen her power and her spirit. There is no security without law.” (para. 86).

7. In previous reports, the Special Rapporteur has asserted legal positions in the face of Israeli objections. It is no longer necessary to engage in this exercise. The law is clear and it is now possible to focus on the consequences of Israel's illegal actions and to consider ways and means of enforcing compliance with the law. The latter function falls to the United Nations, acting through both the General Assembly and the Security Council, and to individual States. This report will therefore focus upon Israel's actions and the consequences of these actions.

II. FOCUS OF THE PRESENT REPORT

8. The Special Rapporteur visited the OPT from 18 to 25 June 2004. He visited both Gaza (including Rafah) and the West Bank (Jerusalem, Ramallah, Bethlehem, Qalqiliya and surrounding villages, and Hebron and its vicinity). The focus of his attention was upon the consequences of military incursions into the Gaza Strip, particularly the demolition of homes; the violations of human rights and humanitarian law arising from the construction of the Wall; and the pervasiveness of the restrictions on freedom of movement. The present report reflects these concerns. However, the Special Rapporteur wishes to stress that there are many other violations of human rights in the OPT which continue to destroy the fabric of Palestinian society:

- Deaths and injuries. Since September 2000, over 3,850 Palestinians (including over 650 children below the age of 17) and almost 1,000 Israelis have been killed. More than 36,500 Palestinians and 6,300 Israelis have been injured. Most of those killed or injured were civilians;
- Assassinations. Israel continues to assassinate persons suspected of being militants. These assassinations are generally carried out without regard to loss of civilian life. On the contrary, the loss of civilian lives is simply dismissed as collateral damage. Some 340 persons have been killed in targeted assassinations, of which 188 were targeted persons and 152 innocent civilians;
- Incursions. In the past year, the IDF have frequently engaged in military incursions into the West Bank and Gaza with a view to killing Palestinian militants. Frequently, civilians are caught up in indiscriminate gunfire. In October 2004, 165 Palestinians were killed in military incursions, making it the deadliest month for Palestinians since Operation Defensive Shield in April 2002;
- Prisoners. There are some 7,000 Palestinian prisoners in Israeli prisons or detention camps, of whom 380 are children and over 100 are women. Of these prisoners, only some 1,500 have actually been put on trial. Many of those detained report being subjected to torture or inhuman and degrading treatment. In August some 2,500 prisoners embarked on a hunger strike against prison conditions;
- Curfews. Although there has been a decline in the use of curfews as a weapon by the Israelis in the past year, curfews are still imposed and have been resorted to with great frequency in Nablus;
- Humanitarian crisis. Poverty and unemployment are rampant in the OPT. Figures provided by the International Labour Organization (ILO) show that an average of 35 per cent of the Palestinian population is unemployed. 62 per cent of Palestinians live below the poverty line. According to the World Bank, “the Palestinian recession is among the worst in modern history. Average personal incomes have declined by more than a third since September 2000”.²

9. The Special Rapporteur plans to visit the region again in February 2005 and will submit an addendum to this report based on that visit.

III. GAZA STRIP

10. In the past year the IDF has carried out regular military incursions into the Gaza Strip. The worst affected towns have been Rafah, Beit Hanoun, Beit Lahiya, Jabaliya and Khan Yunis. The reasons advanced by Israel for these incursions are, in the case of Rafah, the destruction of tunnels used for smuggling arms and in the case of Beit Hanoun and Jabaliya, the destruction of the capacity to launch Qassam rockets into Israel. However, these incursions must be seen in a broader political perspective. Israel has announced that it is planning to withdraw its settlements and military presence from Gaza. It clearly does not wish to be seen to be withdrawing in

weakness, with the result that it has chosen to demonstrate its power in Gaza before it withdraws. Also, in order to maintain control over the border between Gaza and Egypt, Israel has decided to create a buffer zone of about 400 metres along the "Philadelphi" route, which requires the destruction of homes in Rafah presently in the buffer zone.

11. In pursuance of the above policies, Israel has engaged in a massive destruction of property in Gaza. Sometimes property, the homes of suspected militants, has been destroyed for punitive reasons. Sometimes homes have been destroyed for strategic purposes, as in the case of homes along the Philadelphi route. Often, however, the destruction is wanton. Homes have been destroyed in a purely purposeless manner. Caterpillar bulldozers have savagely dug up roads with a "ripper" attachment, which has enabled them to destroy electricity, sewage and water lines in a brutal display of power. Moreover, there has been a total lack of concern for the people affected. On 12 July 2004, in the course of a raid into Khan Yunis, the IDF destroyed a house in which 75-year-old Mahmoud Halfalla, confined to a wheelchair, was present. Despite appeals to allow him to leave, the house was destroyed above him and he was killed.

12. The Special Rapporteur visited Block "O", the Brazil Quarter and the Tel es-Sultan neighbourhood of Rafah in the wake of Operation Rainbow carried out by the IDF in May 2004 and met with families that had been rendered homeless in the exercise. In Operation Rainbow, 43 persons were killed, including eight who were killed in a peaceful demonstration on 19 May. From 18 to 24 May, a total of 167 buildings were destroyed or rendered uninhabitable, which had housed 379 families (2,066 individuals). These demolitions occurred during one of the worst months in Rafah's recent history. During the month of May, 298 buildings housing 710 families (3,800 individuals) were demolished in Rafah. Since the start of the intifada in September 2000, 1,497 buildings have been demolished in Rafah, affecting over 16,000 people - that is, more than 10 per cent of the population of Rafah. According to the Palestinian Central Bureau of Statistics, 393 residents of the Rafah governorate have been killed since September 2000, including 98 children under the age of 18. In the same period, Palestinian armed groups have killed ten Israeli soldiers in Rafah. These figures simply emphasize the disproportionate and excessive nature of Israel's actions in Rafah.

13. In a previous report (A/59/256), the Special Rapporteur has questioned the necessity for such wanton destruction of property in the search for, and destruction of, smuggling tunnels. This matter has received the attention of Human Rights Watch, which concludes that:

"the IDF has consistently exaggerated and mischaracterized the threat from smuggling tunnels to justify the demolition of homes ... the IDF has failed to explain why non-destructive means for detecting and neutralizing tunnels employed in places like the Mexico-United States border and the Korean demilitarized zone (DMZ) cannot be used along the Rafah border. Moreover, it has at times dealt with tunnels in a puzzlingly ineffective manner that is inconsistent with the supposed gravity of this longstanding threat".³

14. Rafah is not the only part of Gaza to have suffered from IDF incursions. In July the IDF, accompanied by the customary bulldozers, invaded Beit Hanoun. Militants were killed and so were civilians. Homes were destroyed and by way of further punishment olive and orange trees were destroyed. At the end of October, 17 Palestinians were killed and 50 injured in the Khan Yunis refugee camp. The most severe IDF military operation, however, occurred in the

Jabaliya refugee camp in October in response to the killing of two Israeli children in Sderot by Qassam rockets. The Jabaliya camp, which accommodates some 120,000 people in an area of less than 2 km², witnessed an IDF offensive reminiscent of the Israeli attack on the Jenin refugee camp in the spring of 2002. One hundred and fourteen persons were killed and 431 injured. Many of the victims were civilians, and 34 children were killed and 170 injured. Ninety-one homes were demolished, rendering 675 Palestinians homeless. In addition 101 houses, home to 833 people, sustained damage. Caterpillar bulldozers ripped up roads and dug trenches, damaging around 12,000 m² of road. Water, sewage and electricity networks were also damaged and acres of farmland destroyed in a scorched earth offensive.

15. On 5 October 2004, the United States of America vetoed a resolution before the Security Council that would have demanded that Israel halt all military operations in northern Gaza.

16. In the past year, IDF incursions have occurred with great frequency in Gaza. Some operations, such as those in Rafah, Beit Hanoun, Beit Lahiya, Jabaliya and Khan Yunis described above, have received international attention. Others, in which only a handful of Palestinians were killed and a few houses destroyed have received little attention. These incursions are, however, part of a war of attrition against the Palestinian people - a war in which civilians, including children, have suffered disproportionately. Indeed one of the most alarming features of these incursions has been the failure of the IDF to curb its fire in the vicinity of schools. As a consequence, on 5 October, a 13-year-old schoolgirl, Imam Al-Hams, was shot and killed by 20 bullets near to her school. In the same period, other schoolgirls were killed by IDF gunfire in schools run by the United Nations Relief and Works Agency for Palestine Refugees (UNRWA).

17. The actions of the IDF in Gaza in the past year must be examined and judged in the context of the rules of humanitarian law held to be applicable to Israel's actions in the OPT in the ICJ advisory opinion on the construction of the Wall. Article 53 of the Fourth Geneva Convention provides that any destruction by the occupying Power of personal property is prohibited except when such destruction is rendered "absolutely necessary by military operations". Failure to comply with this prohibition constitutes a grave breach in terms of article 147 of the Convention requiring prosecution of the offenders. As shown in this report, the IDF has frequently destroyed houses, roads and agricultural land in order to expand the buffer zone at the Rafah border zone or to inflict damage for punitive reasons unconnected with military combat. Moreover, these operations have been conducted without regard for two of the most fundamental principles of international humanitarian law - the principle of distinguishing at all times between civilian objects and military objectives (article 48 of Protocol I to the Geneva Conventions) and the principle of proportionality.

18. UNRWA has embarked on a campaign to raise over US\$ 50 million to re-house Palestinians rendered homeless by the Israeli army in these operations. The Special Rapporteur expresses the hope that the international community will respond positively to the appeal by UNRWA. However, he wishes to emphasize that in terms of the Fourth Geneva Convention, it is the responsibility of the occupying Power to ensure that adequate food and medical supplies are provided for the occupied population and to care for the general welfare of the occupied people. It is a gross violation of the Fourth Geneva Convention for the occupying Power to destroy houses, render the population homeless, create a need for food and medical services and then to refuse to carry out its responsibilities to provide for the concerns of the occupied people.

19. During the course of the year, the Government of Israel announced that it would dismantle Jewish settlements in Gaza and withdraw its armed forces from Gaza. This move is to be welcomed but it must be stressed that such “withdrawal” or “disengagement” will not relieve Israel of its obligations as an occupying Power, as it does not plan to relinquish its grasp on the Gaza Strip. On the contrary, it plans to maintain its authority by controlling Gaza’s borders, territorial sea and airspace. That Israel intends to retain ultimate control over Gaza is clear from the Disengagement Plan of April 2004, as revised in June 2004, which states in respect of Gaza, inter alia, that “the State of Israel will supervise and monitor the external land perimeter of the Gaza Strip, will continue to maintain exclusive authority in Gaza air space, and will continue to exercise security activity in the sea off the Gaza Strip ... The State of Israel will continue to maintain a military presence along the border between the Gaza Strip and Egypt (Philadelphi route). This presence is an essential security requirement. At certain locations, security considerations may require some widening of the area in which the military activity is conducted”. This means that Israel will remain an occupying Power under international law - a conclusion reached by Israeli Government legal experts in a report published on 24 October - as the test for application of the legal regime of occupation is not whether the occupying Power fails to exercise effective control over the territory, but whether it has the ability to exercise such power. This principle was confirmed by the United States Military Tribunal in *The Hostages Trial - Trial of Wilhelm List and Others* of 1948.⁴ It is essential that the international community take cognizance of the nature of Israel’s proposed “withdrawal” and of its continuing obligations under the Fourth Geneva Convention.

IV. HOUSE DEMOLITIONS

20. The demolition of houses - homes - is a central feature of Israel’s policy towards Palestinians. “The human suffering entailed in the process of destroying a family’s home is incalculable. One’s home is much more than simply a physical structure. It is one’s symbolic center, the site of one’s most intimate personal life and an expression of one’s status. It is a refuge, it is the physical representation of the family, it is home”.⁵ The demolition of a home destroys the family unit, causes a decline in standard of living and has a severe psychological impact on the family, particularly children.

21. The second intifada has witnessed the intensification of house demolitions, resulting in the destruction of 4,170 Palestinian homes. Some 60 per cent of the houses demolished have been destroyed as part of “clearing operations” to meet Israel’s military needs. In the previous section, this process was described in respect of Rafah, Jabaliya, Beit Hanoun and Beit Lahiya. Since September 2000, the IDF has demolished 2,540 housing units in which 23,900 Palestinians lived in the course of clearing operations. Some 25 per cent of the houses demolished have been destroyed for having being built without the required permit from the Israeli authorities, which still retain building authorization rights in Area C of the West Bank and East Jerusalem. Israel demolished 768 structures in the West Bank between 2001 and 2003 and 161 structures in East Jerusalem between 2001 and 2004 for having being built without a permit.

22. A third kind of house demolition, accounting for 15 per cent of the houses destroyed, is that of punishment of the family and neighbours of Palestinians who have carried out or are suspected of having carried out attacks against Israelis. Such punitive action is not confined to the family of suicide bombers: indeed, in 40 per cent of the cases involving demolition of houses, no Israelis had been killed in the incidents giving rise to such demolitions. Punitive

home destruction is the subject of a recent disturbing publication by Israel's premier human rights NGO, B'Tselem (Israeli Information Centre for Human Rights in the Occupied Territories).⁶ This study shows that since October 2001, the IDF has demolished 628 housing units, home to 3,983 persons. 47 per cent (295) of the homes demolished were never home to any one suspected of involvement in attacks upon Israelis. As a result, 1,286 persons unconnected with any acts against Israelis have been punished. Figures do not bear out Israeli claims that advance notice is given to owners of houses to be demolished; only in 3 per cent of the cases had proper warning of demolition been given. This disquieting study strongly suggests that house demolitions are carried out in an arbitrary and indiscriminate manner.

23. It is difficult to resist the conclusion that punitive house demolitions constitute serious war crimes. Article 53 of the Fourth Geneva Convention prohibits the occupying State from destroying the property of civilians "except where such destruction is rendered absolutely necessary by military operations". "Military operation", according to the official commentary of the International Committee of the Red Cross, means "the movements, manoeuvres, and actions of any sort, carried out by the armed forces with a view to combat".⁷ House demolitions are not carried out in the context of hostilities "with a view to combat" but as a punishment. They cannot be described as part of a "military operation" and they certainly cannot be considered "absolutely necessary" for action not constituting a military operation. Moreover such demolitions violate the prohibition imposed on collective punishment by article 33 of the Fourth Geneva Convention, which reads:

"No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."

V. THE WALL

24. The Wall is responsible for much of the suffering of the Palestinian people and, if continued, will be responsible for still greater suffering. As shown by the International Court of Justice, it violates both humanitarian law and human rights law and undermines the right of the Palestinian people to self-determination. For this reason the Wall has been the focus of special attention in two previous reports and remains a major focus of attention in the present report. In order to further his understanding of the consequences of the Wall from the perspective of human rights, the Special Rapporteur visited the Wall in the Jerusalem area (Al-Ram, Abu Dis, Qalandiya, Beit Sourik and Biddu), Qalqiliya (Isla and Jayyous villages) and Bethlehem. Previously, the Special Rapporteur has visited villages in the Qalqiliya and Tulkarem region.

25. Israel claims that the purpose of the Wall is to secure Israel from terrorist attacks. It draws attention to the fact that statistics for the first half of 2004 show that terrorist attacks inside Israel have dropped by no less than 83 per cent compared to the same period in 2003. Two comments may be made on this claim. First, there is no compelling evidence that this could not have been done with equal effect by building the Wall along the Green Line or within the Israeli side of the Green Line. Secondly, the evidence that the course of the Wall within Palestinian territory is required by security considerations is not conclusive. This is shown by the *Beit Sourik Village Council* judgement, which demonstrates the difficulties inherent in ascertaining the security justifications for the course of the Wall and brings into question the military arguments for the chosen course of the Wall.

26. More convincing explanations for the construction of the Wall in the OPT are the following:

- To incorporate settlers within Israel;
- To seize Palestinian land;
- To encourage an exodus of Palestinians by denying them access to their land and water resources and by restricting their freedom of movement.

These explanations are considered below.

A. The incorporation of settlements

27. The course of the Wall indicates clearly that its purpose is to incorporate as many settlers as possible into Israel. This is borne out by the statistics showing that some 80 per cent of settlers in the West Bank will be included on the Israeli side of the Wall. If further proof of this obvious fact is required, it is to be found in an article by Benjamin Netanyahu, Minister of Finance of Israel and former Prime Minister, in the *International Herald Tribune* of 14 July 2004, in which he wrote: “A line that is genuinely based on security would include as many Jews as possible and as few Palestinians as possible within the fence. That is precisely what Israel’s security fence does. By running into less than 12 per cent of the West Bank, the fence will include about 80 per cent of Jews and only 1 per cent of Palestinians who live within the disputed territories.”

28. Settlements are, of course, unlawful under international law. This was the unanimous view of the International Court of Justice in its advisory opinion. The Court found that “the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law”, and that “the route chosen for the wall gives expression *in loco* to the illegal measures taken by Israel with regard to Jerusalem and the settlements” (paras. 120 and 122). Moreover, Judge Buergenthal, the sole dissenting judge, stated that he agreed that article 49, paragraph 6, of the Fourth Geneva Convention applied to the Israeli settlements in the West Bank from which it followed “that the segments of the wall being built by Israel to protect the settlements are *ipso facto* in violation of international humanitarian law” (para. 9).

29. Despite this, there is overwhelming evidence of settlement expansion in the West Bank. No longer does the Government of Israel even pay lip service to its claim of several years ago that it would “freeze” settlement expansion. In August, the Government of Israel granted 2,167 permits to settlers to build apartments in Palestine (*International Herald Tribune*, 24 August 2004, p. 5). The Prime Minister Ariel Sharon has furthermore announced that in return for dismantling settlements in the Gaza Strip and four small settlements in the northern West Bank (Ghanim, Khadim, Sa-Nur and Homesh), the remaining settlements in the West Bank would be consolidated and expanded. According to the report of the Director-General of ILO to the 92nd session of the International Labour Conference, “the settler population has continued to increase rapidly, at an annual rate of 5.3 per cent in the West Bank and 4.4 per cent in Gaza since 2000, reaching close to 400,000 persons in the occupied Palestinian territories. This is equivalent to 6 per cent of the Israeli population and 11.5 per cent

of the Palestinian population in 2002. The increase in the settler population has been much faster than population growth in Israel (at 1.4 per cent per year over 2000-02), thereby indicating more than natural demographic growth, even allowing for higher fertility among settler families".⁸

30. Settler expansion has unfortunately been accompanied by settler violence. Numerous incidents have been reported of settler attacks on Palestinians and their land and it is reported that there has been a 20 per cent increase in settler violence. Recently, settlers have prevented Palestinians from harvesting the olive crop. Settler behaviour is particularly disgusting in Hebron where settlers continuously harass Palestinians and damage their property. The Special Rapporteur had first-hand experience of this when the vehicle in which he was travelling with the Temporary International Presence in the City of Hebron (TIPH) was spat upon by settlers and splattered with paint. Obstacles placed in the road by settlers were not removed, despite a request by a TIPH official. On the contrary, members of the IDF laughingly indicated their approval of the action of the settlers and refused to intervene, despite Israel's legal obligation to cooperate with TIPH. As settlers are present in the OPT with the Government's approval and as inadequate steps are taken to curb their actions, the Government of Israel must accept responsibility for their actions.

31. Plans to incorporate more settlements within the Wall are being implemented. Although the High Court of Israel in the *Beit Sourik* case did not rule on the question whether the Wall might be built to include settlements, it seems implicit in its judgement that the building of the Wall to incorporate settlements would be unlawful. This follows from the following passage in the judgement:

"We accept that the military commander cannot order the construction of the separation fence if his reasons are political. The separation fence cannot be motivated by a desire to 'annex' territories to the State of Israel. The purpose of the separation fence cannot be to draw a political border. In [a previous case] this Court discussed whether it is possible to seize land in order to build a Jewish civilian town, when the purpose of the building of the town is not the security needs and defense of the area ... but rather based upon a Zionist perspective of settling the entire land of Israel. This question was answered by this Court in the negative" (para. 27).

B. Seizure of Palestinian land

32. Another purpose of the Wall is to expand Israel's territorial possessions. Rich agricultural land and water resources along the Green Line have been incorporated into Israel. Although Palestinians living on the eastern side of the Wall remain owners of these lands, they are frequently denied access to them or faced with obstacles imposed by the Israeli authorities to the farming of their land. There is thus a real danger that these lands will be abandoned and seized by the voracious settlers.

33. Nowhere are Israel's territorial ambitions clearer than in the case of Jerusalem. East Jerusalem was occupied by Israel in 1967 and illegally annexed to Israel in 1980. This annexation was internationally condemned and declared to be "of no legal validity" by the Security Council in resolution 476 (1980). The territory annexed in this way amounts to 1.2 per cent of the occupied West Bank and has a Palestinian population of 249,000. These Palestinians are forced to have residence cards to live in their own territory. Certain benefits,

particularly relating to health insurance and pensions and freedom of movement, are attached to these residence rights. The land illegally incorporated into the Jerusalem municipality has been used to build illegal Israeli settlements in order to change the demographic make-up of the area. There are now 12 illegal Israeli settlements in this area and the total settler population in eastern Jerusalem amounts to 180,000. As a result of the creation of settlements in East Jerusalem, Palestinians with Jerusalem residence rights have been compelled to build houses outside the municipal limits of East Jerusalem.

34. In the past year a wall has been built along the illegal border of East Jerusalem at places like Abu Dis, Al-Ram and Qalandiya. This wall has a number of serious consequences. First, it gives effect to an illegal annexation and incorporates part of the city of Jerusalem (including the Holy Places) into Israel. Here it must be stressed that the Wall is to expand beyond the limits of the present Jerusalem municipality to incorporate an additional 59 km² of the West Bank in what will be known as “Greater Jerusalem”. The total settler population of “Greater Jerusalem” (247,000) will amount to more than half of the Israeli settlers in the Occupied Palestinian Territory. Second, it separates Palestinians from Palestinians and can in no conceivable way be justified as a security measure. Third, it threatens to deprive some 60,000 Palestinians who were previously resident within the Jerusalem municipal boundary of their residence rights. Fourth, it will divide families, some of whom carry Jerusalem residence documents and some of whom carry West Bank documents. Fifth, it makes contact between Palestinians and Palestinian institutions situated on different sides of the Wall hazardous and complicated. Sixth, it will affect 106,000 Palestinians in neighbourhoods in the West Bank who are dependent upon the facilities of East Jerusalem, including hospitals, universities, schools, employment and markets for agricultural goods. The Special Rapporteur met many Palestinian Jerusalemites who were seriously affected by the construction of the Wall within Jerusalem. Unfortunately, their plight receives little attention, as the international community has grown accustomed to the illegal annexation of Jerusalem. The Special Rapporteur stresses that the Wall incorporating Palestinian neighbourhoods in East Jerusalem into Israel is no different from the Wall in other parts of the West Bank, which incorporates Palestinian land into Israel.

C. Forced exodus

35. A third purpose of the Wall is to compel Palestinian residents in the so-called “Seam Zone” between the Wall and the Green Line and those resident adjacent to the Wall, but separated from their lands by the Wall, to leave their homes and start a new life elsewhere in the West Bank, by making life intolerable for them. This was acknowledged by the International Court in its advisory opinion when it stated that the construction of the Wall is “tending to alter the demographic composition of the Occupied Palestinian Territory” (para. 133).

36. Restrictions on freedom of movement in the “Seam Zone” pose particular hardships for Palestinians. Israel has designated the Seam Zone as a “Closed Zone” in which Israelis may travel freely but not Palestinians. Thus, Palestinians living in the Closed Zone are obliged to have permits to live in their own homes.⁹ Palestinians living within the West Bank with farms inside the Closed Zone moreover need permits to cross the Wall into that zone, as do others who wish to visit it for personal, humanitarian or business reasons. A recent study carried out by B’Tselem¹⁰ demonstrates the arbitrary nature of the implementation of the permit system. Permits are granted for varying lengths of time depending on the kind of crop grown by the applicant. For example, olive growers should receive permits for October/November, the

picking season, while owners of hothouses, which require care throughout the year, should be issued permits for a longer period of time. Testimonies given to B'Tselem by farmers in the area indicate that the authorities have constantly ignored the kind of crop being grown on the land. Sometimes olive growers have received permits for a period of three to six months while the owners of hothouses have received permits for shorter periods. In some cases, permits are granted for two weeks only. Moreover, about 25 per cent of the requests for permits to enter the Closed Zone were denied. In Ar Ras only four out of 70 applicants were issued permits. Permits are rejected for failure to prove ownership and, in most cases, for security reasons. No reasons are given for the denial of a permit. Permits are intended to grant access to the Closed Zone through special gates in the Wall. In practice, these gates, of which there are only twenty-one for Palestinians, are not opened as scheduled. Farmers are compelled to wait at the gates for long periods of time until soldiers find it convenient to open the gates. The arbitrary regime relating to the opening of gates has caused special problems during harvest time when intensive labour is required.

37. The hardships to which Palestinians are subjected by the Wall are graphically described in the *Beit Sourik Village Council* case. In its judgement, the High Court commented as follows upon the location of the Wall in the area north-west of Jerusalem near to Beit Sourik:

“82. ... The length of the part of the Separation Fence to which these orders apply is approximately 40 kilometers. It causes injury to the lives of 35,000 local inhabitants. 4,000 dunams of their lands are taken up by the route of the fence itself, and thousands of olive trees growing along the route itself are uprooted. The fence separates the eight villages in which the local inhabitants live from more than 30,000 dunams of their lands. The great majority of these lands are cultivated, and they include tens of thousands of olive trees, fruit trees and other agricultural crops. The licensing regime which the military commander wishes to establish cannot prevent or substantially decrease the extent of the severe injury to the local farmers. Access to the lands depends upon the possibility of crossing the gates, which are very distant from each other and not always open. Security checks, which are likely to prevent the passage of vehicles and which will naturally cause long lines and many hours of waiting, will be performed at the gates. These do not go hand in hand with the farmer's ability to work his land. There will inevitably be areas where the security fence will have to separate the local inhabitants from their lands ...

“ ...

“84. The injury caused by the separation fence is not restricted to the lands of the inhabitants and to their access to these lands. The injury is of far wider a scope. It strikes across the fabric of life of the entire population. In many locations, the Separation Fence passes right by their homes ...

“85. ... [W]e are of the opinion that the balance determined by the military commander is not proportionate. There is no escaping, therefore, a renewed examination of the route of the fence, according to the standards of proportionality that we have set out.”

VI. ISRAEL'S RESPONSE TO THE ADVISORY OPINION OF THE INTERNATIONAL COURT OF JUSTICE ON THE WALL

38. The initial response of the Government of Israel to the ICJ advisory opinion on the Wall was to reject it completely. However, on 19 August the Israeli High Court, in response to a petition by the West Bank village of Shuqba challenging the construction of the Wall, ordered the Government to produce a statement within 30 days assessing the implications of the advisory opinion. To the knowledge of the Special Rapporteur this assessment has not yet been given. The actions of the Government of Israel, however, speak louder than words. It continues to construct the Wall.

39. On 30 June, shortly before the ruling of the International Court, a new map for the Wall was issued by the Israeli Ministry of Defence. This places fewer Palestinians on the western side of the Wall but does not significantly reduce the amount of land from which the Wall separates Palestinian landowners and farmers from their land. The revised route reduces the total length of the Wall by 16 km from 638 km to 622 km. Approximately 85 per cent of the revised planned route of the Wall intrudes into the West Bank.

40. Although the building of the Wall has been suspended in some areas (Salfit, Al Zawiya, Deir Ballut) as a result of an order of the Israeli High Court, in other areas the construction of the Wall continues. Some 70 kilometres of the Wall is currently under construction in the region of Jerusalem (the main road between Qalandiya checkpoint and Ar Ram, Al Aqbat, the area of Al Eizariya, the area between Jaba and Hizma, etc), Ramallah (Budrus, Beituniya), Jenin (Jalbun, Raba), Bethlehem (near the Ayda refugee camp and along the tunnel road) and Hebron (Idhna, Beit Awwa, Surit).

41. The Special Rapporteur calls upon the Government of Israel to honour the advisory opinion of the International Court of Justice, which was approved by the General Assembly by 150 votes in favour on 20 July 2004. The International Court, the judicial organ of the United Nations, has pronounced itself almost unanimously against the legality of the Wall. Israel is therefore in law required to dismantle the Wall and to compensate Palestinians who have suffered as a result of its construction. If the Government of Israel declines to do this, it should at least honour the judgement of its own Supreme Court sitting as the High Court of Justice in the *Beit Sourik Village Council* case. From this judgement, it is clear that substantial portions of the already constructed Wall fail to comply with the principles of proportionality expounded by the High Court. There is no reason why the Wall should not be dismantled where it fails to meet these requirements.

VII. FREEDOM OF MOVEMENT

42. Freedom of movement is a freedom recognized by all international human rights instruments. Article 12 of the International Covenant on Civil and Political Rights provides that everyone shall "have the right to liberty of movement and freedom to choose his residence". Despite this, serious restrictions are imposed on the freedom of movement of all Palestinians, whether in the Gaza Strip or in the West Bank. They are a source of constant humiliation and cause personal suffering and inconvenience to every Palestinian. In addition, these restrictions are primarily responsible for the decline of the Palestinian economy.

43. The inhabitants of Gaza are effectively imprisoned by a combination of wall, fence and sea. Gaza's borders are rigorously patrolled by the IDF and passage in and out of Gaza is strictly controlled. While some Gazans are released to work in Israel when the security situation permits and a handful of officials and other privileged persons are permitted to leave and return to Gaza, the overwhelming majority of the people are confined within its borders. Indeed, it is almost impossible for males between the age of 16 and 35, including medical patients and students, to leave Gaza through the Rafah Terminal, which is the only exit from the Gaza Strip to Egypt. Within Gaza, freedom of movement is restricted by regularly and rigorously imposed roadblocks. The Gaza Strip is effectively divided into two by the checkpoint at Abu Houli on the main north-south road, Salah-Al-Din.

