



**The Blockade of Gaza
and its International Legal
Implications:
Report of the Seminar and
Select Documents**

**CENTRE FOR RESEARCH AND TRAINING
Asian-African Legal Consultative Organization
29-C, Rizal Marg, Diplomatic Enclave,
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New Delhi-110021
INDIA**

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Published by

Centre for Research and Training
Asian-African Legal Consultative Organization
29-C, Rizal Marg,
Diplomatic Enclave,
Chanakyapuri,
New Delhi-110021, INDIA
Email: mail@aalco.int
Website: <http://www.aalco.int>

ISBN: 81-902886-5-3

Printed by

M/s A P Computers
New Delhi

PREFACE

The topic of “The Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949” constitutes an important element of the work programme of the Asian-African Legal Consultative Organization (AALCO). The Organization has been considering this topic at its Annual Sessions, since 1989, from the international law perspective and has examined the violation of international law committed by the state of Israel against the Palestinian people.

Therefore, at its successive Annual Sessions, the AALCO Member States have from such perspective condemned, in strongest terms the violations of international law that continue to occur in the Occupied Palestinian Territory, including the deportation of Palestinians from their homeland. In view of these developments which have serious implications for Palestinian people the AALCO Member States have demanded that Israel, the Occupying Power, must comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians.

The blockade of Gaza by Israel since June 2007 has led to further deterioration in the situation. This was exacerbated by the war crimes committed on the peaceful aid convoy- the “Freedom Flotilla” on 31 May 2010 by the Israeli army. To

analyze the international legal implications of the blockade of Gaza in the wake of this attack, a seminar was convened at the AALCO Headquarters in New Delhi on 16 July 2010. I am particularly grateful to the eminent Panelists of this Seminar, namely H. E. Dr. Mohamed Abdel Hamid Higazy, Ambassador of the Arab Republic of Egypt in India; H. E. Mr. M. Levent Bilman, the Ambassador of the Republic of Turkey in India; H. E. Dr. Ahmed Salem Saleh Al- Wahishi, the Chief Representative of League of Arab States in India; and Prof. Achin Vanaik, Head, Department of Political Science, Delhi University, for sparing their valuable time and sharing their perspectives on the issue. It was also my privilege and honour to be part of this distinguished Panel.

This publication contains the Report of this Seminar that includes the presentations made by the Panelists and the ensuing exchange of the views in the Seminar between the Panelists and the distinguished participants. In addition, to make the publication a ready reckoner for the AALCO Member States and interested readers some documents that have an important bearing on the subject matter have also been compiled and included as "Select Documents".

I also wish to place on record my appreciation to my colleagues in the AALCO Secretariat, especially the Deputy Secretaries-General Dr. Xu Jie and Dr. Hassan Soleimani, and the Secretariat Staff for their painstaking efforts in bringing out this publication.

Prof. Dr. Rahmat Mohamad
Secretary-General

2 November 2010

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The Blockade of Gaza
and its International
Legal Implications:
Report of the Seminar

I

THE BLOCKADE OF GAZA AND ITS INTERNATIONAL LEGAL IMPLICATIONS: REPORT OF THE SEMINAR

1. INTRODUCTION

Gaza has been under a heightened Israeli blockade since June 2007. The massive military operation in the occupied Gaza Strip has caused grave violations of the human rights of the Palestinian civilians, international humanitarian law and exacerbated a severe humanitarian crisis. The illegal Israeli siege imposed on the occupied Gaza Strip, including the closure of border crossings and the cutting of supply of food, medicine and fuel, constitutes collective punishment of Palestinian people and has led to disastrous humanitarian and environmental consequences.

The crisis was further aggravated by the war crimes perpetrated on 31 May 2010 by the Israeli State against the "Freedom Flotilla", the convoy of Turkish ships, carrying humanitarian aid for the population of Gaza. Despite the international community decrying in strongest terms Israel's blockade of Gaza and its illegal action against the Freedom Flotilla, Israel remains unrepentant.

It may be recalled that the topic "Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949", has been on AALCO's agenda since 1988. Since then the AALCO had at its successive Annual Sessions deliberated on the topic from all its relevant legal aspects.

In the backdrop of this, H. E. Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO convened a seminar on 16 July 2010, at the AALCO Secretariat to discuss *“The Blockade of Gaza and its International Legal Implications”*. The Panelist for the Seminar included: H. E. Prof. Rahmat Mohamad, Secretary-General, AALCO; H. E. Dr. Mohamed Abdel Hamid Higazy, Ambassador of the Arab Republic of Egypt in India; H. E. Mr. M. Levent Bilman, the Ambassador of the Republic of Turkey in India; H. E. Dr. Ahmed Salem Saleh Al- Wahishi, the Chief Representative of League of Arab States in India; and Prof. Achin Vanaik, Head, Department of Political Science, Delhi University. Following presentations by the eminent Panelists, a lively exchange of views took place amongst the panelists and the participants. The seminar concluded with a vote of thanks proposed by Dr. Xu Jie, Deputy Secretary-General, AALCO.

2. PRESENTATION BY H. E. PROF. DR. RAHMAT MOHAMAD, SECRETARY-GENERAL, AALCO

Prof. Dr. Rahmat Mohamad, the Secretary-General of the Asian-African Legal Consultative Organization [AALCO], at the outset, extended a very warm welcome to all the participants and Panelists for making it to the seminar on: *"The Blockade of Gaza and its International Legal Implications"*, which he said was both very important and timely.

Tracing the origin of the Blockade of Gaza in the broader context of the Israeli-Palestine conflict, he remarked that the Blockade of Gaza, constituted a very critical aspect of the Israeli/Palestinian conflict. The Blockade imposed by Israel in June 2007, had left more than 1.4 million Palestinian men, women and children trapped in the Gaza Strip. The Blockade which effectively restricted the vital supplies such as food, medicine and fuel to "bare subsistence levels", had created a variety of traumatizing challenges to the normalcy of daily life in Gaza, he opined. As a form of collective punishment, Israel's continuing blockade of Gaza represented a flagrant violation of international law, he noted.

Commenting on the Israeli military attack on the Gaza-bound humanitarian ships, Freedom Flotilla, on international waters on 31 May 2010, he pointed out that the incident, which was only the recent episode in the Israeli/Palestine conflict, had surely shocked the conscience of the international community. He reasoned that even though both the sides to the flare-up tried to justify their actions/inactions by referring to international legal norms, the seminar was intended precisely to explore various international legal issues raised by the Flotilla tragedy within the broader legal context of Israel's blockade of the Gaza Strip and the suffering of civilians there. The indispensable need to set the facts surrounding the tragedy at right was critical.ⁱ

While explaining the factual aspects related to the Israeli-Palestinian conflict, he remarked that Gaza had been under an illegal and internationally condemned blockade since June 2007 and that Israel had maintained its Gaza siege in its full fury, allowing only barely enough food and fuel to enter to stave off mass famine and disease causing a humanitarian catastrophe. Such a policy of collective punishment, initiated by Israel to punish Gazans for political developments within the Gaza Strip, he stressed, constituted a continuing flagrant and massive violation of international humanitarian law as laid down in Article 33 of the Fourth Geneva Convention.ⁱⁱ

While commenting on the periodic outbursts of violence perpetrated by Israel on the people of Palestine, he stated that - Operation "Cast Lead" - which was undertaken from 27 December 2008 to 18 January 2009 and witnessed the killing of at least 1,383 Palestinians, besides leaving thousands of Palestinians homeless- could be taken as the most recent egregious example for its behaviour.

Dwelling on the Flotilla massacre of 31 May 2010, whereby Israeli armed forces raided an international convoy of ships seeking to break the blockade on the Gaza Strip, and which resulted in the death of 9 peace activists, he remarked that Flotilla tragedy had brought back the Gaza siege and the plight of the 1.4 million people living in it, to the international forefront once again. He was of the view that the entire humanity was rightly outraged by the cold blooded murder of peaceful humanitarian activists some 72 miles from the coast of Gaza, which Israel claimed was a case of self-defense.

As regards the Israeli naval attack on the Freedom Flotilla, he pointed out that one could easily argue that it was illegal in that these ships were on a humanitarian mission carrying supplies indispensable for the survival of the civilian population of Gaza. The alleged military objective of

preventing the importation of weaponry by the Israeli commandos did not arise and hence, hold water, he stressed. Even if it were, international law did require that any use of force was proportionate, he added. He was also of the firm view that Israel could not establish a blockade in circumstances where there were no proper international conflict and where civilian population were enduring hardships on a catastrophic scale.

Explaining the legal regime governing the use of force in international law, he remarked that it was well-known that the Charter of the United Nations prohibits all kinds of uses of force that cannot be justified as self-defence against a prior armed attack and that consequently, the blockade of Gaza should be unlawful on that account alone.ⁱⁱⁱ What was also well-established in his view was the fact that international human rights law protects the right to life, and United Nations standards on the use of force and firearms by law enforcement officials set strict guidelines on the response by military and police in law enforcement situations.

Elaborating on the international maritime legal issues involved in the military attack of Israel which took place in international waters, he pointed out that since the Flotilla was 72 miles from Gaza's coast when Israeli commandos boarded it, it was illegal under international law. One of the reasons was that under the law of the sea, it was well settled principle that, vessels on the high seas were subject to the jurisdiction of the flag state of that vessel and that freedom of navigation was guaranteed to them.^{iv} In his view, that fact had made it impossible for Israel to legally justify the boarding of ships and its subsequent attack on unarmed peace activists. He went on to add that by intercepting and boarding the ship in the high seas, Israel has violated international law.

Locating the Flotilla tragedy within the broader context of the Blockade of Gaza, he noted that the siege was a clear breach of the Fourth Geneva Convention of 1949 which strictly prohibited intentionally starving the civilian population and required that humanitarian supplies essential to survival must be allowed to pass, albeit subject to certain controls by the blockading power. Further, to maintain a population at a level just above the bare minimum needed for survival could never seriously be thought to be consistent with either the letter of the laws or its spirit. In support of his opinion, he cited the comment of the eminent jurist Richard Falk, the UN Special Rapporteur for the Occupied Palestinian Territories, who had described the blockade of Gaza as constituting a “*crime against humanity*”.^v

After having briefly described the critical international legal issues involved in the Flotilla incident in the context of the Blockade of Gaza, Prof. Mohamad remarked that he had couched the most contentious issues arising out of the tragedy in the form of four questions, for which the Seminar was to explore for answers. These were:

1. Does international law permit a naval blockade to be imposed and if so, under what circumstances?
2. Did Israel have the right to engage the Freedom Flotilla in high seas where freedom of navigation is allowed under the law of the sea?
3. Was the enforcement action – Israeli commandos boarding and attempting to take control of the ship through the use of weapons including live ammunition fire – legal under international law in terms of the principle of proportionality?
4. Did Israel violate international humanitarian law, particularly the fourth Geneva Convention, by its

military blockade imposed on Gaza which represents a kind of collective punishment against the civilian population of Gaza?

He hoped that answers to those questions would enable the participants to appreciate the legal issues involved in the tragedy in a more lucid and engaging manner. He added that in an effort to find answers to these questions, he had invited a range of eminent speakers and scholars in that field, whose knowledge and expertise, he said would contribute to fruitful discussions on the topic. Among the panel of eminent persons were: H.E. Dr. Mohamed Abdel Hamid Higazy, Ambassador of the Arab Republic of Egypt in India; H. E. Mr. M. Levent Bilman, the Ambassador of the Republic of Turkey in India; H.E. Dr. Ahmed Salem Saleh Al-Wahishi, the Chief Representative of League of Arab States in India; and Prof. Achin Vanaik, Head, Department of Political Science, University of Delhi.

While expressing his sincere thanks and appreciation to all the eminent speakers for readily agreeing to come and share their valuable insights, he made it clear that the holding of this seminar reaffirmed AALCO's solidarity with and support for the people of Palestine in their quest for peace and justice and the realisation of their legitimate goals and aspirations. It was his earnest feeling that the seminar provided an opportunity for that august audience to acquaint themselves with the harsh socio-economic and humanitarian condition of Gaza and to ponder upon the legal questions generated by the Flotilla tragedy. In closing, he sincerely hoped that the eminent panelists would enlighten the audience on various aspects of that issue and thereby, advance their frontiers of knowledge on the subject matter being discussed.

**3. PRESENTATION BY H. E. DR. MOHAMAD ABDEL
HAMID HIGAZY, AMBASSADOR OF THE ARAB
REPUBLIC OF EGYPT IN INDIA**

Amb. Dr. Mohamed Abdel Hamid Higazy, Ambassador of the Arab Republic of Egypt shared his views, thoughts, and ideas about the situation in the Middle East and more specifically the current inhuman and unacceptable situation caused by the Israeli blockade to the Gaza Strip. He also shed light on Egypt's position to break the humanitarian and political crises, and to achieve the Palestinian national reconciliation and their larger efforts along with other Arab countries and international partners, to bring an end to the Israeli occupation and to establish a viable Palestinian State on the occupied Palestinian territories in the West Bank and Gaza Strip.

At the outset, he referred to the historical role that Egypt had played in supporting the Palestinian cause for many decades. In that context, Amb. Higazy highlighted that Egypt had been on the forefront of countries which supported the just cause of Palestine and the heroic fight of its people to achieve their national aspiration for a just, permanent and peaceful settlement to the conflict along the lines with international legalities which guaranteed the Palestinian rights. He also drew attention to few points concerning Egypt's position with regard to the situation on its border with the Gaza Strip.

Amb. Higazy reiterated Egypt's strong condemnation to the Israeli attack on the Freedom Flotilla on 31 May 2010, as a result to which Egypt had decided to open the Rafah crossing until further notice as a means to relieve pressure on the citizens of Gaza. He noted that, Egypt was also one of the leading countries which had called for the establishment of an international investigation commission into that incident both

at the United Nations Security Council and at the Human Rights Council at Geneva.

After the Israeli military attack in December 2008, Egypt not only condemned Israeli actions but also led the international efforts to bring an end to those atrocious acts. Such efforts culminated in Security Council Resolution 1860 in January 2009, which called for an immediate ceasefire in Gaza leading to a full Israeli withdrawal, and the unimpeded provision throughout Gaza of food, fuel and medical treatment. The resolution specifically welcomed the Egyptian efforts, which reflected the extensive diplomatic work done by Egypt to bring an end to that situation.

In subsequent efforts, Egypt hosted in March 2009 in the city of Sharm El Sheik, the International Conference for the Reconstruction of Gaza. As an outcome of that conference, members of the international community raised US\$ 4.5 billion to rebuild the infrastructure and houses destroyed after the Israeli attacks on the city and its civilian population.

Amb. Higazy stated that Israel as an occupying force was totally responsible for the closure of the border crossings linking it to Gaza and also bore the full legal responsibility; according to the Fourth Geneva Convention of 1949; for the wellbeing of the citizens under its occupation; hence, international efforts should continue to pressurize Israel to lift its illegal blockade.

As for the Egyptian part of the border with Gaza at Rafah crossing, he mentioned that although the crossing was permanently open, he clarified that the crossing was reserved only for individuals, and Egypt had since the start of the current illegal Israeli blockade - opened it regularly for the passage of individuals, humanitarian assistance, medical

equipment and medicine. Other materials had to cross through the other border gates under Israeli control.

He mentioned that the most important issue was related to the Rafah crossing and the way it operated was to recognize it as an open international border. That would lead to a geographical division between the West Bank and the Gaza Strip and would split the Palestinian territories into two parts. It would also lead to a demographic and political partition that would harm the Palestinian cause in the worst possible way.

Further, he cautioned that, it would alleviate the legal responsibility that Israel had as an occupying power that had obligations in accordance with international humanitarian law, particularly the Fourth Geneva Convention, 1949. Therefore, his country, while handling with sensitivity the issue of the Rafah crossing, was cognizant that any change in its status would have negative political, geographical, legal and demographic implications on the status of the Palestinian people, their land, and the future of their cause.

Amb. Higazy mentioned that Egypt had been allowing the passage of thousands of tons of medicine, medical equipment, food, and in addition it received hundreds of injured Palestinians in its hospitals and allowed the passage of Palestinian pilgrims during the Haj season.

Amb. Higazy noted that through the Egyptian mechanism almost 20, 000 Palestinians were able to pass through the border crossing gate of Rafah from February 2008 till November 2008, and then further 58, 000 approximately, passed from Rafah crossing gate during the period from January 2009 till June 2010,

In 2009, more than 8900 tons of medical material had been allowed to pass through the Rafah crossing gate and almost 15 thousand tons of food supplies passed through Elowga crossing gate, and almost 14 thousand ton of food supplies from Karam Abu Salem crossing gate, as for the present year, starting from January till June 2010 almost 408 ton of medical material was allowed to pass through Rafah crossing gate and almost 2712 ton of food supplies passed through Elowga crossing gate.

Egypt's position vis-à-vis the current situation in Gaza Strip should be seen from the need to cope with the humanitarian considerations in Gaza Strip, the legal considerations, i.e., respecting the 2005 border gates agreement and the strategic considerations in preserving the Israeli status as an occupying power, he pointed out.

Also, the Egyptian official position vis-à-vis Rafah crossing should be seen through the context of the Palestinian political situation and the unfortunate disunity between the different Palestinian factions and its direct implications on the political, security, and humanitarian situation in Gaza.

To sum up, Amb. Higazy remarked that his country maintained its relation with Gaza, a balance between its humanitarian obligations, and the legal, political and strategic diminution of the situation. Hence, their goals were to preserve the territorial and demographic unity of the Palestinian occupied territory as the future Palestinian state and essentially not to allow Israel to deny its responsibilities as an occupying force controlling Gaza Strip.

Amb. Higazy stated that the Israeli occupation of the Palestinian territories in the West Bank and Gaza Strip, the Golan heights and what was left of the Lebanese territory should be seen as the cause of all the humanitarian suffering of

the people in Palestine and as the destabilizing factor for peace and security in and outside the region. Also, the continuation of Israeli government policy in building Jewish settlements on Palestinian occupied territory in the West Bank and in Jerusalem hindered the prospect of the two State solutions and the creation of a viable Palestinian State.

As far as the current political situation was concerned, the Israeli call to resume direct negotiations with the Palestinian, could only take place if progress was made in the current proximity talks under the auspices of the United States Special Envoy Senator George Michel.

In conclusion, Amb. Higazy informed that presently, his country was working with Palestinians, Israelis and the international community to launch a meaningful negotiation between the two parties covering the final status issues, namely, the status of refugees, Jerusalem, settlements, borders, water, and security. Moreover, he emphasized that Egypt would relentlessly pursue efforts towards achieving Palestinian reconciliation for restoring national Palestinian unity, which was the sole guarantor of a stable and prosperous Palestinian state living side by side with the state of Israel. Otherwise the vicious circle of violence would continue undermining peace in the region and the world.

**4. PRESENTATION BY H. E. MR. M. LEVENT BILMAN,
AMBASSADOR OF THE REPUBLIC OF TURKEY
IN INDIA**

Amb. Bilman appreciated the framework outlined by the Secretary-General in his presentation regarding the pertinent question of the legality of the Blockade of Gaza by Israel and believed it was significant. As regards his presentation, the Panelist stated that he would like to focus upon three issues: firstly, the legality of the 31 May 2010 attack on the Peace Flotilla in the open high seas; secondly, how Turkey perceived the blockade of Gaza; and thirdly, the legality of the whole issue.

Concerning the first issue, on the legality of 31 May 2010 attack, Amb. Bilman brought out certain crucial facts regarding the incident. He said that the attack on the Peace Flotilla took place early morning at 4:32 AM on 31 May 2010. The flotilla was 72 miles away from the Israeli shores. The Peace Flotilla to Gaza was basically an aid convoy that consisted of six ships with 600 volunteers from 30 countries, including European Union Parliamentarians and a Nobel laureate. These volunteers were unarmed and no one was carrying any weapon.

