

rules which in effect nullify all agreements and the land for peace' formula. The practice of these new policies not only was the cause of immense suffering for the Palestinian people but against the international community as a whole which rejected these practices.

The AALCC in his view provided a forum for exchange of views on this topic and could provide a united stance of justice and condemnation of violence perpetuated against the Palestinians. He suggested that the AALCC "continue to monitor the developments to include all Israeli practices in violation of international law". He also drew attention to the General Assembly Resolutions adopted during the 52nd. Session which had called for the convening of a Conference of the contracting Parties to see how the four Geneva Conventions could be applied to the Palestinian problem.

The Delegate of Islamic Republic of Iran recalled that the item "Deportation of Palestinians in violation of International Law" was taken up by the Committee at its Singapore Session (1988) upon the proposal of the Iranian Delegation. He said it was unfortunate that Palestinian people still continued to suffer and supported the proposal to continue to keep the item on the agenda of the AALCC.

The Delegate of Pakistan stated that his country had always considered that Deportation of Palestinians and establishment of Jewish Settlements in Palestine, were violative of the Hague Convention of 1907, the fourth Geneva Convention of 1949 and 1977 Protocols. He also condemned these and other acts that are in violation of international law, UN Resolutions and international agreements that denied the Palestinians their rights, including the right of self-determination. He supported the retention of this item on the agenda of the Committee.

The Delegate of Ghana requested the Secretariat to continue to monitor the situation in Palestine and submit a report to the next Session of the Committee.

The Delegate of Syria highlighted the need to solve the Palestinian issue. Expressing hope that there would be a just and lasting solution to the Palestinian issue, he condemned Israel for disrupting the peace process. In this regard he mentioned the mandate of the Security Council Resolutions 242, 328 and 425 which had called for complete withdrawal of Jews from all Palestinian territories. The non-compliance of these resolutions, showed disrespect and violation of established international law. The deportation of Palestinians and resettlement of Jews in his government's view, tantamount to violation of all international legal instruments applicable to the region. He warned that the situation had international complications and West Asia should be able to live as a zone of peace. He supported the view that the topic be placed on the agenda of the 38th Session of the AALCC.

After extensive discussion on the topic and keeping in view the suggestions forwarded by member States, the resolution adopted during the 37th New Delhi Session, expanded the item to include other Israeli practices, thus "Deportation of Palestinians and Other Israeli Practices among them the massive Immigration and Settlement of Jews in the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949" and decided to place the item on the agenda of the 38th Session (Accra).

Thirty -eighth Session: Discussion

The Deputy Secretary General Ambassador Dr. W.Z. Kamil while introducing the item "Deportation of Palestinians and other Israeli Practices among them the massive Immigration of and settlement of Jews in occupied Territories in violation of International Law Particularly the fourth Geneva Convention of 1899", stated that this item had been on the agenda of the AALCC for the last ten years when it was taken up by the Committee at the 27th session upon the reference by the Government of Islamic Republic of Iran. The Secretariat has monitored the legal aspects of the topic at successive Sessions, and the subject had undergone three phases, during

the first phase the Secretariat had highlighted the massive immigration of Jews from the former Soviet Union and the Israeli Practices of Settlement of Jews in the occupied Palestinian territory. The second phase began, and agreements were signed between the parties, the process began at Madrid with the signing of the Declaration of Principles on Interim Self Government Arrangements of 1993 as well as subsequent implementation agreement of 1995 and 1998. At consecutive Sessions of the AALCC it was felt that these steps towards peace, would settle all pending issues including the deportation of Palestinians in violation of International Law and would restore full respect and implementation of international instruments including the fourth Geneva Convention and rules of international law. He further noted that the Secretariat had continued to monitor development and at the 37th Session after deliberations the scope of the topic was broadened to include "other Israeli practices".

He observed that during the third phase it was unfortunate that despite international efforts which had raised expectations of peace in Middle East, had come to a settlement due to numerous set backs and violations of all international law instruments by the Israeli Government. Thus the situation has continued to deteriorate, and tension had increased in the region as a whole. He said, there was an urgent need to reach a final settlement of the question of Palestine that will allow Palestinian people to attain all their legitimate fundamental rights, in keeping with international law, basic principles established at the Madrid, Oslo, and subsequent conferences which would ensure security and stability for the entire region and just and lasting peace in the Middle East.