44. The inhabitants of the West Bank suffer from a variety of forms of restriction of movement. Residents of one city may not travel freely to another city in the West Bank: they require permits from the IDF for this purpose - and permits may be arbitrarily withheld. Permits are seldom granted for private vehicles. Anyone embarking upon a journey from one city to another within the West Bank is subjected to IDF-controlled checkpoints, some permanent and some temporary. Checkpoints are also set up within cities and districts. There are several hundred checkpoints throughout the West Bank and Gaza, blocking traffic between villages and towns, between cities or into Israel. The checkpoint is not the sole instrument of restriction of freedom of movement. Although less frequently used than in past years, the curfew remains a regular occurrence, as illustrated by the experience of Nablus. This apparatus of control of movement of people and goods has precipitated the prevailing economic crisis and resulted in widespread unemployment and severe disruption to education, health care services, work, trade, family and political life.

45. Travel within both the Gaza Strip and the West Bank is aggravated by the presence of separate bypass roads linking settlements to each other and the settlements to Israel. Palestinians are prohibited from using these roads. This matter is the subject of a recent study by B'Tselem,¹¹ which shows that 17 roads (totalling 124 km) are completely closed to Palestinian vehicles, 10 roads (totalling 244 km) are closed to all Palestinians without special movement permits, and 14 roads (totalling 364 km) are restricted in the sense that Palestinian vehicles are subjected to vigorous IDF checks and checkpoints. According to B'Tselem, no clear rules govern the closure of these roads to Palestinians and the system is administered in an arbitrary manner which further deters Palestinians from using such roads and compels them to use dirt roads or city roads.

46. The Wall in the Jerusalem area threatens to become a nightmare. Those on the West Bank side of the Wall with West Bank identity documents will be denied access to work, schools, universities, hospitals and places of worship on the Israeli side of the Wall. Similarly, those on the Israeli side of the Wall will be denied access or will find access seriously inconvenient to their places of work, educational institutions and hospitals on the West Bank side of the Wall. All the region's residents, numbering several hundred thousand, will be forced to pass through one large terminal at Qalandiya. Most of those passing through to work or to school will reach the terminal at peak hours and great commotion can be expected. At this stage, it is simply impossible to predict the magnitude of the hardships to which the Palestinians living in and around Jerusalem will be subjected as a result of the Wall.

47. As indicated above, a special permit system applies for persons living or farming along the Seam Zone between the Wall and the Green Line. They require permits to move between home and agricultural land and often these permits are denied or granted for limited periods only. Moreover, the gates giving access to the Closed Zone are frequently not opened at scheduled times. In general, this system is operated in a totally arbitrary manner.

48. The Special Rapporteur is unfortunately compelled to compare the different permit systems that govern the lives of Palestinians within the OPT with the notorious “pass law” system which determined the right of Africans to move and reside in so-called white areas under the apartheid regime of South Africa. The South African pass laws were administered in a humiliating manner, but uniformly. The Israeli laws are likewise administered in a humiliating manner but they are not administered clearly or uniformly. The arbitrary and capricious nature of their implementation imposes a great burden on the Palestinian people. Restrictions on freedom of movement constitute the institutionalized humiliation of the Palestinian people.

VIII. CONCLUSION

49. **This report has drawn attention to the serious violations of human rights and humanitarian law flowing from the actions of the Government of Israel in the OPT. Israel is both legally and morally obliged to bring its practices and policies into line with the law. That Israel has legitimate security concerns cannot be denied. However, these concerns must be addressed within the parameters of the law for, as the High Court of Justice of Israel has rightly declared, “There is no security without law” (*Beit Sourik* case, para. 86).**

50. **As the International Court of Justice indicates in its advisory opinion, approved by the General Assembly, there are consequences of the Wall for States other than Israel. The Special Rapporteur reminds States of their obligation not to recognize the illegal situation resulting from the construction of the Wall and not to render aid or assistance in maintaining the situation created by such construction. In addition, all States parties to the Fourth Geneva Convention are obliged to ensure compliance by Israel with the international humanitarian law embodied in this Convention. Israel’s defiance of international law poses a threat not only to the international legal order but to the international order itself. This is no time for appeasement on the part of the international community.**

Notes

¹ *Beit Sourik Village Council v. the Government of Israel* (High Court of Justice 2056/04).

² “Disengagement, the Palestinian Economy and the Settlements”, World Bank, 23 October 2004, p. 4.

³ *Razing Rafah: Mass Home Demolitions in the Gaza Strip*, Human Rights Watch, October 2004, p. 4; <http://www.hrw.org/reports/2004/rafah1004>.

⁴ United Nations War Crimes Commission, *Law Reports of Trials of War Criminals*, Case No. 47, vol. VIII, 1949, p. 34.

⁵ Jeff Halper, *Obstacles to Peace - A Re-Framing of the Palestinian-Israeli Conflict*, 2nd ed. (2004).

⁶ *Through No Fault of their Own: Punitive Home Demolitions during the al-Aqsa Intifada* (Jerusalem, November 2004).

⁷ J. Pictet, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Geneva, ICRC (Dordrecht, Martinus Nijhoff, 1987), p. 67.

⁸ “The situation of workers in the occupied Arab territories”, ILO, June 2004, para. 39.

⁹ Order Regarding Security Regulations (Judea and Samaria) (No. 378) 5730/1970.

¹⁰ *Not All it Seems: Preventing Palestinians Access to their Lands West of the Separation Barrier in the Tulkarm-Qalqiliya Area* (Jerusalem, June 2004).

¹¹ *Forbidden Roads: The Discriminatory West Bank Road Regime* (August 2004).



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**QUESTION DE LA VIOLATION DES DROITS DE L'HOMME DANS LES
TERRITOIRES ARABES OCCUPÉS, Y COMPRIS LA PALESTINE**

**Rapport du Rapporteur spécial sur la situation des droits de l'homme
dans les territoires palestiniens occupés par Israël depuis 1967,
M. John Dugard**

Résumé

Le 8 février 2005, lors d'une rencontre à Charm el-Cheikh, le Président de l'Autorité palestinienne, M. Mahmoud Abbas, et le Premier Ministre israélien, M. Ariel Sharon, sont convenus d'un cessez-le-feu aux termes duquel la Palestine s'est engagée à faire cesser tous les actes de violence contre les Israéliens et Israël à mettre un terme à toutes les activités militaires contre les Palestiniens.

Au moment de l'élaboration du présent rapport, le cessez-le-feu demeurait en vigueur en dépit de violations des deux côtés. Grâce à lui, d'importantes améliorations sont à signaler en ce qui concerne la situation des droits de l'homme dans le territoire palestinien; 500 prisonniers ont été libérés et 400 autres devraient l'être prochainement. Quarante-cinq Palestiniens expulsés vers Gaza et l'étranger à la suite du siège de l'église de la Nativité en 2002 ont été autorisés à retourner en Cisjordanie. Les Forces de défense israéliennes (FDI) ont cessé de se livrer à des exécutions ou des assassinats ciblés de militants et ont annoncé qu'elles ne démoliraient plus les maisons des personnes qui avaient commis des actes de violence contre des Israéliens. Un nombre accru de travailleurs et de marchands palestiniens provenant de la bande de Gaza ont été autorisés à entrer en Israël. Un certain nombre de postes de contrôle ont été levés en Cisjordanie, et le contrôle de cinq villes devrait être transféré à l'Autorité palestinienne.

Aussi importantes soient-elles, ces améliorations ou réformes ne suffisent pas à mettre un terme aux principales violations des droits de l'homme et du droit humanitaire dans le territoire palestinien occupé, à savoir les colonies de peuplement, le mur, les postes de contrôle et les barrages routiers, l'emprisonnement de Gaza et le maintien en prison de plus de 7 000 Palestiniens.

On dénombre actuellement en Cisjordanie et à Gaza plus de 100 colonies habitées par près de 400 000 colons, dont quelque 180 000 vivent dans le secteur de Jérusalem-Est. Bien que le Gouvernement israélien ait donné l'assurance qu'il gèlerait l'expansion des colonies ou limiterait leur développement à leur croissance naturelle, le nombre de colons a beaucoup plus augmenté que la population israélienne elle-même. Il est regrettable qu'Israël laisse les intérêts de ses colons dicter sa politique à l'égard de la Palestine. Par exemple, le mur qu'Israël est en train d'édifier en Palestine vise en grande partie à protéger les colonies. Il est de plus en plus évident que les colonies font obstacle à la mise en œuvre d'une solution fondée sur la création de deux États au Moyen-Orient.

Le mur qu'Israël construit en Cisjordanie a été déclaré contraire au droit international par la Cour internationale de Justice. Malgré cela, Israël poursuit les travaux, encore qu'il ait récemment décidé de prendre moins de terres aux Palestiniens pour cela. D'après Israël, le mur est une mesure de sécurité. En tant que telle, il mérite une attention immédiate puisque d'après l'Accord de Charm el-Cheikh, la priorité doit être accordée à la sécurité. Il convient de faire la distinction entre mesures de sécurité légitimes et mesures de sécurité illégitimes. L'édification du mur en territoire palestinien (et non le long de la Ligne verte ou en Israël) est une mesure de sécurité illégitime à laquelle il convient de mettre un terme immédiatement, et l'examen de la question ne devrait pas être repoussé aux «pourparlers sur le statut définitif», faute de quoi, preuve sera encore faite qu'Israël a l'intention d'annexer des territoires palestiniens et de compromettre une trêve fragile.

Des centaines de postes de contrôle, de barrages routiers, de fossés et d'autres obstacles font que les déplacements sur le territoire palestinien sont devenus un cauchemar pour les habitants. Israël affirme avoir considérablement réduit le nombre de postes de contrôle ces derniers temps, mais la plupart des postes permanents contrôlés par les FDI demeurent en place; «les postes volants» (c'est-à-dire des barrages routiers temporaires) sont maintenus, ainsi que la plupart des barrages routiers (qui prennent la forme de blocs de béton, de tas de terre ou de fossés) et le blocage des routes de contournement. En outre, les FDI procèdent avec plus de zèle que jamais à des bouclages ou des barrages de routes. Le Rapporteur spécial a en effet constaté que la sécurité aux postes de contrôle était encore plus stricte que lors de ses précédentes visites.

Le caractère de Jérusalem et de Bethléem a été profondément modifié par l'édification du mur et la vie de leurs habitants bouleversée par des restrictions aux déplacements, des bouclages et des confiscations de biens. En outre, les habitants de Jérusalem-Est risquent de devoir demander des permis spéciaux aux autorités militaires israéliennes pour se rendre à Ramallah, ce qui les obligerait à choisir entre le maintien de leurs liens avec Ramallah et leurs droits de résidence à Jérusalem. Ce projet s'inscrit dans une série de mesures visant à consolider l'annexion illégale de Jérusalem-Est par Israël.

Les prisons israéliennes comptent actuellement plus de 7 000 détenus palestiniens, dont plus de 850 personnes faisant l'objet d'une mesure d'internement administratif (c'est-à-dire des personnes qui n'ont pas été jugées). En février 2005, 500 prisonniers ont été libérés. Cela étant, il s'agissait surtout de personnes condamnées à des peines de courte durée ou qui arrivaient en fin de peine. Israël doit maintenant prendre des mesures courageuses, à l'instar d'autres sociétés en transition qui ont libéré des prisonniers pour favoriser la paix.

La ferme volonté du Gouvernement israélien d'évacuer 8 500 colons et de démanteler les colonies de Gaza a naturellement retenu toute l'attention de la communauté internationale. Il s'agit là d'une mesure courageuse de la part d'Israël, qui divise la société israélienne. C'est toutefois la bonne décision qui a été prise et tous ceux qui sont préoccupés par la situation des droits de l'homme et du droit humanitaire dans le territoire palestinien doivent le reconnaître. Cela étant, le démantèlement des colonies ne signifie pas que Gaza sera libérée du contrôle d'Israël ou que celui-ci cessera d'être une puissance occupante aux termes de la quatrième Convention de Genève du 12 août 1949.

C'est une période d'espoir pour Israël et la Palestine. Pour que le cessez-le-feu tienne, il est essentiel que l'Autorité palestinienne exerce un contrôle sur les groupes militants auteurs de violence contre les FDI et les colons en Palestine et d'attentats-suicides en Israël. De son côté, Israël doit respecter ses engagements. Il ne suffit pas qu'il cesse ses opérations militaires contre les Palestiniens. Il faut aussi qu'il s'attaque d'urgence aux causes du militantisme palestinien et aux problèmes à l'origine des actes terroristes contre le peuple israélien. Israël doit s'atteler à la libération des prisonniers, à la levée des postes de contrôle, au démantèlement du mur et à l'évacuation de toutes les colonies dans le territoire palestinien s'il ne veut pas laisser échapper une occasion de paix qui ne se représentera peut-être pas.

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Introduction

1. Le présent additif est fondé sur une visite que le Rapporteur spécial a effectuée dans le territoire palestinien occupé du 13 au 20 février 2005. Le Rapporteur spécial a passé deux jours à Gaza et cinq en Cisjordanie et en Israël. Pendant cette période, il a rencontré le Président de l'Autorité palestinienne, M. Mahmoud Abbas, et d'autres responsables palestiniens, il a interrogé des interlocuteurs indépendants et des responsables d'ONG en Palestine et en Israël, et il s'est entretenu avec des représentants d'organisations internationales. Il a prononcé une déclaration sur les démolitions d'habitations puis a participé à un débat sur la question dans une Commission de la Knesset. À Gaza, il a visité des écoles de l'Office de secours et de travaux des Nations Unies pour les réfugiés de Palestine dans le Proche-Orient (UNRWA) ainsi que des décombres de maisons démolies à Rafah, Khan Younis et Jabaliya. En Cisjordanie, il a multiplié les déplacements afin d'obtenir des renseignements de première main sur l'édification du mur, les bouclages et les postes de contrôle. Il a notamment visité des tronçons du mur dans la région de Jérusalem et de Bethléem, à Naplouse et Salfit, à Ramallah, et des tronçons situés à l'ouest et à l'est de Djénine.

I. L'INTIFADA

2. La deuxième Intifada, qui a débuté en septembre 2000, a causé d'énormes souffrances aux peuples palestinien et israélien: 3 300 Palestiniens ont péri aux mains des Forces de défense israéliennes (FDI) et des colons tandis que près de 1 000 Israéliens ont été tués par des attentats-suicides à la bombe et par des militants palestiniens. Les enfants ont payé un tribut excessivement lourd: 627 enfants palestiniens et 112 enfants israéliens ont été tués dans le conflit. (Le Rapporteur spécial s'est rendu compte de l'impact de l'Intifada sur les enfants lors de sa visite en rencontrant les élèves de la classe de Noran Iyan Deeb, fillette de 10 ans tuée le 31 janvier 2005 par les FDI alors qu'elle se trouvait dans la cour de l'école primaire mixte B de l'UNRWA à Rafah ainsi que le père d'une Israélienne de 15 ans tuée dans un attentat-suicide à Jérusalem.) Des deux côtés, les civils vivent dans la terreur, les Israéliens redoutant les attentats-suicides et les missiles Qassam, les Palestiniens craignant la menace des FDI et des colons. D'importants dégâts ont été causés aux biens palestiniens: 4 170 habitations ont été démolies par l'armée israélienne et des terres agricoles ont été rasées (arbres arrachés et cultures saccagées). Les restrictions à la liberté de circulation ont entraîné d'importantes pertes de revenus et aggravé le chômage et la pauvreté en Palestine. (La moitié de la population palestinienne vit en deçà du seuil de pauvreté.) Les restrictions à la circulation ont aussi eu de lourdes répercussions sur les soins de santé et l'éducation. Israël n'a pas été épargné par le siège qu'il a imposé au territoire palestinien. Les dépenses du Gouvernement israélien liées à l'édification du mur et à son occupation de la Palestine ont entraîné des coupes sombres dans le système de protection sociale israélien et une augmentation du chômage et de la pauvreté.

II. LA TRÈVE

3. Le 8 février 2005, le Président de l'Autorité palestinienne, M. Mahmoud Abbas, et le Premier Ministre israélien, M. Ariel Sharon, se sont rencontrés à Charm el-Cheikh (Égypte) et ont proclamé un accord de cessez-le-feu aux termes duquel la Palestine s'est engagée à faire cesser tous les actes de violence contre les Israéliens, et Israël à mettre un terme à toutes ses opérations militaires contre les Palestiniens.

4. Au moment de l'élaboration du présent rapport, le cessez-le-feu demeurait en vigueur en dépit de violations des deux côtés. (Le 25 février, un attentat-suicide à la bombe a fait 4 morts et 50 blessés à Tel-Aviv. Au cours de la visite du Rapporteur spécial, 4 Palestiniens ont été tués par les forces israéliennes, dont 1 garçon de 15 ans tué pour avoir lancé des pierres sur des véhicules israéliens en protestation contre la construction du mur près de Beitouniya, et il y a eu 11 incursions militaires israéliennes qui se sont soldées par 10 arrestations.). Grâce au cessez-le-feu, d'importantes améliorations sont à signaler en ce qui concerne la situation des droits de l'homme dans le territoire palestinien: 500 prisonniers ont été libérés et 400 autres devraient l'être prochainement. Quarante-cinq Palestiniens expulsés vers Gaza et l'étranger à la suite du siège de l'église de la Nativité en 2002 ont été autorisés à retourner en Cisjordanie. Les FDI ont cessé de procéder à des exécutions ou des assassinats ciblés de militants, lesquelles ont fait à ce jour 469 victimes (181 personnes prises délibérément pour cibles et 288 passants innocents), et ont annoncé qu'elles ne démoliraient plus les maisons des personnes qui avaient commis des actes de violence contre des Israéliens. Un nombre accru de travailleurs et de marchands palestiniens provenant de la bande de Gaza ont été autorisés à entrer en Israël. Quelques postes de contrôle ont été levés en Cisjordanie et le contrôle de cinq villes (Ramallah, Jéricho, Bethléem, Toulkarem et Qalqiliya) devrait être transféré à l'Autorité palestinienne. D'une manière générale, on peut dire que la violence militaire contre le peuple palestinien a nettement diminué même si elle n'a pas totalement cessé.

5. Aussi importantes soient-elles, ces améliorations ou réformes ne suffisent pas à mettre un terme aux principales violations des droits de l'homme et du droit humanitaire dans le territoire palestinien occupé, à savoir les colonies de peuplement, le mur, les postes de contrôle et les barrages routiers, l'emprisonnement de Gaza et le maintien en détention de plus de 7 000 Palestiniens.

III. LES COLONIES DE PEUPLEMENT

6. On dénombre actuellement en Cisjordanie et à Gaza plus de 100 colonies habitées par près de 400 000 colons, dont quelque 180 000 vivent dans le secteur de Jérusalem-Est. Le Rapporteur spécial a veillé à ne pas employer en anglais les mots «colonies» et «colonists», utilisés par les opposants les plus radicaux, et à leur préférer les mots «settlements» et «settlers». On peut toutefois se demander si le temps n'est pas venu pour la communauté internationale de changer sa terminologie car il s'agit bien d'une forme de colonisation dans un monde qui a proscrit le colonialisme. Les politiques intérieures et étrangères des puissances impériales occidentales étaient autrefois dictées ou influencées par des intérêts coloniaux. Il en est de même pour Israël. La protection et la promotion des intérêts de ses colons déterminent sa politique envers la Palestine. Sans colonies de peuplement, une solution prévoyant la création de deux États est possible; avec des colonies, elle ne l'est plus.

7. Bien que le Gouvernement israélien ait donné l'assurance qu'il gèlerait l'expansion des colonies ou limiterait leur développement à leur croissance naturelle, le nombre de colons a beaucoup plus augmenté que la population israélienne. En 2004, d'après les registres du Ministère israélien de l'intérieur, le nombre de colons a augmenté de 6 % alors que la population israélienne a crû de moins de 2 %. Les colonies existantes se développent tandis que de nouvelles se construisent avec l'accord exprès du Gouvernement ou son consentement tacite à l'implantation d'avant-postes de caravanes qui deviennent rapidement des colonies. D'après l'association «Peace Now», on dénombre 99 postes de ce genre en Cisjordanie.

8. Comme indiqué dans mon principal rapport à la soixante et unième session de la Commission (E/CN.4/2005/29), des routes de contournement fermées aux Palestiniens ont été construites pour relier les colonies les unes aux autres ainsi qu'à Israël. Les Palestiniens doivent donc utiliser des routes secondaires en piteux état ou bloquées par des postes de contrôle ou des barrages. Conscient du problème, le Gouvernement israélien a demandé à des donateurs de financer la construction de nouvelles routes pour la population palestinienne, ce qui montre encore qu'Israël accorde plus d'importance aux intérêts de ses colons qu'à sa responsabilité manifeste en tant que puissance occupante qui doit fournir des services de base aux personnes qui se trouvent sous son contrôle.

9. Les colonies sont contraires au paragraphe 6 de l'article 49 de la quatrième Convention de Genève du 12 août 1949, qui interdit à une puissance occupante de transférer «une partie de sa propre population civile dans le territoire occupé par elle». L'illégalité des colonies et de l'édification du mur pour protéger celles-ci a été confirmée à l'unanimité par la Cour internationale de Justice dans son avis consultatif en l'affaire «Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé» (par. 120 et 122; opinion dissidente du juge Buergenthal, par. 9). Il en va de l'intérêt juridique et moral de la communauté internationale de mettre un terme à l'illégalité que constituent les colonies de peuplement. La question de leur démantèlement en Cisjordanie ne saurait être laissée aux «pourparlers sur le statut définitif» dont on ne sait quand ils se tiendront entre Israéliens et Palestiniens. Comme à Gaza, elles doivent être démantelées.

IV. LE MUR

10. Le mur qu'Israël construit actuellement dans le territoire palestinien est illégal (voir l'avis consultatif de la Cour internationale de Justice, «Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé», comme expliqué dans mon rapport (E/CN.4/2005/29, par. 2 à 4). Le Gouvernement israélien a toutefois rejeté cet avis consultatif et a préféré suivre la décision de sa Haute Cour dans l'affaire *Beit Sourik* (comme indiqué également dans le rapport, par. 5 et 6) selon laquelle le tracé du mur devait refléter une proportionnalité entre les besoins d'Israël en matière de sécurité et les besoins humanitaires des Palestiniens. (Contrairement à la Cour internationale de Justice, la Haute Cour a estimé qu'Israël en tant que puissance occupante avait le droit d'édifier le mur pour assurer sa sécurité.) En conséquence, le 20 février 2005, le Gouvernement israélien a décidé de construire de nouveaux tronçons du mur plus près de la Ligne verte, à savoir la frontière reconnue entre Israël et la Palestine.

11. Avec cette nouvelle décision, une fois achevé, le mur fera 670 kilomètres de long, contre 622 kilomètres auparavant, et suivra la Ligne verte sur 135 kilomètres, contre 48 kilomètres précédemment. Le nouveau tracé suivra la Ligne verte ou en sera proche dans les Hauteurs d'Hébron. Un peu plus au nord, il pénétrera plus profondément dans le territoire palestinien pour inclure des colonies du bloc de Goush Etzion près de Bethléem, où vivent plus de 50 000 colons. Cette décision ramènera la part des terres confisquées aux Palestiniens à environ 7 %, contre 12,7 % précédemment. La décision d'incorporer les colonies d'Ariel, d'Emmanuel et de Ma'ale Adoumim du côté israélien du mur «est toujours en suspens dans l'attente de l'achèvement de certains travaux d'état major». Israël englobera alors environ 10 % des terres palestiniennes. Du côté israélien, le mur incorporera 170 100 colons (sans compter ceux de Jérusalem-Est) et 49 400 Palestiniens. La persistance d'Israël à édifier le mur autour de 56 colonies ne fait que confirmer le point de vue exprimé par le Rapporteur spécial dans son rapport selon lequel le

premier objectif du mur n'est pas d'assurer la sécurité mais d'incorporer des colonies de peuplement (par. 27).

12. Rien n'indique qu'Israël ait interrompu l'édification du mur ou la mise en place du régime qui lui est associé pour tenir compte de l'Accord de Charm el-Cheikh. Le Rapporteur spécial a vu des bulldozers à l'œuvre à de nombreux endroits, y compris à Anata où un tribunal avait pourtant donné l'ordre de cesser les travaux. À certains endroits, les travaux se sont arrêtés (comme près de Salfit/Iskaka à l'extrémité orientale du «doigt d'Ariel» où le Rapporteur spécial s'est rendu) mais il s'agit d'arrêts provisoires ordonnés par les tribunaux. En outre, la construction de grands «terminaux» le long du mur a commencé. Certains (comme à Beitouniya) auront une fonction «commerciale» pour les camions tandis que d'autres seront destinés aux piétons et véhicules. (Apparemment, Israël aurait tenté, en vain jusqu'à présent, d'obtenir des fonds étrangers pour financer ces terminaux.) L'accès à la zone de jointure ou zone d'accès réglementé (qui se situe entre le mur et la Ligne verte) se fait en grande partie par des portes agricoles, qui sont au nombre de 55, dont 21 seulement ouvertes aux Palestiniens. Le régime d'administration militaire dans la zone de jointure continue de poser de graves problèmes humanitaires. D'après Oxfam, «pour les agriculteurs et les habitants de la zone d'accès réglementé, la vie semble s'être arrêtée. Beaucoup deviennent tributaires de l'aide alimentaire, incapables de cultiver la terre, de se rendre à leur travail ou de gagner autrement leur vie» (Oxfam, Briefing Paper 62: «Protecting Civilians: A Cornerstone of Middle East Peace», p. 19). Autre conséquence récente et inattendue du mur, à Qalqiliya, le mur a empêché l'eau de pluie de s'écouler, ce qui a provoqué de graves inondations et causé de gros dégâts aux terres situées près du mur.

13. Le Rapporteur spécial s'est rendu à Barta'a ash Sharqiya dans la «zone d'accès réglementé». Ses 4 000 habitants ne peuvent se rendre en Cisjordanie que par une seule porte, à Reikan; la porte de Oum Al Rihan n'est ouverte qu'aux élèves qui habitent à côté. (Le Rapporteur spécial n'a d'ailleurs pas été autorisé à utiliser cette porte.) Dans cette situation, l'accès aux services de santé, à l'éducation, aux biens de consommation de base, aux vivres et à l'eau est gravement restreint en Cisjordanie. Pour aggraver encore les choses, le seul moulin à huile d'olive de Barta'a ash Sharqiya a été détruit en 2004 en dépit de l'opposition d'un tribunal et la commercialisation de la récolte d'olives est devenue difficile du fait des restrictions imposées au transport d'olives vers Israël ou la Cisjordanie.

14. Le mur fait de plus en plus figure de nouvelle frontière entre Israël et la Palestine, en lieu et place de la Ligne verte. Le fait que son tracé découle de la décision de la Haute Cour dans l'affaire *Beit Sourik* semble donner de la légitimité à cette nouvelle «frontière». En 2003, le Rapporteur spécial avait souligné que le mur constituait une «annexion pure et simple d'un territoire sous prétexte de sécurité» (E/CN.4/2004/6, par. 6). Si beaucoup avaient alors traité avec mépris cette mise en garde qu'ils jugeaient exagérée, ils sont de plus en plus nombreux à reconnaître aujourd'hui qu'elle était justifiée.

15. La construction du mur est postérieure à l'Accord d'Oslo, qui a remis à une date indéfinie l'examen de certaines questions qui seraient traitées dans le cadre des «pourparlers sur le statut définitif». D'après Israël, le mur est une mesure de sécurité. En tant que tel, il mérite une attention immédiate puisque d'après l'Accord de Charm el-Cheikh, la priorité doit être accordée à la sécurité. Il convient de faire la distinction entre mesures de sécurité légitimes et mesures de sécurité illégitimes. Israël a eu raison de mettre fin aux exécutions/assassinats ciblés et aux

démolitions de maisons, qui étaient des mesures de sécurité illégitimes. Toutefois, l'édification du mur en territoire palestinien (et non le long de la Ligne verte ou en Israël) est une mesure de sécurité illégitime à laquelle il convient de mettre un terme immédiatement et l'examen de la question ne devrait pas être repoussé aux «pourparlers sur le statut définitif», faute de quoi, preuve sera encore faite qu'Israël a l'intention d'annexer des territoires palestiniens et de compromettre une trêve fragile.

V. POSTES DE CONTRÔLE, BOUCLAGES ET BARRAGES ROUTIERS

16. Des centaines de postes de contrôle, de barrages routiers, de fossés et d'autres obstacles font que les déplacements sur le territoire palestinien sont devenus un cauchemar pour les habitants. Israël affirme avoir considérablement réduit le nombre de postes de contrôle ces derniers temps. Cela est en partie vrai, comme l'a constaté le Rapporteur spécial dans le district de Naplouse, où le poste de contrôle de Shave Shomeron a été levé. Toutefois, la plupart des postes permanents contrôlés par les FDI demeurent en place; «les postes volants» (c'est-à-dire des postes de contrôle routiers temporaires) sont maintenus, ainsi que la plupart des barrages routiers (qui prennent la forme de blocs de béton, de tas de terre ou de fossés) et le blocage des routes de contournement. En outre, les FDI procèdent avec plus de zèle que jamais à des bouclages ou des barrages de routes. Le Rapporteur spécial a en effet constaté que la sécurité aux postes de contrôle était encore plus stricte que lors de ses précédentes visites. À Gaza, l'attente au poste de contrôle de Abou Houli, qui coupe la route principale, était plus longue que d'habitude; au poste de contrôle de Al Touffah, à l'entrée de Al-Mawasi, femmes, enfants et personnes âgées attendaient patiemment, parfois depuis plusieurs jours, de rentrer chez eux (les hommes âgés de 16 à 35 ans ne sont pas autorisés à retourner à Al-Mawasi); et à Erez, où l'attente était longue, le Rapporteur spécial a rencontré une femme qui attendait dans une ambulance depuis plus de six heures la permission des FDI d'entrer en Israël pour y être hospitalisée. En outre, nous n'avons pas été autorisés à visiter les tronçons du mur le long de la frontière entre Gaza et l'Égypte à Rafah car la zone a récemment été fermée aux visiteurs étrangers. Naplouse reste coupée du monde extérieur: le passage par le poste de contrôle de Houwwara est plus compliqué que jamais; notre véhicule a été intercepté par un Humvee des FDI sur la route de Al Badan et nous avons reçu l'ordre de retourner à Naplouse. Dans le district de Djénine, nous n'avons pas été autorisés à passer par la porte agricole de Oum Al Riham dans la zone de jointure, et à Tayasir, près de Toubas, nous avons rencontré une femme bédouine malade qui possédait des papiers d'identité israéliens mais n'avait pas été autorisée à se rendre à l'hôpital de Toubas. (À notre demande, elle a ensuite été autorisée à entrer en Cisjordanie par un soldat des FDI visiblement ennuyé.) Dans les districts de Jérusalem, Bethléem et Ramallah, les postes sont contrôlés comme à l'accoutumée de manière arbitraire: à certains postes, nous n'avons rencontré aucun problème avec nos documents de voyage internationaux tandis qu'à d'autres des soldats des FDI ont fait des difficultés. Un jour, au point de passage entre Beit El et Ramallah, les soldats de garde faisaient semblant de dormir sur la route, ne faisant ostensiblement aucun cas de notre véhicule estampillé ONU. Ces expériences personnelles montrent que la sécurité aux postes de contrôle n'a pas été assouplie et sont un bon exemple des difficultés rencontrées par ceux qui se déplacent dans des véhicules portant l'emblème de l'ONU. Si des personnes privilégiées sont traitées de la sorte et vivent de telles expériences, on ne peut guère imaginer l'humiliation, la frustration et la détresse vécues au quotidien par des Palestiniens ordinaires. Aussi important soit-il pour le rétablissement de la paix entre Israéliens et Palestiniens, l'Accord de Charm el-Cheikh aura peu d'effets sur la vie des Palestiniens tant que le problème des restrictions à la liberté de circulation ne sera pas réglé.