The attack by Israeli forces was directly aimed at unarmed civilians that led to loss of life of nine innocent Turkish citizens. Investigations conducted clearly brought out that those who lost life in the incident were shot at from close range. In all, nine bodies were recovered that bore attack by 30 bullets. Five of the victims who had died had bullets in their heads. It was a clear cut case of intervention on the high seas, and thus call for an examination of the legality of the attack was misplaced. Amb. Bilman called upon the international community not to turn a blind eye towards such attack and that it must, condemn it in strongest terms. The United

Nations and the Council of Europe had already deplored the attack. Although, on its part, Israel had established an Investigation Committee, however, the mandate entrusted to it was not compatible with what the UN Secretary-General had asked for.

Moving on to elaborate on the second issue, which was how Turkey perceived the blockade of Gaza, Amb. Bilman stated that it was now three years old. By establishing such blockade Israel had completely disregarded the need for food, fuel, and medical treatment for the Palestinian people. Both the land blockade and naval blockade that was beyond 12 nautical miles of the coast of Gaza involved many legal aspects. While the stated purpose by the Israel for the blockade was to prevent the entry of terrorists, in actual practice it was nothing less than imposing collective punishment. In that regard, Justice Goldstone led Fact Finding Mission in its Report of September 2009 had correctly arrived at the conclusion that the blockade of Gaza amounted to the imposition of collective punishment. Therefore, it had asked Israel to remove its policy of systematic isolation.^{vi}

Amb. Bilman drew attention to the statements made by the UN Human Rights Commission and the European Union in which both these bodies had stated that the blockade of Gaza was not only illegal but also counter-productive. Further, it was unsustainable and leading it to a humanitarian crisis. While the blockade of Gaza did not serve the interest of ordinary Gazans, it was benefitting extremists resulting in the mushrooming of an underground economy. To secure peace and stability in the region and improve the living conditions in Gaza, the Panelist called for the lifting of the blockade and for allowing of aid by land and sea.

Amb. Bilman focusing upon the legality of the entire issue stated that under international law, Israel neither had the right

to impose a naval blockade, nor attack the peace flotilla. That could be further substantiated from the perspectives of international humanitarian law and customary international law. As far as applicability of international humanitarian law was concerned, for its violation, there must be some kind of armed conflict. Although, if one agrees to the view of the theoretical debate that there was an armed conflict between the Hamas and the Israel, then even in such scenario, Israel was bound by the principles of international law, including abiding by the four Geneva Conventions of 1949, to which Israel was a Party.

Amb. Bilman strongly emphasized that the blockade of Gaza was itself illegal. Even the Israeli High Court had confirmed that it violated the Fourth Geneva Convention of 1949 and Article 50 of the Hague Convention IV of 1907. In addition, it constituted the violation of the customary principles of international law. Of particular importance in that context was Article 33 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 that prohibited the imposition of collective penalties and likewise all measures of intimidation or of terrorism. Furthermore, Article 50 of the 1907 Hague Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, adopted at the Hague on 18 October 1907 laid down that “No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.”^{vii}

From the customary international law perspective, reliance could be placed on the San Remo Manual on International Law applicable to Armed Conflicts at Sea of 12 June 1994^{viii} drafted by a group of legal and naval experts. Several countries had

considered it to be valid law and its provisions were even incorporated in the US and Canadian legislations. Even Israel justified its action on the peace flotilla by taking shelter under the San Remo Manual.

The Panelist emphasized that it was to be noted that under the San Remo Manual, naval blockade of civilian population was not permissible. He said that neither was such a blockade permissible under any other rules of international law. Furthermore, he stated that it must be emphasized that under international law, the flag state had explicit authority over its vessels. Under international law, there was absolute prohibition on intervention in high seas.

He went on to point out that one could also examine the question of legality on the basis of the principle of proportionality under international humanitarian law. There were absolutely no weapons on board. It was a humanitarian aid flotilla in the high seas. The attack on innocent volunteers thus violated all norms of the principle of proportionality.

In sum and substance, as the blockade of Gaza was illegal, any attempt to protect it was thus also illegal. The attack on peace flotilla in the high seas was completely illegal and in gross violation of all norms of international law. Therefore, there was a need to establish a credible International Commission of Enquiry to enquire into the incident as well as to determine the future course of action, he concluded.

**5. PRESENTATION BY H. E. DR. AHMED SALEM SALEH
AL-WAHISHI, THE CHIEF REPRESENTATIVE OF
LEAGUE OF ARAB STATES IN INDIA**

On behalf of the League of Arab States Mission in New Delhi, Dr. Al-Wahishi extended deepest gratitude to the AALCO for organizing the Seminar on a very significant issue and for extending an invitation to him to participate in that seminar.

The Panelist observed that the recent brutal attacks by Israeli commandos on the aid Freedom flotilla in which nine Turks peace activists' participants were killed when they were on a humanitarian mission heading towards Gaza, which was under siege by the Israeli occupation authorities sparked global outrage. The attacks were condemned by the United Nations, Arab League and the international community at large which enhanced solidarity with the Palestinian people, and that the national Palestinian unity would ensure achieving the legitimate rights of Palestinian people including establishing their independent state based on international legitimacy and Arab Peace Initiative.

He stated that the League of Arab States strongly condemned that terrorist act committed by Israeli forces, which demonstrated vividly the Israeli aggressive nature and its refusal to the basis of International Humanitarian Law and International Navigation Law as it took place in international waters. The Arab League had called upon the international community and its institutions to take immediate action in the face of the violating state that practiced all types of terrorism and piracy, provoking tension and destabilization in the region and in the high seas of the Mediterranean violating International Law of the Sea. He referred to the resolution adopted by the Human Rights Council at the Fourteenth Session which had condemned in the strongest terms the outrageous attack by the Israeli forces against the

humanitarian flotilla. It called upon Israel to immediately lift the siege, on occupied Gaza and other occupied territories, which was unilateral and not part of the UN decision. It also called for the full accountability and credible independent inquiries into these attacks.

The League of Arab States Ministerial Council meeting which was held on 2 June 2010 welcomed the Resolution of the Human Rights Council to establish an independent international enquiry committee to investigate the violations of international law that resulted from the Israeli attack on the Freedom flotilla,^{ix} and expressed appreciation to the countries including the Government of India which voted in favour of the Resolution, on “The grave attacks by Israeli forces against the humanitarian boat convoy” of 2 June 2010 by the Human Rights Council as well as expressing its disappointment to those countries who voted against the Resolution.^x

Drawing the significance that was attached by the international community on the issue, he said that the Palestinian chief negotiator, Saeb Erekat, described the Israeli attack on the flotilla as a ‘war crime’. Turkey, Spain and Greece demanded explanations from the Israeli Ambassadors to their countries. India deplored the tragic loss of life and injuries to people on the boats carrying supplies for Gaza. Further, there could be no justification for such indiscriminate use of force, which was condemned. Moreover, sympathies were extended to the families of those who had lost their lives. He stated that it was their firm conviction that lasting peace and security in the region could be achieved through peaceful process to end occupation of Palestinian territories, Syrian Golan Heights and what was left of the Lebanese territories.

He informed that the League of Arab States Council at the Ministerial level in its Extraordinary Session held last month in the Headquarters of the General Secretariat of the League of

Arab States in Cairo, condemned the pre-designed Israeli military aggression committed against Freedom flotilla in the international waters, which was considered piracy, state terrorism and a threat to security and stability in the Mediterranean and clear violation of international law which protects navigation in international waters as well as violation of relevant international conventions and the principles of international humanitarian law.

The Panelist said that the League of Arab States Council welcomed the position of those states that condemned and took clear and strong measures in the face of the Israeli military aggression and expressing the dissatisfaction, towards the position of some members of the Security Council who did not make it possible to agree on the measures to have independent international enquiry. They invited all international humanitarian and legislative organization including AALCO to coordinate a meeting such as that meeting to take immediate measures to highlight all aspects of that issue with its humanitarian and legislative directions and to address the international media to expose this crime and highlight its impact. On that occasion, the Arab League thanked the State of Qatar's commitment to cover all expenses relating to the action taken on both information and legal levels. He extended an invitation to AALCO to join such actions.

Further, Amb. Al-Wahishi noted that the League of Arab States Ministerial Council hailed all activists with high appreciation for their participation in that noble humanitarian mission, wished the blessings for the souls of the martyrs, and expressed the appreciation of the Council for the Turkish honourable positions, which expressed their condemnation of that aggression, and their solidarity with the Palestinian people and its just cause. On a final note, he said that the

League of Arab States was of the view that efforts should not be to ease the siege, rather to completely lift the siege.

**6. PRESENTATION BY PROF. ACHIN VANAİK, HEAD,
DEPARTMENT OF POLITICAL SCIENCE
UNIVERSITY OF DELHI, DELHI**

Prof. Achin Vanaik began his presentation by raising a query. Why has the recent attack by Israel on the peace flotilla led to a stronger outcry and been a trigger for greater criticism of and embarrassment for Israel than say its December 2008-January 2009 air assault on Gaza which killed over 1400 civilians and injured over 5300 others? What did we infer from this comparative imbalance of attention and what had been the fallout of that latest example of Israel's illegal brutality?

He observed that unlike the air assault on Gaza, this time Tel Aviv was deprived even of the dishonest fig-leaf that it could use then, namely, that it was supposedly retaliating against rocket fire. Next, the latest act showed Israeli willingness to attack, injure and kill non-Palestinian civilians carrying out a clearly humanitarian mission. It also displayed Israeli determination to publicly, not just secretly, forcefully violate international law, this time on the high seas and thus, going well beyond its routine use of illegal force in and on the occupied territories themselves.

Prof. Vanaik said that the courageous and remarkable initiative of launching a peace flotilla was the work not of governments but was an initiative of civil society activists from many countries. In fact, since the end of the Cold War most governments had done little of real consequence to exert effective pressure on Israel or to isolate it politically in the international arena. But the Israeli reaction to such initiative have led to a sharper focus on both the brutality and the illegality of Israel's occupation and control over the occupied territories and its behaviour towards those who lived there. He noted that one particularly important development had been the damage done directly to Israel's relationship with Turkey,

and indirectly the damage done to Israel's relationship with the US given the importance the latter extended to its ties with Turkey. Ankara had long been and continued to be an important part of Washington's strategy to establish and maintain strategic influence and control over West Asia. In that respect the roles of Saudi Arabia and Egypt also came into the reckoning.

He took up the issue of illegality more generally than that had been raised by Israel's latest actions; more generally in the sense of the relation between international law and codified agreements and the pursuit of justice for Palestine. In that regard, he made two points:

- 1) Laws, legal agreements and resolutions by international and multilateral bodies are often themselves part of the process of legitimizing injustice towards Palestine and Palestinians. Examples of this were numerous. The very formation of Israel violated the principle of the mandate awarded to Britain since Palestine was the only country for which such a mandate was given after World War I which did not obtain, as it should have, full territorial independence. This failure was the result of the connivance of most member countries of the newly formed UN whose Partition Plan was itself a legal and moral disgrace and which then went further in recognizing and accepting as a member country an Israel which had occupied through force territory greater than even that envisioned in the Partition Plan. He observed that the political biases of the Oslo accords as well as the fraudulent character of the demands of the Quartet - the UN, Russia, US, EU - which has demanded not from Israel (which sustains its illegal occupation through covert and overt forms of violence) but from a

representative body of the Palestinians that it abjure violence even as an occupied people have the legal and moral right to forcibly resist such occupation; that it recognize an Israel (which however is the only country deliberately refusing to demarcate its own territorial boundaries that could then be recognized as its legitimate domain of sovereignty), and to respect in spirit and letter bilateral agreements between Israel and Palestine but which have been violated in spirit and letter by Israel itself.

- 2) Even when laws could be used to delegitimize Israeli behaviour and support the pursuit of justice for Palestine, the huge problem that all too often remains was how to ensure or force Israeli compliance?

In both the above cases the heart of the problem was the existence of a kind of golden rule of politics - what was crucial in deciding what kind of laws, agreements, resolutions, etc. were arrived at and whether or not they would be implemented was invariably the geopolitical and regional relationship of forces that actually existed on the ground. That in turn was shaped by two overlapping but far from congruent factors - the dominant attitudes of civil societies and of governments towards Israel.

Where civil society movements of solidarity with the Palestinian cause were characterized by a consistency of principled behaviour itself founded on commitment to international and morally based principles of justice that cut across the specific concerns of states about their presumed 'national interests', governments and their leading personnel and advisors and supporters were to a far greater degree preoccupied with the pursuit of that national interest as they saw it, and for which they were prepared to engage in all kinds of moral-political compromises, deceptions and hypocrisies,

all in the name of a so-called pragmatic realism, i.e., accommodation to 'accomplished facts'.

He stated that however, it was when those two streams converge - when civil society solidarity movements and governments reinforce each other in a common shared commitment, both more generally and with respect to specific policy measures, that there could be the kind of change in the prevailing relationship of forces that would force Israel to behave as it should. What does that mean? How was it to be done? It means that civil society activists must continue to pursue a politics of unflinching moral integrity with space for only truly principled compromises, regardless of, and when necessary against, their own national governments. Furthermore, the key to successfully isolating Israel was, in his view, to focus on weakening the relationship between the US and Israel. So far the US had behaved as a thoroughly dishonest broker between Israel and a Palestinian leadership that had often been far too accommodating to its Israeli and American interlocutors. The US could bring the rogue state of Israel to heel but would only move towards doing that when its perception of its national interests required it to do so.

Prof. Vanaik said that to bring about this the necessary but not sufficient condition was the strengthening of the connections between US-based solidarity movements and those in other countries so as to cumulatively change public opinion internationally certainly but particularly within the US itself. The organization of the peace flotilla was a terrific initiative which needed to be repeated, not just to break the blockade but with other motives as well. For example, what about at least one ship in a future flotilla of many such ships, being overwhelmingly peopled by US citizens escorting a group of Palestinians wanting to exercise their right of return and seeking restitution of their homes and properties to which

they could show their original deeds? Israel would have a huge problem in knowing how to respond to that. What about the organization of an international music concert dedicated to the slogan of "Justice for Palestine" and having as its participants a range of musical groups from all over the world but also with a couple or more very high-profile American musical groups? Such a concert should of course be held in one of the major metropolises of the US itself.

Prof. Vanaik then referred to the governmental level and to what Turkey had done. That was of considerable significance but the Turkish government needed to go further along that road even as the pressure on it to restore amity and cooperation at civilian and military levels with Israel would undoubtedly grow. What was required was not just a suspension of diplomatic ties and of military cooperation but a permanent end to such military cooperation and an explicit involvement in the BDS (Boycott, Divestment, Sanctions) campaign against Israel even if to begin with that was selectively rather than comprehensively applied. Turkey also needed to make it clear to the US that it would see the future trajectory of its own relationship to the US in growing part through the prism of US-Israel relations. That was a perspective which many more countries of Africa and Asia should adopt be they Saudi Arabia or Egypt which incidentally should keep permanently open the Rafah Crossing. Instead, Gazans were being squeezed on all sides including by the construction of an underground wall to close off the tunnels that were, in the face of Israel's blockade, a crucial lifeline for them.

He stated that as for India, its official response to the Israeli attack on the flotilla was simply shameful, but fully in keeping with the general orientation that it shared with the EU, which was to do two things - give money to Palestine and pay lip

service to its cause - while concentrating on what it considered to be far more important, namely consolidating its strategic relationships with Israel and the US. It was up to progressives in India to exercise pressure on Indian government and on its supporting cast of so-called pragmatic realists to make them recognize that it was not in the Indian national interest to pursue its current foreign policy orientations vis-a-vis Israel and the US and at the very least to completely sever all military relations between Israel and India. The more other Arab and Asian countries and not just Malaysia which, incidentally, did not demand visas from visiting Palestinians were prepared to stand up to the US and therefore to strongly criticize and oppose Israel, the more that example could spread. The more willing African and Asian countries - and here the League of Arab States must play a leading role - were to make the future trajectories of their relationship with the US in some significant part conditional on the US relationship with Israel, the more the US would be under pressure to reevaluate and change the nature of its existing relationship with Israel.

He concluded his presentation on a personal note. Everyone had a political personality of one kind or the other which determined how one reacted to profound injustices; and the tragedy of Palestine was one of the great injustices of their times. There would be those who while sympathizing or professing sympathy for the Palestinian cause put primary emphasis on the pursuit of their own country's national interest and that was presumably defined by a state itself presumed to be socially neutral in its character and practice. Many Indians therefore would insist that if other countries including those in the Arab world were not prepared to go that far in defending or supporting the Palestinian cause then why should India do more? Indeed, national interest demanded that it should not.

But there were others who in contemplating political injustices would seek to identify themselves above all with those who were the principal victims of those injustices; in that case with Palestinians even if they were not Palestinians themselves. The question they would then pose when looking at the Palestinian issue was not what should be done that was best for Indians, let alone for the Indian state? But what should be done that was best for Palestinians, regardless of what their own governments wanted or thought was in the 'national interest'. He said that such a stance not only empowered its bearers with the capacity and willingness to be far more critical of what their own and other governments were doing. Such a stance also empowered its bearers with the capacity and willingness to be much more critical of the Palestinian leadership itself, not in the name of any specific national interest but in the name of the pursuit of what was in the best interest of the Palestinian people themselves. There would still be differences in how that was perceived and therefore in policies advocated. But the motivational wellsprings of that stance was a genuine internationalist humanism that refused subordination to the dictates of standard realist thinking founded as it was on a narrowly conceived notion of patriotism above everything else.

Prof. Vanaik observed that they did have to worry then about the fact that a truly remarkable and courageous people - the Palestinians - had not always had the kind of leadership that they had deserved. That there was need to stand fast against what many Palestinians call the demand to further compromise on the already historic compromise that the Palestinians made when it declared itself willing to accept a state based on the pre-1967 borders or on only 22% of historical Palestine. He said that they had to stand fast against any proposed settlement that would mean in effect the acceptance of a further truncated and Bantustanized Palestine

formed out of presently occupied territories and sold in the name of a “realistic compromise settlement”. He emphasized that in order to prevent such a denouement they would have to prepare for a long term struggle to change, what he referred to, as the existing relationship of forces on the ground. He observed that in that struggle, the most priceless asset was the indomitable and inspiring spirit of the Palestinian people themselves. That spirit he believed was so strong that whatever might be the interim ‘solutions’ or settlements that were proposed from whatever direction or source, the struggle would nonetheless continue until there was a truly just resolution of the Palestinian issue. The resolution could either be in the form of a just two-state solution or else in the form of one genuinely secular and democratic state replacing the current Zionist and colonial-settler nature of the state of Israel.

He concluded his presentation by stating that the struggle for achieving justice for Palestinians would be a long and arduous one. But it was a struggle that they should be honoured to be part of. In solidarising with the Palestinian people they paid homage not just to them but to all that was most humane and decent within themselves.

7. QUESTIONS AND ANSWERS

The Secretary-General after thanking the panelists for their excellent presentations invited the participants to give their views and comments in relation to the topic for discussion. He observed that the panelists and the participants constituted a unique combination of diplomats, practitioners and academicians and perhaps that was the best combination to discuss the issue at hand.