The Delegate of Palestine wanted the inclusion of "torture" to the topic, because in his view the plight of one third of the Palestinians languishing in Israel prisons was pathetic and deplorable. The agreement signed with Israel the occupying powers were far from settling the pending issues which could bring lasting peace, in the region. This he said, was largely due to the double standards adopted in dealing

with the Palestinians situation, where international legitimacy was completely ignored. The provisions of the Geneva Conventions failed to apply in their cases. He expressed his appreciation of the role of the ICRC, which had stood by the needs of the Palestinian people. He also recalled the UN General Assembly resolution of 28th February 1999, which *inter alia* drew attention to non-compliance by Israel of the four Geneva Conventions. In his view the list of crimes within the jurisdiction of the International Criminal Court should also include forceful settlement of people, as a crime to be tried by the ICC. Settlement continued to be the major stumbling block in all the peace efforts with Israel. The AALCC in his view provided an appropriate forum for exchange of views on this crucial topic and could provide a united stance of justice and condemnation of violence perpetuated against the Palestinians. He suggested that AALCC continue to monitor the developments to include all Israeli practices including, torture which was a violation of International Law.

The Delegate of Pakistan considered deportation and transfer of Palestinians from occupied territories and settlement of Jews in violation of the Hague Convention of 1907, the IV Geneva Convention of 1949 and its Protocol of 1977. He also condemned these and other acts that are in violation of international law, UN Resolutions and International Agreements that denied the Palestinians their Rights, including the right of self-determination.

The Delegate of the Arab Republic of Egypt stated that the topic had extensively been discussed in the Committee for the last 10 years and needed to be studied on continued basis for the following reasons: (i) that the continued discussion of this item is a reflection of the Committee's awareness of the importance of consistently exposing the Israeli violations of international law and particularly of the Geneva Conventions in the occupied territories; (ii) that the expansion, of the scope of this item to include other Israeli violation in addition to the deportation of Palestinians and settlement of Jews, is a welcome development; (iii) that the demolition of houses, collective punishment and legally condoned and sanctioned

torture of Palestinians, are all forms of Israeli violations of international law and of its obligations as an occupying power; (iv) that the objectives of these Israeli practices is to change the demographic structure in the territories to the detriment of the final settlement of the political issues; and therefore his delegation supported the points made by the Palestinian Minister of Justice which outlined in detail the legal aspects of the Israeli violation in the occupied territories.

The Vice President concluded the debate on the item with the comment that AALCC had an important role to play and decided to keep this item on the agenda and to report to the 39th Session.

(ii) **Decision on the "Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949"**

(Adopted on 23.04.1999)

The Asian African Legal consultative Committee at its Thirty-eighth Session.

Having considered Doc. No. AALCC/XXXVIII/Accra/99/S3;

Having heard the comprehensive Statement of the Deputy Secretary General;

Having heard also the comprehensive statement of the Head of Delegation of Palestine and other related statements;

Following with interest and hope the peace efforts being made by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) on the formula of "land for peace" and the legitimate rights of the Palestinian people shall bear fruit.

Mindful of the difficulties being faced in the implementation of the peace process;

1. *Expresses* hope that a just and durable solution will allow Palestinian people to attain their legitimate rights among them the right of self determination;
2. *Directs* the Secretariat to monitor the developments in the occupied territories from the viewpoint of relevant legal aspects; and

3. *Decides to place the item "Deportation of Palestinians. And other Israeli Practices Among them the Massive Immigration and Settlement of Jews in Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949", on the agenda of its Thirty-ninth Session.*

(iii) Secretariat Study: Deportation of Palestinians and other Israeli practices among them the Massive Immigration and Settlement of Jews in Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949

Pursuant to the resolution adopted at the New Delhi Session the AALCC Secretariat monitored the developments on the subject. The Israeli Government, since taking office, has adopted guidelines contradicting the letter and spirit of the agreements reached, made it clear that the time table agreed upon would not be respected, resumed settlement activities in the occupied territory and opened a tunnel in the vicinity of Al-Asqa Mosque in occupied 'East Jerusalem. It did not close that tunnel, in flagrant violation of Security council resolution 1973 (1996) of 28 September 1996, and has continued with and even intensified its settlement activities including building of new settlements in Jabal Abu Ghneim to the South of occupied East Jerusalem, and attempted to build a settlement in Ras-Al-Amud. It is clear that the Israelis have continued the drive to Judaize Jerusalem and to change its status and demographic composition.