VI. JÉRUSALEM ET BETHLÉEM

17. Le caractère de Jérusalem et de Bethléem a été profondément modifié par l'édification du mur et la vie de leurs habitants bouleversée par les restrictions aux déplacements, les bouclages et les confiscations de biens. Le Rapporteur spécial a visité les tronçons du mur dans les localités de Biddou, Beit Sourik, Beitouniya, Qalandiya, Ar Ram, Hizma, Anata, Abou Dis et Al Walaja, dans la colonie de Betar Illit et près de la tombe de Rachel à Bethléem. Il a été informé par un conseiller municipal de Biddou des difficultés rencontrées par les agriculteurs pour cultiver leurs terres le long du mur; il a rencontré un homme à Anata qui avait été obligé de regarder un bulldozer raser ses terres pour y construire le mur alors qu'un tribunal avait ordonné l'arrêt des travaux; il s'est entretenu avec une famille à Abou Dis dont l'hôtel situé du côté de Jérusalem du mur avait été confisqué par les FDI pour en faire un poste de sécurité; enfin, il a vu l'énorme mur autour de la tombe de Rachel dont l'édification a fait mourir un quartier commercial de Bethléem autrefois très dynamique. La tombe de Rachel est un lieu saint pour les juifs, les musulmans et les chrétiens mais elle est aujourd'hui fermée aux musulmans et aux chrétiens. En outre, 72 des 80 magasins que comptait le quartier ont dû mettre la clef sous la porte.

18. Les Palestiniens de Jérusalem ont raison de craindre que leurs biens soient confisqués et que leur liberté de circulation soit gravement entravée. En juin 2004, sous la pression de deux ministres, le Gouvernement israélien a décidé d'appliquer à Jérusalem-Est une loi permettant à l'État de confisquer les biens des propriétaires absents, sans leur offrir d'indemnisation, au motif qu'ils ne résident pas à Jérusalem. En février 2005, le Ministre israélien de la justice a annulé cette décision mais les habitants de Jérusalem craignent qu'elle ne soit de nouveau appliquée.

19. Chose plus préoccupante encore, les habitants de Jérusalem-Est risquent de devoir demander des permis spéciaux aux autorités militaires israéliennes pour se rendre à Ramallah. L'ordonnance militaire 378 du 5 octobre 2000 exige que les citoyens israéliens et les résidents permanents d'Israël obtiennent une autorisation préalable avant de se rendre dans les villes situées dans le territoire palestinien. Étant donné les liens traditionnellement très étroits entre Jérusalem-Est et Ramallah, l'ordonnance n'avait jusqu'alors pas été appliquée aux Palestiniens de Jérusalem-Est, parmi lesquels des milliers ont des liens culturels, familiaux et professionnels très forts avec la communauté palestinienne de Ramallah. Ces derniers temps, toutefois, les FDI ont commencé à demander des permis aux Palestiniens de Jérusalem-Est qui se rendent tous les jours à Ramallah par le poste de contrôle de Qalandiya. Selon des informations récentes, l'ordonnance militaire 378 serait appliquée après le mois de juillet 2005 à tous les habitants de Jérusalem-Est désireux de se rendre à Ramallah, une fois achevés les travaux de construction du mur autour de Jérusalem. Cette décision, qui obligera les habitants de Jérusalem-Est à choisir entre le maintien de leurs liens avec Ramallah et leurs droits de résidence à Jérusalem, s'inscrit dans une série de mesures visant à renforcer l'annexion illégale de Jérusalem-Est par Israël, et constitue une violation des résolutions du Conseil de sécurité et de l'Assemblée générale qui ont réaffirmé que les mesures législatives et administratives prises par Israël pour modifier le statut de Jérusalem-Est sont nulles et non avenues.

VII. LES PRISONNIERS

20. Les prisons israéliennes comptent actuellement plus de 7 000 détenus palestiniens, dont plus de 850 font l'objet d'une mesure d'internement administratif (c'est-à-dire qu'ils n'ont pas été jugés). En février 2005, 500 prisonniers ont été libérés. Cela étant, il s'agissait surtout de

détenus condamnés à des peines de courte durée ou qui arrivaient en fin de peine. En dépit des demandes qui lui ont été adressées pour qu'il libère tous les détenus, Israël a déclaré qu'il ne relâcherait pas ceux qui ont été condamnés à des peines de longue durée ou qui étaient impliqués dans des assassinats d'Israéliens. Il s'agit là d'une question délicate pour Palestiniens et Israéliens. Pour les Palestiniens, la bonne foi d'Israël dans l'actuel cessez-le-feu dépendra en grande partie de la libération des détenus. Pour sa part, le Gouvernement israélien se heurte à une opposition interne concernant la libération des détenus. Israël doit maintenant prendre des mesures courageuses, à l'instar d'autres sociétés en transition qui ont libéré des prisonniers pour favoriser la paix.

VIII. GAZA

21. La ferme volonté du Gouvernement israélien d'évacuer 8 500 colons et de démanteler les colonies de Gaza a naturellement retenu toute l'attention de la communauté internationale. Il s'agit là d'une mesure courageuse de la part d'Israël, qui divise la société israélienne. C'est toutefois la bonne décision qui a été prise, et tous ceux qui sont préoccupés par la situation des droits de l'homme et du droit humanitaire dans le territoire palestinien doivent le reconnaître.

22. Le démantèlement des colonies ne signifie pas que Gaza sera libéré du contrôle d'Israël ou que celui-ci cessera d'être une puissance occupante aux termes de la quatrième Convention de Genève du 12 août 1949. Gaza est actuellement une prison, entourée de murs, de clôtures, de soldats chargés de contrôler ses frontières extérieures, et de gardiens de prison, à savoir les soldats des FDI, qui imposent des restrictions très strictes aux déplacements internes des civils palestiniens et contrôlent le comportement des Palestiniens dans Gaza. Si le retrait israélien de Gaza permettra, espérons-le, de supprimer les mécanismes de contrôle coercitif interne, il ne mettra pas fin à l'encerclement de Gaza ou régler la crise humanitaire provoquée par le bouclage du territoire. En outre, il est à craindre qu'avant de se retirer de Gaza, Israël établisse une bande de terre de 300 mètres de large le long de la frontière entre Gaza et l'Égypte (la route Philadelphe) et détruise au passage des centaines de maisons à Rafah. Dans ce contexte, il importe au plus haut point d'examiner plus attentivement la question du statut futur de Gaza. Le Rapporteur spécial a déjà exprimé son point de vue selon lequel Israël resterait une puissance occupante au sens de la quatrième Convention de Genève, point de vue que partagent des juristes du Gouvernement israélien dans un rapport publié le 24 octobre 2004. Les dispositions de la Convention ne s'appliqueront pas toutes à Israël s'il cesse d'exercer un contrôle interne sur le territoire mais beaucoup resteront applicables compte tenu du contrôle externe qu'il exerce et de sa capacité à exercer de nouveau un contrôle interne s'il le souhaite. Il est donc essentiel qu'Israël et la communauté internationale s'accordent sur les obligations humanitaires qu'Israël devra respecter dans son contrôle de Gaza, après s'en être retiré.

IX. CONCLUSION

23. C'est une période d'espoir pour Israël et la Palestine. Pour que le cessez-le-feu tienne, il est essentiel que l'Autorité palestinienne exerce un contrôle sur les groupes militants auteurs de violence contre les FDI et les colons en Palestine et d'attentats-suicides en Israël. Certains signes laissent croire que l'Autorité palestinienne pourrait bien y parvenir. Les Palestiniens sont épuisés par la deuxième Intifada, qui a causé d'énormes souffrances, et des groupes militants comme le Hamas semblent désormais vouloir participer au processus politique palestinien. De son côté, Israël doit respecter ses engagements. Il importe non

seulement qu'il cesse ses opérations militaires contre les Palestiniens, mais aussi qu'il s'attaque d'urgence aux causes du militantisme palestinien et aux problèmes à l'origine des actes terroristes contre le peuple israélien. À plus long terme, il devra s'occuper des questions relatives au retour des réfugiés, au statut de Jérusalem et à l'occupation mais, dans l'immédiat, il doit s'atteler à la libération des prisonniers, à la levée des postes de contrôle, au démantèlement du mur et à l'évacuation de toutes les colonies dans le territoire palestinien s'il ne veut pas laisser échapper une occasion de paix qui ne se représentera peut-être pas.



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**INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE
GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN**

**Report of the Special Rapporteur on violence against women,
its causes and consequences, Yakin Ertürk**

Addendum

Mission to Occupied Palestinian Territory* **

* The summary of the report is being circulated in all official languages. The report itself is contained in the annex of this document and is being circulated in English and Arabic.

** The report was submitted late, awaiting comments on the report from the Government concerned.

Summary

This report contains findings of my visit to the Occupied Palestinian Territory (OPT) on official mission from 13 to 18 June 2004. It addresses the impacts of the conflict and the occupation on women, in particular its implications for violence against women. The report identifies key measures and initiatives needed to ensure the protection and promotion of the rights of women and the elimination of violence against women in the OPT. As such, the report does not focus on violence against women in Israel.

Human rights violations in the form of violence are pervasive throughout the OPT as a result of the protracted conflict and occupation. Security measures by the Israeli occupying forces combined with the response this provoked among various Palestinian elements have contributed to an integrated system of violence, which intersects with a traditional patriarchal gender order that creates traumatizing impacts on Palestinian women.

The report highlights the role of Israeli security measures on human rights and humanitarian law in the OPT. Within such a disabling environment, an integrated system of violence at the intersection of occupation and patriarchy subjugates women through a continuum of violence linking all spheres of life. Women experience violence as a direct and indirect effect of security measures, as well as violence within the family and community that is heightened as a result of the security situation.

In creating an enabling environment to combat violence in the OPT, it is important that Israel immediately cease its violations of international law and that a sustainable resolution of the conflict be reached. Such a resolution rests on an effective response to the core of the conflict in the region - i.e. the dispossession of the Palestinian people from their land.

I join the appeal of Palestinian women to Israeli society, particularly to Israeli women, to pressure the Government of Israel to end the occupation. I call on the Government and the Palestinian Authority to implement the road map toward the establishment of an independent and sovereign Palestinian State and sustainable peace in the region. In this regard, and in accordance with Security Council resolution 1325 (2000), I emphasize the importance of the full involvement of Palestinian and Israeli women in the peace process.

I urge the Government of Israel to observe international law to ensure the rights and protection of Palestinian civilians, with particular emphasis on the right to health and the provision for expectant mothers and the ill to receive immediate access to medical care. In this context, freedom of movement must be allowed to United Nations staff and other humanitarian agencies operating in the OPT. I further urge the Government of Israel to include treaty-body reporting, particularly on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), information on its compliance with its obligations to promote and protect women's rights in the OPT.

I call on the Palestinian Authority to adopt a policy of zero tolerance to all forms of violence, including terrorism; to work toward the development of a democratic, secular State that protects women's rights; to establish a unified domestic legislation criminalizing sexual assault, domestic violence and honour crimes; to provide legal, political and financial support to the Ministry of Women's Affairs and to increase political representation of women. I call on the Palestinian Legislative Council (PLC) to adopt the Bill of Rights for Women and promote the implementation of all draft bills geared toward gender equality.

I call on the international community to be increasingly active in promoting accountability for observance of international law by Israel in the OPT; to enhance the Palestinian Authority's capacity to enable it to comply with its obligations; to support, through bilateral and multilateral funding, civil society initiatives to improve women's status; and to support the Palestinian and Israeli women promoting peace and conflict resolution throughout the region. I urge the Security Council to authorize an international mechanism in the OPT to ensure the observance of human rights and humanitarian law and the implementation of existing Council resolutions; to complement these efforts, expand the mandate of the Office of the United Nations High Commissioner for Human Rights (OHCHR) field office in the OPT to include a monitoring function.

Annex

**REPORT SUBMITTED BY THE SPECIAL RAPPOREUR
ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND
CONSEQUENCES, YAKIN ERTÜRK, ON HER MISSION
TO THE OCCUPIED PALESTINIAN TERRITORY
(13 to 18 JUNE 2004)**

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Introduction

1. I visited the Occupied Palestinian Territory (OPT) on official mission from 13 to 18 June 2004 to gather first-hand information on how the occupation and conflict impacts on violence against women in the OPT. The visit took place with the cooperation of the Government of Israel and the Palestinian Authority. I would like to thank them both for the cooperation extended to my visit.
2. I am very grateful for the support provided by the United Nations country team for ensuring a substantively and logistically successful visit. In particular, I would like to express my gratitude to Mr. Osman Hassan, the Director of the OHCHR field office in the OPT and his staff for their support, and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) for facilitating field visits in the Gaza Strip.
3. During the mission, meetings were held in East and West Jerusalem, the West Bank (Ramallah, Jenin and Anin) and the Gaza Strip (Gaza city, including Al-Zaytoun area, and Jabalia refugee camp). I undertook a number of field visits to refugee camps and to villages near the separation wall to interview victims of human rights violations and their families. I also visited the Ramleh Central Prison and interviewed Palestinian female detainees. I had consultations with and received information from representatives of the Government of Israel, the Israeli Defense Forces (IDF), representatives of the Palestinian Authority, and members of the Palestinian Legislative Council (PLC). I also met with representatives of human rights and women's organizations, academics, lawyers, survivors of violence, families of victims and United Nations agencies. (A list of interlocutors is in the appendix.)
4. I would like to express my heartfelt thanks to all the victims of violence and their relatives who agreed to relate their personal experiences, which enabled me to have a deeper understanding of the problems arising for Palestinian women.

I. THE CONTEXT: SECURITY, HUMAN RIGHTS AND HUMANITARIAN LAW

5. The focus of this report is confined to an analysis of the impact of conflict and occupation on Palestinian women in the OPT. It is still commonly assumed that high politics and international relations are gender neutral. The United Nations gender agenda of the past several decades, in particular the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 1993 Declaration on the Elimination of Violence against Women, the 1994 mandate of the special rapporteur on violence against women, its causes and consequences, and the Beijing Platform for Action, emerged in part in response to such biased perceptions. Gender order is political and high politics are gendered. External factors, such as occupation, change or distort relations between the sexes. Therefore, it is necessary to assess their gender implications and their impact on violence against women. It is with this realization that I use the mandate entrusted to me to assess the impact of conflict and occupation in the OPT. In order to achieve a holistic approach I also examine how patriarchy - as a universal system of oppression - intersects with occupation in creating a continuum of multiple forms of violence against women in the OPT.¹

6. National security has become a global concern and measures undertaken in this regard, regrettably, have often compromised human rights and humanitarian law. This is a salient feature of the state of affairs in the OPT, accelerating particularly after the second intifada in 2002. Through military orders, Israeli authorities have built and expanded Jewish settlements on Palestinian lands, exploited water and economic resources, controlled crossing points, required work permits and regulated the movement and the intimate lives of the Palestinian people. This situation has provoked resistance in different forms, including violence by militant groups. Thus, an integrated system of violence, intersecting with violence inherent in patriarchal gender relations, has become institutionalized, which cuts across all spheres of women's lives in the OPT.

7. After having visited the region and witnessed the reality of life in the OPT, I am extremely concerned that the measures taken by Israel for security reasons are in fact perpetuating the conflict and provoking further violence. I am further concerned that such measures will exacerbate the hostilities, thus confining both Palestinian and Israeli civilians, to a perpetual state of insecurity. The Palestinian people, however, are bearing by far the brunt of the situation, and this is cultivating seeds of desperation in the OPT.

8. Israel has the right to address security concerns. However, human rights law calls for a balance between legitimate national security concerns and the protection of fundamental freedoms. Therefore, measures must be proportionate to the threat that they are designed to counter and must be non-discriminatory in nature. Under international law certain rights are not subject to suspension under any circumstance, including the right to life; freedom of thought, conscience and religion; freedom from torture and cruel, inhuman or degrading treatment or punishment; and fundamental principles of fair trial and the presumption of innocence.

9. The Human Rights Committee (HRC) in its concluding observations on Israel² reiterated that the provisions of the International Covenant on Civil and Political Rights (ICCPR) do apply to the population of the occupied territories. It specifically stressed that Israel has to "ensure that measures designed to counter acts of terrorism, whether adopted in connection with Security Council resolution 1373 (2001) or in the context of the ongoing armed conflict, are in full conformity with the Covenant". The Committee noted Israel's frequent use of administrative detention entailing restrictions on access to counsel and to disclosure of reasons for detention. It stated that these features limit the effectiveness of judicial review, thus endangering protection against torture and other inhumane treatment. It also expressed its concern over the use of prolonged incommunicado detention. The Committee deplored the punitive nature of the demolition of homes and called on Israel to cease the practice.

10. Prior to my visit to the OPT, the Security Council on 19 May 2004 adopted resolution 1544, which reiterates the obligation of Israel, as the occupying Power, to scrupulously abide by its legal obligations and responsibilities under the Fourth Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War, and the numerous previous resolutions on the Palestinian question. The international community has stated clearly that the concept of military occupation applies to the Palestinian territories, and therefore, Israel is subject to the provisions and rules of the international humanitarian law that regulate the situation of occupation.³

11. While the representatives of the Government of Israel indicated that security measures are a last resort to protect the Israeli population from terrorist attacks, they also stressed that human rights law and the law of war may at times be incompatible. The Israeli Defense Forces (IDF) legal service said that any action exceeding “military necessity” is investigated and that perpetrators are prosecuted if found guilty. They assured me that they are very sensitive to “collateral damage”. However, they admitted that sometimes mistakes are made due to poor intelligence. They emphasized that all actions are also subjected to review by the Israeli Supreme Court and all residents of the West Bank and Gaza Strip may petition against alleged human rights violations.

12. On 27 May 2004, Adalah, the Palestinian Centre for Human Rights, and the NGO Al-Haq filed a petition and a motion for an injunction to the Israeli Supreme Court against IDF, the Minister of Defence and the Prime Minister. The petitioners asked the Supreme Court to define, for the first time, the legal scope of the term “military necessity” in accordance with international humanitarian law, the Rome Statute of the International Criminal Court and recent decisions of the International Criminal Tribunal for the former Yugoslavia. The petition challenged IDF’s justification of “military necessity” for its policy of house demolitions. At a hearing on the petition on 26 October 2004, the Supreme Court requested additional submission on a specific event within a specific location related to the petition.

II. INTEGRATED SYSTEM OF VIOLENCE AGAINST WOMEN

13. Decades of Israeli occupation of the OPT, use of force and stringent security measures combined with the forms of resistance these provoke have contributed to the creation of an atmosphere of legitimized violence as a method of conflict resolution. At the intersection of occupation and patriarchy, women experience a multilayered discrimination and multiple forms of violence.

14. The occupation has pervaded all aspects of life and entailed violations of economic, social and cultural rights as well as civil and political rights. Violence is used by IDF as a tool to sustain the occupation and by the Palestinian militants as a tool to resist it. The strategic use of instruments by Israel such as land confiscation, extrajudicial executions, daily military incursions, arbitrary closures and curfews, demolitions of homes and arbitrary detention among others have all contributed since 1967 to the current mistrust and hostility pervasive throughout the OPT.

15. The situation in Gaza is like an open prison, with Israel totally controlling the movements in and out of the area. In May 2004, Israel launched raids of unprecedented violence and destruction in the south of the Gaza Strip with the aim of finding and destroying tunnels stretching under the border from Egypt through which weapons were allegedly being smuggled into Gaza. They demolished homes, damaged schools and other public buildings, and destroyed infrastructure, much of which reportedly stood several hundred metres away from the border. Palestinian civilians, including women and children, were shot without warning. On the first day of the incursion a 14-year-old girl was killed, followed by many more injuries on the second day as troops opened fire on demonstrators. I was unfortunately unable to visit Rafah, as IDF closed the road on the day I was scheduled to travel there.⁴

16. I heard testimonies from female refugees in Jenin who reported that during the two-week military incursion in 2002, IDF sent missiles into the camp, killing and injuring women and children, and demolishing homes. Ambulances were prevented from entering the camp, resulting in death due to lack of medical care. Women were used as human shields to enter houses. Many men were arrested and detained incommunicado for a period of six months. Women and children were disabled and suffer post-traumatic stress as a result.

17. Widows, 67 per cent of whom are aged between 18-30 years, told me that, even as wives of martyrs with an enhanced status, they are never free in a conservative patriarchal community. Therefore, they have forgotten that they are women, and now see themselves only as mothers and providers for their family. Women with husbands explained that the dire economic situation and the pressures of the occupation have made men more violent because they have lost their ability to provide and protect - two essential elements of manhood in a traditional patriarchal society. As men become stripped of their manhood, women become the shock absorbers of the crises as targets of domestic violence.⁵

18. Violence against women manifesting itself within an integrated system of violence emanates from two sources: Israeli security measures; and the family and the community.

A. Violence emanating from Israel's security measures

19. Security measures are directed at the entire Palestinian population; in this regard, women are subjected to violence emanating from these measures in similar ways to other members of the society. However, owing to the diverse ways in which occupation and patriarchy intersect, the direct and indirect impact of security measures tends to have specific and compounded consequences for women. In order to demonstrate this, I focus on four measures employed by the Israeli authorities: restrictions on freedom of movement; house demolitions; detention; and injuries and loss of lives.

1. Restrictions on the freedom of movement

20. The policy of restrictions on the movement of Palestinian civilians consists of a number of practices that include differential residency and identification (ID) status, military checkpoints,⁶ the wall, and arbitrarily imposed closures and curfews. Israel's enforcement of closure has been specifically designed to be unpredictable, thus destroying coherence and leaving the population confused and fearing the worst.

21. Aside from the physical obstructions, an ID system regulates the movement of people within the OPT and from one side of the wall to another. In the occupied territories, people hold one of three different ID statuses corresponding to their place of residence: West Bank, Jerusalem or Gaza. To further illustrate the complexity of the system, a West Bank permit holder requires a permit to pass through any of the numerous military checkpoints along the "Green Line" into Israel and Jerusalem. If over the age of 16, the same person would need an additional permit to travel from one Palestinian town to another within the West Bank and yet another to enter the industrial zone where he or she works. Palestinians with a Jerusalem ID have the right to move in and out of Jerusalem and throughout most of the OPT, a right often disrupted by border and civil police. The complex and restrictive nature of these practices also poses difficulties for marriage and family unification.⁷

22. According to the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/58/311), in Jerusalem tens of thousands of Palestinian families live in the city without residence permits since they fled and returned after the 1967 war. The absence of a residence permit deprives them of health and social services and prevents children from attending Israeli public schools.⁸

23. Concerns have been raised with regard to pregnant women in the OPT not being able to access appropriate health care and hospitals safely due to restrictions on movement. This is now further exacerbated by the construction of the wall.⁹ I received reports of denied or delayed access that resulted in women giving birth at the checkpoint, causing complications and loss of life in some cases. For example, Rula Ashtiya, who on 28 August 2003 was reportedly denied passage by Israeli soldiers at Beit Furik checkpoint, gave birth on the road. Her baby died shortly afterwards and only then was she allowed through the checkpoint to the hospital in Nablus. Similarly, Lamees Tayseer Ibrahim Qassem gave birth to premature twins on 22 December 2003. She was kept at the checkpoint for an hour and a half in the middle of the night. When the ambulance on the other side was finally allowed through the checkpoint, her condition had already deteriorated and both newborn girls died shortly after birth.

24. According to one report,¹⁰ during the two years of the intifada the number of stillborn births in the West Bank increased by 500 per cent, the number of babies born at home doubled and there were at least 39 cases of births at army roadblocks. Restrictions on movement have also increased the number of home deliveries. According to UNICEF figures of 8 March 2004, the number of home deliveries increased from 8.2 to 14 per cent since 2002. During the same period, the number of women attending post-natal care decreased from 95.6 to 82.4 per cent. Also since 2002, 52 pregnant women gave birth at military checkpoints. Between September 2000 and December 2002, 19 women and 29 newborn infants died at military checkpoints. In addition, 37.9 per cent of women reported that access to health services became difficult. This was due, according to 44.3 per cent of these women, to the Israeli siege and for another 27.9 per cent to the lack of money to pay for health services.

25. The transgression of the freedom of movement and risks of settler attacks on the roads, as well as dehumanizing treatment at military checkpoints, compel families to marry their daughters at an early age rather than send them to school. This situation cuts women off from their social networks at a young age, since women typically move to live in their husband's town after marriage. Consequently, immobility deprives women of the support and services of formal and informal networks and institutions.

2. House demolitions

26. According to UNRWA, Israel's military campaign of house demolitions between September 2000 and 30 April 2003 rendered 12,737 Palestinians homeless. More recent figures place homelessness well above 20,000 with around 6,000 homes totally demolished. It is reported that IDF units with the support of tanks, helicopters and armoured personnel carriers conduct the demolitions late at night with little or no warning. As a result of their increased use of explosives collateral damage has increased.

27. During the period January-April 2004, IDF demolished 250 residential units for “security reasons”, according to the Palestinian Independent Commission for Citizens Rights. Thirteen houses were demolished on the pretext that a family member participated in, helped carry out or planned operations against Israeli targets. Additionally, 13 houses were demolished in West Bank cities and villages (including East Jerusalem) on the pretext that the owners did not have building permits. UNRWA estimates that, during raids on Rafah in May 2004, the homes of around 3,800 people were totally demolished or damaged beyond repair: “From 18 to 24 May (2004) a total of 167 buildings in the Tel Sultan, Brazil and Salam quarters of Rafah were destroyed or rendered uninhabitable. These buildings housed 379 families or 2,066 individuals. In total, in 6 days, 277 buildings, housing 641 families or 3,451 individuals have been demolished in Rafah. Since the start of the intifada 1,476 buildings have been demolished in Rafah, affecting 14,666 people.”¹¹

28. The manner in which the house demolitions have been implemented renders entire families homeless and destitute and inflicts great suffering on the civilian population who, in the process, encounter loss of life, arrests and harassment. The force used and the failure to provide warning maximizes the emotional and physical trauma of the demolition. The Special Rapporteur on adequate housing emphasized on several occasions the disproportionate effects of house demolitions on women, children and the elderly.

29. Women are particularly burdened in having to adjust to new conditions when their homes are destroyed. The Centre on Housing Rights and Evictions noted that: “Women suffer immensely from forced eviction. Domestic violence is higher in the precarious and often stressful situation of inadequate housing, especially before and during a forced eviction.”¹² In addition to domestic violence, house demolitions compound women’s responsibilities as they must sustain life in the domestic sphere. Whether or not women work outside the house they devote a significant amount of their time and energy to work in the home. While men and children may spend more time outside the house, the home is the only refuge for Palestinian women. Once the home is destroyed, women are not only left without a place of belonging, they must often carry the burden of rebuilding the home and coping with the inconveniences of moving in with relatives.

30. I visited the site of a demolished house in the Al-Zaytoun area of Gaza city and spoke to members of the Ashour family. They told me that the demolition took place during an Israeli military incursion on 11 to 13 May 2004. The demolished building consisted of four floors and housed approximately 30 people. Soldiers forcibly entered the building, took the men and boys, then allegedly tied and beat them. The soldiers returned at midnight and ordered the inhabitants out of their homes with little time to collect any belongings. The building was then demolished, also crushing the taxi that provided the family with its livelihood. The men were later released, but the family was never provided any explanation as to why their home was destroyed. At the time of my visit, the family had not yet filed a complaint against IDF but intended to do so.

31. Representatives of the Government of Israel told me that there are two distinct types of house demolitions: those that occur during the course of military operations and those carried out for a specific military purpose, e.g. demolition of houses as a deterrent for potential suicide bombers. The authorities indicated that each individual whose house has been designated for demolition has the right to petition to the High Court of Justice and that there have been a significant number of cases in which the court revoked the order for house demolitions due to

petitions. Furthermore, I was assured that private land seizures were compensated. However, Palestinian lawyers claimed that there was no effective recourse for victims of such violations as complaints heard by the Israeli Supreme Court were often ruled invalid.¹³

32. The United Nations country team also informed me that it has filed numerous compensation claims with the Israeli Supreme Court for the destruction of United Nations property. In 2002 and 2003, UNRWA submitted claims to the Israeli Ministry of Foreign Affairs requesting that the Government pay an amount totalling US\$ 778,743 for damage to UNRWA property in the West Bank and the Gaza Strip between September 2000 and December 2002. As of the end of 2003, UNRWA had received no response from Israeli authorities regarding these claims. The agency intended to submit in due course additional claims for the damages incurred in the period from 1 January to 30 June 2003.¹⁴

3. Detention

33. According to data from the Mandela Institute, the number of Palestinian detainees in Israeli prisons and detention centres had reached 6,599 by the end of March 2004, including 578 administrative detainees, 302 children, and 85 women.¹⁵

34. The NGO Defence for Children International (DCI)¹⁶ reports that since the start of the intifada the Israeli military has detained 2,500 children of whom 403 remain in detention, of whom 116 have been sentenced. Many were picked up in mass arrest campaigns in 2002, held incommunicado without access to a lawyer or a social worker and denied contact with family. Some were eventually released without charge while others have been held for longer periods, transferred from police stations to interrogation centres and prisons within Israel where they await trial. The majority of the Palestinian detainees under the age of 18 are held in Telmond Central Prison along with Israeli juvenile criminal detainees, while some remain in a variety of other detention centres.