Mr. Amjad Qassem Agha, Representative from the Syrian Arab Republic: The participant from the Syrian Arab Republic thanked the panelists and AALCO for enriching his knowledge about the situation in Occupied Palestinian Territories and particularly the blockade of Gaza Strip. He said that all the acts of persecution carried out by Israel against the Palestinian civilians were totally unjustified, unlawful and against established principles of international law. He said that throughout the Palestinian struggle for its rights the Arabs had stood with it. However, the recent attack by Israel on the Freedom Flotilla, that targeted the Turkish nationals, had led Turkey to also strongly add its voice against the unlawful activities of Israel. He said that more than ever before there was need for the Asian-African and Arabic people to stand united for the cause of Palestine and lend their voices in unison against Israel and condemn Israeli violations of international law unequivocally. He also stressed that AALCO should convey the message that the blockade of Gaza was unlawful, and to an extent it had done so by holding that timely seminar.

Dr. M. Gandhi, Director, Legal and Treaties Division, Ministry of External Affairs, Government of India: Dr. Gandhi mentioned that during the course of the seminar three panelists had given differing statements on the response of the Government of India to the attack on the Freedom Flotilla. He

observed that while the League of Arab States and the Ambassador of Egypt had quite appreciated the response of the Indian Government, another Panelist from academia, on the other hand, mentioned that the Indian statement on the issue was shameful. In response, he mentioned that the public announcements made by the Indian government on larger issues remained consistent and had stressed upon the desirability to have peaceful and negotiated solution to the Palestine-Israel conflict. The Indian government had repeatedly stressed that violence was not a viable option and had regretted the disproportionate use of force in the Gaza Strip throughout 2008 and early 2009, which had a massive toll on civilians, including women and children. Therefore, the view of the academic panelist was more subjective in nature.

He informed that in the statement delivered by the Government of India on 31 May 2010, had clearly mentioned that “there can be no justification for such indiscriminate use of force which we condemn”. Dr. Gandhi emphasized that the issues relating to the Palestine-Israel conflict remained geopolitical as most of the issues discussed during the seminar had highlighted the political issues than the legal aspects. However, it became imperative to see the legal issues involved in the attack by Israel on the Freedom Flotilla, from the background information provided by His Excellency the Ambassador of Turkey. He stated that the legality of the issue can be examined under the following:

Firstly, Israel always invoked the San Remo Manual to justify the Blockade imposed by it on the Gaza Strip. However, in the Manual, no distinction was made as regards the applicability of blockade to a non-international armed conflict or an international armed conflict. That question still remained a grey area.

Secondly, under the principles of customary international law blockade cannot be declared in an open sea by affecting the freedom of navigation and the peaceful uses of Sea. Even if it was done, it cannot be done without declaring war and thereby identifying the other side as State.

Thirdly, as regards, the jurisdiction of the Flag States, in high seas under the law of the sea, it was well settled that a vessel, and persons and things aboard, were subjected to the law of the state of flag, and in general subject to its exclusive jurisdiction. However, there were three situations that restricted exercise of flag state jurisdiction, one terrorism; two, interdiction; three, other provisions which permit States to board the foreign vessel. The Freedom Flotilla it was amply clear was not covered by any of these exceptions.

Fourthly, interdiction was permitted in the open sea under the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, (the SUA Convention. However, the benefit of that was not also available to Israel.

Fifthly, Article 33 of the Fourth Geneva Convention, which had been repeatedly stated, was about collective punishment, there could be arguments for and against.

Finally, and more importantly, there was another pertinent area to be looked is the justification for disproportionate use of force. Israel did not have a valid justification for the disproportionate use of force as the views expressed by two well-respected international lawyers: Professors Richard Falk and Anthony D'Amato had clearly opined that a disproportionate attack on a peaceful flotilla was unlawful interference and hence unacceptable.

As they were all aware that there were discussions about having an investigation into the incident and the Israeli government itself had come up with an investigation and delivered a 150-page report and the report itself pointed towards a mess up within the Israeli administration. In conclusion, Dr. Gandhi reiterated that India had voted in favour of the resolution of the Human Rights Council concerning the attack on freedom flotilla and the underlying message was that India never neglected its international responsibility and their position on the issue was well known.

Amb. Higazy: The Panelist aligned himself with the position stated by Dr. Gandhi. Amb. Higazy emphasized that in judging the position of a State in international relations, it was important to consider the position that a State adopted, especially in voting on resolutions adopted by the Organs or bodies of the United Nations or in other international forums. In that context, he noted that India had always been on the forefront of the countries that supported Arab-Palestinian cause. The recent vote in support by India on the resolution adopted on 2 June 2010 by the Human Rights Council was a clear demonstration of that support. He also appreciated the efforts made by the League of Arab States, particularly its Secretary-General in enhancing solidarity on the Palestine issue.

Prof. Vanaik: In his response Prof. Vanaik said that it was important to note that firstly, the initial official response of the Indian government had not even mentioned the name of Israel. By focusing on the question generally on use of indiscriminate use of force, it did not mention the fact that those who were on the 'peace flotilla' had the right to self-defence against an act of piracy when in high seas. Such defence, he emphasized could also include defence against the use of force. Secondly, with respect to the resolutions that

emerged in the United Nations, Prof. Vanaik said that while they played a crucial geopolitical role, one had to be extremely naive that a particular resolution itself addressed the entire gamut of issues. For instance, in relationship to the situation United States of America was involved, like the former Yugoslavia or Serbia etc, the USA would categorically avoid any question of tough sanctions while the same US Government would force the UN to take a position of imposing tough sanctions against Iran.

Next point he raised was in terms of lip service that India paid to the cause of Palestine in view of the military relationship that existed between India and Israel which was now enormous. According to Prof. Vanaik there had been a profound transformation of the character of the Indian elite and middle classes and of the Indian Government towards the issue of Palestine, which was quite different from the stance of Gandhi and Nehru who had a far more principled position on Palestinian cause. On the question of apartheid and Palestine the Professor maintained that they were absolutely central issues. It was pertinent to remember that several democratic countries supported the apartheid regime.

Prof. Y.S.R. Murthy, Professor, Jindal Global Law School, O. P. Jindal Global University, Sonipat: Referring to the situation in Gaza, Prof. Murthy observed that there were two serious demands made: firstly, the lifting of Blockade in Gaza; and secondly, the call for establishing a credible International Fact-Finding Commission. In addition, to these he opined that there was yet another dimension in international law which was required to be vociferously taken up. That pertained to seeking justice for victims of the attack on Flotilla. In this regard, he stated that reliance could be placed upon the “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International

Human Rights Law and Serious Violations of International Humanitarian Law”, adopted by the Sixtieth Session of the United Nations General Assembly in 2005.^{xi} He mentioned that those Basic Principles were formulated by two foremost scholars in international law, namely Cheriff Bassiouni and Theo van Bowen. He stressed that in addition to the demand for compensation, restitution and guarantees of non-repetition there was an urgent need to advocate the criminal prosecution of those who had led the attack.

H. E. Mr. Marten N. Kapewasha, Ambassador of Namibia in India: Amb, Kapewasha posed a question to Prof. Vanaik. He asked for clarification that why do the Western countries blindly protect and defend Israel’s actions in the Middle East. He said that they had a tendency of agreeing on imposing sanctions against Iran and other countries. The Palestinians in Gaza were also under sanctions, because of Israel’s demands. However, the US in particular did not agree to impose sanctions against Israel for its illegal actions against the innocent Palestinian civilians. He wanted to know what special interest did the US had against Iran, Palestine and so on and was it not hypocrisy on the part of US to support Israel?

Prof. Vanaik: In response, the Panelist stated that it was very complicated situation. In the history of the US, Israel became a major ally after the 1964-1967 War because of geo-strategic ambitions of US. That was due to the position that Israel held with Egypt, Syria, Jordan and Turkey. The other dimension beyond the geo-strategy dimension of course, was the consciousness or general sentiment which was very widespread within the United States and Europe which confused the question of being critical with real anti-Semitism which of course was a powerful dimension in Europe. There were other ideas that the Israelis were a frontier, in some way

for the United States. But what happened in recent past was of much resonance for the Palestinian people. The other problem was the question as to what was happening outside Europe and the US. One had to understand that there were a number of Arab countries who had not taken any kind of position towards the Palestinian cause because of the fact that many autocracies and semi-democracies had considerable unpopularity in their own countries and the success of Palestine National Liberation Struggles became diluted. The Palestine National struggle was profoundly democratic, its dynamic would be enormous not just affecting Europe and the US, but also Israel, affecting the whole range of countries in that part of the world which could also lead to various kinds of compromises. Besides this he also mentioned that it was important to see the Post Cold War dynamics that had affected the world as well as the role and reality of the Non Aligned Movement, these were serious issues which were needed to be discussed in greater detail.

8. CONCLUDING REMARKS BY PANELISTS

Thereafter, the Secretary-General invited all the panelists for making their concluding remarks.

Amb. Higazy: In his concluding remarks, Amb. Higazy observed that all the panelists had unanimously condemned the blockade of Gaza Strip and the brutal unlawful attack on the flotilla. In his presentation, he had sought to examine the issue from international humanitarian law angle, and that had clearly brought that there was neither any legal basis for the blockade nor was the attack on flotilla lawful. He stressed that essentially the mother of all problems was the unlawful occupation by Israel, be it of the Palestinian territory or of Golan Heights or of the Lebanese territory. He hoped that the land-for-peace formula that envisaged the dual state/two state solution would materialize. In case, it does not happen, he lamented that the vicious circle of violence would continue unabated. Amb. Higazy strongly called for establishment of viable Palestinian State side-by-side with the state of Israel. In that regard, he called upon the international community to discharge its responsibility of ending occupation, and establish a Palestinian State failing which disastrous humanitarian crisis would continue to recur.

Amb. Bilman: The Panelist reiterated that the blockade of Gaza and the attack on the peace flotilla being illegal were inexcusable. He called upon more countries to join hands with the international community in building pressure upon Israel for the removal of blockade so that the innocent population in Gaza was not victimized. In conclusion, he thanked the AALCO Secretary-General for convening the Seminar and said that he greatly benefited from the discussion.

Amb. Al-Wahishi: The Panelist thanked the AALCO Secretariat for timely organizing that Seminar for a very

important and just cause. He mentioned about his recent participation in a similar seminar as representative of the League of Arab States in Malaysia. He recalled that at that seminar the Right Honourable Y.A.B. Tan Sri Muhyiddin Hj. Mohd Yassin, the Deputy Prime Minister of Malaysia, had called upon the Member States of Non-Aligned Movement to join hands in calling for the convening of a special session of the United Nations General Assembly so that the matter relating to the heinous attack on the flotilla could be taken to an international court. Referring to his association with the civil society organizations, Amb. Wahishi said that it would be useful for governmental efforts to promote peace and stability in that region to be supplemented by initiatives from the civil society organizations. The Freedom Flotilla, he said was an initiative of Turkish civil society organizations and was not led by the Turkish Government.

Prof. Achin Vanaik: The Panelist observed that as the struggle for justice for Palestine was a long drawn one, it required to be put into historical perspective. In that regard, he said that historically colonial states were of three kinds. First category pertained to those States of the new world like the United States of America, some countries in South America, Australia and New Zealand, where the indigenous population was simply massacred or finished off. That constituted the forgotten injustice of history. The second category pertained to countries in the African continent where the white minority dominated over the black majority. The end of apartheid in South Africa and the decolonization process in Africa constituted victory over that injustice. Occupation by Israel of the Palestinian territory in his opinion constituted and represented the third type of such colonialism, where the colonial state subjugates the majority by subjecting them to unlawful violence in order to finish them. However, the strong determination of the Palestinian people was preventing such

nefarious design from success. The struggle for justice for Palestinian people had, the panelist emphasized both external and internal dimensions. Externally it was required to be looked at from the perspective of US policy particularly in the Middle East, Afghanistan and Iraq. The events were all connected having an impact upon Israeli policies. As regards, the internal dimensions, he hoped that Palestinian Diaspora of nearly four million people should also be strongly represented both in the Palestinian struggle, and its leadership. Their involvement was crucial for attaining justice for the Palestinian people.

**9. VOTE OF THANKS BY DR. XU JIE, DEPUTY
SECRETARY-GENERAL, AALCO**

Dr. Xu Jie, expressed his profound gratitude to all the distinguished panelists for the Seminar on Blockade of Gaza and its International Legal Implications. He thanked the panelists for taking time from their hectic schedule to provide their valuable insights into the issues and concerns on the important issue of Blockade of Gaza. He said that the seminar and the ensuing discussion could not have been thought provoking without the effective participation of the learned gathering that the AALCO had for the occasion. He then thanked all the participants, for joining for the seminar. He thanked the Secretary-General of AALCO for initiating the seminar and the staff of the AALCO Secretariat for their efforts in making the event successful.

Endnotes

ⁱ See generally, Ron Forthofer, "Disinformation about the Gaza Freedom Flotilla", *Palestinian Chronicle*, 13 June 2010, available on website: http://palestinechronicle.com/view_article_details.php?id=16055 (last accessed on 10 September 2010); and Stephanie Nebekey, "Israel's Gaza Blockade breaks law, says ICRC", *Reuters*, 14 June 2010, available on <http://www.reuters.com/article/idUSTRE65D00R20100614> (last accessed on 10 September 2010)

ⁱⁱ Geneva Convention IV: relative to the Protection of Civilian Persons in Time of War, 12 August 1949, for text see, *United Nations Treaty Series*, vol. 75 (1950), pp. 287-417. The text is also available on the website of the International Committee of the Red Cross at: <http://www.icrc.org/ihl.nsf/>.

ⁱⁱⁱ Joshua Holland, "The Gaza Blockade is Illegal and the Flotilla Attack was an Illegal Act of War", available on website: http://www.alternet.org/story/147115/the_gaza_blockade_is_illegal_and_the_flotilla_attack_was_an_illegal_act_of_war? page=entire (last accessed on 10 September 2010).

^{iv} The principle of the freedom of the high seas means that the high seas being common to all states, no state may purport to subject any part of them to its territorial sovereignty. Since, therefore, the open sea is not the territory of any state, no state has as a rule a right to exercise its legislation, administration, jurisdiction, or police over parts of the high seas. The principle of the freedom of the high seas excludes the establishment of sovereignty on the high seas precisely because its main purpose is to ensure that all states, whether coastal or not, enjoy subject to the law, the so-called freedom of the high seas. This is now stated in Article 87 of the United Nations Convention on the Law of the Sea provides for the "Freedom of the high seas". It lays down:

1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules

of international law. It comprises, *inter alia*, both for coastal and land-locked states: (a) freedom of navigation; (b) freedom of overflight; (c) freedom to lay submarine cables and pipelines, subject to Part VI; (d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI; (e) freedom of fishing, subject to conditions laid down in section 2; (f) freedom of scientific research, subject to Part VI and XIII.

2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.

On "The Freedom of the High Seas", see, Robert Jennings and Arthur Watts, *Oppenheim's International Law*, vol. 1: Part 2 to 4 (Universal Publishing House, New Delhi, First Indian Reprint, 2003) , pp. 726-64.

^v See, Text of Oral Statement of Richard Falk, Special Rapporteur for the Occupied Palestinian Territories to the UN Human Rights Council on 23 March 2009, available at http://www.transnational.org/Area_MiddleEast/2009/Falk_OralStatement_Gaza.html

^{vi} See, for complete details, United Nations Human Rights Council, "Human Rights in Palestine and other Occupied Arab Territories: Report of the UN Fact Finding Mission on the Gaza Conflict", UN Doc. A/HRC12/48, dated 25 September 2009.

^{vii} The text of the Convention is available on ICRC's website at: <http://www.icrc.org/ihl.nsf>.

^{viii} For details see: San Remo Manual on International Law applicable to Armed Conflicts at Sea, 12 June 1994, available on ICRC's website at: <http://www.icrc.org/ihl.nsf>.

^{ix} This Committee was appointed following the adoption on 2nd June 2010, a resolution which besides condemning the violent acts of Israel also established an Independent International Fact-Finding Mission to investigate the violations of international law resulting from the Israeli attack. See for further information: website of the UN

Office of the High Commissioner for Human Rights at <http://www.ohchr.org>.

^x UN Doc. A/HRC/RES/14/1, dated 2 June 2010. The resolution was adopted by a recorded vote of 32 to 3, with 9 abstentions. The voting was as follows:

In favour: Angola, Argentina, **Bahrain, Bangladesh**, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Chile, **China**, Cuba, Djibouti, **Egypt**, Gabon, **Ghana, India, Indonesia, Jordan**, Kyrgyzstan, **Mauritius**, Mexico, Nicaragua, **Nigeria**, Norway, **Pakistan**, Philippines, **Qatar**, Russian Federation, **Saudi Arabia, Senegal**, Slovenia, **South Africa**, Uruguay;

Against: Italy, Netherlands, United States of America;

Abstaining: Belgium, Burkina Faso, France, Hungary, **Japan, Republic of Korea**, Slovakia, Ukraine, United Kingdom of Great Britain and Northern Ireland.

The names of the AALCO Member States are indicated in bold.

^{xi} UN Doc. A/RES/60/147 of 16 December 2005.

Select Documents
On
The Question of Palestine

II

SELECT DOCUMENTS ON THE QUESTION OF PALESTINE: AN INTRODUCTORY NOTE

1. INTRODUCTION

The “Question of Palestine” continues to remain a critical issue on the international agenda. Despite, it being on the agenda of the United Nations for more than six-decade now, the issue remains unresolved. While, on the one hand, the establishment of an independent and sovereign State of Palestine is considered to be an international obligation, on the other hand, the continuing violations of international law, by Israel, including the war crimes committed in Gaza accentuates the problem.

Thus, over the years, the “Question of Palestine” has been a hotly debated issue in various international forums, including the United Nations, as well as the AALCO. It has also resulted in a plethora of documents that have been adopted by these bodies. The UN website on the “Question of Palestine” indicates a database of over 20,000 searchable documents.¹ From this vast pool of resources, the AALCO Secretariat has attempted to bring out and reproduce some of the documents that are considered to be of critical importance to the Question of Palestine. It includes, the texts of the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Times of

¹ The United Nations Information System on the Question of Palestine (UNISPAL) maintains an outstanding website at <http://unispal.un.org/unispal.nsf/home.htm>. It contains over 20,000 searchable documents.

War, of 12 August 1949; the mandate of the successive Annual Sessions of AALCO;² and select resolutions adopted by the General Assembly and the Security Council of the United Nations. The purpose in reproducing the texts of these documents in this handy publication is that it serves as a ready reckoner for the Member States of AALCO as also an interested reader.

**A. Geneva Convention (IV) relative to the Protection of
Civilian Persons in Times of War, 1949**

The Geneva Convention (IV) relative to the Protection of Civilian Persons in Times of War, 1949³ is a crucial international legal instrument that is relied upon to establish the accountability of Israel for the gross violation of international humanitarian law committed by it. It is important to emphasize here that the Geneva Convention IV with 194 States Parties enjoys universal adherence.

**B. Summation/Decision/Resolution adopted by the Annual
Sessions of AALCO**

The agenda item entitled “Deportation of Palestinians in Violation of International Law, particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in All Occupied Territories”, was taken up at the initiative of the Government of the Islamic Republic of

² AALCO documents pertaining to its Annual Sessions are available from its Thirty-Ninth Annual Session (2000) onwards on its website: <http://www.aalco.int>.

³ The text of the document has been reproduced from the International Committee of the Red Cross (ICRC), *The Geneva Conventions of 12 August 1949 and Protocols Additional to the Geneva Conventions of 12 August 1949*, (Regional Delegation of ICRC: New Delhi). The text is also available at the ICRC’s website: <http://www.icrc.org>.

Iran at AALCO's Twenty-Seventh Session, held in Singapore in 1988. At the Thirty-seventh Session, held in New Delhi in 1998, the topic was decided to be studied under the title "The Deportation of Palestinians and other Israeli Practices in Violation of International Law Particularly the Fourth Geneva Convention of 1949 and The Massive Immigration and Settlement of Jews in the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949" and since then it has been considered under this title. It is pertinent to add in here that the topic has been extensively deliberated within the AALCO forum during the period 1989 to 2010 from the international law perspective and the summation/decision/resolutions of the successive Annual Session are demonstrative of it.