These and other Israeli illegal practices are in flagrant violation of international law, fourth Geneva Convention of 1949 and the UN resolutions, they tantamount to reversing the path of Palestinian-Israeli reconciliation, and possibly bringing to an end the whole middle East Peace process.

In fact concern needs to be expressed over the current deadlock of the Palestinian Israeli track of the middle East Peace Process as a result of the policies of the Israeli Government, in violation of existing agreements, including settlement activities repressive measures and economic suffocation of Palestinian people. There is an urgent need for increasing efforts to ensure compliance by Israeli with the legal International and Bilateral binding agreements and their timely implementation. The international community did take

some decisive decisions on how to bring back peace to the region, and enhance the applicability of the rule of Law. Some steps taken in this regard are enumerated below:

A. XIIth Summit of Heads of State of the Non-Aligned Movement

The Non-Aligned Movement (NAM) convened its Summit of the Heads of State or Government in Durban, South Africa from 29th August to 3 September 1998. The Heads of State called for the implementation of all U.N. resolutions on the question of Palestine including those related to Palestinian refugees. They reiterated their support for the inalienable rights of the Palestinian people, including their right to return to their homeland and to have their own independent State with Jerusalem as its capital and, they reiterated their demand for the withdrawal of Israel, the occupying Power, from all the Occupied Palestinian Territory, including Jerusalem, and the other Arab Territories occupied since 1967.

The Heads of State or Government reaffirmed their position on occupied East Jerusalem, the illegal Israeli Settlements, and the applicability of the Fourth Geneva Convention of 1949 to all of the occupied Palestinian Territory, including Jerusalem. They demanded that Israel the occupying Power, implement relevant Security Council resolutions in this regard and abide by its legal obligation. They reiterated their support for the recommendations contained in the resolutions adopted during the Tenth Emergency special Session (ES-10/2, ES-10/3, ES-10/4 and ES-10/5) including *inter alia* the recommendation to convene a Conference of the High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, and to ensure its respect in fulfillment of their collective responsibility as stipulated in Common article 1 of the Fourth Geneva Convention.

B. 25th Session of the Foreign Ministers of Organization of Arab States

The 25th Session of the Foreign Ministers of the Organization of Arab States (OIC) convened in Doha, Qatar from March 15-17, 1999 had adopted several resolutions reaffirming *inter alia*, the OIC's full support for the Palestinian struggle to end the Israeli occupation and establish their own independent state. They also reaffirmed that Jerusalem is an integral part of the Palestinian territory occupied in 1967.

C. The Wye River Memorandum

Another important event in the last year was the signing on 23 October 1998, of the Wye River Memorandum. It was concluded after intensive negotiations between the Palestinian and Israeli sides for about 10 days at the Wye River Center, with full scale U.S. Participation, including that of the US President himself. The Memorandum comprised of steps to facilitate implementation of the Israeli Palestinian Interim Agreement of 1995 and other related agreements, including the Note for the Record of 1997. The Memorandum states that "these steps are to be carried out in a parallel phased approach in accordance with this Memorandum and the attached time limit. They are subject to the relevant terms and conditions of the prior agreements and do not supersede their other requirements".

Five basic issues are dealt with in the Memorandum, namely (i) further deployment; (ii) security (iii) interim committees and economic issues (transitional period issues); (iv) permanent status negotiations and (v) unilateral actions.

The signing of the Wye River Memorandum by the Government of Israel and the Palestinian Liberation Organization is a promising development. This agreement complements and adds detail to the accords that the parties concluded in the past and, paves way to permanent status negotiations. It is to be hoped that the Wye agreement will bring to an end delays and unilateral actions that have