35. A report from human rights organization Addameer¹⁷ reveals that the number of Palestinian women political detainees has increased since September 2000. As of 14 September 2004, 91 Palestinian women are currently held in Israeli prison, of whom 9 are minors: 86 women out of the 91 are security prisoners and 5 are held on criminal charges; 4 prisoners are administrative detainees; 90 of the prisoners are held by the Israeli prison service and 1 woman by Israeli security authorities.¹⁸

36. I requested to visit the Telmond Central Prison (Hasharoon), where female Palestinian security detainees were reportedly being held.¹⁹ The Israeli authorities informed me that there were no female detainees at that location and that I could instead visit the women's section of Ramleh Central Prison (Nevi Tertze) located inside Israel, provided that I agreed to interview female detainees in the presence of an Israeli prison guard. I received reports that the female detainees had been moved from Ramleh Central Prison to Telmond Central Prison in January 2004 and again transferred back to Ramleh following my request to visit Telmond Prison. The reasons behind moving the prisoners between the two locations remain unclear.

37. At the time of my visit to the women's section of Ramleh prison, the status of female Palestinian security prisoners was as follows: 2 newly arrived, 2 administrative detainees, 2 juveniles on remand, 25 on remand and 19 sentenced prisoners. Some of the women had given birth during their detention, and in such cases the newborn are allowed to remain with the mothers until two years of age. While the general conditions in the prison seemed satisfactory, I was concerned to learn that pregnant detainees are reportedly shackled whilst in labour during transit to the hospital. After giving birth, the mother is again shackled by one leg to the bed. The use of these restraints violates international standards and may constitute cruel practices.

38. A 2001 United Nations Fund for Women (UNIFEM) study²⁰ revealed that Palestinian women may be arrested at their homes, in the middle of the night, by a group of armed soldiers or at a checkpoint on their way to or from school/work and detained indefinitely without charge or trial.²¹ According to the study, detainees are held in solitary confinement, forced to give birth in prison cells, tortured, verbally and sexually abused and threatened. Former female detainees, whom I met, confirmed these reports and referred to the Russian Compound police detention centre in West Jerusalem, where they were held in solitary confinement and tortured during interrogation.²²

39. Women are also subjected to beatings and humiliation during the arrest or detention of their family members. Entire families may be arrested when IDF fails to find a suspected "terrorist". Palestinian women are reportedly detained in order to put pressure on relatives who may be wanted by Israel or already under interrogation.²³ Women are then held incommunicado or in administrative detention in Israeli military prisons for indefinite periods of time, serving as "bait" to control the actions of suspects. This practice denies the detainee the right to access to counsel, fair trial and even to know the alleged offence of which they are accused.

40. According to DCI research, the majority of girl detainees have been held for allegedly committing serious security offences, such as attempting to kill Israeli settlers or military personnel. During the second intifada, Palestinian women began training to become suicide bombers. From January 2002 to January 2004, seven Palestinian women conducted suicide bombings and approximately four more were arrested before they could carry out planned attacks. During my visit, two girls, aged 14 and 15 were arrested at night under suspicion of planning a suicide bombing (*Haaretz*, Israeli daily newspaper, 17 June 2004). The heightened security measures resulting from such suicide bombing has made women prime suspects at checkpoints, where they may be subject to body searches and detained under administrative order. DCI research shows that many of the girls thus detained were not involved in terrorist acts.

41. In a conservative culture where families and communities keep girls under close scrutiny, a community may regard the modesty and innocence of a girl who has been detained as having been violated because of her absence from public view. Such stigmatization can have lifelong repercussions. For example, my interview with Feda, a female minor from the old city of Hebron who was detained for two years for allegedly attempting to kill an Israeli mother and daughter settler, revealed how a woman's victimization can become compounded. Feda became an outcast in her own society as she is perceived to have been sexually compromised during her two years of detention. Although her family remains supportive, she continues to face difficulties reintegrating into the community.

42. I did not receive any testimonies of rape during detention. Cases of sexual violence may go unreported owing to the taboo and stigma attached to being “impure”. Israeli authorities assured me that any form of sexual abuse by Israeli security forces or prison personnel would not be tolerated.

4. Loss of life and injuries

43. Military incursions, targeted killings and excessive use of force against demonstrators have resulted in a high rate of civilian casualties, including women and children. According to United Nations figures, between 21 May and 23 June 2004, 39 Palestinians and 2 Israelis were killed, and 309 Palestinians and 32 Israelis wounded. That brings the total number of casualties since the start of the current crisis in September 2000 to 3,437 Palestinians and 942 Israelis killed, with 33,776 Palestinians and 6,008 Israelis wounded.²⁴ The majority of these casualties have been civilians.

44. A study by the Women’s Centre for Legal Aid and Counselling (WCLAC) and the Women’s Studies Centre (WSC)²⁵ shows that in the majority of cases women and children were killed or injured due to dangers on their way to work or school; lack of medical care as a result of access being denied at checkpoints; collateral death or injury during targeted operations; and IDF shelling in or near their homes during curfews or closures of villages, refugee camps and towns. The following are some examples of girl child victims in Khan Younis refugee camp: in March 2003, 12-year-old Hoda Darwish was sitting at her desk when a bullet fired from an Israeli observation post on the outskirts of the camp hit her, leaving her blind.²⁶ On 7 September 2004, 10-year-old Raghda Adnan Al-Assar was struck in the head while in class at an UNRWA elementary girls’ school and died on 22 September 2004. On 28 October 2004, 9-year-old Rania Iyad Aram died after being shot while on her way to school.²⁷

45. On 9 November 2000, two Palestinian women were among the first victims of Israel’s policy to implement targeted assassinations of alleged Palestinian terrorists. According to the 2003 annual report of the Palestinian Centre for Human Rights, between 29 September 2000 and 31 December 2003 Israel carried out a total of 160 assassination operations, killing 327 Palestinians (13.7 per cent of the total number of Palestinians killed in the same period), among them 14 non-targeted women. Hundreds of men, women and children bystanders have also been wounded in these operations.²⁸ According to DCI,²⁹ at least 584 Palestinian children, 67 of whom were girls, have died and thousands have been injured since September 2000. Twenty-four of the girls perished during Israeli air and ground attacks on their homes and 13 died from random fire while conducting everyday activities. Another source³⁰ shows that of the estimated 3,207 Palestinians killed since 2000, 590 were children and 230 women, 255 were victims of targeted killings, and 40,000 were wounded in the same time period. According to Palestinian Red Crescent Society data, from September 2000 to September 2004 a total of 27,879 Palestinians were injured and 3,332 killed, of which 132 were women and 74 girls.

46. Women on both sides, who experience the killing and injury of their loved ones, find themselves suddenly transformed into heads of households, primary-care takers and providers.

Palestinian women in particular must endure this with few resources and support on which to rely. The psychological trauma of bereavement and the additional burdens placed on women are further dimensions of the gendered impact of crisis situations, so often overlooked in analysis.

B. Violence within the family and the community

47. Inequality in general and gender inequality in particular are more pronounced under conflict and crisis situations. Sustenance of group boundaries, family honour and the maintenance of everyday life fall on the shoulder of women, for whom this often means conformity to traditional norms of patriarchy. This is the point where two systems of subordination - occupation and patriarchy - converge in the OPT: women in confronting the former submit to the latter. Thus, women find themselves amidst increasing inequality sustained through multiple forms of direct and indirect violence inside and outside their home. In order to demonstrate this, I will focus on how violence against women is justified and sustained under the conditions of occupation as women become the markers of the boundaries of patriarchy under the siege and shock absorbers of livelihoods in crisis.

1. Women at the centre of conflict

48. The death, imprisonment or unemployment of many adult male members of the community, which affects all areas of the OPT, have increased poverty and social tensions that contribute to increased domestic violence. "Violence in the environment exacerbates the instance of abuse at home; whereas, children's and parents' exposure to political violence is the strong predictor of violence in the family."³¹ During the earlier periods of the Palestinian struggle, women were able to circumvent some of the traditional restrictions imposed on them to become more involved in the struggle of their people. This is well reflected in the often-quoted phrase "land before honour". However, the increased transgression of their land has left honour as the only viable ground for the preservation of societal identity - to the detriment of women.

49. Parallel to this, the use of land, water, food, the demolition of homes and the destruction of the general economy as a weapon against the occupied population have resulted in a deterioration of the living conditions in the OPT. Sixty per cent of the Palestinian population reportedly lives under the poverty line, while the majority of the population is unemployed and large numbers of people are homeless. Unemployment systematically renders men unable to provide for their families, forcing women to take up work outside the home. At the same time, however, their freedom of movement has been curtailed due to the increased protectiveness of families in order to avoid risks and harassment at checkpoints. This contradictory situation undermines women's ability to contribute to family sustenance and to attend school, particularly at the university level.

50. There is a consensus among analysts that the deepening of the conflict in the OPT and the expansion of the tools of occupation has weakened the negotiating power of Palestinian women to challenge the patriarchal gender contract which has, in part, become a defence mechanism to keep the society intact. For the most part, conformity to traditional norms of honour and the observance of group boundaries has provided women, particularly in refugee camps and rural areas, a safeguard against the hostile face of the occupation. In a sense, as well articulated by Nahla Abdo, Palestinian women "are placed in a double jeopardy, having to face both the patriarchal-national 'self' and the foreign oppressive 'other'".³²

2. Legitimizing violence against women as a weapon of patriarchy

51. Under occupation, “the Palestinian women’s concern in the West Bank and Gaza Strip was concentrated on the national struggle within political structures reflecting the same paternal system within the household; men are at the top of the organizational hierarchy in the political factions and parties, and women at the bottom of the hierarchy ... The Wall of Patriarchy”.³³ This has not only posed additional barriers to women’s freedoms but also reinforced the legitimacy of the use and perpetuation of violence against them.

52. The intensification and expansion of the security measures pose a direct attack on Palestinian male image and identity. Men, who in most cases have become unemployed due to the closures, are humiliated and dehumanized in public during military incursions and at checkpoints. Their ability to provide for and protect their home and family is seriously undermined, creating a sense of “inadequacy”. According to Rubenberg (2001), “with the enactment of masculinity challenged daily by an occupation that deprives men of the sources of their gender identity - land and the ability to support and defend their families - women’s status as markers of family honour and respectability has been enhanced”.³⁴ The failure to perform in accordance with the requirements of traditional patriarchal society is said to result in increased frustration on the men’s part, which often leads to violence in the home. Rubenberg goes on to say, “A culture of shame and control, ranging from gossip to honour killings, and the subsequent and corresponding internal constraints, serves to keep women isolated and vitally aware of the consequences of the minutest aspect of their behaviour.” In this way, women find themselves as multiple victims of the crisis in the OPT as they bear the restrictions imposed by a traditional patriarchal society combined with the physical and emotional effects of the political and socio-economic situation. “Forced into silent suffering, many women are trapped into a world of solitary despair. Feelings of loneliness, loss, isolation and helplessness become overwhelming.”³⁵

53. During my visit to Jabaliya refugee camp, I met a woman who decided to take her life as a last resort after many years of living as a refugee and being routinely subjected to domestic violence. After the attempted suicide, the woman became an outcast in her home and community. Her situation has since worsened because she not only continues to endure the violence and hardship of her living conditions, but now must also live with the shame of having attempted suicide.

54. Women are expected to cope with the consequences of the occupation and provide stability to their family and community under the worst of circumstances. In situations of unjustified loss of life the elevated concept of the “martyr” in Palestinian society has become survival and coping mechanism for women. According to Shamas,³⁶ “Under the concept of ‘martyrdom’, Palestinian society and culture demand that women suppress their grief when their children or husbands are killed, for they are believed to have died a ‘noble’, ‘worthy’ and indeed ‘holy’ death. Thus, women are often denied the right to cry openly, and are even urged to ‘ululate’ in celebration, which many of them do while in a state of shock, hysteria or total breakdown.” This masking of grief further obfuscates the psychological impacts of violence on women and creates yet another dimension to their suffering.

55. All of these factors have resulted in the overall acceptance of domestic violence as legitimate by the individuals as well as the society at large. This is revealed by the following results from a public opinion poll conducted in 2002:³⁷

- 53.7 per cent agree that it is inappropriate for the police to interfere when a man assaults his wife, for this is considered a family affair;
- 55.5 per cent agree that a wife assaulted by her husband should not talk about it to anybody but to her parents;
- 86 per cent believe to varying degrees that political, economical and social conditions have increased violence against women;
- 52.5 per cent believe that customs and traditions comprise a stumbling block to the advancement of women.

The same poll also indicates that the Palestinian Authority is seen as failing to protect and promote women's rights.

3. In the name of "honour"

56. Women in the OPT are killed or threatened with death for tarnishing family honour. These crimes are a manifestation of "culturally" inherited values that impose upon women socially expected behaviours derived from prevailing patriarchal norms and standards. Women's transgression of these norms is said to violate the "honour" of men and the family, which legitimizes violence against women within the social context as a disciplinary measure to maintain or restore family honour. Women accused of promiscuity may be imprisoned in their homes, subjected to verbal and physical violence, married to their violator or even murdered in the name of honour.

57. Nadia Shalhoub-Kevorkian, a prominent researcher on honour crimes in Palestinian society, draws attention to the societal dimensions of honour crimes, whereby the family acts under pressures from society in fear of being socially ousted.³⁸ Available information also indicates that some of the women who have been threatened or killed for allegedly dishonouring their family were victims of rape or sexual assault by an intimate associate within the domestic sphere. The murder of women, or "femicide", in such situations is used to cover up shameful crimes committed by male members of the family.

58. Although data regarding honour killings is patchy, according to the Women's Affairs Technical Committee³⁹ 33 women were killed in the name of honour in 2002, the majority of whom were under the age of 18. The Committee is concerned that the destruction of the Palestinian security sector and the gaps in the law protecting women exacerbate impunity for these crimes. "Throughout the occupied territories, the resolution of such cases is subject to overlapping, and often competing authorities."⁴⁰ The lack of national sovereignty and a history of occupation have undermined the ability of the Palestinian Authority to legislate and implement measures to deal with such societal atrocities. Tribal and militant centres of power thus fill this vacuum, often working to resolve cases through reconciliation and mediation while at the same time concealing the crime in an effort to prevent the spread of scandal.

III. RESPONSES TO VIOLENCE AGAINST WOMEN

A. Legal framework

59. Despite the inability of the Palestinian Authority to sign and ratify international human rights instruments, it has unilaterally committed itself to abiding by international law. Article 10 of the Palestinian Draft Basic Law states that “human rights and the fundamental freedoms must be respected and protected and the PA will work without delay to become party to international instruments for the protection of human rights”.

60. The Palestinian people are subject to an amalgamation of laws inherited from different historical periods: Ottoman Empire, British Mandate, Jordanian and Egyptian laws and Israeli military orders. This multiplicity of laws has led to the lack of consistent and uniform Palestinian legal references. Furthermore, patriarchal biases prevailing in the legal provisions and criminal justice system prevent women from accessing justice and escaping violence. The following are areas of immediate concern to my mandate:

(a) The Personal Status laws that regulate women’s rights and roles within the family in the OPT are not unified. While Muslim women in the West Bank are subject to Jordanian law, those in Gaza are subject to Egyptian law. As for Christian Palestinians, laws established by their respective churches govern each denomination. Furthermore, these laws contain discriminatory provisions. For example, the Jordanian Personal Status Code of 1976, which grants a battered woman the right to file for a divorce on the grounds of “conflict and disaccord” resulting from harm inflicted by the husband, requires that the wife show scars of physical abuse in order to proceed with the divorce. Moreover, social pressures, the practical applications of the law, and the lack of financial resources to pay for lawyers and court fees limit women’s access to the legal system. All of the Personal Status laws endorse discrimination between the sexes. For example, marriageable age in the West Bank for boys is 16 years of age and for girls 15 years of age. In the Gaza Strip, the implementation of the “family law” is left to the judge’s discretion, falling within the age range of 9 to 17 years for girls and 12 to 18 years for boys, based on the “maturity” level of the individual;

(b) The Jordanian Penal Code No. 16 of 1960 includes a mitigating circumstances clause, whereby the perpetrator of an honour crime may be immune from punishment if it is shown that the victim committed an adulterous act. With regard to incest, article 286 of the Jordanian Penal Code stipulates that, “Incestuous actions shall only be pursued upon the complaint of a male relative or an in-law, up to the fourth-degree kinship.” Therefore, neither the victim nor a female relative can file a complaint. The absence of official policies and procedures further aggravates the difficulties in creating effective preventive and therapeutic programmes or effective working strategies to combat incest. In cases of rape, the law provides the judge with major discretionary authority to estimate the gravity of crimes and to impose the appropriate sentence. This may have negative consequences, as gender-based discrimination comes into play in judges’ determinations, particularly in sentencing. Furthermore, article 308 of the Jordanian Penal Code lowers the sentence against the perpetrator if a “legal and correct marriage contract is forged” between him and the victim. Therefore, the perpetrator may, in effect, escape punishment by marrying the victim.

B. Initiatives of the Palestinian Authority

61. The Palestinian Authority, as a result of the Oslo accords of 1993 and the transfer of limited sovereignty to the Palestinian leadership, entered into a new phase of self-governance. Following the 1996 elections, the Authority was required to take steps towards building a society founded on democracy, rule of law and respect for human rights. Although the PA provides services in areas of education and health, Israel has undermined its authority, particularly in the area of security. The PLC has difficulties meeting because of travel restrictions that prevent members living in Gaza and members living in the West Bank from reaching each other. They resorted to videoconferencing to circumvent these obstacles, but such measures have proven unsatisfactory, leaving gaps in governmental communication.

62. The Special Rapporteur welcomes the PA's establishment of the Ministry of Women's Affairs in November 2003 and is pleased to note that it is addressing violence against women as a cross-cutting issue in all of their programmes. They are working with the Ministry of the Interior to train police on women's rights and to create police stations that facilitate women's access. The ministry has the potential to improve the situation of women and the Special Rapporteur hopes it will receive the resources and support it requires to be an effective institution for the promotion and protection of women's rights in the OPT.

63. The Ministry for Social Affairs also contributes to the promotion of women's human rights by providing vocational training and seed money to women. It financially supports 48,000 hardship cases of which 60 per cent are female-headed households. There is one women's shelter supported by the ministry in Nablus, which provides counselling and vocational training.

C. Initiatives of the civil society

64. Civil society in the OPT, particularly women's organizations, are resilient and, despite the military incursions, demolitions, and restrictions on freedom of movement, life prevails in the OPT. The women's movement, active since 1948, is professional and well organized. After the occupation of the West Bank and Gaza Strip in 1967, with new waves of refugees, Palestinian women took on a more prominent political, economic and social role. In 1987 during the first intifada, women achieved a significant presence in public life. Consequently, a qualitative change took place in the women's movement that helped diversify their activities and broadened their gender identity. These developments coincided with and became reinforced by the overall global momentum of the 1990s for democracy, peace, gender equality, empowerment and human rights.

65. The 1993 Oslo accords shifted the force of the intifada from the grass roots to the higher level leadership that led to the creation of the Palestinian Authority. Since then women's groups have expressed concerns about the Authority's shortcomings regarding gender issues. These groups hoped to involve women in public life to overcome traditional roles and practices as well as the constraints relegating women's rights to secondary status on the political agenda. Consequently, women organized their own Women's Technical Committees to increase women's involvement in the peace process and other areas. These initiatives opened a debate on women's participation in political parties that reached

President Arafat's desk in 1995 in the form of a proposal to create a Woman's Council. The proposal was not approved; instead, women's committees were formed within the ministries.⁴¹

66. Women have advocated penal code reform and equal rights in the constitution, and have succeeded to a certain extent. However, since the second intifada, there has been a noticeable regression in terms of women's rights and fundamental freedoms. The Israeli occupation has had immobilizing impacts on activities of NGOs and other sectors. This has resulted in a re-evaluation of priorities and strategic goals within Palestinian civil society. One human rights defender told me that, "Every plan for improvement is being demolished. We are building sandcastles, whatever we build is destroyed by the next wave of security measures implemented by the IDF."

67. Women's groups have called for quotas for women candidates in the elections, 30 per cent for local council elections (September 2004) and 20 per cent for the legislative council. NGOs conduct community educational workshops in accordance with international standards on women's rights and monitor the criminal justice system's response to victims of violence. Adalah persists in its legal advocacy work, filing petitions to the Supreme Court of Justice of Israel. NGOs and lawyers also work with female Palestinian former and current detainees to provide psychosocial support, legal assistance and vocational training to help them reintegrate into their communities and resume their lives.

68. Community-based organizations operate at the grass-roots level to overcome the challenges of occupation and to provide support for each other. I visited a community-based women's centre in Anin that offered an oasis of hope. The women, with support from the Palestinian Agricultural Relief Committees (PARC), organized, received vocational training and learned about their rights. Their activities are coordinated by the Rural Women's Development Society (RWDS) under the PARC coalition umbrella. Anin is a small mountain village in the north of the West Bank with a population of 3,500. The majority of the population used to work in Israel before the construction of the wall and have suffered due to the confiscation of their lands because of IDF measures to protect a nearby Israeli settlement.

69. The efforts of the Palestinian and Israeli women's peace groups are also noteworthy. A constructive dialogue between them started in the late 1980s to develop common strategies for resolving the ongoing conflict, having identified the Israeli occupation as the source of suffering for both sides. Although these initiatives suffered with the heightened conflict following the Al Aqsa intifada, the process provided Palestinian and Israeli women an invaluable peace advocacy experience through which they continue to link their efforts to foster a just peace for the two peoples.⁴²

D. Initiatives of the United Nations country team

70. The United Nations operation in the OPT provides assistance to Palestinian women through economic activities, humanitarian assistance, education and training, health, technical cooperation on women's rights and advocacy.⁴³ UNRWA provides education for Palestinian girls and boys in schools throughout the OPT. The Office of the High Commissioner for Human Rights is currently engaged in technical cooperation activities with the PA and NGOs. However, as a response to the critical human rights situation in the OPT, additional human rights protection is required to meet the real needs and demands of the people.

71. The United Nations faces numerous obstacles in carrying out its mandate in the OPT. Israel's imposed restrictions on freedom of movement, for one, prevent United Nations personnel from delivering life-saving humanitarian assistance. Israeli military fire into UNRWA schools and other buildings have disrupted services and led to civilian deaths. I was informed by UNRWA that it builds donor-funded homes and schools only for IDF to demolish the structures or confiscate the school buildings for military purposes and detention centres.⁴⁴ Despite such constraints, the United Nations is doing its utmost to provide critical services in the OPT.

IV. CONCLUSIONS AND RECOMMENDATIONS

72. **I cannot emphasize enough the grave and volatile nature of the situation in the Occupied Palestinian Territories. Israel has effectively contained the Palestinian population in a heavily controlled environment. The degree and extent of oppression associated with patriarchy deepens with aggravation and intensification of the oppression of occupation. This is particularly visible in the Gaza Strip, which is denied any possibility for enjoyment of rights, fundamental freedoms and liberty.**

73. **The multilayered impact of displacement and the integrated system of violence created by the conflict and occupation continue to take a heavy toll on lives of Palestinian women as security measures and military necessity increasingly take on a character of collective punishment. The consequences of this situation are compounded and in some cases far more severe for women. Women not only bear the combined burdens of occupation and patriarchy but due to the former their capacity to transform the unequal gender structures of the latter is curtailed. The priorities imposed by the national struggle have for decades belittled women's struggle to eliminate violence against women as a weapon of patriarchy.**

74. **Palestinian women live in a permanent state of insecurity, tension and fear. The grave and systematic violations of human rights perpetrated by Israel in the OPT demand urgent action to prevent further violations. The ongoing impunity for human rights violations is unacceptable. The international community has spoken clearly and issued numerous General Assembly and Security Council resolutions on necessary actions to move towards a just settlement of the conflict. The United Nations has created special procedures to monitor and report on the human rights situation; however, it has failed to ensure compliance with its resolutions.**

75. **Human rights organizations⁴⁵ have called on the international community to take immediate and concrete action to stop Israel's ongoing violations of international human rights and humanitarian law in Rafah and elsewhere in the OPT. They acknowledge that international bodies and leaders have clearly condemned the situation, most recently through the passage of a Security Council resolution on Rafah. As they rightfully point out, however, the world has not been sufficiently active in promoting Israel's immediate cessation of and accountability for its illegal practices in the Gaza Strip. Such inaction is an abdication of responsibility to uphold international and humanitarian law. As a Palestinian woman activist says, "Peace will only be achieved when there is freedom, equality and justice."⁴⁶ It is essential that Israel immediately cease all violations of international law and a sustainable resolution of the**

conflict be reached. Such a resolution rests on an effective response to the core of the conflict in the region - the dispossession of the Palestinian people from their land.

76. I would like to recall and support the following call from Palestinian women: “Security for Israelis will not be achieved by shelling residential areas, destroying homes, killing innocent civilians, tightening closures, harshening economic realities, subjecting 3.5 million Palestinians to siege and curfew, humiliating Palestinians at checkpoints and assassinating activists. Nor will security for Palestinians be achieved by killing Israeli civilians. But there will be no end to these great losses until the concept of security is revised to serve Palestinians as well as Israelis ... We call upon Israeli society, and Israeli women in particular, to pressure their Government to end the occupation, and to join our quest to work together to build a new concept of security ... We are actively working for, and anticipating a day when a just peace will prevail and both sides may enjoy its many fruitful results.”⁴⁷ This call is urgent not only for the peaceful coexistence of Palestinians and Israelis but for the peace and security of the entire region.

77. The Special Rapporteur on the human rights situation in the Occupied Palestinian Territories has consistently maintained that Israel’s human rights obligations apply in the occupied territories. I fully support the conclusions and recommendations contained in his reports and call for their implementation.

78. In addition, I would like to make the following recommendations:

- The Government of Israel and the Palestinian Authority must:
 - Move ahead with the implementation of the Quartet’s road map⁴⁸ in order to end the occupation of Palestinian territories and to establish a viable independent and sovereign Palestinian State, while ensuring peace and security for the Israelis. Any solution to the conflict and occupation must be multilateral in accordance with the road map;
 - Facilitate the full involvement of Palestinian and Israeli women and women’s groups in the peace process in accordance with Security Council resolution 1325 (2000), and ensure that women’s needs and interests are included in all negotiations. Women’s representation at the negotiating table is crucial as the sine qua non of gender equality and inclusion;
- The Government of Israel must:
 - End the occupation and until then ensure the rights and protection of Palestinian civilians;
 - Observe international human rights and humanitarian law in undertaking security measures; compensate the Palestinian people for damages, including for loss of property; ease the humanitarian and economic plight of the Palestinian people, including increasing the freedom of movement for people and goods both within and from the West Bank and Gaza and by abandoning practices that fragment families;

- **Cease the use of administrative detention and allow detainees access to lawyers and doctors from the outset of their detention;**
 - **Ban closure and demolition of detainees' homes;**
 - **Observe the right to health, as stipulated in the Universal Declaration of Human Rights, particularly by ensuring that the wounded and the sick, as well as the infirm and expectant mothers have easy and immediate access to medical care and are the object of protection and respect;**
 - **Ensure the security and the freedom of movement of international and national United Nations staff, in accordance with the Convention on the Privileges and Immunities of the United Nations, and specific agreements between UNRWA and Israel, and other humanitarian agencies operating in the OPT to facilitate access for the provision of humanitarian assistance, including for Red Crescent ambulances;**
 - **Include information on compliance with obligations in the OPT in reports submitted to treaty bodies, in particular to the Committee on the Elimination of Discrimination against Women, on protection and promotion of women's rights;**
 - **Acknowledge and collaborate with the Special Rapporteur on the human rights situation in the Occupied Palestinian Territories as well as other special procedures mandates of the Human Rights Commission;**
- **The Palestinian Authority must:**
- **Work towards the creation of a democratic, secular State, which promotes and protects women's rights;**
 - **Adopt a policy of zero tolerance towards all forms of violence, including terrorism;**
 - **Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence;**
 - **Undertake legislative reform in line with international standards, particularly of the Personal Status Codes, to have a common Palestinian family law for both West Bank and Gaza that is based on participatory and democratic relations within the family. Similarly, revise the Penal Code to criminalize domestic violence, honour crimes and sexual assaults on women;**

- **Adopt the Bill of Rights for Women, and measures to ensure its effective implementation and consider the other numerous draft bills submitted to improve the protection of women's rights;**
 - **Provide the necessary legal, political and financial support to the Ministry of Women's Affairs;**
 - **Work towards a system of positive discrimination as a means of eliminating structural discrimination against women and to increase female representation in the Palestinian Authority, Palestinian Legislative Council and local government bodies, municipalities and village councils, including the introduction of a quota system as demanded by the women's organizations for local and national elections;**
 - **Undertake measures to achieve equality between women and men and end violence against women, including by awareness-raising campaigns, curriculum change, training in gender sensitivity to all relevant actors and mental health and trauma counselling as well as shelters for women who are victims of violence or those who are at risk of violence;**
- **The international community must:**
- **Authorize, by way of a Security Council decision, an international mechanism in the Occupied Palestinian Territories to ensure the observance of international human rights and humanitarian law and the protection of civilians, and work with both Israel and the Palestinian Authority to implement existing resolutions;**
 - **Enhance the capacity of the Authority to enable it to act in accordance with its obligations to promote and protect the Palestinian people and fulfil its responsibilities towards the achievement of a sustainable peace in the area;**
 - **Support, through bilateral and multilateral funding, initiatives of women's non-governmental organizations, research institutes and academia in the OPT to improve women's status, end violence against women and promote the overall betterment of Palestinian society;**
 - **Support the peace efforts of Palestinian and Israeli women and facilitate their participation at all phases of the conflict resolution/peace-building process;**
 - **Expand the mandate of the OHCHR field office in the OPT to include a monitoring of human rights violations in addition to its current technical cooperation role.**

Notes

- ¹ Women and children in Israel have also suffered from acts of violence. According to information received, 1,015 Israelis were killed since 2000, of whom 315 were women and 112 were under the age of 18 (information received from Itzhak Leranou, Permanent Representative of Israel to the United Nations in Geneva, in a letter dated 27 September 2004).
- ² CCPR/CO/78/ISR of 21 August 2003.
- ³ See [http://www.un.org/Depts/dpa/qp/](http://www.un.org/Depts/dpa/qp/qp/) and www.unhcr.org for a list of recent United Nations documents, reports and resolutions on the situation in the OPT.
- ⁴ On 1 October 2004 IDF started another incursion in the north of Gaza, which came in the wake of the continued firing of home-made rockets by Palestinian militants towards Israel, and the killing of three soldiers in Morag settlement on 23 September and one settler in Neve Dekalim on 24 September (OCHA, 1 October 2004). According to a Defense for Children International press release issued on 6 October 2004, about 75 Palestinians were killed, 23 of which were children, bringing the total number of child fatalities to 133 since the beginning of 2004.
- ⁵ This is not to suggest that domestic violence will wither away when occupation ends. It is rather meant to demonstrate how violence against women is compounded when two systems of oppression intersect.
- ⁶ Around 140 permanent checkpoints operate in the West Bank and 30 others in the Gaza Strip, isolating each of the 300 or so enclaves into which OPT has been divided, supplemented by various forms of roadblocks moved daily.
- ⁷ A law issued by Israel in 2003 barring the unification of families in which Israeli citizens are married to non-Israeli Palestinians has further complicated the matter, as it is effective retroactively.
- ⁸ In addition, Israeli military order No. 510, amendment No. 84 of August 2002, empowers the military Commander of the West Bank to “assign residence” to Palestinians allegedly threatening security. This order has been used twice (September 2002 and May 2003) to transfer Palestinian civilians from the West Bank to Gaza Strip for a period of two years of assigned residence.
- ⁹ The wall is highly controversial, which is reflected in the terminology used to describe it. The Israeli authorities call it “security fence”, the Palestinians “apartheid wall” and still others “barrier”. In urban areas, where I encountered the wall, it is constructed of 8-metre high concrete slabs with concrete watchtowers, which according to Israeli authorities, comprises only 4 per cent of the total. Whatever may be the preferred terminology or composition, the impact is the same: destruction of property and isolation of people from their communities, families and sources of livelihood. In some areas, Palestinians will have to apply for a permit to travel to schools, medical clinics, etc. located across the wall within the OPT. In view of the patriarchal protectiveness over women, the manner in which the wall limits women’s access to

family members, education, services, networks, employment, and NGO activities is obvious. On 9 July 2004, the International Court of Justice ruled that the wall is illegal and should be removed. The Israeli High Court of Justice issued a ruling that the construction of the wall would not unduly impinge on Palestinian rights and the building has continued.