C. Resolutions adopted by the United Nations General Assembly

The Question of Palestine is on the agenda of the United Nations since 1947 pursuant to a British reference. The UN General Assembly, vide Resolution 181 (II) of 1947 proposed for Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem. Resolution 194 (III) of 1948 specifies establishment of the right of peaceful return of the Palestinians to their home. Resolution 10/15 of 2004, demands that Israel complies with the Advisory Opinion of the International Court of Justice on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. Apart from this, the other resolutions, adopted by the General Assembly pertain to the period 2005-2009 and are in relation to 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 Territory (OPT), including East Jerusalem, and other occupied Arab territories (Resolutions 60/105 of 8 December 2005; 61/117 of 14 December

2006; 62/107 of 17 December 2007; 63/96 of 5 December 2008 and 64/92 of 10 December 2009); Israeli Practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (Resolutions 62/109 of 17 December 2007; 64/94 of December 2009); follow-up of the reports of the United Nations Fact-Finding Mission on the Gaza Conflict (Resolutions 64/10 of 5 November 2009; and 64/254 of 26 February 2010); Peaceful settlement of the question of Palestine (Resolution 64/19 of 2 December 2009); and the Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources (Resolution 64/185 of 21 December 2009).

D. Resolutions adopted by the United Nations Security Council

This part contains certain resolutions on issues pertaining to the Palestine issues that have been adopted by the United Nations Security Council, since 1967. Immediately, after the cease fire in the Arab-Israeli War of June 1967, the United Nations Security Council unanimously passed Resolution 237 of 14 June 1967 which *inter alia*, calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants who have fled the areas since the outbreak of hostilities; and recommended to the Government concerned the scrupulous respect of the humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in time of war contained in the Geneva Convention of 12 August 1949. Resolution 242 of 22 November 1967 emphasizes the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security. Resolution 446 of 22 March 1979 adopted by the Security Council amongst other things contains a determination that

the “policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East”. Resolutions 476 and 478 of 30 June 1980 and 20 August 1980 *inter alia*, deplore the alteration in character and status of the Holy City of Jerusalem by Israel and declare it to be having “no legal validity”.

2. CONCLUSION

The Secretariat has in the preparation of this compilation relied upon the pool of resources available on the United Nations website on “The Question of Palestine”; the archival records of AALCO Secretariat and the website of the International Committee of the Red Cross for the text of the Geneva Convention IV. It is pertinent to mention here that these legal instruments have been adopted in a particular context, encompassing historical and geo-political realities, therefore, the Secretariat has refrained from adding any observations and comments on its part. Furthermore, while the Secretariat has taken full care in compiling these documents, some documents that might be of relevance, may have been omitted from the selection or some errors, might have inadvertently crept in. The Secretariat would most humbly request the reader to inform of any such error so that the Secretariat may rectify it in subsequent edition of this publication.

Geneva Convention IV

**2. GENEVA CONVENTION (IV) RELATIVE TO THE
PROTECTION OF CIVILIAN PERSONS IN
TIME OF WAR
(GENEVA CONVENTION IV)**

Signed at Geneva, August 12, 1949

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War, have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto

shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

Persons protected by the Convention are 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.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a cobelligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

The provisions of Part II are, however, wider in application, as defined in Article 13.

Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition of

Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, shall not be considered as protected persons within the meaning of the present Convention.

Article 5

Where in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

Article 6

The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

Article 7

In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, 108, 109, 132, 133 and 149, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, nor restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 8

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 9

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Article 10

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection

of civilian persons and for their relief.

Article 11

The High Contracting Parties may at any time agree to entrust to an international organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other

Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State in which the State of which they are nationals has not normal diplomatic representation.

Article 12

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for protected persons, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

PART II

GENERAL PROTECTION OF POPULATIONS AGAINST CERTAIN CONSEQUENCES OF WAR

Article 13

The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war.

Article 14

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

Article 15

Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:

- (a) wounded and sick combatants or non-combatants;
- (b) civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.

When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

Article 16

The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect.

As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

Article 17

The Parties to the conflict shall endeavour to conclude local

agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

Article 18

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.

States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19.

Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, but only if so authorized by the State.

The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

Article 19

The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded. The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy.

Article 20

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armlet which they shall wear on the left arm while carrying out their duties. This armlet shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Other personnel who are engaged in the operation and

administration of civilian hospitals shall be entitled to respect and protection and to wear the armlet, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

Article 21

Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the same manner as the hospitals provided for in Article 18, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Article 22

Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases, or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned.

They may be marked with the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Unless agreed otherwise, flights over enemy or enemy occupied territory are prohibited.

Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

Article 23

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- (a) that the consignments may be diverted from their destination,
- (b) that the control may not be effective, or
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such

permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

Article 24

The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

Article 25

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This

correspondence shall be forwarded speedily and without undue delay.

If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfillment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

Article 26

Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

PART III

STATUS AND TREATMENT OF PROTECTED PERSONS

SECTION I

Provisions Common to the Territories of the Parties to the Conflict and to Occupied Territories

Article 27

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Article 28

The presence of a protected person may not be used to render certain points or areas immune from military operations.

Article 29

The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

Article 30

Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them.

These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations.

Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate, as much as possible, visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons.

Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a

character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

Article 33

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.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Article 34

The taking of hostages is prohibited.

SECTION II

Aliens in the Territory of a Party to the Conflict

Article 35

All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those

persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.

If any such person is refused permission to leave the territory, he shall be entitled to have refusal reconsidered, as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.

Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

Article 36

Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

Article 37

Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall during their confinement be humanely treated.

As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

Article 38

With the exception of special measures authorized by the present Convention, in particular by Article 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

- (1) they shall be enabled to receive the individual or collective relief that may be sent to them.
- (2) they shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
- (3) they shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.
- (4) if they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned.
- (5) children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Article 39

Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are.

Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.

Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article 30.

Article 40

Protected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are.

If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations.

In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as

national workers in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

If the above provisions are infringed, protected persons shall be allowed to exercise their right of complaint in accordance with Article 30.

Article 41

Should the Power, in whose hands protected persons may be, consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43.

In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence, by virtue of a decision placing them in assigned residence, elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

Article 42

The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

Article 43

Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power.

Article 44

In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality *de jure* of an enemy State, refugees who do not, in fact, enjoy the protection of any government.

Article 45

Protected persons shall not be transferred to a Power which is not a party to the Convention.

This provision shall in no way constitute an obstacle to the repatriation of protected persons, or to their return to their country of residence after the cessation of hostilities.

Protected persons may be transferred by the Detaining Power only to a Power which is a party to the present Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the present Convention. If protected persons are transferred under such circumstances, responsibility for the application of the present Convention rests on the Power accepting them, while they are in its custody. Nevertheless, if that Power fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons. Such request must be complied with.

In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs.

The provisions of this Article do not constitute an obstacle to the extradition, in pursuance of extradition treaties concluded before the outbreak of hostilities, of protected persons accused of offences against ordinary criminal law.

Article 46

In so far as they have not been previously withdrawn, restrictive measures taken regarding protected persons shall be cancelled as soon as possible after the close of hostilities.

Restrictive measures affecting their property shall be

cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities.

SECTION III

Occupied Territories

Article 47

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Article 48

Protected persons who are not nationals of the Power whose territory is occupied, may avail themselves of the right to leave the territory subject to the provisions of Article 35, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article.

Article 49

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Article 50

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.

The Occupying Power shall take all necessary steps to

facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

Article 51

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only

on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.

Article 52

No contract, agreement or regulation shall impair the right of any worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power in order to request the said Power's intervention.

All measures aiming at creating unemployment or at

restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

Article 53

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Article 54

The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.

This prohibition does not prejudice the application of the second paragraph of Article 51. It does not affect the right of the Occupying Power to remove public officials from their posts.

Article 55

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

Article 56

To the fullest extent of the means available to it, the public Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and 21.

In adopting measures of health and hygiene and in their

implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

Article 57

The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

Article 58

The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.

The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

Article 59

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International

Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

Article 60

Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.

Article 61

The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the cooperation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.

Such consignments shall be exempt in occupied territory from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.

All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.

Article 62

Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.

Article 63

Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

- (a) recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;
- (b) the Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities.

The same principles shall apply to the activities and personnel of special organizations of a nonmilitary character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the

distribution of relief and by the organization of rescues.

Article 64

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Article 65

The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.

Article 66

In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64, the Occupying Power may hand over the accused to its properly constituted,

non-political military courts, on condition that the said courts: sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

Article 67

The courts shall apply only those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence. They shall take into consideration the fact the accused is not a national of the Occupying Power.

Article 68

Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional

offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced on a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced on a protected person who was under eighteen years of age at the time of the offence.

Article 69

In all cases, the duration of the period during which a protected person accused of an offence is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment awarded.

Article 70

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common

law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

Article 71

No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

- (a) description of the accused;
- (b) place of residence or detention;
- (c) specification of the charge or charges (with mention of the penal provisions under which it is brought);
- (d) designation of the court which will hear the case;

(e) place and date of the first hearing.

Article 72

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide him with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have at any time the right to object to the interpreter and to ask for his replacement.

Article 73

A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

The penal procedure provided in the present Section shall apply, as far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the

Occupying Power.

Article 74

Representatives of the Protecting Power shall have the right to attend the trial of any protected person, unless the hearing has, as an exceptional measure, to be held *in camera* in the interests of the security of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of trial shall be sent to the Protecting Power.

Any judgement involving a sentence of death, or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 71 and, in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of judgements other than those referred to above shall be kept by the court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving the death penalty, or imprisonment of two years or more, shall not run until notification of judgement has been received by the Protecting Power.

Article 75

In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of at least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an order denying

pardon or reprieve.

The six months period of suspension of the death sentence herein prescribed may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.

Article 76

Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country.

They shall receive the medical attention required by their state of health.

They shall also have the right to receive any spiritual assistance which they may require.

Women shall be confined in separate quarters and shall be under the direct supervision of women.

Proper regard shall be paid to the special treatment due to minors.

Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the

International Committee of the Red Cross, in accordance with the provisions of Article 143.

Such persons shall have the right to receive at least one relief parcel monthly.

Article 77

Protected persons who have been accused of offences or convicted by the courts in occupied territory, shall be handed over at the close of occupation, with the relevant records, to the authorities of the liberated territory.

Article 78

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.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.

Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

SECTION IV

Regulations for the Treatment of Internees

CHAPTER I

General Provisions

Article 79

The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

Article 80

Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status.

Article 81

Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health.

No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs.

The Detaining Power shall provide for the support of those dependent on the internees, if such dependents are without adequate means of support or are unable to earn a living.

Article 82

The Detaining Power shall, as far as possible, accommodate

the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.

Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

CHAPTER II

Places of Internment

Article 83

The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.

The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment.

Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly

visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

Article 84

Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

Article 85

The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts, the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit.

The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees.

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are

constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

Article 86

The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services.

Article 87

Canteens shall be installed in every place of internment, except where other suitable facilities are available. Their purpose shall be to enable internees to make purchases, at prices not higher than local market prices, of foodstuffs and articles of everyday use, including soap and tobacco, such as would increase their personal well-being and comfort.

Profits made by canteens shall be credited to a welfare fund to be set up for each place of internment, and administered for the benefit of the internees attached to such place of internment. The Internee Committee provided for in Article 102 shall have the right to check the management of the canteen and of the said fund.

When a place of internment is closed down, the balance of the welfare fund shall be transferred to the welfare fund of a place of internment for internees of the same nationality, or, if such a place does not exist, to a central welfare fund which shall be administered for the benefit of all internees remaining in the custody of the Detaining Power. In case of a general release, the said profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Article 88

In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them.

All due precautions must be taken in places of internment against the danger of fire.

CHAPTER III

Food and Clothing

Article 89

Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.

Internees shall also be given the means by which they can prepare for themselves any additional food in their possession.

Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.

Internees who work shall receive additional rations in proportion to the kind of labour which they perform.

Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

Article 90

When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power.

The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule.

Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires.

CHAPTER IV

Hygiene and Medical Attention

Article 91

Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases.

Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population.

Internees shall, for preference, have the attention of medical personnel of their own nationality.

Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 140.

Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee.

Article 92

Medical inspections of internees shall be made at least once a month. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of internees, and to detect contagious diseases, especially tuberculosis, malaria, and venereal diseases. Such inspections shall include, in particular, the checking of weight of each internee and, at least once a year, radioscopic examination.

CHAPTER V***Religious, Intellectual and Physical Activities*****Article 93**

Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities.

Ministers of religion who are interned shall be allowed to minister freely to the members of their community. For this purpose the Detaining Power shall ensure their equitable allocation amongst the various places of internment in which there are internees speaking the same language and belonging to the same religion. Should such ministers be too few in number, the Detaining Power shall provide them with the necessary facilities, including means of transport, for moving from one place to another, and they shall be authorized to visit any internees who are in hospital. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the religious authorities in the country of detention and, as far as possible, with the international religious organizations of their faith. Such correspondence

shall not be considered as forming a part of the quota mentioned in Article 107. It shall, however, be subject to the provisions of Article 112.

When internees do not have at their disposal the assistance of ministers of their faith, or should these latter be too few in number, the local religious authorities of the same faith may appoint, in agreement with the Detaining Power, a minister of the internees' faith or, if such a course is feasible from a denominational point of view, a minister of similar religion or a qualified layman. The latter shall enjoy the facilities granted to the ministry he has assumed. Persons so appointed shall comply with all regulations laid down by the Detaining Power in the interests of discipline and security.

Article 94

The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.

All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.

Article 95

The Detaining Power shall not employ internees as workers, unless they so desire. Employment which, if undertaken under compulsion by a protected person not in internment, would involve a breach of Articles 40 or 51 of the present Convention, and employment on work which is of a degrading or humiliating character are in any case prohibited.

After a working period of six weeks, internees shall be free to give up work at any moment, subject to eight days' notice.

These provisions constitute no obstacle to the right of the Detaining Power to employ interned doctors, dentists and other medical personnel in their professional capacity on behalf of their fellow internees, or to employ internees for administrative and maintenance work in places of internment and to detail such persons for work in the kitchens or for other domestic tasks, or to require such persons to undertake duties connected with the protection of internees against aerial bombardment or other war risks. No internee may, however, be required to perform tasks for which he is, in the opinion of a medical officer, physically unsuited.

The Detaining Power shall take entire responsibility for all working conditions, for medical attention, for the payment of wages, and for ensuring that all employed internees receive compensation for occupational accidents and diseases. The standards prescribed for the said working conditions and for compensation shall be in accordance with the national laws and regulations, and with the existing practice; they shall in no case be inferior to those obtaining for work of the same nature in the same district. Wages for work done shall be determined on an equitable basis by special agreements between the internees, the Detaining Power, and, if the case arises,

employers other than the Detaining Power to provide for free maintenance of internees and for the medical attention which their state of health may require. Internees permanently detailed for categories of work mentioned in the third paragraph of this Article, shall be paid fair wages by the Detaining Power. The working conditions and the scale of compensation for occupational accidents and diseases to internees, thus detailed, shall not be inferior to those applicable to work of the same nature in the same district.

Article 96

All labour detachments shall remain part of and dependent upon a place of internment. The competent authorities of the Detaining Power and the commandant of a place of internment shall be responsible for the observance in a labour detachment of the provisions of the present Convention. The commandant shall keep an upto-date list of the labour detachments subordinate to him and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross and of other humanitarian organizations who may visit the places of internment.

CHAPTER VI

Personal Property and Financial Resources

Article 97

Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefore.

The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent.

Articles which have above all a personal or sentimental value may not be taken away.

A woman internee shall not be searched except by a woman.

On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt.

Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment.

Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases.

Article 98

All internees shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco,

toilet requisites, etc. Such allowances may take the form of credits or purchase coupons.

Furthermore, internees may receive allowances from the Power to which they owe allegiance, the Protecting Powers, the organizations which may assist them, or their families, as well as the income on their property in accordance with the law of the Detaining Power. The amount of allowances granted by the Power to which they owe allegiance shall be the same for each category of internees (infirm, sick, pregnant women, etc.) but may not be allocated by that Power or distributed by the Detaining Power on the basis of discriminations between internees which are prohibited by Article 27 of the present Convention.

The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which he is interned. Internees shall be granted all facilities consistent with the legislation in force in such territory to make remittances to their families and to other dependents. They may draw from their accounts the amounts necessary for their personal expenses, within the limits fixed by the Detaining Power. They shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts. A statement of accounts shall be furnished to the Protecting Power on request, and shall accompany the internee in case of transfer.

CHAPTER VII

Administration and Discipline

Article 99

Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application.

The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee.

Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment, in a language which they understand.

Every order and command addressed to internees individually, must likewise be given in a language which they understand.

Article 100

The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no

circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body, is prohibited.

In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited.

Article 101

Internees shall have the right to present to the authorities in whose power they are, any petition with regard to the conditions of internment to which they are subjected.

They shall also have the right to apply without restriction through the Internee Committee or, if they consider it necessary, direct to the representatives of the Protecting Power, in order to indicate to them any points on which they may have complaints to make with regard to the conditions of internment.

Such petitions and complaints shall be transmitted forthwith and without alteration, and even if the latter are recognized to be unfounded, they may not occasion any punishment.

Periodic reports on the situation in places of internment and as to the needs of the internees may be sent by the Internee Committees to the representatives of the Protecting Powers.

Article 102

In every place of internment, the internees shall freely elect by secret ballot every six months, the members of a Committee empowered to represent them before the Detaining and the

Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. The members of the Committee shall be eligible for re-election.

Internees so elected shall enter upon their duties after their election has been approved by the detaining authorities. The reasons for any refusals or dismissals shall be communicated to the Protecting Powers concerned.

Article 103

The Internee Committees shall further the physical, spiritual and intellectual well-being of the internees.

In case the internees decide, in particular, to organize a system of mutual assistance amongst themselves, this organization would be within the competence of the Committees in addition to the special duties entrusted to them under other provisions of the present Convention.

Article 104

Members of Internee Committees shall not be required to perform any other work, if the accomplishment of their duties is rendered more difficult thereby.

Members of Internee Committees may appoint from amongst the internees such assistants as they may require. All material facilities shall be granted to them, particularly a certain freedom of movement necessary for the accomplishment of their duties (visits to labour detachments, receipt of supplies, etc.).

All facilities shall likewise be accorded to members of Internee Committees for communication by post and telegraph with

the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, and with the organizations which give assistance to internees. Committee members in labour detachments shall enjoy similar facilities for communication with their Internee Committee in the principal place of internment. Such communications shall not be limited, nor considered as forming a part of the quota mentioned in Article 107.

Members of Internee Committees who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

CHAPTER VIII

Relations with the Exterior

Article 105

Immediately upon interning protected persons, the Detaining Powers shall inform them, the Power to which they owe allegiance and their Protecting Power of the measures taken for executing the provisions of the present Chapter. The Detaining Powers shall likewise inform the Parties concerned of any subsequent modifications of such measures.

Article 106

As soon as he is interned, or at the latest not more than one week after his arrival in a place of internment, and likewise in cases of sickness or transfer to another place of internment or to a hospital, every internee shall be enabled to send direct to his family, on the one hand, and to the Central Agency provided for by Article 140, on the other, an internment card similar, if possible, to the model annexed to the present

Convention, informing his relatives of his detention, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any way.

Article 107

Internees shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each internee, the said number shall not be less than two letters and four cards monthly; these shall be drawn up so as to conform as closely as possible to the models annexed to the present Convention. If limitations must be placed on the correspondence addressed to internees, they may be ordered only by the Power to which such internees owe allegiance, possibly at the request of the Detaining Power. Such letters and cards must be conveyed with reasonable despatch; they may not be delayed or retained for disciplinary reasons.

Internees who have been a long time without news, or who find it impossible to receive news from their relatives, or to give them news by the ordinary postal route, as well as those who are at a considerable distance from their homes, shall be allowed to send telegrams, the charges being paid by them in the currency at their disposal. They shall likewise benefit by this provision in cases which are recognized to be urgent.

As a rule, internees' mail shall be written in their own language. The Parties to the conflict may authorize correspondence in other languages.

Article 108

Internees shall be allowed to receive, by post or by any other means, individual parcels or collective shipments containing

in particular foodstuffs, clothing, medical supplies, as well as books and objects of a devotional, educational or recreational character which may meet their needs. Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

Should military necessity require the quantity of such shipments to be limited, due notice thereof shall be given to the Protecting Power and to the International Committee of the Red Cross, or to any other organization giving assistance to the internees and responsible for the forwarding of such shipments.

The conditions for the sending of individual parcels and collective shipments shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the internees of relief supplies. Parcels of clothing and foodstuffs may not include books. Medical relief supplies shall, as a rule, be sent in collective parcels.

Article 109

In the absence of special agreements between Parties to the conflict regarding the conditions for the receipt and distribution of collective relief shipments, the regulations concerning collective relief which are annexed to the present Convention shall be applied.

The special agreements provided for above shall in no case restrict the right of Internee Committees to take possession of collective relief shipments intended for internees, to undertake their distribution and to dispose of them in the interests of the recipients. Nor shall such agreements restrict the right of representatives of the Protecting Powers, the International

Committee of the Red Cross, or any other organization giving assistance to internees and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

Article 110

All relief shipments for internees shall be exempt from import, customs and other dues.

All matter sent by mail, including relief parcels sent by parcel post and remittances of money, addressed from other countries to internees or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 136 and the Central Information Agency provided for in Article 140, shall be exempt from all postal dues both in the countries of origin and destination and in intermediate countries. To this effect, in particular, the exemption provided by the Universal Postal Convention of 1947 and by the agreements of the Universal Postal Union in favour of civilians of enemy nationality detained in camps or civilian prisons, shall be extended to the other interned persons protected by the present Convention. The countries not signatory to the above-mentioned agreements shall be bound to grant freedom from charges in the same circumstances.

The cost of transporting relief shipments which are intended for internees and which, by reason of their weight or any other cause, cannot be sent through the post office, shall be borne by the Detaining Power in all the territories under its control. Other Powers which are Parties to the present Convention shall bear the cost of transport in their respective territories.

Costs connected with the transport of such shipments, which

are not covered by the above paragraphs, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the charges for telegrams sent by internees, or addressed to them.

Article 111

Should military operations prevent the Powers concerned from fulfilling their obligation to ensure the conveyance of the mail and relief shipments provided for in Articles 106, 107, 108 and 113, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake to ensure the conveyance of such shipments by suitable means (rail, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport, and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

- (a) correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 140 and the National Bureaux referred to in Article 136;
- (b) correspondence and reports relating to internees which the Protecting Powers, the International Committee of the Red Cross or any other organization assisting the internees exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

The costs occasioned by the use of such means of transport shall be borne, in proportion to the importance of the shipments, by the Parties to the conflict whose nationals are benefited thereby.

Article 112

The censoring of correspondence addressed to internees or despatched by them shall be done as quickly as possible.

The examination of consignments intended for internees shall not be carried out under conditions that will expose the goods contained in them to deterioration. It shall be done in the presence of the addressee, or of a fellow-internee duly delegated by him. The delivery to internees of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by the Parties to the conflict either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Article 113

The Detaining Powers shall provide all reasonable facilities for the transmission, through the Protecting Power or the Central Agency provided for in Article 140, or as otherwise required, of wills, powers of attorney, letters of authority, or any other documents intended for internees or despatched by them.

In all cases the Detaining Powers shall facilitate the execution and authentication in due legal form of such documents on behalf of internees, in particular by allowing them to consult a lawyer.

Article 114

The Detaining Power shall afford internees all facilities to enable them to manage their property, provided this is not incompatible with the conditions of internment and the law which is applicable. For this purpose, the said Power may give them permission to leave the place of internment in urgent cases and if circumstances allow.

Article 115

In all cases where an internee is a party to proceedings in any court, the Detaining Power shall, if he so requests, cause the court to be informed of his detention and shall, within legal limits, ensure that all necessary steps are taken to prevent him from being in any way prejudiced, by reason of his internment, as regards the preparation and conduct of his case or as regards the execution of any judgment of the court.

Article 116

Every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible.

As far as is possible, internees shall be permitted to visit their homes in urgent cases, particularly in cases of death or serious illness of relatives.

CHAPTER IX***Penal and Disciplinary Sanctions*****Article 117**

Subject to the provisions of the present Chapter, the laws in force in the territory in which they are detained will continue

to apply to internees who commit offences during internment.

If general laws, regulations or orders declare acts committed by internees to be punishable, whereas the same acts are not punishable when committed by persons who are not internees, such acts shall entail disciplinary punishments only.

No internee may be punished more than once for the same act, or on the same count.

Article 118

The courts or authorities shall in passing sentence take as far as possible into account the fact that the defendant is not a national of the Detaining Power. They shall be free to reduce the penalty prescribed for the offence with which the internee is charged and shall not be obliged, to this end, to apply the minimum sentence prescribed.

Imprisonment in premises without daylight, and, in general, all forms of cruelty without exception are forbidden.

Internees who have served disciplinary or judicial sentences shall not be treated differently from other internees.

The duration of preventive detention undergone by an internee shall be deducted from any disciplinary or judicial penalty involving confinement to which he may be sentenced.

Internee Committees shall be informed of all judicial proceedings instituted against internees whom they represent, and of their result.

Article 119

The disciplinary punishments applicable to internees shall be

the following:

- (1) A fine which shall not exceed 50 per cent of the wages which the internee would otherwise receive under the provisions of Article 95 during a period of not more than thirty days.
- (2) Discontinuance of privileges granted over and above the treatment provided for by the present Convention
- (3) Fatigue duties, not exceeding two hours daily, in connection with the maintenance of the place of internment.
- (4) Confinement.

In no case shall disciplinary penalties be inhuman, brutal or dangerous for the health of internees. Account shall be taken of the internee's age, sex and state of health.

The duration of any single punishment shall in no case exceed a maximum of thirty consecutive days, even if the internee is answerable for several breaches of discipline when his case is dealt with, whether such breaches are connected or not.

Article 120

Internees who are recaptured after having escaped or when attempting to escape, shall be liable only to disciplinary punishment in respect of this act, even if it is a repeated offence.

Article 118, paragraph 3, notwithstanding, internees punished as a result of escape or attempt to escape, may be subjected to special surveillance, on condition that such surveillance does not affect the state of their health, that it is exercised in a place of internment and that it does not entail the abolition of any of the safeguards granted by the present Convention.

Internees who aid and abet an escape or attempt to escape, shall be liable on this count to disciplinary punishment only.

Article 121

Escape, or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance in cases where an internee is prosecuted for offences committed during his escape.

The Parties to the conflict shall ensure that the competent authorities exercise leniency in deciding whether punishment inflicted for an offence shall be of a disciplinary or judicial nature, especially in respect of acts committed in connection with an escape, whether successful or not.

Article 122

Acts which constitute offences against discipline shall be investigated immediately. This rule shall be applied, in particular, in cases of escape or attempt to escape. Recaptured internees shall be handed over to the competent authorities as soon as possible.

In cases of offences against discipline, confinement awaiting trial shall be reduced to an absolute minimum for all internees, and shall not exceed fourteen days. Its duration shall in any case be deducted from any sentence of confinement.

The provisions of Articles 124 and 125 shall apply to internees who are in confinement awaiting trial for offences against discipline.

Article 123

Without prejudice to the competence of courts and higher

authorities, disciplinary punishment may be ordered only by the commandant of the place of internment, or by a responsible officer or official who replaces him, or to whom he has delegated his disciplinary powers.

Before any disciplinary punishment is awarded, the accused internee shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced in the presence of the accused and of a member of the Internee Committee.

The period elapsing between the time of award of a disciplinary punishment and its execution shall not exceed one month.

When an internee is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

A record of disciplinary punishments shall be maintained by the commandant of the place of internment and shall be open to inspection by representatives of the Protecting Power.

Article 124

Internees shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

The premises in which disciplinary punishments are undergone shall conform to sanitary requirements: they shall

in particular be provided with adequate bedding. Internees undergoing punishment shall be enabled to keep themselves in a state of cleanliness.

Women internees undergoing disciplinary punishment shall be confined in separate quarters from male internees and shall be under the immediate supervision of women.

Article 125

Internees awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, if they so request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the infirmary of the place of internment or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of their punishment; such consignments shall meanwhile be entrusted to the Internee Committee, who will hand over to the infirmary the perishable goods contained in the parcels.

No internee given a disciplinary punishment may be deprived of the benefit of the provisions of Articles 107 and 143 of the present Convention.

Article 126

The provisions of Articles 71 to 76 inclusive shall apply, by analogy, to proceedings against internees who are in the national territory of the Detaining Power.

CHAPTER X

Transfers of Internees

Article 127

The transfer of internees shall always be effected humanely. As a general rule, it shall be carried out by rail or other means of transport, and under conditions at least equal to those obtaining for the forces of the Detaining Power in their changes of station. If, as an exceptional measure, such removals have to be effected on foot, they may not take place unless the internees are in a fit state of health, and may not in any case expose them to excessive fatigue.

The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health, and also with the necessary clothing, adequate shelter and the necessary medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred.

Sick, wounded or infirm internees and maternity cases shall not be transferred if the journey would be seriously detrimental to them, unless their safety imperatively so demands.

If the combat zone draws close to a place of internment, the internees in the said place shall not be transferred unless their removal can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

When making decisions regarding the transfer of internees, the Detaining Power shall take their interests into account and, in particular, shall not do anything to increase the difficulties of repatriating them or returning them to their own homes.

Article 128

In the event of transfer, internees shall be officially advised of their departure and of their new postal address. Such notification shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited if the conditions of transfer so require, but in no case to less than twenty-five kilograms per internee.

Mail and parcels addressed to their former place of internment shall be forwarded to them without delay.

The commandant of the place of internment shall take, in agreement with the Internee Committee, any measures needed to ensure the transport of the internees' community property and of the luggage the internees are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph.

CHAPTER XI

Deaths

Article 129

The wills of internees shall be received for safekeeping by the responsible authorities; and if the event of the death of an

internee his will shall be transmitted without delay to a person whom he has previously designated.

Deaths of internees shall be certified in every case by a doctor, and a death certificate shall be made out, showing the causes of death and the conditions under which it occurred.

An official record of the death, duly registered, shall be drawn up in accordance with the procedure relating thereto in force in the territory where the place of internment is situated, and a duly certified copy of such record shall be transmitted without delay to the Protecting Power as well as to the Central Agency referred to in Article 140.

Article 130

The detaining authorities shall ensure that internees who die while interned are honourably buried, if possible according to the rites of the religion to which they belonged and that their graves are respected, properly maintained, and marked in such a way that they can always be recognized.

Deceased internees shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his expressed wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased. The ashes shall be retained for safekeeping by the detaining authorities and shall be transferred as soon as possible to the next of kin on their request.

As soon as circumstances permit, and not later than the close of hostilities, the Detaining Power shall forward lists of graves

of deceased internees to the Powers on whom deceased internees depended, through the Information Bureaux provided for in Article 136. Such lists shall include all particulars necessary for the identification of the deceased internees, as well as the exact location of their graves.

Article 131

Every death or serious injury of an internee, caused or suspected to have been caused by a sentry, another internee or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. The evidence of any witnesses shall be taken, and a report including such evidence shall be prepared and forwarded to the said Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all necessary steps to ensure the prosecution of the person or persons responsible.

CHAPTER XII

Release, Repatriation and Accommodation in Neutral Countries

Article 132

Each interned person shall be released by the Detaining Power as soon as the reasons which necessitated his internment no longer exist.

The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the

release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for a long time.

Article 133

Internment shall cease as soon as possible after the close of hostilities.

Internees in the territory of a Party to the conflict against whom penal proceedings are pending for offences not exclusively subject to disciplinary penalties, may be detained until the close of such proceedings and, if circumstances require, until the completion of the penalty. The same shall apply to internees who have been previously sentenced to a punishment depriving them of liberty.

By agreement between the Detaining Power and the Powers concerned, committees may be set up after the close of hostilities, or of the occupation of territories, to search for dispersed internees.

Article 134

The High Contracting Parties shall endeavour, upon the Repatriation close of hostilities or occupation, to ensure the return of all internees to their last place of residence, or to facilitate their residence repatriation.

Article 135

The Detaining Power shall bear the expense of returning released internees to the places where they were residing

when interned, or, if it took them into custody while they were in transit or on the high seas, the cost of completing their journey or of their return to their point of departure.

Where a Detaining Power refuses permission to reside in its territory to a released internee who previously had his permanent domicile therein, such Detaining Power shall pay the cost of the said internee's repatriation. If, however, the internee elects to return to his country on his own responsibility or in obedience to the Government of the Power to which he owes allegiance, the Detaining Power need not pay the expenses of his journey beyond the point of his departure from its territory. The Detaining Power need not pay the cost of repatriation of an internee who was interned at his own request.

If internees are transferred in accordance with Article 45, the transferring and receiving Powers shall agree on the portion of the above costs to be borne by each.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

SECTION V

Information Bureaux and Central Agency

Article 136

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall establish an official Information Bureau responsible for receiving and transmitting information in respect of the protected persons who are in its

power.

Each of the Parties to the conflict shall, within the shortest possible period, give its Bureau information of any measure taken by it concerning any protected persons who are kept in custody for more than two weeks, who are subjected to assigned residence or who are interned. It shall, furthermore, require its various departments concerned with such matters to provide the aforesaid Bureau promptly with information concerning all changes pertaining to these protected persons, as, for example, transfers, releases, repatriations, escapes, admittances to hospitals, births and deaths.

Article 137

Each national Bureau shall immediately forward information concerning protected persons by the most rapid means to the Powers in whose territory they resided, through the intermediary of the Protecting Powers and likewise through the Central Agency provided for in Article 140. The Bureaux shall also reply to all enquiries which may be received regarding protected persons.

Information Bureaux shall transmit information concerning a protected person unless its transmission might be detrimental to the person concerned or to his or her relatives. Even in such a case, the information may not be withheld from the Central Agency which, upon being notified of the circumstances, will take the necessary precautions indicated in Article 140.

All communications in writing made by any Bureau shall be authenticated by a signature or a seal.

Article 138

The information received by the national Bureau and transmitted by it shall be of such a character as to make it possible to identify the protected person exactly and to advise his next of kin quickly. The information in respect of each person shall include at least his surname, first names, place and date of birth, nationality last residence and distinguishing characteristics, the first name of the father and the maiden name of the mother, the date, place and nature of the action taken with regard to the individual, the address at which correspondence may be sent to him and the name and address of the person to be informed.

Likewise, information regarding the state of health of internees who are seriously ill or seriously wounded shall be supplied regularly and if possible every week.

Article 139

Each national Information Bureau shall, furthermore, be responsible for collecting all personal valuables left by protected persons mentioned in Article 136, in particular those who have been repatriated or released, or who have escaped or died; it shall forward the said valuables to those concerned, either direct, or, if necessary, through the Central Agency. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full identity particulars of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Detailed records shall be maintained of the receipt and despatch of all such valuables.

Article 140

A Central Information Agency for protected persons, in particular for internees, shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency, which may be the same as that provided for in Article 123 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

The function of the Agency shall be to collect all information of the type set forth in Article 136 which it may obtain through official or private channels and to transmit it as rapidly as possible to the countries of origin or of residence of the persons concerned, except in cases where such transmissions might be detrimental to the persons whom the said information concerns, or to their relatives. It shall receive from the Parties to the conflict all reasonable facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross and of the relief Societies described in Article 142.

Article 141

The national Information Bureaux and the Central Information Agency shall enjoy free postage for all mail, likewise the exemptions provided for in Article 110, and further, so far as

possible, exemption from telegraphic charges or, at least, greatly reduced rates.

PART IV

EXECUTION OF THE CONVENTION

SECTION I

General Provisions

Article 142

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organizations assisting the protected persons, shall receive from these Powers, for themselves or their duly accredited agents, all facilities for visiting the protected persons, for distributing relief supplies and material from any source, intended for educational, recreational or religious purposes, or for assisting them in organizing their leisure time within the places of internment. Such societies or organizations may be constituted in the territory of the Detaining Power, or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the supply of effective and adequate relief to all protected persons.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all

times.

Article 143

Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work.

They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

Such visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure. Their duration and frequency shall not be restricted.

Such representatives and delegates shall have full liberty to select the places they wish to visit. The Detaining or Occupying Power, the Protecting Power and when occasion arises the Power of origin of the persons to be visited, may agree that compatriots of the internees shall be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives. The appointment of such delegates shall be submitted to the approval of the Power governing the territories where they will carry out their duties.

Article 144

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of

military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions.

Article 145

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Article 146

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for

the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Article 147

Grave breaches to which the preceding Article relates 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.

Article 148

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Article 149

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

SECTION II***Final Provisions*****Article 150**

The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Article 151

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949.

Article 152

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 153

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 154

In the relations between the Powers who are bound by the Hague Conventions respecting the Laws and Customs of War on Land, whether that of July 29, 1899, or that of October 18, 1907, and who are parties to the present Convention, this last Convention shall be supplementary to Sections II and III of the Regulations annexed to the above-mentioned Conventions of The Hague.

Article 155

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Article 156

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 157

The situations provided for in Articles 2 and 3 shall have immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Article 158

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with release, repatriation and re-establishment of the persons protected by

the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Article 159

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

ANNEX I

Draft Agreement Relating to Hospital and Safety Zones and Localities

Article 1

Hospital and safety zones shall be strictly reserved for the

persons mentioned in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, and in Article 14 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, and for the personnel entrusted with the organization and administration of these zones and localities, and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

Article 2

No persons residing, in whatever capacity, in a hospital and safety zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Article 3

The Power establishing a hospital and safety zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

Article 4

Hospital and safety zones shall fulfil the following conditions:

- (a) they shall comprise only a small part of the territory governed by the Power which has established them;
- (b) they shall be thinly populated in relation to the possibilities of accommodation;
- (c) they shall be far removed and free from all military objectives, or large industrial or administrative establishments;

- (d) they shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

Article 5

Hospital and safety zones shall be subject to the following obligations:

- (a) the lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit
- (b) they shall in no case be defended by military means.

Article 6

Hospital and safety zones shall be marked by means of oblique red bands on a white ground, placed on the buildings and outer precincts.

Zones reserved exclusively for the wounded and sick may be marked by means of the Red Cross (Red Crescent, Red Lion and Sun) emblem on a white ground.

They may be similarly marked at night by means of appropriate illumination.

Article 7

The Powers shall communicate to all the High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital and safety zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse party has received the above-mentioned notification, the zone shall be regularly established.

If, however, the adverse party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8.

Article 8

Any Power having recognized one or several hospital and safety zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissions, for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

Article 9

Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power which has recognized the zone.

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

Article 10

Any Power setting up one or more hospital and safety zones, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by the Protecting Powers or by other neutral Powers, persons eligible to be members of the Special Commissions mentioned in Articles 8 and 9.