¹⁰ Hadas Ziv et al., “A legacy of injustice: A critique of Israeli approaches to the right to health of Palestinians in the Occupied Territories”, Physicians for Human Rights-Israel, October 2002.

¹¹ UNRWA demolition assessment of Operation Rainbow, 26 May 2004; see www.un.org/unrwa/news/releases/pr-2004/hqg16-04.pdf.

¹² Report submitted at the fifty-ninth session of the Commission on Human Rights (CHR) in March 2003.

¹³ On 28 December 2004 I was provided by the Israeli authorities with a book containing judgements of the Israeli Supreme Court. It was, however, too late to reflect in this report the information it contained.

¹⁴ Report of the Commissioner-General of UNRWA presented to the fifty-eighth session of the General Assembly (A/58/13).

¹⁵ Palestinian Independent Commission for Citizen’s Rights report Israeli Violations Palestinian Citizens’ Rights (1 January-30 April 2004) (9), published May 2004 (www.piccr.org).

¹⁶ Report presented during mission.

¹⁷ Addameer, “Prisoner support and human rights association, report on Palestinian women political prisoners on Women’s Day”, 8 March 2004 (www.addameer.org).

¹⁸ Ambassador Leranou’s letter, 27 September 2004.

¹⁹ Telmond prison is part of the Israeli Interior Security Ministry.

²⁰ See: www.womenwarpeace.org/opt.

²¹ Military order 1500 (April 2002) provides for the arrest of a person for a period that may exceed 18 days without allowing him/her to meet with his/her lawyers or submit a memorandum against his/her arrest (*Al Haq*, 28 April 2003).

²² A *Newsweek* (28 June 2004, pp. 30-31) article reported on a secret interrogation unit known as 1391, where Arabs are allegedly held in seclusion and tortured. Visits by the Red Cross were said to be barred. I did not receive any information to suggest that women might be held in such a unit.

²³ Addameer, Annual report 2004 (<http://www.addameer.org/2004/annual04.html>).

²⁴ Briefing by Mr. Kieran Prendergast, Under-Secretary-General for Political Affairs, to the Security Council on agenda item “The situation in the Middle East, including the Palestinian question” on 23 June 2004 (S/PV.4995). According to the Palestinian Independent Commission for Citizen’s Rights report “Israeli violations of Palestinian citizens’ rights” (<http://www.piccr.org>), in the period January-April 2004, the occupation forces killed 212 Palestinians, including 35 children and 30-targeted assassinations. Twenty of these casualties were killed while resisting occupation forces, 17 during armed clashes near settlements, 4 in armed clashes inside Palestinian cities in the West Bank and Gaza Strip, 5 while attempting to plant explosives near settlements, and the rest were killed as a result of excessive use of force. An additional 10 Palestinians were killed while carrying out bombing operations against Israeli targets, and 12 others under ambiguous circumstances.

²⁵ A report on the situation of women’s human rights during the “Al-Aqsa Intifada”, by the Women’s Centre for Legal Aid and Counselling and the Women’s Studies Centre, 16 February 2001.

²⁶ See: www.un.org/unrwa/news/releases/pr-2004/hqg34-04.pdf.

²⁷ OCHA Weekly Briefing Notes, 27 October-2 November 2004.

²⁸ See: www.womenwarpeace.org/opt.

²⁹ Report presented during mission.

³⁰ PLC, report on Israeli violations against women’s rights in Palestine, June 2004 (www.pal-plc.org).

³¹ Written input from Housing and Land Rights Network, Habitat International Coalition, Egypt, 5 June 2004.

³² In Nahla Abdo and Ronit Lentin (eds.), *Women and the Politics of Military Confrontation*. New York, Berghahn Books, p. 152.

³³ Kreisheh, Amal. “The Realities Embedded in the Lives of Palestinian Women: The Perspectives of Domestic and Israeli Occupational Violence”, submitted to Violence against Women Conference, Oslo, April 2004: 6 and 7.

³⁴ Cheryl Rubenberg, *Palestinian Women: Patriarchy and Resistance in the West Bank*. Boulder, 2001, Lynne Rienner Publishers.

³⁵ Vivian Khamis 2000. *Political Violence and the Palestinian Family: Implications for Mental Health and Wellbeing*. Oxford: The Halworth Maltreatment and Trauma Press: 54.

³⁶ Maha Abu-Dayyeh Shamas. “The Second Palestinian Intifada: Social and Psychological Implications for Palestinian Women Resulting from the Israeli Escalation of Violence”. Women’s Centre for Legal Aid and Counselling (2001), Jerusalem, August, p. 5.

- ³⁷ “Violence against women in Palestine: A public opinion poll”, the Palestinian Working Women Society for Development, in cooperation with the Palestinian Centre for Public Opinion in Beit Sahour, September 2002. Sample of 1,133 Palestinian adults aged 18 years and older, from Gaza Strip and the West Bank, including East Jerusalem.
- ³⁸ “Case Study: Mapping the Landscape of Femicide in the West Bank and Gaza”. In *With an End in Sight, Strategies from the UNIFEM Trust Fund to Eliminate Violence against Women*, 2000.
- ³⁹ Women’s Affairs Technical Committee report, “Palestinian women: New situations new roles”, 2004.
- ⁴⁰ UNIFEM, *ibid.*, p. 98.
- ⁴¹ See *Highlights in the struggle of Palestinian Women, the Independence Intifada, The First Year*, a publication of the Palestinian Working Women’s Society for Development, January 2002 (in particular pp. 10-13), and the report given during mission, “Effects of occupation on the Palestinian women”, by the Jerusalem Centre for Women (2004).
- ⁴² Palestinian and Israeli women, united in their joint effort to bring about a just, comprehensive and lasting peace between their two peoples, work together within the framework of the Jerusalem Link for the realization of their common vision of peace (<http://www.j-c-w.org>).
- ⁴³ For further information see the Secretary-General’s report on the situation and assistance to Palestinian women, presented to the Commission on the Status of Women, 2004 (E/CN.6/2004/4).
- ⁴⁴ According to a Palestinian Legislative Council report provided during the mission, 43 schools have been turned into military bases.
- ⁴⁵ Joint statement by Adalah, Al-Haq, Al-Mezan, Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN), the Palestinian Centre for Human Rights (PCHR), and the World Organisation against Torture (OMCT), “No State is above the law”, 22 May 2004.
- ⁴⁶ Rima Nasir Tarazi in a conversation among Palestinian and Israeli women activists facilitated by Zehra Arat, September 2003.
- ⁴⁷ “An open letter to the Israeli public: A Palestinian women’s perspective on the security problem”, Jerusalem Centre for Women (1/10/2002, <http://www.j-c-w.org>).
- ⁴⁸ A performance-based “road map” to a permanent two-State solution to the Israeli-Palestinian conflict; see S/2003/529 of 7 May 2003.

Appendix

List of persons and organizations consulted during the mission

Israeli officials

Mr. Daniel Meron, Director of International Organizations and Human Rights Department at the Ministry of Foreign Affairs and colleagues

Legal Adviser, Israeli Defense Forces (IDF)

Coordinators of the Territories, MFA

Prison authorities, Ramleh Central Prison

Israeli civil society

Mr. Meridor (former Minister of Justice)

Prof. Raday (former member of the Committee on the Elimination of Discrimination against Women)

Arab Association for Human Rights

B'tselem, the Israeli information centre for human rights in the Occupied Territories

Palestinian officials

President Arafat

Dr. Nabil Shaath, Minister of Foreign Affairs

Intisar Al-Wazir, Minister of Social Affairs

Ms. Zahira Kamal, Minister of Woman Affairs

PLC members (Ms. Rawia Shawwa and Ms. Jamileh Saydam)

Palestinian civil society

Dr. Hanan Ashrawi

Mr. Younis Khatib, Palestinian Red Crescent Societies

Mr. Tayseer Tamemy, Chief Justice of religious courts

Jerusalem Centre for Women

Women's Affairs Technical Committee

Project Coordinator, Women's Centre for Legal Aid

Director, Women's Studies Centre

General Union of Palestinian Women

Director of Institute of Women's Studies, Birzeit University

PCC

PARC

Mandela Institute

Addameer Prisoners' and Human Rights Association

DCI

Women against Violence

United Nations country team

Mr. Osman Hassan, Director, OHCHR/OPT

Ms. Karen Koning Abu Zayd, Deputy Commissioner General, UNRWA

Dr. Ayoub Alem, Chief, Field Health Programme

Mr. Kamal Abu-Qamar, Deputy Field Relief and Social Services Programme and Women's Officer

Representatives from UNDP, UNFPA, UNIFEM, WHO, UNICEF, UNESCO, OCHA



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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the Special Rapporteur of the Commission on Human Rights,
John Dugard, on the situation of human rights in the Palestinian
territories occupied since 1967**

Summary

Undoubtedly the highlight of the past year, since the Commission requested the Special Rapporteur, in its resolution 2005/7, to report, has been Israel's successful evacuation of settlers and withdrawal of the Israel Defense Forces from Gaza. This constitutes an important step in the direction of the resolution of the conflict in the region. Israel's withdrawal from Gaza does not, however, mean that the occupation of the territory has come to an end. Israel still retains effective control over the territory through its control of airspace, territorial sea and external land boundaries. It has continued to assert military control by means of sonic booms and repeated air strikes into the territory aimed at targeted militants. Inevitably, such strikes have killed and injured innocent bystanders. On 15 November 2005 an agreement was entered into between Israel and the Palestinian Authority aimed at opening the borders of Gaza to allow the free passage of persons and goods in and out of the territory. This agreement has yet to be fully implemented.

Israel continues with its construction of a wall within Palestinian territory in defiance of the 2004 advisory opinion of the International Court of Justice (ICJ). To date, some 275 of the planned 670 kilometres of the wall have been built. The wall causes great hardship to Palestinian communities between the Green Line and the wall and to Palestinians in the vicinity of the wall. The former are denied easy access to family, hospitals and schools in the West Bank while the latter are denied access to their lands beyond the wall. Israel allows Palestinians to cultivate their lands beyond the wall by means of a permit system, which is administered in an arbitrary and humiliating manner. Some 40 per cent of the applications for such permits are refused. To aggravate the situation, gates that allow Palestinians to cross the wall are few and often fail to open at scheduled times. As a consequence, many Palestinians are leaving their homes in the vicinity of the wall and becoming internally displaced persons.

Settlements continue to grow, particularly in the "closed zone" between the Green Line and the wall, which at present accommodates 76 per cent of the settler population in the West Bank. The three major settlement blocs - Gush Etzion, Ma'aleh Adumim and Ariel - will effectively divide Palestinian territory into cantons or Bantustans. Settler violence remains a serious problem, particularly in the centre of Hebron, where settlers terrorize the local population.

The character of East Jerusalem is undergoing a major change as a result of the construction of the wall through Palestinian neighbourhoods. The clear purpose of the wall in the Jerusalem area is to reduce the number of Palestinians in the city by transferring them to the West Bank. This causes major humanitarian problems: families are separated and access to hospitals, schools and the workplace are denied. In November 2005, European Union missions in Jerusalem issued a report in which they accused Israel of embarking on the encirclement of the city by the wall in order to achieve "the completion of the annexation of Jerusalem".

Although Israel has abandoned its plan to build a wall through the Jordan Valley, its policies in that region are designed to drive Palestinians from the area. Settlements are expanding; Palestinian land is being confiscated, homes destroyed, access denied to non-Jordan Valley residents, and access to water and electricity curtailed. In short, life is being made increasingly difficult for residents in the Jordan Valley and neighbouring mountain ridges.

Other human rights violations continue. Some 9,000 prisoners remain in Israeli jails. Movement is seriously restricted by the wall, elaborate terminals through the wall, and checkpoints. Although the number of permanent checkpoints has decreased, “flying” or temporary checkpoints are on the increase. Restrictions on the freedom of movement are in large measure responsible for the prevailing humanitarian crisis in the occupied Palestinian territory. Unemployment is high and over half the population lives below the official poverty line. Health and education services also suffer as a result of restrictions on movement. Women suffer disproportionately from the occupation.

In 2004, the International Court of Justice held that Palestinians should be compensated for damage they had suffered as a result of the construction of the wall. In the same year the General Assembly resolved that a register should be compiled to allow for the registration of claims for compensation. Unfortunately, little progress has been made with this register.

At present, the Quartet, comprising the United Nations, the European Union, the Russian Federation and the United States of America, has primary responsibility for resolving the conflict between Israel and Palestine. The basis for negotiations remains the road map of 2003, which is hopelessly out of date and which envisaged an end to the conflict by the end of 2005. It is suggested that the road map be revised to take account of present realities and the 2004 advisory opinion of ICJ. It is essential that the Quartet be guided more by human rights considerations and the Court’s advisory opinion in its handling of negotiations.

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Introduction

1. The five months that have passed since the Special Rapporteur's last visit to the Occupied Palestinian Territory¹ in June and July 2005, pursuant to Commission Resolution 2005/7, have witnessed important changes in the Territory. In August and September 2005 Israel successfully withdrew its settlers and forces from Gaza, thereby ending the colonization of Gaza and providing the people of Gaza with an opportunity to govern themselves without the presence of an occupying army. Since then the Government of Israel and the Palestinian Authority have been embroiled in negotiations relating to the passage of persons and goods in and out of Gaza. An agreement of 15 November, brokered by the Quartet's special envoy to the region, James Wolfensohn, and United States Secretary of State, Condoleezza Rice, provides for such passage, but at the time of writing it has still to be fully implemented. These positive steps do not stand alone. Although violent incursions by Israel Defense Forces into the occupied Palestinian territory continue, and suicide bombers have on occasion managed to penetrate Israel with devastating results, the level of fatalities and injuries among both Palestinians and Israelis has dropped considerably. The Israel Defense Forces continue to observe their decision not to engage in punitive home demolitions, and the Israeli High Court of Justice has handed down decisions that have reduced the suffering of the Palestinian people. One decision prohibits the Israel Defense Forces from compelling Palestinians to act as human shields for the Israel Defense Forces in their incursions into Palestinian villages, and another holds a section of the wall near to the settlement of Alfei Menashe to be unlawful on the ground that it causes disproportionate suffering to the Palestinian people.

2. The above positive developments are outweighed by the disorder that prevails in Gaza and the uncertainty relating to passage of persons and goods in and out of the territory; by the continued construction of the wall and the expansion of settlements; by the de-Palestinization of Jerusalem; by settler and Israel Defense Forces violence; by the failure to release Palestinian prisoners; by the restriction of free movement caused by checkpoints, both fixed and temporary ("flying checkpoints"); by house demolitions aimed at curtailing the expansion of towns and villages; by poverty and unemployment caused by the occupation; by the emergence of a new wave of internally displaced persons resulting from the seizure of land for the construction of the wall; and by restraints on education and access to medical facilities caused by checkpoints and the wall. Much needs to be done by Israel, therefore, before it can claim to comply with its minimum obligations in the field of human rights and humanitarian law. With an Israeli general election scheduled for March 2006, and no Israeli political party committed to the promotion of the human rights of the Palestinian people, it seems clear that no meaningful improvement in the situation can be expected in the foreseeable future. (A Palestinian general election is scheduled for January 2006. Hopefully it will produce a Government of Palestine committed to the creation of a Palestinian State founded on respect for human rights and the rule of law.)

3. In this report the term "wall" is used in preference to the more neutral terms "barrier" or "fence". The term "wall" was carefully and deliberately used by ICJ in its advisory opinion on the "Legal consequences of the construction of a wall in the occupied Palestinian territory". The Special Rapporteur sees no reason to depart from this language.

I. VISIT OF THE SPECIAL RAPPORTEUR

4. The Special Rapporteur visited the occupied Palestinian territory from 3 to 9 December 2005. He visited Gaza for one day only as the present security situation there does not permit visitors to stay overnight. While in Gaza he met Mr. Mohammad Dahlan, Minister of Civil Affairs of the Palestinian Authority, who has played a key role in negotiations relating to the movement of persons and goods in and out of Gaza. He also met with United Nations officials and NGO leaders before proceeding on a brief tour of Gaza which included visits to Palestinian-operated greenhouses in the former settlement of Netzarim, and to the eastern border of Gaza, where he met with farmers prevented by the Israel Defense Forces from accessing their lands adjacent to the border.

5. The Special Rapporteur met with Palestinian Cabinet ministers, Palestinian interlocutors, United Nations officials and Palestinian and Israeli NGOs in Jerusalem and Ramallah. He visited Ramallah, Hebron, Jerusalem and Bethlehem. He traversed the wall in the vicinity of Jerusalem, Bethlehem, Qalandia, Bidia and Bil'in; saw fixed checkpoints (e.g. Hawwara) and flying checkpoints; crossed through terminals at Bethlehem and Qalandia; went on a tour of Jewish settlements in the Old City of Jerusalem; met with communities affected by settlements and the wall in the Jordan Valley (near Tammun and Jiftlik), Abu Dis and El Eizariya; and walked through the tense "H2" neighbourhood of Hebron, where settlers terrorize Palestinians and abuse foreign visitors (as the Special Rapporteur experienced).

II. GAZA

6. The situation in Gaza has changed dramatically since the Special Rapporteur's previous visit in June 2005. In August/September, in a highly successful operation, Israel evacuated all of its settlers from Gaza and destroyed all settlements. Shortly thereafter, Israel withdrew its military forces from Gaza. This resulted in the disappearance of a brutal military presence, the removal of checkpoints that had for years thwarted freedom of movement and the conferral of a wide measure of freedom for Gazans.

7. Although Israel exercised strict control over the borders of Gaza following disengagement, on 15 November 2005 an important agreement on borders was entered into between Israel and the Palestinian Authority, facilitated by United States Secretary of State, Condoleezza Rice, and the Quartet's special envoy, James Wolfensohn. This agreement allows Palestinian identity (ID) cardholders to cross to and from Egypt at Rafah at a crossing operated by the Palestinian Authority and Egypt, and provides for the increased export of goods through the Karni crossing and the transit of persons and goods between Gaza and the West Bank by convoys of buses.

8. The withdrawal of the Israel Defense Forces from Gaza has led some to claim that the occupation of Gaza has come to an end. In deciding on this matter regard must be had to whether Israel retains effective control over the territory as this is the test for occupation recognized by international humanitarian law.² While the Special Rapporteur concedes that the absence of a military occupying power in Gaza has removed many of the features of occupation, it is wrong to suggest that the occupation has ended. In the first place, it must be stressed that technological advances since 1949 have changed the whole nature of control. It is no longer necessary for a foreign military power to maintain a permanent physical presence in a territory to

exercise control, as Israel has demonstrated since its withdrawal from Gaza. Sonic booms, which terrorize and traumatize the population (and constitute a form of collective punishment) and the targeted assassination of militants (and innocent bystanders) by rockets fired from the skies, serve as a constant reminder to the people of Gaza that they remain occupied. In the three months following Israel's withdrawal from Gaza, 15 Palestinians have been targeted and assassinated, 18 civilians killed and 81 injured in response to Qassam rockets fired by militants from Gaza. Such actions of the Israel Defense Forces must be viewed in conjunction with the fact that Israel retains control over airspace, territorial waters (fishing is allowed only within 10 nautical miles of the coastline) and external borders. While it is true that the Rafah crossing is now open to Palestinian ID cardholders, Israel reserves the right to complain about who crosses at Gaza and has already done so (the crossing is administered by the Palestinian Authority and Egypt, but supervised by European Union inspectors and followed by Israeli officials on TV monitor screens). Karni crossing was largely dysfunctional at the time of writing and allowed passage of only 35 to 40 trucks compared with the 150 trucks promised by the 15 November agreement. This is a serious problem for greenhouse agricultural products harvested in December/January and exported to Israel and the West Bank. The passage of persons between Gaza and the West Bank by bus convoys, scheduled to start on 15 December, has been stopped by Israel, as a result of a suicide bombing in Netanya and Israel's dissatisfaction with the Rafah crossing.³ (One fears that even if such convoys do commence, they will be frequently suspended for security reasons.) Control is also maintained by means of the Gaza population register, which Israel still administers, thereby allowing it to control the issue of identity documents to Gazans - a precondition for control in and out of the territory. Other facts confirm Israel's control of Gaza: first, Israel still holds some 650 Gazan prisoners, despite article 77 of the Fourth Geneva Convention, which provides for the release of prisoners "at the close of occupation"; secondly, Israel maintains military control over a buffer zone ranging between 150 and 300 metres within Gaza along its eastern and northern borders from which all Palestinians are excluded (farmers are thus denied access to their lands in this zone); thirdly, Israel may, and has already threatened, to cut off electricity supplies to Gaza. Finally, Palestine constitutes a single self-determination unit, comprising the West Bank and Gaza. To suggest that Gaza should enjoy a status different from that of the West Bank would violate the territorial integrity of Palestine and the substantive law of self-determination.

9. Undoubtedly, the nature of Israel's occupation has changed. Many of the provisions relating to the treatment of protected persons in the Geneva Convention relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention) are premised upon the physical presence of the occupying Power - but not all. For instance, article 27, requiring protected persons to "be humanely treated" and to "be protected especially against all acts of violence" and article 33, prohibiting collective penalties and "all measures of intimidation or of terrorism", continue to apply and appear to have been violated by sonic booms and targeted assassinations that routinely cause collateral loss of life and injury. The silence of the principal protector of the Fourth Geneva Convention, the International Committee of the Red Cross, on the continuation of the occupation tends to confirm that it does indeed continue.

10. Israel's occupation of both Gaza and the West Bank is unusual. The occupation of a territory for 38 years and the physical withdrawal of the occupying Power from a separate part of the occupied territory were clearly outside the contemplation of the drafters of the Fourth Geneva Convention. But despite the unusual features of the Gaza occupation, it remains occupation as Israel continues to maintain effective control over the territory. It is not a fully

liberated part of an occupied territory. Certainly the mood of the people of Gaza confirms this. They perceive themselves to be still subject to occupation as was repeatedly stressed to the Special Rapporteur on his visit to Gaza.

11. It does not fall within the mandate of the Special Rapporteur to comment on the state of human rights in Gaza under the administration of the Palestinian Authority. However, it is necessary to observe that the present insecurity in Gaza is hardly conducive to human rights. The Palestinian Authority now has the opportunity to recognize civil and political rights, ensure due process of law, advance the rights of women and children and, subject to the restrictions that flow from Israeli control, promote social and economic rights. This opportunity must not be lost.

III. THE WALL

12. In its advisory opinion of 9 July 2004 ICJ held that the wall currently being built by Israel in the occupied Palestinian territory, including in and around East Jerusalem, was contrary to international law; that Israel was under an obligation to cease the building of the wall on Palestinian territory and to dismantle it forthwith; that Israel was under an obligation to make reparation for all damage caused by the construction of the wall in the occupied Palestinian territory; that all States were under an obligation not to recognize the illegal situation resulting from the construction of the wall; that all States parties to the Fourth Geneva Convention were obliged to ensure that Israel complies with the provisions of that Convention; and that the United Nations should consider what further action was required to bring to an end the illegal situation resulting from the construction of the wall. On 20 July 2004 the General Assembly adopted resolution ES/10-15, in which it demanded that Israel comply with the legal obligations identified in the advisory opinion. The resolution was adopted by 150 votes to 6, with 10 abstentions.

13. The Government of Israel refuses to accept the advisory opinion of ICJ. The Government's decision has been rationalized by the Israeli High Court of Justice in a judgement delivered in September 2005 - *Mara'abe v. The Prime Minister of Israel* H.C.J. 7957/04 - on the lawfulness of the course of the wall in the vicinity of the settlement of Alfei Menashe. Although the Court found that the wall in that area seriously damaged the fabric of life and caused disproportionate suffering to the Palestinian residents of neighbouring villages and recommended that the course of the wall be changed accordingly, it held, in careful, judicious language, that the ICJ advisory opinion was flawed by reason of its failure to have access to the full facts surrounding the wall, particularly the extent to which the wall was a necessary security measure to protect the lives of Israeli civilians within both Israel itself and the settlements of the West Bank (paras. 65, 73 and 74). The judgement of the Israeli High Court is not itself without faults. First, it accepts with little questioning the assurances of the Israeli security establishment that the course of the wall was determined by security considerations (para. 62) - assurances that have subsequently been undermined in a statement by the Israeli Minister of Justice, Tzipi Livni, acknowledging that the wall is a "political" rather than a "security wall".⁴ Secondly, it refuses to question the lawfulness of settlements (para. 19) and accepts that the wall may be built to protect settlements (paras. 20-21), which suggests that the wall may be built as a *lawful* security measure to protect *unlawful* settlements. The international community should, therefore, have no difficulty in dismissing the rejection by the Israeli High Court of the ICJ advisory opinion as an unconvincing rationalization of the Government's opposition to the advisory opinion.

14. On 20 February 2005 the Government of Israel marginally modified the planned route of the wall. In terms of this decision the wall, once completed, will be 670-kilometre long compared to 622 kilometres of the prior route.⁵ The new route runs for 145 kilometres on the Green Line compared to 48 kilometres of the prior route. The new route of the wall will follow, or be close to, the Green Line, in the locality of the Hebron hills. It will penetrate more deeply into Palestinian territory further north to include settlements in the Gush Etzion bloc near Bethlehem, housing over 50,000 settlers. It has also been decided to include the settlements of Ma'aleh Adumim and Ariel on the Israeli side of the wall. This will result in some 10 per cent of Palestinian land being included in Israel (the previous route resulted in the seizure of 12.7 per cent of the West Bank). The wall will enclose, on the Israeli side, 170,000 settlers (not including some 190,000 settlers in East Jerusalem), comprising 76 per cent of the West Bank settler population, and 49,000 Palestinians (not including over 200,000 Palestinians living in East Jerusalem).

15. To date, 275 kilometres⁶ of the wall have been built from the northern border of the West Bank near Tubas to roughly Elkana in the centre, plus two segments in Jerusalem. Construction is still under way between Elkana and Jerusalem; around the settlements of Ariel and Immanuel; in and around East Jerusalem; and from Gush Etzion to Metzudat Yehuda on the southern border of the West Bank in the Hebron Governorate. Although construction of the wall has progressed rapidly since the advisory opinion of ICJ, the Israeli Prime Minister, Mr. Ariel Sharon, rebuked the defence establishment on 6 July for "taking too long" in the construction of the wall and instructed it to speed up its construction since there were no financial constraints. Petitions to the High Court against the course of the wall have been largely responsible for delays in the completion of the wall. An injunction restraining the building of the wall around the settlement of Ariel, which will extend the wall 22 kilometres into the West Bank, was lifted on 17 May 2005 and work on the construction of the wall around the eastern border of this "finger" into Palestinian territory has been started.