Article 11

In no circumstances may hospital and safety zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

Article 12

In the case of occupation of a territory, the hospital and safety zones therein shall continue to be respected and utilized as such.

Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

Article 13

The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital and safety zones.

ANNEX II

Draft Regulations concerning Collective Relief

Article 1

The Internee Committees shall be allowed to distribute collective relief shipments for which they are responsible to all internees who are dependent for administration on the said Committee's place of internment, including those internees who are in hospitals, or in prison or other penitentiary establishments.

Article 2

The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a plan drawn up by the Internee Committees. The issue of medical stores shall, however, be made for preference in agreement with the senior medical officers, and the latter may, in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

Article 3

Members of Internee Committees shall be allowed to go to the railway stations or other points of arrival of relief supplies near their places of internment so as to enable them to verify the quantity as well as the quality of the goods received and to make out detailed reports thereon for the donors.

Article 4

Internee Committees shall be given the facilities necessary for verifying whether the distribution of collective relief in all

subdivisions and annexes of their places of internment has been carried out in accordance with their instructions.

Article 5

Internee Committees shall be allowed to complete, and to cause to be completed by members of the Internee Committees in labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

Article 6

In order to secure the regular distribution of collective relief supplies to the internees in their place of internment, and to meet any needs that may arise through the arrival of fresh parties of internees, the Internee Committees shall be allowed to create and maintain sufficient reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the Internee Committee holding the keys of one lock, and the commandant of the place of internment the keys of the other.

Article 7

The High Contracting Parties, and the Detaining Powers in particular, shall, so far as is in any way possible and subject to the regulations governing the food supply of the population, authorize purchases of goods to be made in their territories for the distribution of collective relief to the internees. They shall likewise facilitate the transfer of funds and other financial

measures of a technical or administrative nature taken for the purpose of making such purchases.

Article 8

The foregoing provisions shall not constitute an obstacle to the right of internees to receive collective relief before their arrival in a place of internment or in the course of their transfer, nor to the possibility of representatives of the Protecting Power, or of the International Committee of the Red Cross or any other humanitarian organization giving assistance to internees and responsible for forwarding such supplies, ensuring the distribution thereof to the recipients by any other means they may deem suitable.

I. INTERNMENT CARD

ANNEX III

1. Front

<u>CIVILIAN INTERNEE MAIL</u>		POSTAGE FREE
POST CARD		
<p>IMPORTANT</p> <p>This card must be completed by each internee immediately on being interned and each time his address is altered by reason of transfer to another place of internment or to a hospital.</p> <p>This card is not the same as the special card which each internee is allowed to send to his relatives.</p>	<p>GENERAL INFORMATION AGENCY</p> <p>FOR PROTECTED PERSONS</p> <p>INTERNATIONAL COMMITTEE OF THE RED CROSS</p>	

2. Reverse side

Write legibly and in block letter – I. Nationality		
.....		
2. Surname	3. First Names (<i>in full</i>)	4. First name of father
.....		
5. Date of birth	6. Place of Birth	
7. Occupation		
8. Address before detention		
9. Address of next of kin		
.....		
*10. Interned on :		
(or)		
Coming from (hospital, etc.) on :		
*11. State of health		
12. Present address		
13. Date	14. Signature	
.....		
* Strike out what is not applicable – Do not add any remarks – See explanations on other side of card		

(size of internment card – 10 X 15 cm.)

II. ANNEX III**LETTER****CIVILIAN INTERNEE SERVICE**

Postage free

To

Street and number

Place of destination (in block capitals)

Province or Department

Country (*in block capitals*)

Sender:
Surname and first names
Date and place of birth
Internment address

(Size of letter -- 29 X 15 cm.)

ANNEX III

CIVILIAN INTERNEE MAIL		Postage free
POST CARD		
To		
Street and number		
Place of destination (<i>in block capitals</i>)		
Province or Department		
Country (<i>in block capitals</i>)		
Sender:		
Surname and first names		
Date and Place of birth		
Internment address		

Date:

.....

.....

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Write on the dotted lines only and as legibly as possible.

(Size of correspondence card – 10 X 15 cm)

Summation/Decision/
Resolutions adopted by
the Annual Sessions of
AALCO

**3. SUMMATION/DECISION/RESOLUTION ADOPTED BY
THE ANNUAL SESSIONS OF AALCO ON THE AGENDA
ITEM (1989-2010)**

**A. TWENTY-EIGHTH ANNUAL SESSION
(13-18 FEBRUARY 1989, NAIROBI, KENYA)**

**Summation of the Deliberations on the “Deportation of
Palestinians as a violation of International Law, particularly
the 1949 Geneva Conventions”¹**

The Vice-President summed up the deliberations on the topic thus:

- (i) Recognise the politico-legal complexities of the situation arising out of the deportation of Palestinians in violation of International Law.
- (ii) All agreed that the Israeli authorities were acting in flagrant violation of international law in deporting Palestinians from the occupied territories.
- (iii) They affirmed the alienable right of the Palestinian people to self-determination and the right to return to their land.
- (iv) They alluded to the recent developments which advance the prospects for a just settlement to the Middle East situation especially the Palestinians; and
- (v) Whether recognition by many States of the State of Palestine and the new dialogue that has begun between the PLO and Parties can contribute to the speedy resolution of this problem.

¹ AALCC, *Report of the Twenty-Eighth Session held in Nairobi from 13th to 18th February 1989*, pp.142-44.

- (vi) Call on Israel to take this opportunity to work towards a Joint settlement.
- (vii) They commend highly the Secretary-General for his report and endorsed the recommendations therein.
- (viii) Close cooperation between the AALCC and the PCL, the OIC, the LAS and the OAU in dealing with this plight, was affirmed.
- (ix) The Secretariat was directed to prepare an indepth study on legal aspects of the subject including the question of payment of compensation and convene a meeting of Legal Advisers to examine and review the report.

**B. TWENTY-NINTH ANNUAL SESSION
(12-17 MARCH, 1990, BEIJING,
PEOPLE'S REPUBLIC OF CHINA)**

Summation of the Deliberations on "The Deportation of Palestinians as a violation of International Law, particularly the 1949 Geneva Conventions²

The Vice-President summing up the debate on the agenda item noted that all speakers had expressed abhorrence for Israeli actions and had expressed grave concern and solidarity with the Palestinian people. He summed up the conclusion of the Committee as follows "Committee having considered AALCC Doc. No. XXIX/90/10 and deliberated upon it:

1. Congratulates the Secretariat for the excellent in-depth study on the Deportation of Palestinians in violation of International Law particularly the Geneva Convention of 1949;
2. Decides that the Secretariat follow it up with a comprehensive study taking into consideration all legal aspects of the matter and the resettlement in violation of international law, by the State of Israel, of large number of migrants in Palestine.
3. Directs the Secretariat to convene an inter-sessional meeting on the inalienable rights of the Palestinian People if financially feasible or if an invitation to this effect is forthcoming from a Member State;
4. Requests the Secretariat to participate in all meetings convened under the auspices of the UN Committee on the inalienable rights of Palestinian People,

² AALCC, *Report of the Twenty-Ninth Session held in Beijing from 12th to 17th March 1990*, pp.135-36.

particularly the forthcoming meeting in Freetown, Sierra Leone; and

5. Decides to inscribe this item on the agenda of the 30th session of the AALCC.

**C. THIRTIETH ANNUAL SESSION (22-27 APRIL, 1991,
CAIRO, ARAB REPUBLIC OF EGYPT)**

Decision on “Deportation of Palestinians in violation of International Law, particularly the Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territory”³

The Committee at its Thirtieth Session having taken note of the Secretariat study on “The Deportation of Palestinians in violation of International Law, particularly the Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territory”;

- Expresses its concern at the continuing denial and deprivation of the inalienable human rights of the Palestinian people including *inter alia* the right of self-determination and right to return and the establishment of their independent State on their national soil;
- Expresses its appreciation to the Secretary-General of the Committee for the comprehensive brief prepared for the Session;
- Requests the Secretary-General of the Committee to continue to monitor the events and developments in the occupied territories of Palestine;
- Decides to convene an inter-sessional meeting of the Committee to consider Israel’s policies of immigration and settlement if financially feasible or if an invitation to host such a meeting is received from a Member State.

³ AALCC, *Combined Report of Twenty-Sixth to Thirtieth Session held in Bangkok (1987), Singapore (1988), Nairobi (1989), Beijing (1990) and Cairo (1991)* (AALCC, New Delhi, 1992), p. 161-62.

- Also Decides to' include the item "Deportation of Palestinians in Violation of International Law, particularly the Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territory" in the agenda of the 31st Session of the Committee.

**D. THIRTY-FIRST ANNUAL SESSION (25 JANUARY – 1
FEBRUARY 1992, ISLAMABAD, PAKISTAN)**

Decision on “Deportation of Palestinians in violation of International Law, particularly the Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the occupied territories”⁴

The *Asian-African Legal Consultative Committee*, at its Thirty-first Session having taken note of the Secretariat study on “The Deportation of Palestinians in violation of International Law, particularly the Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories” (Doc. No. AALCC/XXXI/ Islamabad/92/11) as well as the United Nations Security Council Resolution of January 1992 adopted unanimously:⁵

- *Expresses* its concern at the continuing denial and deprivation of the inalienable human rights of the Palestinian people including *inter alia* the right of self-determination and right to return and the establishment of their independent State on their national soil;

⁴ AALCC, *Thirty-First Session Islamabad, 25 January to 1 February 1992: Proceedings and Working Papers* (AALCC, New Delhi, 1992), p. 62-63.

⁵ The Delegation of Japan expressed its reservation on paragraph 12 of this Decision on the issue saying “Urges ECOSOC to request the International Court of Justice to give an Advisory Opinion on the legality of the Israel’s actions and policy of settlement in the occupied territories in violation of International Law and consequences of violation of the U.N. Security Council Resolutions” No. 242 and 338 and legal obligations of member countries of the United Nations in this matter”. The Japanese Delegation also expressed its view that Southern Lebanon could not be regarded an “Occupied territory”.

- *Expresses* its appreciation to the Secretary-General of the AALCC for the comprehensive study prepared for the Session;
- *Requests* the Secretary-General of the AALCC to continue to monitor the events and developments in the occupied territories of Palestine;
- *Decides* to convene an inter-sessional meeting of the AALCC to consider Israel's policies of immigration and settlement, if financially feasible, or if an invitation to host such a meeting is received from a Member State;
- *Supports* the just cause of the Palestinian people and the national, political and inalienable human rights of the Palestinian people;
- *Condemns* the Israeli policy in the occupied territories and their deportation of Palestinians and annexation of the Palestinian lands against the rights of the Palestinian people;
- *Strongly condemns* Israel's policy of immigration and settlement of Jews in Palestinian and other Arab occupied territories and Southern Lebanon and Syrian Golan Heights in flagrant violation and contravention of human rights;
- *Demands* that Israel respect the principles of international law and all international conventions which have a bearing on the matter;
- *Condemns* also Israel's policy of appropriation and illegal exploitation of the natural resources of the occupied territories in contravention of the principles of permanent sovereignty over natural resources;

- *Requests* the Secretary-General to study the question of the forced changes in the demographic composition of the occupied territories including Jerusalem, the West Bank and the Gaza Strip;
- *Urges* ECOSOC to request the International Court of Justice to give an Advisory Opinion on the legality of the Israel's actions and policy of settlement in the occupied territories in violation of International Law and consequences of violations of the U.N. Security Council Resolutions No. 242 and 338 and legal obligations of member countries of the United Nations in this matter;
- *Requests* the Russian Government to take appropriate measures which the Russian Government deems just to discourage the settlement of the Russian Jewish immigrants in the occupied territories in violation of international law;⁶ and
- *Decides* to include the item "Deportation of Palestinians in violation of International Law, particularly the Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territory" in the agenda of its Thirty-Second Session.

⁶ The Observer for Russia expressed his reservation on this paragraph as restricting emigration would be violative of human rights.

**E. THIRTY-SECOND ANNUAL SESSION (1-6 FEBRUARY
1993, KAMPALA, UGANDA)**

Decision on “Deportation of Palestinians in Violation of International Law particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories”⁷

The Asian-African Legal Consultative Committee,

Having taken note of the Secretariat study on “The Deportation of Palestinians in violation of International Law, particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories” (Doc. No. AALCC\XXXII\Kampala\93\8) as well as the United Nations Security Council Resolution No.799 of December 1992;

Also taking note of the Resolution of Solidarity drawn up by the New Delhi Seminar on the Palestinian Question jointly organised by the AALCC and the League of Arab States;

Recalling the resolutions adopted by the previous AALCC Sessions on the Palestinian question;

Conscious of the responsibility of the AALCC to uphold International Law and support peoples’ fundamental rights; and

Taking into consideration the United Nations Charter provisions concerning the right of self-determination, the Fourth Geneva Convention of 1949 and the UN Security Council Resolutions Nos. 677 of 1988, 608 of 1988, 636 of 1989, 641 of 1989, 681 of 1990, 694 of 1991, 726 of 1992 and 799 of December 1992;

⁷ AALCC, *Report of the Thirty-Second Session held in Kampala (Uganda) from 1 to 6 February 1993*, pp. 232-35.

1. Expresses its concern at the continuing denial and deprivation of the inalienable human rights of the Palestinian people including inter alia the right of self-determination, the right to return and the establishment of an independent State on their national soil;
2. Expresses its appreciation to the Secretary-General of the Committee for the comprehensive brief prepared for the Session;
3. Expresses also its appreciation to the League of Arab States for their cooperation in the convening of a two-day Seminar on the Question of Palestine;
4. Supports the just cause of the Palestinian people and their struggle for self-determination;
5. Supports the U.N. Security Council Resolution No.799 of December 1992 and calls upon the Security Council Member States to implement unreservedly its own resolution by using, if necessary, economic and diplomatic sanctions and calls the five Permanent Members of the Security Council to regard all the resolutions equally and not selectively, respected and enforced;
6. Agrees to hold an inter-sessional meeting, if still needed, on the deported Palestinians and to put this question on the agenda of the next AALCC meeting;
7. Condemns the Israel's policy in the occupied territories and the deportation of Palestinian people and demands that the 415 Palestinians recently expelled to Lebanon be immediately allowed to return home in conformity with the decision of the Security Council in Resolution 799;

8. Strongly condemns Israel's policy of immigration and settlement of Jews in Palestinian and other Arab occupied territories and Southern Lebanon and Syrian Golan Heights in flagrant violation and contravention of human rights;
9. Strongly Deplores the recent decision taken by the Israeli Supreme Court which gave the political authority the right to violate International law and the Fourth Geneva Convention of 1949 by legalising the deportation of over four hundred Palestinians;
10. Demands that Israel respect the principles of International law and all International Conventions which have a bearing on the matter;
11. Condemns also Israel's policy of appropriation and illegal exploitation of the natural resources of occupied territories in contravention of the principles of permanent sovereignty over natural resources;
12. Requests the Secretary-General of the Committee to continue to monitor the events and developments in the occupied territories of Palestine; and
13. Decides to include the item "Deportation of Palestinians in violation of International Law Particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories" in the agenda of its Thirty-Third Session.

**F. THIRTY-THIRD ANNUAL SESSION
(17-21 JANUARY 1994, TOKYO, JAPAN)**

Resolution on the “Deportation of Palestinians in Violation of International Law, particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories”⁸

The Asian African Legal Consultative Committee at its Thirty-third Session:

Recalling the resolutions adopted by the previous AALCC sessions on the Palestinian question;

Conscious of the responsibility of AALCC to uphold International Law and support peoples fundamental rights, and

Taking into consideration the United Nations Charter provisions concerning the right of self determination, the fourth Geneva Convention of 1949 and the various UN General Assembly and Security Council resolutions on the question of Palestine in particular those relating to deportation and building of settlements;

Taking note of the historic accord of principles signed on 13th September 1993 between P.L.O. and Israel;⁹

1. *Expresses* its concern at the continuing denial and

⁸ AALCC, *Report and Selected Documents of the Thirty-Fourth Session Doha, Qatar* (17-22 April, 1995), pp. 199-200.

⁹ The *Delegate of Islamic Republic of Iran* expressed the following reservation on this decision:

“My delegation does not recognize the accord between P.L.O. and the other party, and while seeking the full realization of the inalienable rights of the Palestinian People would like to put on the record its reservation on some paras of this resolution which refer to this accord.”

deprivation of the inalienable legitimate rights of the Palestinian people including *inter alia* the right of self-determination, return and the establishment of an independent state on their national soil.

2. *Supports* the just cause of the Palestinian people and their struggle for self-determination and freedom;
3. *Condemns* Israel's policy in the Arab occupied territories and the deportation of Palestinian people from their indigenous homes and demands the repatriation of all Palestinians deported since 1967 in flagrant violation of Geneva Convention and the Declaration on Human Rights;¹⁰
4. *Strongly condemns* Israel's policy of immigration and the Settlement of Jews in the Palestinian and other Arab occupied territories in Golan heights and South

¹⁰ The *Delegate of Japan* expressed the following reservation on this decision;

"Since the Committee met in Kampala last year, a historic event took place in the long history of the Middle East Peace Process. On the 13th September, 1993 "Declaration of Principles" has been signed between PLO and Israel at White House, Washington in the presence of PLO Chairman Yasser Arafat and Israeli Prime Minister Yitzhak Rabin. Japan strongly supports this peace process and the agreement reached between PLO and Israel. The Japanese Government maintains the position that deportation in question is not justifiable under the international law. However, the issues taken up in this draft resolution, including the question of deportation of Palestinians are now being negotiated as a part of its peace process between the parties concerned. Since the peace process is at a very crucial and sensitive juncture, we believe that the Committee, as a forum of legal experts, should not take a decision which may prejudice the on-going negotiations. For this reason, the Japanese delegation reserves its position on the resolution as a whole"

Lebanon and consider it an obstacle towards erecting just and comprehensive peace;

5. *Demands* that Israel respect the principles of international Law and all International Conventions which have a bearing on these matters including the release of prisoners and detainees in Israel jails and concentration camps;
6. *Condemns* Israel's policy of appropriation and illegal exploitation of the natural resources (particularly water) and the archeological explorations of the occupied territories in contradiction to the principles of permanent sovereignty over natural resources,
7. *Welcomes* the signing of Accord of Principles between Palestine Liberation Organization and the Govt. of Israel and *considers* it an important breakthrough and a first step towards erecting a just durable and comprehensive peace in the Middle East.
8. *Calls upon* Israel to expedite its withdrawal from Gaza and Jericho area to enable the P.L.O. establish the Palestinian National Authority over these territories;
9. *Requests* Member States as well as other States and U.N. organs to extend moral and material support to the Palestinian National Authority *in* Gaza and Jericho;
10. *Requests* the Secretary General of the Committee to continue to monitor the events and developments *in* the occupied territories of Palestine; and
11. *Decides* to include the item in the agenda of its 34th Session.

(Adopted on January 21, 1994)¹¹

**G. THIRTY-FOURTH ANNUAL SESSION
(17-22 APRIL 1995, DOHA, QATAR)**

Decision on "Deportation of Palestinians in Violation of International Law Particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories"¹²

The Asian-African Legal Consultative Committee at its Thirty-Fourth Session:

Having considered the Report of the Secretary General contained in Document No. AALCC/XXXIV/DOHA/95/6 and taken cognizance of the hardships suffered by Palestinian refugees.

And having heard the statement of the Deputy Secretary General;

1. *Thanks the Secretary-General* for his report on the Deportation of Palestinians;

¹¹ The *Delegate of Singapore* expressed the following reservation on this decision:

"Singapore takes the view that this draft resolution does not fall within the purview of the AALCC. The AALCC is a Legal Consultative Committee constituted to provide an advisory role to Member Governments on various international legal issues. A political statement such as the Palestinian draft resolution is not appropriate for consideration in this forum; it is more appropriate to be considered in a political forum such as the UN General Assembly. Furthermore, no notice was given for the tabling of this draft resolution until this evening. It is not possible for Singapore to fully consider the draft and formulate the position."