16. In past years the Special Rapporteur has visited sections of the wall, complete or under construction, in the north (Al-Mutilla, Tulkarm, Jubara, Ar-Ras, Qalqiliya, Jayyus, Habla, Ras-A-Tira, Azzun Atma, Beit Amin, Iskaka), the centre (Beit Surik, Biddu, Qalandia, Ar-Ram, Anata, Abu Dis, Bethlehem, Al-Walaja) and the south (Hebron hills). On this occasion he visited Bidya, Bil'in, Ar-Ram, Qalandiya, Shuafat, Anata, Abu Dis, Al-Eizariya and Bethlehem. The Special Rapporteur has repeatedly expressed the opinion that many sections of the wall appear to have been built for reasons other than security. Observations on the present visit confirmed this view. The wall near Bil'in has clearly been constructed to allow for the expansion of the Modi'in settlement. The construction of the settlement of Matityahu East in the Modi'in bloc is there for all to see and provides the obvious explanation for the wall. (The Special Rapporteur was tear-gassed by the Israel Defense Forces/Border Police while viewing the wall near Bil'in and a demonstration in the vicinity of the wall.) Even more grotesque is the suggestion that the wall around Abu Dis, Anata, Shuafat and Al-Eizariya is being constructed for security purposes when it separates Palestinian from Palestinian. Here the clear purpose of the wall is to reduce the number of Palestinians in East Jerusalem (discussed below). A recent publication of B'Tselem and Binkom⁷ confirms that the principal purpose of the wall is to protect settlements and to provide for settlement expansion. The Israeli High Court in part acknowledged this in *Mara'abe v. The Prime Minister of Israel* H.C.J. 7957/04 when it held that the wall might legitimately be built to protect settlers.⁸ Further evidence that the wall is not intended as a security measure has come from a statement by the Israeli Minister of Justice,

Tzipi Livni, who stated on 30 November 2005 that “one does not have to be a genius to see that the fence will have implications for the future border. This is not the reason for its establishment, but it could have political implications”.⁹ The time has, therefore, come to accept that while the wall may serve a legitimate security purpose when it follows the Green Line, when it enters Palestinian territory it serves different goals, namely, territorial expansion and the protection of settlements.

17. The zone between the wall and the Green Line, the internationally accepted border between Israel and the West Bank, is known as the “closed zone” or “seam zone”. Within this zone, some 49,000 Palestinians live. A greater number of Palestinians, however, live on the West Bank side of the wall while their lands are in the closed zone. Both these Palestinian communities are seriously affected by the wall. Those living within the closed zone have difficulty in accessing family, hospitals, schools, markets and employment within the West Bank. Those living on the West Bank side of the wall require permits to access their own agricultural land. In some quarters it is naively assumed that crossing the wall causes no hardships for Palestinians; that permits are easily and fairly granted; and that gates within the wall facilitate crossing.¹⁰ Nothing could be further from the truth. At least 40 per cent of applications for permits are refused; the process of application is humiliating; gates are few and often do not open as scheduled; and people within the closed zone and its vicinity are slowly leaving in despair. In this way the closed zone is gradually being “cleansed” of Palestinians, where land will in due course be transferred to land-greedy settlers.

18. In 2005 more permits to cross the wall were refused than in 2004. Whereas before 2005, persons wishing to cross the wall to cultivate their lands in the closed zone were mainly refused permits for security reasons, today permits are mainly denied when the owner or user of land is unable to provide convincing evidence of ownership or direct relationship to the land. A landowner applying for a permit to access his own land must submit a land registration certificate or taxation document from the Ottoman era. However, proof of ownership is alien to the traditional Palestinian landownership system and has been resisted by Palestinian landowners over many generations. In part this can be ascribed to the fact that the registration of land under the Ottomans was very slow and little progress was made in respect of land registration during the British Mandate period or during the period of Jordanian rule before 1967. In these circumstances the demand for proof of landownership or title to land is often an insurmountable obstacle. Permits are refused on this ground and because the applicant is unable to prove a sufficiently close relationship to the owner of the land. In the Qalqiliya Governorate some 40 per cent of applications for permits were rejected in July 2005. Whereas 11 per cent of permit rejections related to landownership or a direct relationship to the land in January 2005, by July this figure had risen to 65 per cent. A similar trend is apparent in the Tulkarm Governorate.

19. At present there are 65 gates in the wall. Twenty-seven of these are open to Palestinians with permits and 10 are open on a seasonal basis. Twenty-eight gates are closed to Palestinians. This means that Palestinians often have to travel considerable distances to access a gate to cross to their lands in the closed zone. To aggravate the situation, gates are administered in an arbitrary manner and frequently do not open as scheduled. Moreover, tractors and farm vehicles are frequently not allowed to cross, which means that farmers must walk or use donkeys to reach their land and to bring out their produce.

20. Obstacles placed in the way of accessing land in the closed zone, together with the humiliating manner in which the process is administered, have resulted in many being denied access or refusing to apply for access to land in the closed zone. This has resulted in widespread loss of agricultural livelihoods and increased unemployment and explains why Palestinians are gradually leaving land and homes they have occupied for generations. Figures are uncertain, but it seems that already 15,000 persons have been displaced as a result of the construction of the wall. This new generation of displaced persons creates a new category of Palestinian refugees. The neglect and abandonment of land will allow the Israeli authorities to seize the land on the basis of Ottoman law, which Israel interprets to mean that land not cultivated for three consecutive years can be confiscated and reclassified as State land. In due course, no doubt, this land will be handed over to the settlers.

A. Terminals

21. Passage through the wall to Israel or to unlawfully annexed East Jerusalem is through large terminals resembling immigration/security terminals at international airports. Palestinians and others crossing through such terminals must pass through a maze of barred, revolving doors, metal detectors and turnstiles, and by X-ray machines. At the Bethlehem terminal (through which the Special Rapporteur crossed) passage is restricted to foreigners, Palestinians holding Jerusalem ID cards and Palestinians with West Bank ID cards who possess an Israeli-issued permit to access occupied East Jerusalem and Israel. The terminal at Bethlehem constitutes a threat to economic recovery and religious freedom as it will seriously stifle the economy and hamper access to holy Christian sites. Already, access to Rachel's Tomb near Bethlehem, holy to both Jews and Muslims, has been closed to Palestinians.

B. Settlements and the wall

22. Jewish settlements in the West Bank are illegal. They violate article 49, paragraph 6, of the Fourth Geneva Convention and their illegality has been confirmed by ICJ in its advisory opinion on the wall. There can therefore be no justification for keeping settlements. A fortiori the expansion of settlements must be completely unacceptable to the international community. In *Mara'abe v. The Prime Minister of Israel* the Israeli High Court refused to consider the illegality of settlements (para. 19). This echoes a long line of judicial precedents, but it does undermine the credibility of the Court's decision as the lawfulness of settlements was surely indispensable to a finding that the wall might legitimately be constructed to protect settlements.

23. Most settlers and settlements in the West Bank are to be found on the Israeli side of the wall. Some 170,000 settlers live in 56 settlements in the closed zone, that is, 76 per cent of the settler population in the West Bank. New settlements or the expansion of existing ones are being planned for the closed zone. The Special Rapporteur saw evidence of such an expansion in June near Jayyus where the settlement of Zufin is being expanded to encroach further on the fields of Jayyus farmers in the closed zone. Further evidence of such expansion was provided when the Special Rapporteur visited Bil'in, where the expansion of the settlement of Matityahu East near upper Modi'in behind the wall is under way. Since the Special Rapporteur's visit it has come to light that 750 housing units in this new settlement are being built in violation of Israeli law as no permission has been granted for such construction. This simply illustrates the disrespect for law

shown by the settlement enterprise. In order to emphasize the discriminatory nature of Israeli law in respect of building without permits, a caravan has been placed by residents of Bil'in in land adjacent to the settlement. At the time of writing the Israel Defense Forces had threatened to remove the "illegal" caravan, but no such action is contemplated against the illegal settlement.

24. The expansion of settlements is clear to anyone who visits settlement sites. Cranes generally mark the skyline of settlements and there is abundant evidence of building activity. The figures confirm settlement growth and expansion. The settlement population in the West Bank at the end of September 2005 was 242,700, up from 235,100 at the end of December 2004. If nine-month growth continues at the same rate, then the settler population would expand by 4.3 per cent for all of 2005, to 243,100, according to the Israeli Central Bureau of Statistics.¹¹ The determination of the Government of Israel not to curtail settlement expansion is further shown by the rejection of certain fundamental recommendations of the Sasson report. In 2005 Talia Sasson compiled a report on informal settlements or extensions to existing ones known as "outposts", in which she labelled them as illegal under Israeli law and recommended that they be dismantled. Several of her key recommendations were rejected in November 2005.¹²

25. Three major settlement blocs, the Gush Etzion bloc, the Ma'aleh Adumim bloc and the Ariel bloc - all of which are to be surrounded by the wall - will effectively divide Palestinian territory into cantons or Bantustans. These cantons will be linked by special roads or tunnels. This results in transportation contiguity as opposed to territorial contiguity and this means that Palestinians will be able to access different parts of the West Bank, but the territorial unity essential for the creation of a viable Palestinian State will be absent.

26. The construction of the wall, the de-Palestinization of the closed zone and the expansion and construction of settlements in the closed zone make it abundantly clear that the wall is designed to be the border of the State of Israel and that the land of the closed zone will be annexed. Already, members of the Israel Defense Forces inform international representatives visiting the closed zone that it is part of Israeli territory. This is understandable as, after all, Israelis have free access to the closed zone, whereas Palestinians require special permits to enter this zone. There is clear evidence of Israel's intentions in this regard. Addressing a meeting of the Jewish community in Paris on 28 July 2005, Prime Minister Sharon stated that, thanks to the disengagement from Gaza, "Israel has gained unprecedented political achievements", including "a guarantee that the major population centres in Judea and Samaria (that is, the West Bank) will remain part of Israel in any final status agreement; and there will be no return to the 1967 borders". Then, on 30 November 2005, the Justice Minister, Tzipi Livni, acknowledged that the wall is a "political" rather than a "security" wall and that it would serve as "the future border of the State of Israel".¹³

27. In August 2004 Israel successfully withdrew Jewish settlers from four small settlements in the northern West Bank: Ganim, Kadim, Homesh and Sa-Nur. Israeli Government spokesmen have vehemently denied that any further withdrawal of settlers from the West Bank is contemplated.

28. The successful evacuation of settlers from Gaza and the northern West Bank has weakened the political power of the settlers. In some quarters it is believed that the Government of Israel could dismantle settlements in the West Bank. Unfortunately, evidence does not

support this. Settlements continue to grow, the wall is there largely to protect them and checkpoints and closures (see below) largely serve the interests of settlers. Indeed, most violations of human rights in the West Bank, and the humanitarian crisis, are a consequence of policies aimed at the protection of settlers.

IV. SETTLER VIOLENCE, WITH SPECIAL REFERENCE TO HEBRON

29. Settler violence remains a serious problem. Prosecutions of settlers are rare and it seems that settlers are able to terrorize Palestinians and destroy their trees and crops with impunity. Nine hundred olive trees in the West Bank village of Salem, near Nablus, were destroyed in the course of 2005.¹⁴ In the southern Hebron hills, visited by the Special Rapporteur in June 2005, schoolchildren are terrorized on their way to school; wells, fields and sheep have been poisoned; many sheep and goats have been stolen.¹⁵ The worst settler violence is to be found in the city of Hebron, where settlers occupy key buildings within the centre of the old city. From these settlements they terrorize the few Palestinians that have not left the old city and assault and traumatize children on the way to school.¹⁶ Obscene, racist graffiti (for example, "Gas the Arabs") adorns the walls of the old city of Hebron. The Israel Defense Forces patrol the city, but make little attempt to protect Palestinians from the settlers and fail to remove racist graffiti. In short, the Israel Defense Forces have made themselves a party to the crimes of the settlers. *Ha'aretz* columnist Gideon Levy sums up the situation as follows:

Every day the settlers torment their neighbours here. Every walk to school for a Palestinian child has become a journey of harassment and fear. Every shopping outing by a housewife is a journey of humiliation. Settler children kicking old women carrying baskets, settlers setting their dogs on the elderly, garbage and faeces thrown from the settlers' balconies into the courtyards of Palestinian homes, junk metal blocking the entrances of their houses, rocks thrown at any Palestinian passer-by - this is the routine of life in the city. Hundreds of soldiers, border policemen and cops witness these actions and stand by idly. ... Israel cannot be considered a State ruled by law, or a democracy, as long as the pogroms continue in Hebron.¹⁷

V. JERUSALEM

30. East Jerusalem is not part of Israel. On the contrary, it is occupied territory, subject to the Fourth Geneva Convention. Unfortunately, Israel's illegal attempt at annexation of East Jerusalem has obscured this truth. As a consequence, world public opinion tends, incorrectly, to treat Israel's occupation of East Jerusalem as different from that of the West Bank and Gaza.

31. Israel has embarked upon major changes to the character of Jerusalem. In essence, these changes are designed to reduce the number of Palestinians in the city and to increase the Jewish population of the city, thereby undermining Palestinian claims to East Jerusalem as the capital of an independent Palestinian State. That this is the purpose of the wall in Jerusalem was acknowledged by the Israeli Minister for Jerusalem Affairs, Mr. Haim Ramon, on 10 July 2005 when he stated that the route of the wall would make Jerusalem "more Jewish". He added "The Government is bringing security to the city and will also make Jerusalem the capital of a Jewish and democratic State of Israel."

32. There are already some 190,000 Jewish settlers in Israeli-occupied East Jerusalem. Plans are, however, under way to increase the number of settlers and to extend settlements both to encircle Jerusalem and to cut the West Bank in half. Within the Old City of Jerusalem there are some 80 Jewish settler buildings and institutions. Moreover, there is a plan to build a large new Jewish settlement in the Muslim Quarter near Herod's Gate. Settlement expansion is also evident in neighbourhoods surrounding the Old City such as Silwan. Beyond this lie the more established settlements such as Ramot, French Hill, Har Homa and Gilo. The inner circle of settlements will be encircled by the settlement blocs of Givat Ze'ev to the north, Ma'aleh Adumim to the east, and Gush Etzion to the south. Particularly threatening to a future Palestinian State is Ma'aleh Adumim, which is to be expanded by "E1" ("East 1"), a 53-square-mile area larger than Tel Aviv designated to have 3,500 housing units to accommodate 15,000 to 20,000 new settlers. The expanded Ma'aleh Adumim will effectively cut the West bank in half, separating Ramallah from Bethlehem, with serious economic and political consequences.

33. Conversely, the Palestinian population of East Jerusalem, presently numbering some 230,000, is to be reduced by a number of stratagems. First, by house demolitions. There was a sharp increase in house demolitions in 2004, when 152 homes were destroyed in East Jerusalem. Plans to destroy 88 homes in the Silwan district are presently on hold. Secondly, this population is to be reduced by routing the wall to the west of neighbourhoods previously part of East Jerusalem. Thus areas such as the Shu'afat camp, with a population of some 55,000, and West Anata are excluded from the East Jerusalem municipality and transferred to the West Bank. Thirdly, this will be done by transferring neighbourhoods previously integrated into East Jerusalem into the West Bank by means of the wall. Neighbourhoods such as Abu Dis, Anata and Al-Eizariya fall into this category.

34. The exclusion of large neighbourhoods from East Jerusalem and their transfer to the West Bank will cause great suffering to thousands of Palestinians and personal tragedies to many. A sharp distinction is made between Palestinians with blue Jerusalem ID cards and those with green West Bank ID cards living in East Jerusalem neighbourhoods. West Bank ID cardholders, and in due course Jerusalem ID cardholders living to the east of the wall, will no longer be able to access hospitals and schools in Jerusalem or to work in Jerusalem without special permits to enter Jerusalem. The differences in ID cards will also have a profound effect on family life, as many spouses hold different ID cards. They will be forced to live separately on different sides of the wall under Israeli law, which prohibits family unification. If one spouse elects to move east of the wall, he or she will lose his or her rights (such as medical insurance and social security) attached to the Jerusalem ID. In this way Israel hopes to further reduce the Palestinian population of East Jerusalem by compelling spouses to move to the West Bank side of the wall. The Special Rapporteur visited two of the neighbourhoods most affected by the wall - Abu Dis and Al-Eizariya. There he met husbands separated from their wives and persons separated from their livelihoods, schools and hospitals in Jerusalem. Words cannot convey the hardships to which Palestinians are subjected in the interests of the Judaization of Jerusalem.

35. In November 2005 the heads of 25 European Union missions stationed in East Jerusalem prepared a report on Israel's plans to change the character of East Jerusalem. The report condemned the construction of the wall and settlements, the demolition of Palestinian homes, the separation of Palestinian residents and families, and the discriminatory practices employed by Israel. It concluded:

Jerusalem is already one of the trickiest issues on the road to reaching a final status agreement between Israel and the Palestinians. But several interlinked Israeli policies are reducing the possibility of reaching a final status agreement on Jerusalem that any Palestinian could accept. We judge that this is a deliberate Israeli policy - the completion of the annexation of East Jerusalem. Israeli measures also risk radicalizing the hitherto relatively quiescent Palestinian population of East Jerusalem.

VI. THE JORDAN VALLEY

36. Israel's plans for the Jordan Valley or Eastern Strip, comprising the territory along the Jordan Valley and the eastern slopes of the neighbouring mountain ridges, with a population of 53,000 Palestinians and 8,800 settlers in 27 settlements, are not clear. Several years ago there were plans to build a wall along the mountain range above the Jordan Valley which would have resulted in the de facto annexation of the region. Although that plan has been dropped there are signs that Israel intends to assert its authority over an area that is thinly populated and easily controlled in order to achieve a regime not very different from that of the closed zone along the western border of the West Bank. First, there is a concerted move to expand settlements and in June 2005 it was reported in the Israeli press that the Israeli Minister of Agriculture, Yisrael Katz, has launched an initiative to double the number of settlers living in the Jordan Valley over the next two years.¹⁸ Secondly, the conduct of Israel towards the Palestinian residents of the region suggests that Israel plans to reduce their number by making life as difficult as possible for them. Agricultural land has recently been seized by the military near the settlement of Beka'ot and an order issued for the destruction of houses and greenhouses. In Jiftlik, which is nearer to the Jordan Valley, with a population of 4,500, Israel demolishes houses and food stalls, places obstacles in the way of schools and clinics, denies permission to the village to be linked to running water and electricity systems and makes the export of produce hazardous by means of a restrictive permit system. A strict permit system operates throughout the region. Non-Jordan Valley ID holders, including those who own land in the valley, are denied access to the region without a permit, and workers with no Jordan Valley IDs are required to have permits to enter the region, which are increasingly denied.

37. There is a serious humanitarian crisis in the region resulting from restrictions on movement and the denial of the most basic social and economic rights. The denial of water to Palestinians and the high water consumption by settlers is another serious problem. Villages are denied access to the Israeli water system that supplies settlers. For instance, neither Tammun nor Jiftlik, visited by the Special Rapporteur, have running water. On the other hand, according to B'Tselem, "the water consumption of the population of Jewish settlements in the Jordan Valley ... is equivalent to 75 per cent of the water consumption of the entire Palestinian population of the West Bank (approximately 2 million people) for domestic and urban uses".¹⁹ It is difficult to reconcile such blatant discrimination in respect of access to water resources with Israel's obligations under international humanitarian law.

38. On 4 April 2004 the Israeli socio-economic Cabinet approved a policy document on reform of the encouragement of capital investment law, which declares the Jordan Valley to be one of the national priority regions "in Israel". This confirms the intention of Israel to incorporate the Jordan Valley into Israel without the construction of a wall.

VII. THE WALL, SETTLEMENTS AND SELF-DETERMINATION

39. In its advisory opinion ICJ stressed the right of the Palestinian people to self-determination. This right was affirmed once again in a resolution adopted by the General Assembly on 16 December 2005 by 170 votes to 5, with 1 abstention. In recent times politicians of all persuasions have given support to a two-State solution, with the States of Israel and Palestine living side by side in peace and security. This vision is unattainable without a viable Palestinian territory. The construction of the wall, the expansion of settlements, the de-Palestinization of Jerusalem and the gradual incorporation of the Jordan Valley are incompatible with the two-State solution. Interlocutors within both Israel and the occupied Palestinian territory warned the Special Rapporteur that with the two-State solution becoming increasingly difficult, if not impossible, consideration should be given to the establishment of a binational State.²⁰

40. In its advisory opinion ICJ noted “the assurance given by Israel that the construction of the wall does not amount to annexation and that the wall is of a temporary nature”. The Court, however, considered that “the construction of the wall and its associated regime create a ‘fait accompli’ on the ground that could well become permanent, in which case and notwithstanding the formal characterization of the wall by Israel, it would be tantamount to de facto annexation” (para. 121). It is highly arguable that this stage has now been reached. The prohibition of the annexation of territory by force is, of course, one of the most fundamental principles of international law.

VIII. OTHER HUMAN RIGHTS VIOLATIONS

41. The Special Rapporteur has focused in the present report on what he considers to be the principal violations of human rights. The wall and settlements seriously undermine the fundamental right of the Palestinian people to self-determination upon which all other rights depend. In large measure, the wall and settlements are a consequence of occupation. The regime of occupation by definition results in a violation of human rights. A prolonged occupation of the kind to which the Palestinian people have been subjected for 38 years inevitably poses a threat to the most basic human rights. This is confirmed by the Palestinian experience.

A. Freedom of person

42. In the past year Israel has released some 900 Palestinian prisoners. In the same period over 1,000 new prisoners have been taken. Consequently, there are still over 9,000 prisoners in Israeli jails, including 300 children. Over 600 of those imprisoned are in administrative detention, that is, they are being held without trial. Family visits remain a serious problem. As prisons are held in Israel and many Palestinians are denied admission to Israel, a majority of prisoners receive no family visits. Prison conditions are harsh: prisoners live in overcrowded and poorly ventilated cells which they generally leave for only two hours a day. Allegations of torture and inhuman treatment of detainees and prisoners continue. Such treatment includes beatings, shackling in painful positions, kicking, prolonged blindfolding, denial of access to medical care, exposure to extreme temperatures and inadequate provision of food and water.

43. In October 2005 a bill to allow prolonged incommunicado detention passed its first reading in the Israeli Knesset. The bill empowers the General Security Service to delay bringing non-residents of Israel suspected of committing security offences before a judge for a period of 96 hours. The existing Detention Law requires that a suspect be brought before a judge within 24 hours and within 48 hours in special cases when urgent interrogation is required. In addition, the bill enables the State to prevent a suspect from meeting with an attorney for a cumulative period of 50 days (an initial 21 days, which can then be extended for periods of 7 days), upon approval of a Supreme Court justice. Under the Detention Law, such a meeting can be prevented, with court approval, for no more than 21 days.

B. Freedom of movement

44. Checkpoints and closures in the West Bank continue to seriously impair freedom of movement. The closure system comprises a series of checkpoints and physical obstacles placed by the Israel Defense Forces to control and restrict Palestinian pedestrian and vehicle traffic. The types of obstacles include permanently and temporarily manned checkpoints, roadblocks (consisting of rows of 1-metre concrete blocks), metal gates, earth mounds, earth walls (a long series of earth mounds) and trenches. The number of closure obstacles has dropped substantially in the course of the year: from 605 in February to 376 in August 2005. The decline has occurred in respect of unmanned physical obstacles and the number of manned checkpoints remains unchanged - 52 permanently manned and 7 partially manned. The decrease in the number of unmanned physical obstacles is, however, offset by the increase in the number of "flying checkpoints" - that is, checkpoints manned by soldiers set up at random on some section of a road on a temporary basis. According to the Palestinian Monitoring Group, over 400 such checkpoints are set up each month. The frequency and unpredictability of such checkpoints make it impossible to plan travel in the West Bank.

45. It is difficult to overestimate the harm done to Israeli-Palestinian relations by checkpoints. They are arbitrary, humiliating and intimidating.²¹ They are the primary cause of poverty and economic depression in the West Bank. And they are installed not for the security of Israel itself but to protect the hated settlers on Palestinian territory.

C. Discrimination against women

46. Occupation and the wall unevenly violate women's rights. Palestinian women are routinely harassed, intimidated and abused by Israeli soldiers at checkpoints and gates. They are humiliated in front of their families and subjected to sexual violence by both soldiers and settlers. Restriction of movement due to the occupation severely impedes Palestinian women's access to education and health. Restrictions on movement limit opportunities for independence and reduce the number of women seeking formal education or employment as the culture of the region requires women to study and work from home. Women's health has suffered as a result of their inability to reach health centres. Pregnant women are vulnerable to long waits at checkpoints. A number of unsafe deliveries in which both mothers and infants have died have occurred at checkpoints. Unemployment and poverty resulting from the occupation have been shown to produce divorce and domestic violence. The Israeli Nationality and Entry into Israel Law of 2003 aims to stop family reunification when one spouse is a resident of the occupied Palestinian territory. The result of this law is that thousands of affected families live separately from each other with no legal means available to reunify the family. The only way to maintain

the unity of the family is to reside illegally in Israel, in permanent fear of investigation and expulsion. This places an immense burden on the psychological state of Palestinian women. The law, which does not apply to Israeli settlers living in the occupied Palestinian territory or to Israeli Jews marrying aliens, institutes a discriminatory system based on national origin and is directed exclusively against Palestinians.

D. Humanitarian crisis

47. The occupied Palestinian territory has a population of 3.8 million (2.4 million in the West Bank and 1.4 million in the Gaza Strip). Approximately 42 per cent of the population (1.6 million) are registered refugees. There is a natural increase of 3.5 per cent.

48. Previous reports have drawn attention to the humanitarian crisis in the occupied Palestinian territory resulting from the occupation and the construction of the wall. Unemployment reached 28 per cent (35 per cent in Gaza and 25 per cent in the West Bank) in 2005. Loss of access to jobs in Israel is a major cause of unemployment. Approximately half of the population, or 1.8 million, live below the official poverty line of US\$ 2.10 per day. Subsistence poverty, that is the inability to afford basic survival, is estimated at 16 per cent. Poverty is higher in Gaza (65 per cent) than in the West Bank (38 per cent). Poverty is the result of growing unemployment, closures, the wall, the loss of property caused by house demolitions, land requisitions and the levelling of land. Agricultural incomes have dropped considerably as a result of the destruction of agricultural areas and the isolation of land and wells behind the wall.

49. Closures have limited the ability to access health and education services. The provision of health services has dropped remarkably as a result of restrictions on access. The quality of education has deteriorated as a result of the wall and the occupation. The wall has obliged schools to shorten teaching hours as a result of the erratic wall gate opening times. And the occupation continues to intimidate teachers and scholars alike. For instance, in the months of September and October the Israeli army shelled one school, injuring 10 civilians; arrested 23 school students, 9 schoolteachers, and 3 school principals; raided two schools; detained school students and teachers on six separate occasions; beat one teacher in front of students, and prohibited the construction of one school.²²

50. Although the Israel Defense Forces have discontinued punitive house demolitions and the past year has not witnessed major house demolitions in the interests of the so-called military necessity, there is a substantial shortage of housing caused by house demolitions in previous years. In Gaza many thousands are still homeless. Houses continue to be demolished for failure to obtain a building permit in the West Bank, and in 2005 over 250 structures were demolished. This form of house destruction known as "administrative" demolitions is still widely practised, particularly in Jerusalem. As it is virtually impossible for Palestinians to obtain building permits, many houses are therefore built without permits. The occupants of such houses run the risk of arbitrary demolition.

IX. THE DEATH PENALTY AND THE PALESTINIAN AUTHORITY

51. The Special Rapporteur's mandate does not extend to human rights violations committed by the Palestinian Authority. It would, however, be irresponsible for a human rights special rapporteur to allow the execution of Palestinian prisoners to go unnoticed. Since 2002, the

Palestinian Authority has refrained from carrying out the death penalty. In 2005, however, five Palestinian prisoners have been executed. The level of civilization of a society can be measured by its attitude towards the death penalty. The Special Rapporteur expresses the hope that these executions were aberrations and that the Palestinian Authority will in future refrain from this form of punishment.

X. REGISTER OF DAMAGE

52. In its advisory opinion ICJ held that Israel was under an obligation to make reparation for all damage caused by the construction of the wall in the occupied Palestinian territory, including in and around East Jerusalem (para. 153). In pursuance of this finding the General Assembly in resolution ES-10/15 requested the Secretary-General to establish a register of damage caused to all natural or legal persons who have suffered as a result of the construction of the wall. On 11 January 2005 the Secretary-General wrote to the President of the General Assembly setting out the legal and institutional framework for such a register (A/ES-10/294). According to this letter, which gives effect to the Court's advisory opinion, both natural and legal persons who have sustained any form of material damage, including the destruction and requisition of properties, seizure or confiscation of land, destruction of orchards, citrus groves, olive groves and wells, and the impeded access to the workplace, health services, educational institutions and water sources, are eligible for compensation. The process has, however, to date made little progress, probably because the register cannot be established without the cooperation of Israel. This is unfortunate, as the International Court attached great importance to Israel's obligation to pay compensation for the destruction of homes, orchards, olive groves and land caused by the construction of the wall.

XI. THE ROLE OF THE SPECIAL RAPPORTEUR IN REPORTING TO THE COMMISSION ON HUMAN RIGHTS IN PARTICULAR AND TO THE UNITED NATIONS IN GENERAL

53. The Special Rapporteur is required to report on violations of human rights and international humanitarian law to the Commission on Human Rights. Implicit in his mandate is the task of alerting the Commission, and through it the international community, to a situation that may require the protection of the population concerned by the United Nations. The importance of providing protection to threatened populations was recently stressed by the General Assembly in its resolution 60/1 of 24 October 2005 on the World Summit Outcome.