¹² AALCC, *Report and Selected Documents of the Thirty-Fourth Session Doha, Qatar* (17-22 April, 1995), pp. 191.

2. *Directs* the Secretariat to continue to monitor the developments in the occupied territories from the view point of relevant legal aspects;
3. *Decides* to place the item on the agenda of the Thirty-Fifth Session of the Committee and to consider this item in conjunction with the item the Status and Treatment of Refugees.

**H. THIRTY-FIFTH ANNUAL SESSION
(4 - 8 MARCH 1996, MANILA, PHILIPPINES)**

Resolution on the "Status and Treatment of Refugees and Deportation of Palestinians in violation of International Law particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories"¹³

The Asian-African Legal Consultative Committee at its Thirty-Fifth Session

Having considered the items "Status and Treatment of Refugees" and "Deportation of Palestinians in violation of International Law particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories" as set out in Doc. No. AALCC/XXXV/Manila/96/2;

Having heard the comprehensive statement of the Deputy Secretary-General;

Having heard also the statement of the Representative of the United Nations High Commissioner of Refugees:

Recalling that the current year marks the 30th anniversary of the Bangkok Principles; and

Taking Note that an Agreement was signed in Washington on 28th September 1995 between the Palestine Liberation Organization Leader and the then Israeli Prime Minister;

1. *Takes note* of the proposals advanced by the Representative of the United Nations High Commissioner for Refugees, in particular that of rendering financial and technical assistance to the

¹³ AALCC, *Report and Selected Documents of the Thirty-Fifth Session Manila, Philippines (4-8 March, 1996)*, pp. 209-10.

Secretariat for the purposes of organizing a seminar;

2. *Appeals* to Member States to take all possible measures to eradicate the causes and conditions which force people to leave their countries and cause them to suffer unbounded misery;
3. *Urges* Member States who have not already done so to ratify and/or accede to the Convention relating to the Status of Refugees, 1951 and the 1967 Protocol thereto;
4. *Requests* the Member Governments to transmit their observations and comments on the Model Legislation prepared by the Secretariat as set out in Part A of Doc. No. AALCC/XXXV/Manila/96/2;
5. *Also requests* the Member Governments to send their comments and observations on the proposed legal framework for the establishment of safety zones for displaced persons in their country of origin prepared by the Secretariat;
6. *Directs* the Secretariat to study further the concept of safety zone in the light of the comments received and to continue to monitor and assess the developments relating to the establishment of safety zones for the internally displaced persons in their country of origin;
7. *Requests* the Secretariat to organize in collaboration with and financial and technical assistance of the UNHCR, a seminar in 1996, on the status and treatment of refugees to commemorate the 30th Anniversary of the Principles of Refugees adopted by the AALCC at its 8th Session in Bangkok in 1966;
8. *Takes cognizance* of the hardships suffered by the Palestinian people;
9. *Expresses* the hope that the next round of the peace

process will witness the resolution of outstanding issues including the question of the Jewish Settlements in Palestine and the deportation of Palestinians;

10. *Directs* the Secretariat to continue to monitor the developments in the Occupied Territories from the viewpoint of relevant legal aspects;
11. *Decides* to place the item "Status and Treatment of Refugees" on the agenda of its Thirty-Sixth Session; and
12. *Also decides* to place the item "Deportation of Palestinians in violation of international law particularly the Fourth Geneva Convention of 1949 and the massive immigration and settlement of Jews in the occupied territories" on the agenda of its Thirty-sixth Session and to consider this item in conjunction with the item 'Status and Treatment of Refugees'.

**I. THIRTY-SIXTH ANNUAL SESSION (3-7 MAY 1997,
TEHRAN, ISLAMIC REPUBLIC OF IRAN)**

Resolution on Deportation of Palestinians in Violation of International Law Particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories¹⁴

Res. No. 36/8 Date: 7 May, 1997

**THE ASIAN-AFRICAN LEGAL CONSULTATIVE
COMMITTEE AT ITS THIRTY-SIXTH SESSION**

Having considered Doc. No.AALCC/XXXVI/Tehran/97/ S.11 on Deportation of Palestinians in Violation of International Law;

Having heard the comprehensive statement of the Deputy Secretary General;

Taking cognizance of the hardships suffered by the Palestinian People;

1. **Expresses** the hope that a just, durable and final solution will allow Palestinian people to attain their legitimate rights;
2. **Directs** the Secretariat to continue to monitor the developments in the occupied territories from the viewpoint of relevant legal aspects; and
3. **Decides** to place the item on the agenda of its Thirty-Seventh Session.

¹⁴ AALCC, *Report of the Thirty-Sixth Session held in Tehran (Islamic Republic of Iran) from 3rd to 7th May 1997*, pp.71-72.

**J. THIRTY-SEVENTH ANNUAL SESSION (NEW DELHI,
INDIA, 13-18 APRIL 1998)**

Resolution on the “The Deportation of Palestinians in Violation of International Law Particularly the Fourth Geneva Convention of 1949 and the Massive Immigration and Settlement of Jews in the Occupied Territories”¹⁵

Resolution No. 37/9 8th April 1998

**The Asian African Legal Consultative Committee at its
Thirty-Seventh session**

Having considered Doc. No. AALCC/XXXVIII/New Delhi/98/S9;

Having heard the comprehensive statement of the Deputy Secretary General;

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

Following with interest and hope the peace efforts being exerted 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) and the formula of “land for peace” and the legitimate rights of the Palestinian people;

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

Taking cognizance of the hardships suffered by the Palestinian people;

1. Expresses the hope that a just and durable solution will

¹⁵ AALCC, *Report and Selected Documents of the Thirty-Seventh Session New Delhi, India (13 April-18 April 1998)*, pp.330-31.

allow Palestinian people to attain their legitimate rights;

2. Directs the Secretariat to enlarge the scope of monitoring 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 the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949" on the agenda of the Thirty-Eighth session.

**K. THIRTY-EIGHTH ANNUAL SESSION
(19-23 APRIL 1999, ACCRA, GHANA)**

Resolution 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”¹⁶

Resolution No. 38/323rd April 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;

¹⁶ AALCC, *Report and Selected Documents of the Thirty-Eighth Session held in Accra, Ghana (19 April -23 April 1999)*, pp. 311-12.

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.

**L. THIRTY-NINTH ANNUAL SESSION (CAIRO, EGYPT,
19-23 FEBRUARY 2000)**

Resolution 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”¹⁷

Resolution No. 39/323 February 2000

**The Asian-African Legal Consultative Committee at its
Thirty-Ninth Session,**

Having considered Document No. AALCC/XXXIX/
CAIRO/ 2000/S.3;

Having also heard the comprehensive statement of the
Deputy Secretary- General;

Having heard with concern the statements of the Heads
of Delegations on the item;

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;

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

¹⁷ AALCC, *Resolutions adopted on Substantive and Organizational Matters by the 39th Session of the Committee* (19-23 February 2000, Cairo, Arab Republic of Egypt), pp. 4-5.

rights;

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 all) the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949”, on the agenda of its Fortieth session.

**M. FORTIETH ANNUAL SESSION (20-24 JUNE 2001,
NEW DELHI, HQ, INDIA)**

**RES/40/4
24 June 2001**

Resolution on “Deportation of Palestinians and Other Israeli Practices Among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law, particularly the Fourth Geneva Convention of 1949,”¹⁸

The Asian African Legal Consultative Organization at its Fortieth Session,

Having considered the Report of the Secretariat on “the Deportation of Palestinians and Other Israeli Practices among Them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law, particularly the Fourth Geneva Convention of 1949”, contained in Document No. AALCO/XL/HQ (New Delhi)/2001/S.4,

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

Expressing the hope for the success of the peace efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of General Assembly resolution 194 (1948) and other related resolutions and Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and of the Madrid formula of

¹⁸ AALCO, *Report and Selected Documents of the Fortieth Session held at Headquarters New Delhi, India (20 June -24 June 2001)*, pp. 464-465.

“land for peace” and the legitimate rights of the Palestinian people;¹⁹

Having heard with appreciation the statement of the Deputy Secretary General as well as other delegations,

1. **Affirms** that strict adherence to the rules of international humanitarian law contributes to the establishment of peace and security;
2. **Also affirms** that violation of the rules of international law in general and those of international humanitarian law in particular jeopardises the possibility of achieving peace and security;
3. **Deplores** all actions, in violation of the rule of law, hindering the whole peace process, which is the only way to build confidence among all countries and peoples in the region and pave the way for peace and development among them within a framework of international protection;
4. **Affirms** that a comprehensive, just and durable solution will allow all the countries and peoples of the region to live in peace and security;
5. **Directs** the Secretariat to closely monitor the developments in the occupied territories from the viewpoint of relevant legal aspects; and
6. **Decides** to place this item on the agenda of its Forty-First session.

¹⁹ The Delegation of the Islamic Republic of Iran disassociated itself from the third preambular paragraph and also the third operative paragraph and hence could not join the consensus on the resolution.

**N. FORTY-FIRST ANNUAL SESSION (15-19 JULY 2002,
ABUJA, NIGERIA)**

**RES/41/4
19 July 2002**

Resolution on “The Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”^{20, 21}

The Asian-African Legal Consultative Organization at its Forty-First Session,

Having considered Document No. AALCO/XLI/ABUJA/2002/S.4; on this item,

Having heard with appreciation the statements of the Deputy Secretary-General and the Representative of the State of Palestine as well as other delegations,

Mindful of the serious obstacles created by the occupying power which hinder the achievement of peace in the region,

Condemning Israel’s continued acts of violence, use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of Human Rights and the Fourth Geneva Convention of 1949,

²⁰ AALCO, *Report and Selected Documents of the Forty-First Session Held at Abuja, Nigeria 15-19 July 2002*, pp. 388-89.

²¹ The resolution should be read along with the observations made by Tanzania (as reflected in the AALCO volume containing Summary Records of the Seventh General Meeting at page 158). However, written comments of the Islamic Republic of Iran are awaited so as to finalize this resolution.

Stressing the need for compliance with existing Israeli-Palestinian agreements concluded in order to reach a final settlement,

Concerned about the continuing dangerous deterioration of the situation in the occupied Palestinian Territory, including Jerusalem, and about the severe consequences of continuous illegal Israeli settlements activities as well as the harsh economic conditions and other consequences for the Palestinians, resulting from the frequent closures and isolation of the occupied Palestinian territories and about war crimes and crimes against humanity committed in these territories and call for the implementation of resolution 1405 (2002) on the dire humanitarian situation of the Palestinian population and the fact finding team,

Expressing the hope for the success of the peace efforts exerted 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 194 (1949), 242 (1967), 338 (1973), 425 (1978) and 1397(2002) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership,

Welcoming the proposal of the Secretary-General of the United Nations on the establishment of a robust and credible multinational force and calls on the members of the Security Council to quickly consider the proposal of the Secretary-General and to take the necessary measures in this regard,

1. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Convention relative to the Protection of

Civilian Persons in Time of War, of 12 August 1949, in order to protect the rights of Palestinians;

2. **Also reiterates the demand** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinian cities in implementation of Security Council Resolution 1402 (2002) and 1403 (2002) as a first step for ending the Israeli occupation of Palestinian land occupied since 1967;
3. **Calls upon** Israel to facilitate the return of refugees and displaced Palestinians to their homes and restoration to them of their properties, in compliance with the relevant UN resolutions;
4. **Affirms** that a comprehensive, just and durable solution can be achieved through the implementation of the existing agreements between the Parties; the relevant United Nations resolutions which will allow all the countries of the region to live in peace, security and harmony;
5. **Directs** the Secretariat to closely monitor the developments in the occupied territories from the viewpoint of relevant legal aspects; and
6. **Decides** to place this item on the agenda of its Forty-Second Session.

**O. FORTY-SECOND ANNUAL SESSION (16-20 JUNE 2003,
SEOUL, REPUBLIC OF KOREA)**

**RES/42/4
20 June 2003**

Resolution on “The Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949”²²

The Asian-African Legal Consultative Organization at its Forty-Second session,

Having considered Document No. AALCO/XLII/ SEOUL/ 2003/S.4 on this item,

Having heard with appreciation the statements of the Secretary-General as well as other delegations,

Mindful of the serious obstacles created by the occupying power which hinder the achievement of peace in the region,

Condemning Israel’s acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of Human Rights and the Fourth Geneva Convention of 1949,

Stressing the need for compliance with existing Israeli–Palestinian agreements concluded in order to reach a final settlement,

Concerned about the continuing dangerous deterioration of the situation in the occupied Palestinian Territory, including Jerusalem, and about the severe consequences of continuous illegal Israeli settlements activities as well as the harsh

²² AALCO, *Report of the Forty-Second Session* (16-20 June, 2003, Seoul, Republic of Korea), AALCO/42/SEOUL/2003/REP, pp. 163-64.

economic conditions and other consequences for the Palestinians, resulting from the frequent closures and isolation of the occupied Palestinian territories, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of resolution 1405(2002) on the dire humanitarian situation of the Palestinian population and the fact finding team,

Expressing hope for the success of the peace efforts exerted 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 194 (1949), 242 (1967), 338 (1973), 425 (1978) and 1397(2002) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership,

Welcoming the proposal of the Secretary-General of the United Nations on the establishment of a robust and credible multinational force and calls on the members of the Security Council to consider the measures necessary in this regard,

1. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Convention relative to the Protection of Civilian Persons in time of war of 12 August 1949, in order to protect the rights of Palestinians;
2. **Also reiterates the demand** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinian cities in implementation of Security Council Resolution 1402

(2002) and 1403 (2002) as a first step for ending the Israeli occupation of Palestinian land occupied since 1967;

3. **Calls upon** Israel to ensure facilitate the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;
4. **Affirms** that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the existing agreements between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony;
5. **Directs** the Secretariat to closely follow-up the developments in occupied territories from the view point of relevant legal aspects; and
6. **Decides** to place this item on the provisional agenda of its Forty-Third Session.

**P. FORTY-THIRD ANNUAL SESSION (BALI, REPUBLIC
OF INDONESIA, 21-25 JUNE 2004)**

Deliberated
RES/43/S 4
25 June 2004

Resolution on “The Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949²³

The Asian-African Legal Consultative Organization at its Forty-Third Session,

Having considered the Secretariat Document No. AALCO/43/ BALI/ 2004 /SD/S 4;

Having heard with appreciation the introductory statement of the Secretary-General;

Having followed with great interest the deliberations on the item reflecting the views of Member States;

Mindful of the serious obstacles created by the occupying power which hinder the achievement of peace in the region;

Condemning Israel’s acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of Human Rights and the Fourth Geneva Convention of 1949;

²³ AALCO, *Report of the Forty-Third Session* (21-25 June 2004, Bali, Republic of Indonesia), AALCO/43/BALI/2004/REP

Stressing the need for compliance with existing Israeli Palestinian agreements concluded in order to reach a final settlement;

Concerned about the continuing dangerous deterioration of the situation in the occupied Palestinian Territory, including East Jerusalem, and about the severe consequences of continuous illegal Israeli settlements activities as well as the harsh economic conditions and other consequences for the Palestinians, resulting from the frequent closures and isolation of the occupied Palestinian territories, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of resolution 1405(2002) on the dire humanitarian situation of the Palestinian population and the fact finding team;

Deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory;

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall;

Welcoming the request by the United Nations General Assembly (UNGA Resolution A/RES/ES-10/14 of 8 December 2003) for an advisory opinion submitted to the International Court of Justice, about the legal consequences arising from the construction of the Wall being built by Israel in the Occupied Palestine Territory, including in and around East Jerusalem;

Strongly condemns the extrajudicial, summary or arbitrary execution of the Palestinian leaders and reiterates the conviction that targeted assassinations as well as act of violence against civilians will only lead to escalating violence in the region;

Expressing hope for the success of the peace efforts exerted 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 194 (1949), 242 (1967), 338 (1973), 425 (1978) and 1397(2002) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership;

Welcoming the proposal of the Secretary-General of the United Nations on the establishment of a robust and credible multinational force and calls on the members of the Security Council to consider the measures necessary in this regard;

1. **Expresses** its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 as well as other peace initiatives including the Road Map;
2. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in time of war of 12 August 1949, in order to protect the rights of Palestinians;
3. **Demands** that Israel stops and reverses the construction of the wall in the Occupied Palestinian Territory;
4. **Also demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the

immediate and full withdrawal of Israeli (occupying) forces from Palestinian cities in implementation of Security Council Resolution 1402 (2002) 1403 (2002) 1515 (2003) and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian land occupied since 1967;

5. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;
6. **Affirms** that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the existing agreements between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony;
7. **Directs** the Secretariat to closely follow-up the developments in occupied territories from the view point of relevant legal aspects; and
8. **Decides** to place the item on the provisional agenda of its Forty-Fourth Session.

**Q. FORTY-FOURTH ANNUAL SESSION (NAIROBI,
KENYA, 27 JUNE - 1 JULY 2005)**

**RES/44/S 4
1 JULY 2005**

Resolution on “The Deportation of Palestinians and Other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention Of 1949²⁴

The Asian-African Legal Consultative Organization at its Forty-Fourth Session,

Having considered the Secretariat Document No.AALCO/44/NAIROBI/ 2005/SD/S 4;

Having heard with appreciation the introductory statement of the Secretary-General;

Having followed with great interest the deliberations on the item reflecting the views of Member States;

Being Mindful of the serious obstacles created by the occupying power, which hinder the achievement of peace in the region;

Expressing deep condolences on the sad demise of the great Palestinian leader President Yasser Arafat;

Welcoming the democratic and successful election of President Mr. Mahmoud Abbas “Abu Mazen” as the Head of the Palestinian National Authority;

²⁴ AALCO, *Report of the Forty-Fourth Session* (27 June – 1 July 2005, Nairobi, Republic of Kenya), AALCO/43/NAIROBI/2004/REP pp. 159-61.

Appreciating the successful conclusion of the General Elections in Palestine, which has set into motion the democratic process;

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949;

Stressing the need for compliance with existing Israeli-Palestinian agreements concluded in order to reach a final settlement;

Being Concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territory, including East Jerusalem, and about the severe consequences of continuous illegal Israeli settlements activities as well as the harsh economic conditions and other consequences for the Palestinians, resulting from the frequent closures and isolation of the occupied Palestinian territories, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of resolution 1405(2002) on the dire humanitarian situation of the Palestinian population and the fact finding team;

Welcoming the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004);

Being deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory;

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall;

Expressing hope for the success of the peace efforts exerted 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 194 (1949), 242 (1967), 338 (1973), 425 (1978) and 1397(2002) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership;

1. **Expresses** its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 as well as other peace initiatives including the Road Map;
2. **Strongly condemns** the extra judicial, summary or arbitrary execution of the Palestinian leaders and reiterates the conviction that targeted assassinations as well as act of violence against civilians will only lead to escalating violence in the region;
3. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians;
4. **Demands** that Israel, comply with its legal obligations as mentioned in the Advisory Opinion rendered by the

International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/ES-10/L.18/Rev.1);

5. **Also strongly demands** that Israel stops and reverses the construction of the wall in the Occupied Palestinian territory.
6. **Also demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinian territories in implementation of Security Council Resolution 1402 (2002) 1403 (2002) 1515 (2003) and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian land occupied since 1967;
7. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;
8. **Affirms** that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the existing agreements between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony;
9. **Directs** the Secretariat to closely follow-up the developments in occupied territories from the view point of relevant legal aspects; and
10. **Decides** to place the item on the provisional agenda of its Forty-Fifth Session.