54. In reporting to the Commission and appealing to the United Nations to provide protection to the Palestinian people, the Special Rapporteur is aware of the fact that the organs of the United Nations are divided over the approach to be adopted to the occupied Palestinian territory. On the one hand, the Commission, the General Assembly and ICJ are concerned about the violation of human rights and international humanitarian law in the territory, as manifested in numerous resolutions and in the 2004 advisory opinion of ICJ. On the other hand, the Security Council and the United Nations as a participant in the Quartet are engaged in a strategy of political appeasement, in which respect for human rights, international humanitarian law and the rule of law have less importance. The Security Council has yet to approve the International Court's advisory opinion and studiously avoids any reference to it.²³ The Quartet, comprising the United Nations, the European Union, the Russian Federation and the United States of America, to which primary responsibility for dealing with the Palestinian issue has been

delegated, likewise studiously avoids any reference to the advisory opinion and, while making reference to the consequences of the wall, settlements and restrictions on movement, carefully refrains from recognizing the serious violations of human rights to which Palestinians are subjected or to the de-Palestinization of Jerusalem.²⁴ The main explanation for the anodyne declarations made by the Security Council and the Quartet is to be found in the refusal of the United States to accept the advisory opinion of ICJ or to acknowledge the full suffering of the Palestinian people. Another explanation is to be found in the continued adherence of the Security Council and the Quartet to the road map. The road map²⁵ is a “performance-based and goal-driven road map” drawn up in 2003. Today it is hopelessly out of date. First, it is premised on the attainment of a “final and comprehensive permanent status agreement that ends the Israeli-Palestinian conflict in 2005” and such an agreement is not even in sight at the end of 2005. Secondly, it largely predates the construction of the wall, which has come to symbolize Israeli territorial expansion and oppression in the occupied Palestinian territory. Thirdly, it takes no account of the advisory opinion of ICJ, handed down in July 2004, which today constitutes the authoritative statement on the law governing the Israel-Palestine conflict and which has been recognized as such by three of the members of the Quartet. Fourthly, both Israel and the Palestinian Authority have failed to comply with the essential requirements of the road map. In these circumstances, it is suggested that there is a need for a new road map which takes account of present political realities and is anchored in respect for human rights and the rule of law in the resolution of the conflict.

55. In the prevailing circumstances the Special Rapporteur can do no more than:

(a) Alert the Commission and the United Nations to the serious situation in the occupied Palestinian territory resulting from the continuing violation of human rights and humanitarian law;

(b) Appeal to the Commission and the United Nations to extend protection to the Palestinian people;

(c) Suggest to the Quartet that in future it adopt a position on the Israel-Palestine conflict that takes more account of human rights violations in the occupied Palestinian territory and the refusal of Israel to comply with the advisory opinion of ICJ; and that it revise the road map in accordance with these considerations.

Notes

¹ See A/60/271, report on “Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including Jerusalem”, of 18 August 2005.

² Article 42 of the Hague Regulations of 1907; *In re List and Others (Hostages Trial)*, 15 Annual Digest of Public International Law, Cases 632, 638.

³ *Ha'aretz*, 8 December 2005.

⁴ *Idem*, 1 December 2005.

⁵ According to the Israeli High Court the projected length of the wall is 763 km: *Mara'abe v. The Prime Minister of Israel* H.C.J. 7957/04, para. 3.

⁶ *Ha'aretz*, 8 December 2005, p. 3.

⁷ B'Tselem and Bimkom, "Under the guise of security: routing the separation barrier to enable the expansion of Israeli settlements in the West Bank", December 2005.

⁸ Paras. 20-21.

⁹ *Ha'aretz*, 1 December 2005.

¹⁰ The Israeli High Court itself seems to believe that access to the "closed zone" creates little problem: see *Mara'abe v. The Prime Minister of Israel* H.C.J. 7957/04, paras. 67 and 70. This is a further flaw in the Court's judgement.

¹¹ *Ha'aretz*, 1 December 2005.

¹² *Idem*, 23 November 2005.

¹³ *Idem*, 1 December 2005.

¹⁴ *Idem*, 27 and 30 November 2005.

¹⁵ See B'Tselem, "Means of Expulsion: Violence, Harassment and Lawlessness against Palestinians in the Southern Hebron Hills", July 2005.

¹⁶ The Palestinian girls school of Qurtuba, in particular, has suffered from settler violence.

¹⁷ "The real uprooting is taking place in Hebron", *Ha'aretz*, 11 September 2005.

¹⁸ Peace Now Settlement Report: Eastern Strip of the West Bank, September 2005 (20/10/2005).

¹⁹ B'Tselem, "Land Grab: Israel's Settlement Policy in the West Bank", May 2002, p. 79.

²⁰ See Virginia Tilley, *The One-State Solution*, University of Michigan Press, Ann Arbor, 2005.

²¹ See Machsom Watch, "A Counterinterview: Checkpoints 2004".

²² Palestinian Monitoring Group, "Trend Analysis: Education Under Occupation" (30 October 2005).

²³ See, for instance, its statement of 26 July 2005 contained in the Secretary-General's report (A/60/539-S/2005/701 of 7 November 2005) on Peaceful settlement of the Palestinian question.

²⁴ See the statement of the Quartet on 20 September 2005 contained in the annex to news release SC/8510 of 23 September 2005.

²⁵ The full title of this document is "A performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict".



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PROMOTION AND PROTECTION OF HUMAN RIGHTS

HUMAN RIGHTS DEFENDERS

**Report submitted by the Special Representative of the Secretary-General
on the situation of human rights defenders, Hina Jilani**

Addendum

MISSION TO ISRAEL AND THE OCCUPIED PALESTINIAN TERRITORY* **

* The summary of this mission report is being circulated in all official languages. The report itself contained in the annex to the summary is being circulated in the language of submission and in Arabic.

** The reason for the late submission of this report is the need to reflect the latest information.

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Summary

The Special Representative of the Secretary-General on the situation of human rights defenders conducted a country visit to Israel at the invitation of the Government. She also visited the Occupied Palestinian Territory. She remained in the region from 5 to 11 October and met with senior officials of the Government of Israel and the Palestinian National Authority. She also met a wide range of human rights defenders and representatives of international and intergovernmental organizations. The objective of the visit was to assess the situation of human rights defenders in Israel and the Occupied Palestinian Territory.

The report of the Special Representative describes the context in which human rights defenders operate in Israel and the Occupied Palestinian Territory. She presents her assessment of the situation of defenders in the light of the issues with which they are engaged and the legal framework for the promotion and protection of human rights.

She observes that human rights defenders in Israel and the Occupied Palestinian Territory carry out their activities against a backdrop of occupation, conflict, military operations in Palestinian civilian centres, including refugee camps, and of terrorism. Security-driven laws and practices have created an environment in which activities for the defence of human rights have not escaped suspicion and repression. This has heightened the level of harm and risk that defenders confront in carrying out their activities.

The dominant concern for human rights defenders, even in Israel, is the violation of the human rights of the Palestinian population under Israeli occupation. The solidarity and cooperation between human rights defenders in Israel and in the Occupied Palestinian Territory, despite the tensions surrounding them, is inspiring.

The Special Representative notes that the Government of Israel, generally, respects the rights of Israeli human rights defenders and she has not observed any systematic policy of restraining their activities within Israel. The same human rights organizations and defenders, however, face difficulties in promoting and protecting the rights of minorities, including the Arab and Palestinian communities in Israel. The Government shows even less tolerance for their activities for the protection of the rights of the Palestinian population in the Occupied Palestinian Territory or criticism of the practices of occupation.

Regarding the situation of human rights defenders in the Occupied Palestinian Territory, the Special Representative finds that the practice and policies of the occupation result in conditions which place human rights defenders operating in the Occupied Palestinian Territory at grave risk and present serious obstructions in every aspect of their work. She is concerned that, in the wake of the “disengagement”, human rights defenders in Gaza are becoming more vulnerable because of their isolation, imposed by restrictions that continue to obstruct their movement and communication with their networks in the rest of the Palestinian territory as well as the outside world. Human rights monitors and field workers, peace activists, lawyers, journalists, health professionals and those providing humanitarian assistance and care have all been affected by the situation of occupation and militarization.

Restrictions on the freedom of movement resulting from the Wall and other barriers, checkpoints, closures, requirement of permits and bans imposed on defenders to travel; use of excessive force on peaceful action to protest; use of security and anti-terrorism laws to place defenders under administrative detention; unsubstantiated allegations to undermine their credibility and other forms of harassment, intimidation and humiliation of defenders has rendered their situation absolutely incompatible with international norms and standards of human rights or the principles set forth in the Declaration. International human rights organizations and intergovernmental and United Nations agencies working in the Occupied Palestinian Territory are also threatened and their work is obstructed.

The Special Representative observes that the difficulties of human rights defenders are compounded because of the failure of the Palestinian Authority to respect human rights and the rule of law in the areas under its control. Conditions of lawlessness and impunity for human rights violations have affected the security of human rights defenders, especially those who expose violations committed by security personnel. She has identified torture, repression of the freedom of expression and assembly, and a failure to address the threats against women human rights defenders as some of her more serious concerns.

The Special Representative believes that the exceptional conditions resulting from conflict and occupation demand a more active human rights community to address the serious violations faced by the civilian population in the Occupied Palestinian Territory. Instead, the human rights community is being weakened by the risks that they are placed under and by the impunity for violation of their right to life, liberty and physical security. Any prospects for peace and security in the region are being diminished by the constraints placed on freedoms in general and particularly the freedom to defend human rights.

She has recommended to the Government of Israel that it must end the occupation of the Palestinian Territory and until then it must accept and fulfil its obligations under international human rights and humanitarian law and comply with the resolutions of the United Nations. In the context of defenders, Israel's defiance of international norms has caused serious harm, including killings, to human rights defenders and affects, inter alia, their freedom of expression, their access to places of violations, their ability to seek justice for victims and to provide humanitarian assistance.

Affirming that resistance to the occupation is a legitimate right of the Palestinian people, she further recommends that the Government of Israel must ensure that all peaceful activities for the defence of human rights violated or threatened by the occupation are allowed to be conducted free of fear and risk. She has also urged the Government to abandon the use of administrative detention against human rights defenders.

To the Palestinian Authority the Special Representative has recommended that it must ensure respect for human rights and the rule of law, and that fundamental freedoms of the Palestinian population are fully restored and protected in the areas of their authority and control. She recommends immediate measures to end impunity for human rights violations and investigation of all complaints against officials and private entities threatening human rights defenders, including those defending women's rights.

The Special Representative reminds both the Government of Israel and the Palestinian Authority that the “duty to protect” does not override the principle enunciated in the Declaration that the “absence of peace and security does not excuse non-compliance with international human rights norms and international humanitarian law”.

She calls upon the United Nations to take note of the situation of human rights defenders in the Occupied Palestinian Territory and to adopt measures for their protection. She has suggested that international monitoring and reporting mechanisms of the United Nations and those documenting violations with the objective of compensating the victims be given a wider mandate to protect human rights defenders. In consultation with the human rights community and experts, the United Nations must devise concrete action to enforce compliance with international law in the Occupied Palestinian Territory as expounded in the Advisory Opinion of the International Court of Justice, and in accordance with the Charter of the United Nations.

Annex

**REPORT OF THE SPECIAL REPRESENTATIVE OF THE
SECRETARY-GENERAL ON THE SITUATION OF
HUMAN RIGHTS DEFENDERS ON HER VISIT TO ISRAEL
AND THE OCCUPIED PALESTINIAN TERRITORY**

(5-11 October 2005)

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Introduction

1. Pursuant to Commission on Human Rights resolutions 2000/61 and 2003/64, the Special Representative of the Secretary-General on the situation of human rights defenders conducted an official visit to Israel and the Occupied Palestinian Territory from 5 to 11 October 2005. The Special Representative thanks the Government of Israel for extending this invitation.
2. The purpose of the visit was to examine and assess the situation of human rights defenders, the conditions under which they pursue their activities and the respect for the rights enshrined in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration) in Israel and the Occupied Palestinian Territory.
3. The Special Representative visited Ramallah, Bethlehem, Nablus, Hebron and Bil'in village in the West Bank, Nazareth and Tel Aviv in Israel. From her base in Jerusalem, she met with the Minister of Public Security, the Minister of Construction and Housing, the Deputy State Attorney and members of Parliament. She regrets that she was unable to meet with many other authorities relevant to her mandate. She also regrets not being able to meet with Justice Barak of the Israeli Supreme Court because the invitation to her was received at too short notice. The Special Representative thanks the Palestinian Authority for its cooperation and for the opportunity to discuss issues of concern with the Minister for Foreign Affairs, the Minister of Justice and the Minister for Women's Affairs.
4. The Special Representative also met non-governmental organizations (NGOs), lawyers, journalists, and health workers engaged with a broad range of human rights issues. She deeply regrets not being able to meet human rights defenders in Gaza in person; she had to rely on a videoconference with some of these defenders in order to inform herself of their situation.
5. The Special Representative met with the United Nations Country Team and the Inter-Agency Human Rights Working Group working in the Occupied Palestinian Territory, including the Office for the Coordination of Humanitarian Affairs (OCHA), the United Nations Development Programme (UNDP), the Office of the United Nations Special Coordinator (UNSCO); the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA); the World Health Organization (WHO); and the civilian observer mission, the Temporary International Presence in Hebron (TIPH). The Special Representative wishes to thank everyone for their generous assistance, and to express her gratitude for the strong support and cooperation extended to her by the staff of the Office of the High Commissioner for Human Rights based in Ramallah and Gaza.

I. BACKGROUND NOTE

A. Background note: A state of fear

6. The respect for human rights and the rule of law in Israel and the Occupied Palestinian Territory cannot be evaluated without reference to the occupation and its consequences for the rights and freedoms of both the Israeli and the Palestinian populations. The impact that 38 years of occupation, two Palestinian uprisings, the intifada, and a "war against terrorism", has had on society, the economy and the institutions of State cannot be overestimated. Security-related

injunctions and State policies touch all aspects of the lives of Israeli citizens, and the practices of occupation have deprived the Palestinian population even of the basic right to human dignity. The Special Representative fully endorses the view of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 that “(t)he regime of occupation by definition results in a violation of human rights”.¹ The stark reality of these violations has overshadowed the value of Israel’s democracy and the merits of its institutions.

7. The Palestinian Authority is an interim administrative organization established in 1994 pursuant to the Oslo Accords.² It gained limited jurisdiction for governance in the Occupied Palestinian Territory. However, the limited scope of authority, weaknesses in the exercise of this authority, lack of resources and the continuous challenges that it faces from the actions of the occupation as well as of the armed Palestinian militants have constrained its capacity to affect the conditions prevailing in its sphere of jurisdiction. Flaws and failures of the Palestinian Authority, nevertheless, add to the repressions suffered by the Palestinian population and increase their vulnerability to abuse. Conditions of lawlessness and violence prevail in some areas of the Gaza Strip and the northern West Bank, placing the right to life and security of the civilian population particularly at risk.

8. The Palestinian Authority, as the representative of the Palestinian people, has the responsibility to promote the rights of its people and to strive for their protection against abuse. However, the nature and extent of its authority deprives it of the capacity to guarantee the enjoyment of rights. The responsibility of the Government of Israel to protect, promote and implement all human rights and fundamental freedoms, on the other hand, is unambiguous. This responsibility includes the adoption of such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under their jurisdiction or control, individually and in association with others, are able to enjoy all those rights and freedoms in practice (article 2 of the Declaration). Palestine has permanent observer status in the United Nations. However, not being a State, it is not in a position to ratify international treaties, nor does it have a *de jure* obligation to the Declaration. Be that as it may, the Special Representative reminds both the Government of Israel as well as the Palestinian Authority that the “duty to protect” does not override the principle enunciated in the Declaration that the “absence of peace and security does not excuse non-compliance with international human rights norms and international humanitarian law”.

9. The Special Representative draws attention to the resolutions of the General Assembly, the Security Council and the Commission on Human Rights, reports of the Special Rapporteurs of the Commission, and in particular to the reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 that depict the conditions under which human rights defenders conduct their daily work. In Israel and the Occupied Palestinian Territory human rights defenders carry out their activities against a backdrop of occupation, conflict, military operations in Palestinian civilian centres, including refugee camps, and an institutionalized fear of terrorism. They work in an environment of fear and suspicion that has heightened the level of harm and risk they confront in defending human rights. Limitations on the freedom of movement between Israel and the Occupied Palestinian Territory and within the West Bank severely hamper the work of human rights defenders.

10. One very positive trend that the Special Representative has noted is the solidarity and cooperation between human rights defenders in Israel and those in the Occupied Palestinian Territory and the relationship of trust which remains unaffected by adverse conditions, political polarization and apparently irreconcilable differences in perceptions of the conflict amongst the Israeli and the Palestinian populations in general.

B. The human rights defenders community

11. Civil society in the region is characterized by activism and diversity. While human rights defenders in Israel and the Occupied Palestinian Territory share many of the concerns around which they conduct their activities, the Special Representative determined that their situation differed with respect to the response of the Government of Israel to their activities, availability of and access to institutions and forums of redress, legal mechanisms and other tools available for the defence of human rights, the obstacles they confront and the degree of risk that they face in conducting their activities. In order that the situation of defenders in the two areas is better understood, it would be best to separately summarize their concerns and scope of activities.

12. Human rights organizations and defenders in Israel work on a variety of issues encompassing civil and political rights as well as social, economic and cultural rights. There are organizations that monitor and report on prisoners' rights, torture, administrative detention and the right to due process. There is an active peace movement and organizations that carry out programmes on Arab-Jewish partnership and coexistence. Several groups advocate for the rights of minorities in Israel and for the elimination of racism and discrimination. Strong networks on women's rights are actively engaged with issues such as violence against women and the legal status of women under personal laws of the different religious communities. Several child rights organizations work on the rights protected by the Convention on the Rights of the Child.

13. There are many groups and individual defenders who engage with the right to housing and carry out protest action against house demolitions. In addition, defenders are actively engaged in the defence of labour rights, rights of migrant workers, the right to education, health and of persons with disabilities, the rights of lesbians, gays and bisexual and transgender persons, land rights and environmental protection. There are religious groups and organizations that advocate the need for religious pluralism. The Special Representative also met with numerous individual Israeli human rights defenders who do not belong as such to any particular organization, such as lawyers, journalists, pacifists and conscientious objectors who refuse to serve the Israeli occupation.

14. A vast number of organizations and individuals defend the rights of Palestinians affected by the practices of occupation in the Occupied Palestinian Territory: lawyers providing legal assistance to Palestinian prisoners, including human rights defenders in Israeli prisons; activists supporting and defending the right to peaceful protest and the freedom of assembly; volunteers monitoring army checkpoints to report on the violations that Palestinians suffer at the hands of the Israeli Defense Forces, and those who monitor abuse of Palestinians by Israeli settlers and provide accompaniment services to prevent such abuse, especially against schoolchildren; and organizations working on the rights of refugees and providing humanitarian assistance to them.

15. Palestinian human rights defenders, particularly those working in the Occupied Palestinian Territory, are swamped by human rights concerns arising from the regime of occupation and the daily occurrence of serious human rights violations. Defenders have to address situations including military operations that result in civilian casualties; extrajudicial and custodial killings; torture and cruel, inhuman and degrading treatment of prisoners and detainees; administrative detentions in large numbers; severe restrictions on the freedom of movement and other serious violations that result from these restrictions; unfair and discriminatory treatment in the judicial process; lack of citizenship and civil status; confiscation of land and property, and loss of livelihood as a result of Israeli policy of annexation of Palestinian territory; building of the Wall and other barriers; evictions and house demolitions; and the disproportionate and excessive use of force against all forms of protest against the occupation.

16. Despite the daily hindrances and risk of personal harm, the human rights community is active and conducts monitoring, advocacy and reporting activities covering actions of the Israeli civil and military authorities as well as officials of the Palestinian Authority. Both Israeli and Palestinian defenders engage in public action to protest or resist violation of rights, raise awareness of human rights, and provide legal, psychological, medical or other support to victims of violations.

17. There are many international NGOs working in the area that investigate and report on incidents involving human rights violations, make periodic reports on the general human rights situation and join Palestinian and Israeli organizations in peaceful action against violations committed by Israeli authorities.

II. LEGAL FRAMEWORK AND THE EXERCISE OF FUNDAMENTAL FREEDOMS

A. International obligations

18. Israel has acceded to a number of international human rights instruments, including to the International Covenant on Civil and Political Rights. The Special Representative notes that Israel is not yet party to the two Optional Protocols to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In addition, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography has been signed but not yet ratified by the Government of Israel.

B. Domestic legislation and other factors which have a direct impact on the work of human rights defenders

19. While Israel is taking steps towards a constitution, it currently has a set of basic laws adopted by the Knesset (Israeli Parliament) that guarantee some of the fundamental rights.³ Although freedom of expression is not expressly guaranteed in the Basic Law, together with the

freedom of association it is recognized as a fundamental civil right, subject to limitations imposed by law for the maintenance of social order, public security or the integrity of the State.⁴ Case law of the Israeli Supreme Court has further developed the application and enforcement of these freedoms.⁵

20. Following changes in the registration process, Israeli organizations are required to register with the Registrar of Non-Profit Organizations at the Ministry of Interior. Organizations must identify their donors, submit a list of their staff, and present a detailed annual report on their activities and their financial assets and management. The Special Representative was informed that the process of registration has become longer and more complex, and there are more instances of administrative delays, forcing NGOs to spend more resources and time in responding to the Registrar's demands for details. So far there have been no known instances of human rights NGOs being barred or closed by the Registrar. However, the Special Representative was informed of some instances in which registration was refused on the ground that names of these organizations contained the words "Palestine" or "Palestinian". It was also reported that the Registrar refused to register a group of conscientious objectors under their preferred name "The Courage to Refuse". Non-governmental organizations for the rights of Palestinians in Israel find it almost impossible to register.

21. Some of the Arab NGOs, in particular, feared that with the function of Registrar now under the Ministry of Interior, the Government was attempting to exercise undue monitoring and control over the functioning and activities of NGOs. Some NGOs complained to the Special Representative that the Israeli Ministry of Interior uses intelligence sources and secret files to block any new registrations. This led to most NGOs registering as non-profit companies, which forces them to relinquish many benefits in the NGO law.

22. In relation to reports of Arab NGOs in Israel facing more challenges than other NGOs, it can be recalled that the Economic and Social Council, in its concluding observations on the second periodic report of Israel to the Council in May 2003, reiterated its concern that "the excessive emphasis upon the State as a 'Jewish State' encourages discrimination and accords a second-class status to its non-Jewish citizens".⁶ In this regard the Economic and Social Council mentioned in particular the restricted access to and participation in trade unions for Israeli Arabs/Palestinians.

23. The Special Representative recalls a statement made on 21 May 2003 by the Israeli Minister for Foreign Affairs to the Knesset's Foreign Affairs and Defense Committee, accusing "most human rights offices in the West Bank and Gaza Strip of providing shelter to terrorists". In her communication to the Government of Israel regarding this matter, she pointed out that such general statements against human rights organizations were contrary to the spirit of the Declaration on Human Rights Defenders. She also registered her concern that such public accusations, without presenting any evidence to that effect, can be prejudicial to the safety of all defenders in the context of the conflict and tensions in the region. She received no response to this communication from the Government.

24. The freedom of expression is generally respected and most human rights defenders in Israel are able to express their views in publications, through press conferences, in the media and through other forms of advocacy. However, the consistent policy of restricting travel of Palestinian defenders has restrained their freedom to communicate human rights-related

information. There have also been numerous reports of confiscation of printed and electronic material from defenders at Israeli military checkpoints and the airport, or in army raids against Occupied Palestinian Territory-based NGOs.

25. The media, film and artistic expression is subject to scrutiny by the Israeli military censor on security-related issues, as are Palestinian newspapers in East Jerusalem. The foreign media is not subject to censorship. The Special Representative received reports of harassment of local and foreign journalists who cover or report human rights violations committed by the Israeli military. Many Palestinian journalists have been refused renewal of press cards since 2002, which has effectively barred them from covering many human rights-related events. Several journalists have reportedly been physically attacked, threatened and forcibly deprived of their cameras. Following her visit the Special Representative has been receiving reports of journalists being increasingly targeted at the weekly demonstrations against the illegal construction of the Wall at Bil'in.

26. The Special Representative notes with concern that the Knesset on 25 July 2005 approved an amendment to the Civil Wrongs (Liability of the State) Law, which prevents Palestinians from seeking remedy retroactively for human rights violations committed by Israeli authorities in the Occupied Palestinian Territory since the outbreak of the intifada in 2000. This amendment is contrary to article 9 of the Declaration. As Palestinian courts have no jurisdiction in cases of human rights violations carried out by Israeli authorities in their area of jurisdiction, no effective remedy or the possibility to seek remedy is available.

C. The Israeli High Court of Justice

27. The jurisdiction of the Israeli High Court extends to the Occupied Palestinian Territory (art. 15 of the Basic Law). In almost every meeting with Government officials, the Special Representative was reminded that the Supreme Court of Israel deliberates on human rights cases filed by human rights activists. Since the April 2002 military invasion of the West Bank (also known as "Operation Defensive Shield"), human rights NGOs have initiated a series of petitions to the High Court challenging Israeli policy and practices in the OPT which constitute grave violations of international humanitarian or human rights law.

28. The extent to which human rights defenders have full access to justice and recourse to a legal remedy within Israel's legal framework is of particular interest to the Special Representative. She recalls the concluding observations and comments of the Committee on Economic, Social and Cultural Rights⁷ after its consideration of the second periodic report submitted by Israel, wherein the Committee has welcomed the relaxing of the Supreme Court rules of standing so as to allow any person formal access to the court and to widen opportunities to test the justiciability of ICESCR rights before the courts. "Locus standi" to raise legal issues on human rights or seek their enforcement against violations is a valuable asset for defenders and increases their ability to defend human rights. However, this is not sufficient.

29. Defenders lose the advantage of locus standi if application of human rights norms is restrained by any considerations, including a preoccupation with security. While the court has given important relief in some cases, in the majority of petitions the court has accepted the claims of the occupying power in relation to violation of human rights in the Occupied Palestinian Territory. When the High Court has considered such cases, it has held in most

instances that there was a justified military necessity or a national security need for the action or policy in question. This is reflected in High Court decisions on a wide range of Israeli violations in the Occupied Palestinian Territory, such as land confiscation and settlements,⁸ home demolitions,⁹ deportation orders¹⁰ and uprooting of trees.¹¹ Defenders have reservations on the question of impartiality and fairness of the court. They believe that in several cases the Israeli High Court has established legal “justifications” for illegitimate practices, thus obviating any changes in Israeli policy which might have stopped the violation by the occupying power of Palestinian individual and collective rights.

30. The Special Representative also notes that, according to the Israeli High Court case law, when a specific Israeli law contradicts a rule of customary international law, the Israeli law prevails. In the context of violations not recognized under Israeli law, such as many that result from practices of the occupation, defenders can expect no remedy through the court. Some defenders are concerned that seeking to defend the rights of Palestinians in the Israeli High Court might be perceived as giving legitimacy to the occupation.

D. Measures taken at national level for the implementation of the Declaration

31. During her visit, the Special Representative was informed by representatives of the Government of Israel that an NGO committee had been formed in the Knesset, but that no concrete initiatives have yet been taken by the committee. The Special Representative has expressed hope that this initiative, once developed further, can become a mechanism that can be used by human rights defenders to promote and protect human rights in Israel.

32. The Special Representative received assurances from the Government that there were further plans to design initiatives aimed at giving a greater role to civil society and the human rights community in Israel and for improving their interaction with the Government.

33. During her visit, the Special Representative was also informed that the Government of Israel had recently constituted an inter-ministerial committee to deal with the issue of impunity for settler violence against Palestinians in general and thereby also human rights defenders. The Special Representative has not yet been informed about concrete action taken by this committee to deter these acts of violence through enforcement of appropriate policy or punitive measures.

III. MAIN FINDINGS AND CONCERNS

A. Violation of the fundamental rights of human rights defenders committed by the Israeli authority

1. Unlawful killings, harassment or threats to physical integrity

34. The Special Representative expresses deep concern about the many allegations of systematic targeting of peace and human rights activists by the Israeli Defence Forces, particularly volunteers monitoring or resisting gross violations committed against the civilian population in the Occupied Palestinian Territory. She issued a joint press release and communicated her concern to the Government of Israel regarding the killing of civilians holding a peaceful demonstration on 19 May 2004, protesting against house demolitions in Rafah. She received no response to her communication from the Government.

35. In recent years there have been notable instances where international human rights defenders have been targeted and killed in the course of human rights activity. The Special Representative sent three communications to the Government of Israel regarding such cases. **Rachel Corrie**, an International Solidarity Movement (ISM) volunteer, was run over by an Israeli army bulldozer in Rafah refugee camp while attempting to stop the levelling of the camp on 16 March 2003. **Tom Hurndall**, another ISM volunteer, was shot dead, allegedly by a bullet fired at him from an Israeli army watchtower while he was shielding Palestinian children and walking away from a soldier in Rafah on 11 April 2003. **Dr. Khalil Suleiman**, head of the Palestinian Red Cross Society in Jenin, was killed in an attack on his ambulance by the Israeli security forces on 4 March 2002. Three other paramedics were severely injured in the same incident. The Special Representative received no response to these communications. She takes note of several other cases reported by different organizations alleging the killing by the Israeli army of ISM activists, journalists, medical workers and aid workers (one of them working with the United Nations Relief and Works Agency for Palestine Refugees in the Near East).

2. Administrative detention of human rights defenders and their ill-treatment

36. The Special Representative has received information on the administrative detention of a number of defenders. This information suggests that administrative detention is being used as a means to deter defenders from carrying out their human rights activities. Human rights field workers associated with human rights organizations have been particularly targeted. Many of these are monitors who investigate and report on violations such as torture, treatment of prisoners and custodial and extrajudicial killings or targeted assassinations.

37. Examination of these cases shows that arrest and detention of these defenders is based on secret evidence, and the detainees or their counsel have no access to information against them. The detention orders do not specify any maximum cumulative period of administrative detention and the initial period can be repeatedly extended by the detaining authority without showing any cause. In many cases this has been done almost at the last minute before the end of the previous period, causing severe anxiety and anguish to the detainee, amounting to psychological torture. In some of the cases brought to the attention of the Special Representative the Israeli High Court had upheld the detention orders, noting that the decisions were based on secret evidence, thus undermining reliance on judicial review as a safeguard against arbitrariness in cases of administrative detention.

38. The Special Representative heard repeated allegations that human rights defenders in prison did not have access to legal assistance, were often ill-treated and sometimes even tortured during their interrogation and detention, and that they were usually held in isolation in remote detention centres, making regular contact with their family difficult. The Special Representative visited one human rights defender under administrative detention in Ansar III/Kedziot, a prison situated at a remote location in the Negev.

39. A few examples from a long list of defenders who are, or have remained, under administrative detention are:

(a) **Ahmad Maslamani**, a doctor working as General Director of the Health Work Committees, and a member of the Coordination committee of the Palestinian National Organizations Network. He is a well-respected activist in civil society and is detained together

with two other activists of civil society in Jerusalem. He has been charged with membership and participation in activities of a terrorist organization. The Special Representative has noted an observation of the judge in the decision of the Supreme Court¹² that “(I)t looks like they execute civic acts but not military or dangerous. But all those acts are connected to an organization that has terrorist military acts ... ”;¹³

(b) The Special Representative met with **Ziyad Muhammad Shehadeh Hmeidan** at Ansar III/Kedziot prison, upon her request. **Mr. Hmeidan** is a 32-year-old field worker of the Palestinian NGO Al-Haq who has been held under administrative detention since 23 May 2005, and was due to be released on 22 November 2005. A week before his expected release, Mr. Hmeidan was informed that an application for his detention to be extended for a further six months would be made. To date he has never been informed of the reasons for his arrest. However, in one response to the Special Representative’s communication in this regard, the Government advised that he is a “threat to State security”;

(c) The Special Representative also sent communications regarding the detention of **Daoud Dirawi**, a child rights lawyer working with Defence for Children International (DCI), in November 2004, and of **Abd al-Latif Gheith**, board chairman of Addameer Prisoner’s Support and Human Rights Association, in July 2004.

40. According to the information she has received, contact with “suspected” persons, such as interviews recorded in the context of the aforementioned violations, or even possession of a list of names, have been used as reasons for such detention. There are too many such cases for the Special Representative to accept the Government’s position that these individuals have not been targeted because of their human rights work but because they are threats to State security. Undefined and vague allegations with no evidence made available to support them, cannot be the basis for the Special Representative to draw any conclusions against persons who are acknowledged as legitimate human rights defenders by the organizations with whom they are associated. These are well-known organizations with respect and good standing in the human rights community and a consistent record of human rights work. Many of those detained have been associated with these organizations for long periods of time and have been involved in human rights activity.

3. Restrictions on freedom of movement

41. Human rights defenders’ daily work is most notably hindered by the repeated obstacles to their freedom of movement by the Israeli authorities. Freedom of movement throughout the Occupied Palestinian Territory is severely undermined by the construction of the Wall¹⁴ and about 600 military checkpoints as at April 2005,¹⁵ together with greater recourse to temporary military road checkpoints established at random, so-called “flying checkpoints”. Although curfews are less frequently imposed than in previous years, this method of restricting freedom of movement is still resorted to. The construction of the Wall by Israel has also been accompanied by the creation of a new administrative regime for the Occupied Palestinian Territory, establishing “closed zones”, which hinder and effectively block entrance and passage. This regime restricts the freedom of movement of Palestinian residents and non-residents of the area of the West Bank lying between the “Green Line” and the Wall.

42. The Special Representative consistently heard from defenders, including field workers, lawyers, medical workers, professors and teachers, both Israelis and Palestinians, in addition to international human rights defenders, about how checkpoints and the other physical obstacles described above endanger and delay their work. Governmental policies, such as closures, make human rights defenders residing in the West Bank, along with all residents, dependent on travel permits. These restrictions not only place additional constraints on the time and resources of defenders but also become impediments to their access to information, to victims and to sites of violation, restraining their freedom to monitor and document human rights situations. Restrictions on freedom of movement also affect the work of Palestinian Authority institutions set up for the protection of human rights in its administered areas, such as the Palestinian Independent Commission for Citizen's Rights.

43. The Israeli military's internal closure policy implemented within the Occupied Palestinian Territory results in little or no access to each other for defenders located in different areas and effectively limits the cooperation with Israeli human rights defenders. This has affected the ease with which they can exchange information or coordinate human rights activities. These limits on movement also affect the work of international agencies such as UNRWA, whose field workers face similar difficulties in carrying out their responsibilities. The Special Representative has particularly noted the difficulties faced by international human rights observers, monitors and activists to the Occupied Palestinian Territory, and especially Gaza. The International Solidarity Movement (ISM) has been specifically targeted, with over 93 volunteers deported in the last four years.

44. Israeli NGOs do not usually face obstacles when wanting to travel abroad for conferences and meetings, but they do face problems when wanting to travel into the Occupied Palestinian Territory. Palestinian defenders face severe restrictions on freedom of movement both within the West Bank/Gaza Strip/East Jerusalem, and especially from the Occupied Palestinian Territory into Israel. This causes major difficulties in terms of coordination and interaction between Israeli and Palestinian NGOs working together to promote and protect human rights in both Israel and in the Occupied Palestinian Territory.

45. Every testimony provided by both Israeli and Palestinian defenders to the Special Representative described military checkpoints as sites of daily human rights abuses committed by the Israeli security forces and, in rare instances, eruption of unlawful violence by Palestinians. The Special Representative consistently heard that disclosing a defender's profession ("human rights") to a checkpoint officer is usually met with increased hostility and deeper suspicion. Very often these are prime sites for the arrest/detention of human rights defenders, particularly field caseworkers. Considering these daily scenes of unimaginable tension and ritual humiliation it is remarkable that ordinary Palestinians exercise such considerable restraint.

46. Owing to United Nations security precautions, the Special Representative was not able to visit human rights defenders based in Gaza during this visit. A meeting with defenders had to be conducted via teleconference from Gaza as none were able to exit Gaza to meet with her elsewhere. She has noted the special difficulties faced by defenders in Gaza in terms of access to the area and exit therefrom. She is also aware of apprehensions that Gaza is likely to become more isolated in the aftermath of the "disengagement", increasing the difficulties of defenders as well as their vulnerability.

47. The Special Representative has communicated her concern to the Government with respect to several human rights defenders who were refused permission to travel abroad, prevented from crossing the border out of Israel or arrested and detained at the border. All these defenders were thus prevented from attending human rights activities, including United Nations-organized conferences and the World Social Forum, and in one case prevented from deposing before the Special Committee to Investigate Israeli Practices. Some of these defenders were subsequently allowed to travel. In almost all cases the Government has made allegations of these defenders being “security threats”. Many defenders continue to be refused permission to travel abroad. The list is too long for the Special Representative to mention all by name, and there are many more whose cases were not even forwarded to the Special Representative.

4. Denial of humanitarian access

48. It is increasingly difficult for members of humanitarian and development agencies operating in the Occupied Palestinian Territory to carry out their work effectively because of an intensification of Israeli military restrictions on humanitarian access to the civilian populations affected by conflict. The Special Representative was disturbed to hear that, on a daily basis, aid workers are being prevented from carrying out their duties by unacceptable delays at checkpoints, inconsistent and sometimes total refusal to access project sites and beneficiaries, and harassment of, and severe restrictions on, the movements of local staff. Instances where aid workers were targeted, and in some cases killed, were brought to the Special Representative’s attention.

49. The Special Representative remains deeply concerned at the continuing obstruction of humanitarian services. Several incidents have been reported to her of undue delay and denial of access to ambulances, and the killing, wounding, arrest and detention, abuse and humiliation of ambulance drivers, paramedics and medical professionals. These violations had attained serious dimensions in 2002 during Israel’s Operation Defensive Shield. However the incidents continue to occur in clear violation of international humanitarian law.¹⁶ Dozens of unsafe deliveries in which both mothers and infants have died at checkpoints have been documented by the United Nations.

50. Since the beginning of this intifada, there has been one case in which the Government has brought accusations that a Palestinian Red Crescent Society (PRCS) ambulance was being used for purposes other than humanitarian assistance. No evidence was ever brought forward to substantiate this allegation and repeated requests made by the PRCS, through the International Committee of the Red Cross (ICRC), for an independent investigation have been ignored. Yet, this case has been continually referred to by the authorities, to uphold the claim that it is entirely reasonable to delay and deny the passage of ambulances in order to counteract terrorist actions.

5. Freedom of assembly and the right to protest

51. Use of disproportionate and excessive force by the Israeli security forces to repress peaceful protests against practices of the occupation continues to illustrate lack of respect for the freedom of assembly. Violent means such as tear gas, rubber-coated metal bullets and stun-grenades are frequently used to disperse peaceful gatherings. The Special Representative has received several reports of arbitrary arrests and detentions of defenders, who have been

accused of committing violence, obstructing the Defence Forces, causing riots or violating decrees on closed military zones. Often bail is granted on condition that the defenders do not return or enter the area. Authorities can deny them entry on the ground that they are “blacklisted”.

52. Israeli defenders are in general able to carry out peaceful demonstrations within Israel without hindrance. However, Israeli defenders are prohibited from travelling to Palestinian-controlled areas and are often physically hindered from travelling to the areas still under Israeli control to participate in peaceful assemblies.

53. During her visit the Special Representative observed one event in the village of Bil’in where Palestinian, Israeli and international human rights defenders have been regularly exercising their right to peaceful protest against the violation of Palestinian rights resulting from construction of the Wall. Despite the restraining effect that her presence at the site may have had on the large contingent of security forces deployed there, the Special Representative noted the arrest of defenders, some of whom were dragged towards the waiting police vehicles. She sensed the intimidating environment created by the large number of soldiers with weapons, as compared with the number of protesters. These peaceful demonstrations have been taking place each Friday since February 2005. The Special Representative has received regular accounts of harassment against human rights defenders, who have been arrested and injured during peaceful demonstrations at the same site and elsewhere.

54. The Special Representative also notes the arrest of journalists covering such protests. Video footage shot by journalists has been instrumental in providing evidence to the courts that such demonstrations have been peaceful. The Special Representative underlines that the right to resist occupation is legitimate.¹⁷ She also refers to article 12 of the Declaration that protects the right to peaceful activities against violation of human rights.

6. Settler violence

55. Settler violence constitutes a daily threat to Palestinian, Israeli and international human rights defenders, including the civilian observer mission, Temporary International Presence in Hebron (TIPH), established in 1994 with the mandate to monitor and report on the situation in Hebron and to provide a feeling of security to the Palestinian community of about 140,000 who live with a regular reign of terror caused by 600 neighbouring settlers.

56. According to the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, settler violence is on the increase, with 68 incidents reported in May 2005 and 67 in June.¹⁸ Settler violence occurs across the West Bank, and previously Gaza, with Israeli authorities rarely intervening or investigating complaints. In this hostile environment, the role of the human rights defender is to watch over, accompany and shield Palestinians from violence such as being beaten or stoned by groups of settlers. They walk Palestinian children to and from school, assist pregnant women or the elderly gain safe passage to medical facilities. Such basic tasks require considerable courage and determination considering the level of impunity that settlers enjoy for violations of the Palestinians’ right to security of person and property.

57. The Special Representative has received numerous reports illustrating the risks that human rights defenders face while trying to protect Palestinians from settler violence. On 29 September 2004 two members of Christian Peacemaker Teams (CPT) were severely beaten with chains by settlers while accompanying Palestinian children on their way to school. On 16 February 2005, a group of international peace activists were attacked by settlers while accompanying Palestinian shepherds as they grazed their flocks on their land near the Havat Maon settlement in the West Bank. Two masked men demanded that they hand over their video camera, which one of them had been using to film an incident minutes earlier, in which settlers pointed a gun at the head of a woman activist from CPT. After they refused, one of the settlers set on the two activists, breaking one activist's jaw with a kick. In October 2005, two CPT activists were badly beaten by settlers from the outpost as they were accompanying a group of children to school. The Special Representative also heard unimpeachable evidence from the Israeli volunteer group Machsom Watch of the daily intimidation they face by settlers at checkpoints and in areas such as Hebron which has been corroborated by members of Breaking the Silence, a group of Israeli ex-soldiers.

58. In her meeting with the Deputy State Attorney-General, the Special Representative was told that claims of settler impunity were unfounded and informed her of two recent indictments of settlers. The Special Representative, while welcoming the Government's action in these two cases, remains concerned by the inaction of the Government in the large number of cases that have been brought to its attention by various sources. The Special Representative was informed that the Government of Israel had recently constituted an inter-ministerial committee to deal with the issue of impunity for settler violence. The Special Representative has not yet been informed about concrete action taken by this committee to deter these acts of violence through enforcement of appropriate policy or punitive measures.

B. The situation of human rights defenders under the jurisdiction of the Palestinian Authority

59. While the Special Representative visited the region at the invitation of the Government of Israel, the scope of her mission included appraisal of the situation of human rights defenders in the Occupied Palestinian Territory. The formula of authority under the Oslo Accords makes it necessary for the Special Representative to gather information and to examine the policies and practices of the Palestinian Authority, in addition to those of the Israeli occupation for presenting the situation in all its aspects. Therefore, she visited various places in the West Bank and also sought the cooperation of the Palestinian Authority for enhancing her knowledge and understanding of its relationship to the civil society, the level of cooperation between institutions set up by the Authority and civil society organizations, especially those working on human rights. She is grateful to the Palestinian Authority for its cooperation and the courtesy granted to her by Ministers of the Palestinian Authority and other functionaries in meeting with her and allowing her to introduce her mandate and to raise issues of concern with them. The Special Representative communicated her concerns regarding issues that emerged from her consultation with defenders in the Occupied Palestinian Territory during her mission and other information that she has been receiving from time to time regarding the effects of Palestinian Authority administration on activities for the defence of human rights and the security of those who carry them out.

1. Legal framework

60. A Basic Law for the National Authority in the Transitional Period was enforced on 29 May 2002. It provides a provisional constitutional framework for the Palestinian State until the peace process is concluded and the Palestinian State is officially declared. The law provides for parliamentary democracy with direct and free elections, guarantees human rights recognized in the major international covenants, including equal protection of the law, protection against torture, forced confession, and arbitrary arrest. The law also safeguards freedom of thought, freedom of expression, and freedom of the press, provided that they do not violate the provisions of the law. Also listed are the right to life and equality of gender. Freedom of belief and worship are guaranteed, subject to non-violation of public order or morality. Freedom of association, including the formation of trade unions, and peaceful assembly are constitutionally protected. In seeking to institutionalize safeguards against violations, the law provides for the independence of the judiciary. During a state of emergency, basic rights may not be infringed, and the legislature may not be suspended. Detainees have the right to a lawyer, and their cases must be reviewed by the Attorney-General or the courts within 15 days.

61. There is considerable overlap of diverse legal institutions in the Palestinian territories. Some of these include Israeli military and civilian law, Jordanian law, and acts, ordinances, and orders-in-council that remain in effect from the time of the British Mandate.

2. Measures taken at national level for the implementation of the Declaration

62. The Palestinian Independent Commission for Citizens' Rights (PICCR) was established on 30 September 1993, upon a Presidential Decree issued by the late President Yasser Arafat. The legislative council is now considering passing legislation to recognize it as the national institution for human rights. Article 31 of the Basic Law of 1997 also reiterated the commitment for establishing an independent Commission on Human Rights.

3. Environment for the functioning of human rights defenders and areas of concern

63. Protections in the Palestinian law are not implemented effectively and in practice do not serve human rights defenders either in facilitating their work or in providing them with security against abuse and threats. While NGOs are able to register, the regulations and procedures have become more cumbersome than in the past. Most NGOs rely on support from foreign donors, mainly the European Union, USAID and Nordic Governments. So far no attempt by the Palestinian Authority to restrict foreign funding has been observed. The Special Representative is troubled by reports that amendments to the NGO Law of Charitable Associations and Community Organizations have been presented to the Palestinian Legislative Council, proposing provisions that could seriously hamper NGO independence, complicate registration procedures, and restrict their scope of activities, especially with regard to promoting civil and political rights.

64. Most defenders acknowledge that the Palestinian Authority has cooperated with many NGOs in the field of human rights education, training of police and judiciary and law reforms. However, they believe that the results of this cooperation with the civil society were muted because of a lack of genuine commitment on the part of the Palestinian Authority to enforce human rights.

65. Reports of torture and mistreatment of detainees are common but human rights defenders find it difficult to gain access to places of detention. In September 2001 the Special Representative communicated her concern to the Palestinian Authority regarding the alleged comments of the Ramallah police commander justifying torture of detainees, and threatening a defender when his remarks were challenged. Subsequently, the Chief of the Palestinian Police Service reportedly issued an order prohibiting access to the defender and his organization to police centres and prisons.

66. The Special Representative has received credible reports that journalists and human rights defenders are targeted for exposing abuses committed by the Palestinian Authority security apparatus. She has also received reports of arrests and assaults on human rights defenders for participating in peaceful demonstrations and public activities.

67. She is particularly concerned about the culture of impunity that has affected the safety of human rights defenders, particularly women human rights defenders. The Special Representative refers to the report of the Special Rapporteur on violence against women, its causes and consequences¹⁹ that highlights the issues pertaining to women's legal and social rights and the incidence of violence against women in the Occupied Palestinian Territory. Women human rights defenders engaged with these issues have pointed out several difficulties that they confront in promoting and protecting women's rights. Weaknesses in the judicial system and flaws in the legal framework have deprived these defenders of adequate tools for obtaining justice for women. They have been targeted by State and non-State entities for advocating law reform and for assisting and supporting victims of violence.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Main conclusions

68. **The Special Representative notes that the Government of Israel, in general, does respect the rights of Israeli human rights defenders and that she has not observed any systematic policy of restraining their activities within Israel. Human rights organizations and defenders' groups have access to governmental authorities, members of the Knesset and Knesset sub-committees. Defenders have acknowledged that they have opportunities to examine and comment on legislative drafts. This indicates that there is interaction with human rights defenders that could be further developed to increase their input on policies and practices of the State that affect the situation of human rights and the ability of defenders to function.**

69. **The same human rights organizations and defenders, however, face difficulties in promoting and protecting the rights of minorities, including the Arab and Palestinian communities in Israel. While human rights organizations and groups are able to advocate rights and report on violations, defenders regret that their efforts have little or no impact on policies of the Government, especially in relation to security measures that result in serious violations of human rights and fundamental freedoms.**

70. **The Special Representative finds that the practices and policies of the occupation result in conditions which place human rights defenders operating in the Occupied Palestinian Territory at grave risk and present serious obstructions in every aspect of their work. Human rights monitors and field workers, lawyers, journalists, health professionals and those providing humanitarian assistance and care have all been affected by the situation of occupation and militarization.**

71. **Restrictions on the freedom of movement and assembly, administrative detentions and other forms of harassment, intimidation and humiliation of defenders has rendered their situation absolutely incompatible with international norms and standards of human rights and the principles set forth in the Declaration. The Special Representative is concerned that, in the wake of the “disengagement”, human rights defenders in Gaza are becoming more vulnerable because of their isolation, imposed by continuing restrictions that obstruct their movement and communication with their networks in the rest of the Palestinian territory as well as the outside world.**

72. **The information she has received indicates that the Palestinian Authority’s style of governance is not fully in compliance with human rights norms. Conditions of lawlessness and impunity for human rights violations have affected the security of human rights defenders, especially those who expose violations committed by security personnel. The Special Representative is concerned that these conditions could affect the functioning and safety of election monitors in the forthcoming elections.**

73. **“Security imperatives” have been allowed to deprive a vast population of their very basic rights, and to justify continuation of gross violations of human rights and humanitarian law committed by the occupation. The exceptional conditions resulting from conflict and occupation demand a more active human rights community to address the serious violations faced by the civilian population in the Occupied Palestinian Territory. The human rights community is being weakened by the risks that they are placed under and by the impunity for violation of their right to life, liberty and physical security. Any prospects for peace and security in the region are being diminished by the constraints placed on freedoms in general and, particularly, the freedom to defend human rights.**

B. Recommendations

1. To the Government of Israel

74. **Israel must end the occupation of the Palestinian Territory, as the situation of occupation itself is a gross violation of the human rights of the Palestinian people. Until the end of the occupation, Israel must respect the resolutions of the United Nations bodies, and accept its obligations under international human rights and humanitarian law, in particular the two main International Covenants and the Fourth Geneva Convention relative to the protection of civilian persons in time of war, of 12 August 1949. In the context of defenders, Israel’s defiance of international law has caused serious harm, including killings, to human rights defenders and affects their freedom of expression, their access to places of violations and their ability to seek justice for victims and to provide humanitarian assistance.**

75. **Resistance to the occupation is a legitimate right of the Palestinian people. Any peaceful action undertaken in this regard, collectively or individually, is, therefore, protected under article 12 of the Declaration. Article 2 of the Declaration places the Government of Israel under the obligation “to adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed”. The Government must amend laws, regulations and policies and refrain from taking action that obstructs or punishes the exercising of the freedom of assembly, and the right to protest or resist violations.**
76. **Israel’s legal system makes security-related provisions that have been used or abused to prevent the enforcement of the rights of Palestinians brought before the judicial forums. The Government may consider a comprehensive review of the system in order to ensure that its security concerns are met within the boundaries of international law. The Government must show its commitment to human rights, democracy and to peace and security by undertaking this exercise in collaboration with independent experts to give credibility to the results of such examination.**
77. **The Special Representative suggests that the Government also give serious consideration to the incorporation of the principles set out in the Declaration to ensure protection of human rights defenders and strict accountability for violation of their right to defend human rights. In particular, the right of victims of human rights violations to an effective remedy, including compensation, in accordance with article 9 of the Declaration must be protected. In this regard, repeal of the provision of the Civil Wrongs (Liability of the State) Law, as amended in July 2005, should be considered.**
78. **The Special Representative joins other human rights bodies and mechanisms of the United Nations in recommending that the Government abandon the practice of administrative detention. The accuracy of information leading to charges, partiality and transparency of investigation and fairness of procedures in prosecution of these cases is questionable. By not allowing Palestinian lawyers to appear before Israeli courts, many of the Palestinian detainees are deprived of their right to a counsel of their choice. Orders of detention and extension of the period are usually based on secret evidence not disclosed to the accused or, sometimes, even to any judicial authority. Several human rights defenders have been placed under administrative detention in this manner. The bona fides of these detentions on the basis of security is disputed and the Government has not put forward any responses that inspire confidence in the accusations or the procedures employed against the defenders in question.**
79. **In view of the allegation of torture and mistreatment of detainees, the Special Representative recommends that the Government accept independent monitoring of the detention facilities and allow independent observers immediate access to human rights defenders under administrative detention. The Government told the Special Representative that the Israel Bar Association had access to prisons, but other sources, including Israeli lawyers, have informed her that this access is only to clients and not for assessing conformity of practices of the authorities to international human rights and humanitarian law and standards.**

80. **The Special Representative recommends that the Government issue invitations to the Special Rapporteurs of the Commission on Human Rights mandated by the Commission to carry out immediate missions in the Occupied Palestinian Territory in its resolution of 19 October 2000.**

81. **The Israeli authorities must refrain from imposing restrictions on travel of human rights defenders to or from Israel and the Occupied Palestinian Territory. Other restrictions on freedom of movement must be removed, and access of defenders in order to carry out their work must be ensured. Measures must be adopted, in consultation with human rights organizations both in the Occupied Palestinian Territory and Israel, to facilitate the movement of defenders.**

82. **The executive, judicial and security authorities in Israel must inculcate a better understanding of the application of human rights norms to the situation of occupation and, for this purpose, create opportunities of interaction with defenders who are engaged with the protection of human rights and humanitarian law. The Government must refrain from making statements alleging wrongdoing against human rights or humanitarian operations. The Government must establish its good faith in voicing any suspicions by producing unequivocal evidence to that effect.**

83. **The Government must cooperate with the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.**

84. **Given the degree of cooperation that exists between the Government and United Nations agencies, the Special Representative recommends that any elements of obstruction to allow these agencies working under different mandates to protect the civil, political, economic, social and cultural rights of the Palestinian people be removed. It must grant opportunities to these agencies to communicate their concerns to the Government and to hold a meaningful dialogue on these issues. In particular, channels of communications with the Office of the High Commissioner for Human Rights in the West Bank should be established. The Office should have the opportunity to discuss its concerns with the Government and to put forward recommendations for the protection of activities for the defence of human rights in the areas of the Occupied Palestinian Territory under Israeli control or on its policies that affect the situation in the "A Areas".**

85. **The Special Representative strongly recommends the Government to address the issue of settler violence and the impunity for such incidents. She requests the Government to keep her informed on initiatives taken by the inter-ministerial committee set up in this regard.**

2. To the Palestinian Authority

86. **The Palestinian Authority must ensure respect for human rights and the rule of law. It must also ensure that fundamental freedoms of the Palestinian population are fully restored and protected in the areas of their authority and control. Incorporation of the principles set forth in the Declaration on Human Rights Defenders and their observance in all aspects of governance would be a step forward in this direction.**

87. **The Special Representative urges the Palestinian Authority to maintain a respect for the freedom of association in the law and refrain from any changes that infringe the independence of NGOs or restrict the scope of their activities for the defence of human rights. Likewise, the independence of the media and the freedom to report on human rights violations must be protected, not only in the law but also in practice.**

88. **The Palestinian Authority must take immediate measures to end impunity for human rights violations. Investigation of complaints against officials and private entities threatening human rights defenders, including those defending women's rights, must be conducted with diligence and responsibility. The Special Representative recommends the creation of an independent commission to inquire into all allegations of human rights violations against the security services, including torture, kidnappings and illegal detention of human rights defenders.**

89. **The mandate of the Palestinian Independent Commission on Citizens Rights must be strengthened and reforms of the institution undertaken to improve its capacity to hold accountability for human rights violations by the Authority.**

3. To the United Nations

90. **The General Assembly, the Security Council, the Commission on Human Rights and its special procedure mechanisms have taken note of and have largely condemned the practices of the occupation. Nevertheless, concrete measures need to be adopted to secure the rights of the Palestinian population. In consultation with human rights experts and fully utilizing the information documented by its mechanisms, the United Nations must devise concrete action to enforce compliance with international law in the Occupied Palestinian Territory, as expounded in the Advisory Opinion of the International Court of Justice, and in accordance with the Charter of the United Nations.**

91. **The Special Representative calls upon the United Nations to prioritize its support for human rights defenders and the OHCHR with the full cooperation of the Government of Israel and the Palestinian Authority.**

92. **The Special Representative calls upon the Commission to take particular note of the situation of human rights defenders in the Occupied Palestinian Territory and to adopt measures for their protection and for facilitating their work.**

Notes

¹ See A/60/271.

² According to the Accords, the Palestinian Authority was designated to have security and administrative control over Palestinian areas designated as "Area A" (18 per cent of the West Bank), and only administrative control over areas designated as "B" (22 per cent of the West Bank). The remainder of the territories (including Israeli settlements, the Jordan Valley region, and bypass roads between Palestinian communities) were to remain under exclusive Israeli control ("Area C" comprising 60 per cent of the West Bank).

³ Basic Law: Human Dignity and Liberty 1992.

⁴ According to Law of Associations, 5740-1980, the Associations Registrar can refuse to register an association, if “one of its purposes is to negate the existence of the State of Israel or its democratic character, or if there are reasonable grounds to conclude that the association will serve as a cover for illegal activity”. According to the Mandatory Defence (Emergency) Regulations 1945 the Minister of Defence may declare any body or persons to be an “unlawful association” if it incites or encourages the overthrow by force or violence of the political order of the Government of Israel, the bringing into contempt or arousal of disaffection against the Government or its ministers in their official capacity; the destruction of or injury to government property; or acts of terrorism directed against the Government of Israel or its servants. The Prevention of Terrorism Ordinance, 5708-1948 also places prohibitions against creation, membership and operation of a “terrorist organization” as defined in the Ordinance. There are also restrictions regarding professional associations in certain fields, and on the qualifications that may belong to a professional association.

⁵ HCJ 507/85, *Tamini v. Minister of Defense* and C.A. 2687/92, *Geva v. Walt Disney Co.*

⁶ E/C.12/1/Add.27, para. 10.

⁷ See E/C.12/1/Add.90.

⁸ HCJ 302/72, *Abu Hilu et al. v. Government of Israel et al.* PD 27 (2) 169; HCJ 606/78 *Ayub et al. v. Minister of Defense et al.* PD 33 (2) 113.

⁹ HCJ 6026/94, *Nazal, et al. v. Commander of the IDF in the West Bank* PD 48 (5) 338.

¹⁰ HCJ 97/79, *Abu Awad v. Commander of Judea and Samaria* PD 33 (3) 309, 317-318.

¹¹ HCJ 7669/03, *Ahmad et al. v. Military Commander of the IDF in the West Bank* (unpublished) referred to in Orna Kohn’s paper, “Litigation before the Israeli Courts”, panellist at Al-Haq’s legal conference, “From Theory to Practice: Upholding International Humanitarian Law in the Occupied Palestinian Territory” (November 2005).

¹² Decision dated 17 August 2005 in *Rasim Obedat etc. v. The State of Israel*.

¹³ *Rasim Obedat (6552/05), Ahmed Maslamani (6432/05) and Naser Abukhader (6388/05) v. The State of Israel*, Supreme Court judgement, 8 August 2005, at paragraph 11 (English translation by translator licensed by the Minister of Justice).

¹⁴ In this report the term “Wall” is used pursuant to the International Court of Justice (ICJ) choice of wording in its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (A/ES-10/273 and Corr.1). In its advisory opinion the ICJ held that the Wall/barrier is in violation of International Humanitarian Law. The ICJ wrote that “Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the

Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto [...]” (Advisory Opinion of the International Court of Justice, para. 163).

¹⁵ OCHA, “West Bank Closures August 2005”.

¹⁶ The Special Representative refers to the Advisory Opinion of the ICJ that international human rights and humanitarian law applies to Israel’s actions in the OPT. The Geneva Convention relative to the Protection of Civilian Persons in Time of War obliges the Occupying Power to allow medical personnel of all categories to carry out their duties. The Convention as well as the Protocol Additional (Protocol 1) of the Geneva Conventions prohibit attacks and restrictions on relief personnel and hospitals.

¹⁷ See Commission resolution 2004/10 dated 16 April 2004.

¹⁸ A/60/271 at para. 27, p. 11.

¹⁹ See E/CN.4/2005/72/Add.4.