**R. FORTY-FIFTH ANNUAL SESSION (3-8 APRIL 2006,
NEW DELHI, HQ, INDIA)**

Deliberated

**RES/45/S 4
8 APRIL 2006**

Resolution on “The Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”²⁵

The Asian-African Legal Consultative Organization at its Forty-Fifth Session,

Having considered the Secretariat Document No. AALCO/45/ HEADQUARTERS SESSION (NEW DELHI)/ 2006/SD/S 4,

Having heard with appreciation the introductory statement of the Secretary-General,

Having followed with great interest the deliberations on the item reflecting the views of Member States,

Being Mindful of the serious obstacles created by the occupying power, which hinder the achievement of peace in the region,

Being aware of the Israeli disengagement from Gaza strip and parts of Northern West Bank,

Welcoming the free and fair election to the Palestinian Legislative Council, which has accelerated the pace of the democratic process,

²⁵ AALCO, *Report of the Forty-Fifth Session* (3 – 8 April 2006, New Delhi, India), AALCO/45/NEW DELHI (HQ)/2006/REP, pp. 193-95.

Stressing the significance of respecting the democratic choice of the Palestinian people,

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949,

Stressing the need for compliance with existing Israeli-Palestinian agreements concluded in order to reach a final settlement,

Being Concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territory, including East Jerusalem, and about the severe consequences of continuous illegal Israeli settlements activities as well as the harsh economic conditions and other consequences for the Palestinians, resulting from the frequent closures and isolation of the occupied Palestinian territories, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of resolution 1405(2002) on the dire humanitarian situation of the Palestinian population and the fact finding team,

Welcoming the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004),

Being Deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory,

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall,

Expressing hope for the success of the peace efforts exerted 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 194 (1949), 242 (1967), 338 (1973), 425 (1978) and 1397(2002) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership,

1. **Expresses** its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 as well as other peace initiatives including the Road Map;
2. **Strongly condemns** the extra judicial, summary or arbitrary execution of the Palestinian leaders and reiterates the conviction that targeted assassinations as well as act of violence against civilians will only lead to escalating violence in the region;
3. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians;
4. **Demands** that Israel, comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General

Assembly Resolution (A/RES/ES-10/15 of 20th July 2004);

5. **Strongly demands** that Israel stops and reverses the construction of the wall in the Occupied Palestinian territory;
6. **Also demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinian territories in implementation of Security Council Resolution 1402 (2002) 1403 (2002) 1515 (2003) and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian land occupied since 1967;
7. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;
8. **Affirms** that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the existing agreements between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony;
9. **Directs** the Secretariat to closely follow-up the developments in occupied territories from the view point of relevant legal aspects; and
10. **Decides** to place the item on the provisional agenda of its Forty-Sixth Session.

**S. FORTY-SIXTH ANNUAL SESSION (CAPE TOWN,
SOUTH AFRICA, 2-6 JULY 2007)**

**RES/46/S 4
6 JULY 2007**

Resolution on “The Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”²⁶ (*Deliberated*)

The Asian-African Legal Consultative Organization at its Forty-Sixth Session,

Having considered the Secretariat Document No. AALCO/46th/CAPE TOWN SESSION/2007/S 4,

Having heard with appreciation the introductory remarks of the Deputy Secretary-General,

Having followed with great interest the deliberations on the item reflecting the views of Member States,

Being Mindful of the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region,

Being aware of the Israeli disengagement from Gaza strip and parts of Northern West Bank,

Welcoming the signing of the Mecca Agreement and other regional initiatives,

²⁶ AALCO, *Report of the Forty-Sixth Session* (2 – 6 July 2007, Cape Town, Republic of South Africa), AALCO/46/CAPE TOWN/2007/REP, pp. 255-57.

Stressing the significance of respecting the democratic choice of the Palestinian people,

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949,

Stressing the need for compliance with existing Israeli – Palestinian agreements concluded in order to reach a final settlement,

Being Concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territory, including East Jerusalem, and about the severe consequences of continuous illegal Israeli settlements activities as well as the harsh economic conditions and other consequences for the Palestinians, resulting from the frequent closures and isolation of the occupied Palestinian territories, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of relevant United Nations resolutions on the dire humanitarian situation of the Palestinian population and the fact finding team,

Welcoming the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004), as well as the United Nations initiative of establishment of a Register of Damage arising from the construction of the separation wall;

Being Deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory,

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall,

1. **Expresses its hope** for the success of the peace efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of relevant Security Council resolutions, including 194 (1949), 242 (1967), 338 (1973), 425 (1978) and 1397(2002) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership,
2. **Also expresses** its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19th Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Road Map;
3. **Strongly condemns** the extra judicial, summary or arbitrary execution of the Palestinian leaders and reiterates the conviction that targeted assassinations as well as act of violence against civilians will only lead to escalating violence in the region;
4. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of

Palestinians;

5. **Also Demands** that Israel comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004);
6. **Strongly demands** that Israel stops and reverses the construction of the wall in the Occupied Palestinian territory;
7. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinian territories in implementation of Security Council Resolutions including 1402 (2002) 1403 (2002) 1515 (2003) and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian land occupied since 1967;
8. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;
9. **Affirms** that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the existing agreements between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony;

10. **Directs** the Secretariat to closely follow up the developments in occupied territories from the view point of relevant legal aspects; and
11. **Decides** to place the item on the provisional agenda of its Forty-Seventh Session.

**T. FORTY-SEVENTH ANNUAL SESSION (NEW DELHI,
HQ INDIA, 30 JUNE-4 JULY 2008)**

**RES/47/S 4
4 JULY 2008**

Resolution on “The Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”²⁷ (Deliberated)

The Asian-African Legal Consultative Organization at its Forty-Seventh Session,

Having considered the Secretariat Document No. AALCO/47TH/HEAD QUARTERS (NEW DELHI) SESSION/2008/S 4,

Having heard with appreciation the introductory remarks of the Secretary-General,

Having followed with great interest the deliberations on the item reflecting the views of Member States,

Being Mindful of the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region,

Being aware of the Israeli disengagement from Gaza strip and parts of Northern West Bank,

Welcoming the international and regional initiatives for peace in the Middle East,

²⁷ AALCO, *Report of the Forty-Seventh Session* (30 June – 4 July 2008, New Delhi, HQ, India), AALCO/47/NEW DELHI (HQ)/2008/REP, pp. 204-06.

Stressing the significance of respecting the democratic choice of the Palestinian people,

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949,

Stressing the need for compliance with existing Israeli – Palestinian agreements concluded in order to reach a final settlement,

Being concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territory, including East Jerusalem, and about the severe consequences of continuous illegal Israeli settlements activities as well as the harsh economic conditions and other consequences for the Palestinians, resulting from the frequent closures and isolation of the occupied Palestinian territories, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of relevant United Nations resolutions on the dire humanitarian situation of the Palestinian population and the fact finding team,

Welcoming the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004), as well as the United Nations initiative of establishment of a Register of Damage arising from the construction of the separation wall,

Being deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory,

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall,

Expressing its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19th Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Road Map,

Affirming that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the Charter of the United Nations, existing agreements between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony;

Taking note of convening of the Annapolis Conference on Palestine on 27 November 2007 and other international and regional events promoting peace in the Middle East,

1. **Urges** its Member States to take active part in the peace process/efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of relevant Security Council resolutions, including 242 (1967), 338 (1973), 425 (1978) and 1397(2002); and relevant General Assembly Resolutions, including 194 (1949) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership;
2. **Strongly condemns** the extra judicial, summary or arbitrary execution of the Palestinian leaders and reiterates the conviction that targeted assassinations as

well as act of violence against civilians will only lead to escalating violence in the region;

3. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians;
4. **Also Demands** that Israel comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004);
5. **Strongly demands** that Israel stops and reverses the construction of the wall in the Occupied Palestinian territory;
6. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinian territories in implementation of Security Council Resolutions, including 1402 (2002), 1403 (2002), 1515 (2003), and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian land occupied since 1967;
7. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the

restoration to them of their properties, in compliance with the relevant UN resolutions;

8. **Directs** the Secretariat to closely follow up the developments in occupied territories from the view point of relevant legal aspects; and
9. **Decides** to place the item on the provisional agenda of its Forty-Eighth Session.

**U. FORTY-EIGHTH ANNUAL SESSION (PUTRAJAYA,
MALAYSIA, 17- 20 AUGUST 2009)**

**AALCO/RES/48/S 4
20 AUGUST 2009**

Resolution on “The Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in All Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949”²⁸ (Deliberated)

The Asian-African Legal Consultative Organization at its Forty-Eighth Session,

Having considered the Secretariat Document No. AALCO/48/ PUTRAJAYA/ 2009/S 4;

Having heard with appreciation the introductory remarks of the Deputy Secretary-General;

Having followed with great interest the deliberations on the item reflecting the views of Member States;

Being concerned with the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region;

Recognizing that the massive Israeli military operation in the Occupied Palestinian Territories, particularly in the occupied Gaza strip, has caused grave violations of the human rights of the Palestinian civilians therein and international humanitarian law, and exacerbated the severe humanitarian crisis in the Occupied Palestinian Territories;

²⁸ AALCO, *Report of the Forty-Eighth Session* (17-20 August 2009, Putrajaya, Malaysia), AALCO/48/PUTRAJAYA/2009/REP, pp. 258-61.

Also recognizing that the Israeli siege imposed on the occupied Gaza strip, including the closure of border crossings and the cutting of the supply of fuel, food and medicine, constitutes collective punishment of Palestinian civilians and leads to disastrous humanitarian and environmental consequences;

Welcoming the international and regional initiatives for peace in the Middle East;

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949;

Stressing the need for compliance with existing Israeli – Palestinian agreements concluded in order to reach a final settlement;

Being concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, the continuous deportation of Palestinians from their homeland, and the continuing serious and systematic violation of human rights of the Palestinian people by Israel, the occupying power, including that arising from the excessive use of force, the use of collective punishment, the occupation and closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction of a wall in the Occupied Palestinian Territories, the destruction of property and infrastructure, use of prohibited weapons and all other actions designed to change the legal status, geographic composition of the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, and about war crimes and crimes against humanity committed in these territories, and calling for the

implementation of the relevant United Nations resolutions on the humanitarian situation of the Palestinian people;

Recalling the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006), as well as the United Nations initiative of establishment of a Register of Damage arising from the construction of the separation wall;

Being deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, which is contrary to international law;

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall;

Expressing its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19th Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Quartet Road Map;

Taking note of the conclusions and outcomes of all events held at both regional and international levels aiming at the achievement of a just, durable and comprehensive solution of the question of Palestine;

Affirming that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the Charter of the United Nations, existing agreements

between the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony:

1. **Urges** its Member States to take active part in the peace process/efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of relevant Security Council resolutions, including 242 (1967), 338 (1973), 425 (1978), 1397(2002) and 1860 (2009); and relevant General Assembly Resolutions, including 194 (1949) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership;
2. **Takes note** of the result of the United Nations Secretary-General’s Board of Enquiry as transmitted on 4 May 2009 to the Security Council as well as the findings of the recent report of the Special Rapporteur of the Human Rights Council and other regional organizations;
3. **Also takes note** of the report of the Independent Fact Finding Committee on Gaza presented to the League of Arab States on 30 April 2009;
4. **Strongly condemns** the shocking developments that have continued to occur in the Occupied Palestinian Territory, including East Jerusalem, including the deportation of Palestinians from their homeland, the large number of deaths and injuries, mostly among Palestinian civilians, the acts of violence and brutality against Palestinian civilians, the widespread destruction of public and private Palestinian property and infrastructure, the internal displacement of

civilians and the serious deterioration of the socio-economic and humanitarian conditions of the Palestinian people;

5. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians;
6. **Also demands** that Israel comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004);
7. **Strongly demands** that Israel stops and reverses the construction of the wall in the Occupied Palestinian Territories;
8. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinian territories in implementation of Security Council Resolutions, including 1402 (2002), 1403 (2002), 1515 (2003), and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian territories occupied since 1967;
9. **Calls upon** Israel to ensure the return of refugees and

displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions;

10. **Directs** the Secretariat to closely follow the developments in occupied territories from the view point of relevant legal aspects; and
11. **Decides** to place the item on the provisional agenda of its Forty-Ninth Annual Session.

V. FORTY-NINTH ANNUAL SESSION (DAR ES SALAAM,
UNITED REPUBLIC OF TANZANIA,
5-8 AUGUST 2010)

AALCO/RES/49/S 4
8 AUGUST 2010

Resolution on “The Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in all Occupied Territories in Violation of International Law particularly the Fourth Geneva Convention of 1949²⁹ (Deliberated)

The Asian-African Legal Consultative Organization at its Forty-Ninth Session,

Considering the Secretariat Document No. AALCO/49/DAR ES SALAAM/ 2010/S 4;

Noting with appreciation the introductory remarks of the Deputy Secretary-General;

Having followed with great interest the deliberations on the item reflecting the views of Member States;

Being concerned with the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region;

Recognizing that the massive Israeli military operation in the Occupied Palestinian Territories, particularly in the occupied Gaza strip, has caused grave violations of the human rights of the Palestinian civilians therein and international humanitarian law, and exacerbated the severe humanitarian crisis in the Occupied Palestinian Territories;

²⁹ AALCO, Resolutions adopted by the Forty-Ninth Annual Session of AALCO (5-8 August 2010, Dar es Salaam, United Republic of Tanzania).

Also recognizing that the Israeli siege imposed on the occupied Gaza strip, including the closure of border crossings and the cutting of the supply of fuel, food and medicine, constitutes collective punishment of Palestinian civilians and leads to disastrous humanitarian and environmental consequences;

Welcoming the international and regional initiatives for peace in the Middle East;

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949;

Stressing the need to compliance with existing Israeli – Palestinian agreements concluded in order to reach a final settlement;

Being concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, the continuous deportation of Palestinians from their homeland, and the continuing serious and systematic violation of human rights of the Palestinian people by Israel, the occupying power, including that arising from the excessive use of force, the use of collective punishment, the occupation and closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction of a wall in the occupied Palestinian Territories, the destruction of property and infrastructure, use of prohibited weapons and all other actions designed to change the legal status, geographic composition of the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, and about war crimes and crimes against humanity committed in these territories, and calling for the

implementation of the relevant United Nations resolutions on the humanitarian situation of the Palestinian people;

Recalling the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006), as well as the United Nations initiative of establishment of a Register of Damage arising from the construction of the separation wall;

Being deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, which is contrary to international law;

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall;

Expressing its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19th Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Quartet Road Map;

Taking note of conclusions and outcomes of all events held at both regional and international levels aiming at the achievement of a just, durable and comprehensive solution of the question of Palestine;

Affirming that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the Charter of the United Nations, existing agreement between

the parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony:

1. **Urges** its Member States to take part in the peace process/efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of relevant Security Council resolutions, including 242 (1967), 338 (1973), 425 (1978), 1397 (2002) and 1860 (2009); and relevant General Assembly Resolutions, including 194 (1949) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership.
2. **Takes note** of the United Nations Secretary General’s Board of Enquiry as transmitted on 4 May 2009 to the Security Council as well as the findings of the recent report of the Special Rapporteur of the Human Rights Council and other regional organizations.
3. **Also takes note** of the report of the Independent Fact Finding Committee on Gaza presented to the League of Arab States on 30 April 2009.
4. **Strongly condemns** the shocking developments that have continued to occur in the Occupied Palestinian Territory, including East Jerusalem, including the deportation of Palestinians from their homeland, the large number of deaths and injuries, mostly among Palestinian civilians, the acts of violence and brutality against Palestinian civilians, the widespread destruction of public and private Palestinian property and infrastructure, the internal displacement of civilians and the serious deterioration of the socio-

economic and humanitarian conditions of the Palestinian people.

5. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians.
6. **Also demands** that Israel positively respond to the 2009 Report of Mr. Richard Falk the Special Rapporteur for the Palestinian Territories Occupied Since 1967 and 2010 Report and Recommendations of Justice Goldstone, United Nations Fact Finding Mission on the Gaza Conflict in order to protect the rights of Palestinians.
7. **Further Demands** that Israel comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004).
8. **Strongly demands** that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory.
9. **Strongly deplores** the Israeli blockade of the Gaza strip and its consequent human rights and humanitarian law violation and the Israeli attack against the humanitarian aid Flotilla.

10. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinians territories in implementation of Security Council Resolutions, including 1402 (2002), 1403 (2002), 1515 (2003), and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian territories occupied since 1967.
11. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions.
12. **Directs** the Secretariat to closely follow the developments in occupied territories from the view point of relevant legal aspects.
13. **Decides** to place the item on the provisional agenda of the Fiftieth Annual Session.

Resolutions adopted by
the United Nations
General Assembly

4. RESOLUTIONS ADOPTED BY THE UNITED NATIONS GENERAL ASSEMBLY

A. Resolutions Adopted by the General Assembly Resolution 181 (II). Future government of Palestine *[Resolution adopted on the report of the Ad hoc Committee on the Palestinian Question]*

A

The General Assembly,

Having met in special session at the request of the mandatory Power to constitute and instruct a special committee to prepare for the consideration of the question of the future government of Palestine at the second regular session;

Having constituted a Special Committee and instructed it to investigate all questions and issues relevant to the problem of Palestine, and to prepare proposals for the solution of the problem, and

Having received and examined the report of the Special Committee (document A/364)¹ including a number of unanimous recommendations and a plan of partition with economic union approved by the majority of the Special Committee,

Considers that the present situation in Palestine is one which is likely to impair the general welfare and friendly relations among nations;

¹ See *Official Records of the second session of the General Assembly*, Supplement No. 11, Volumes I-IV.

Takes note of the declaration by the mandatory Power that it plans to complete its evacuation of Palestine by 1 August 1948;

Recommends to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations the adoption and implementation, with regard to the future government of Palestine, of the Plan of Partition with Economic Union set out below;

Requests that

- (a) The Security Council take the necessary measures as provided for in the plan for its implementation;
- (b) The Security Council consider, if circumstances during the transitional period require such consideration, whether the situation in Palestine constitutes a threat to the peace. If it decides that such a threat exists, and in order to maintain international peace and security, the Security Council should supplement the authorization of the General Assembly by taking measures, under Articles 39 and 41 of the Charter, to empower the United Nations Commission, as provided in this resolution, to exercise in Palestine the functions which are assigned to it by this resolution;
- (c) The Security Council determine as a threat to the peace, breach of the peace or act of aggression, in accordance with Article 39 of the Charter, any attempt to alter by force the settlement envisaged by this resolution;
- (d) The Trusteeship Council be informed of the responsibilities envisaged for it in this plan;

Calls upon the inhabitants of Palestine to take such steps as may be necessary on their part to put this plan into effect;

Appeals to all Governments and all peoples to refrain from taking action which might hamper or delay the carrying out of these recommendations, and

Authorizes the Secretary-General to reimburse travel and subsistence expenses of the members of the Commission referred to in Part I, Section B, paragraph 1 below, on such basis and in such form as he may determine most appropriate in the circumstances, and to provide the Commission with the necessary staff to assist in carrying out the functions assigned to the Commission by the General Assembly.

B¹

The General Assembly

Authorizes the Secretary-General to draw from the Working Capital Fund a sum not to exceed \$2,000,000 for the purposes set forth in the last paragraph of the resolution on the future government of Palestine.

Hundred and twenty-eighth plenary meeting

29 November 1947

At its hundred and twenty-eighth plenary meeting on 29 November 1947 the General Assembly, in accordance with the terms of the above resolution [181 A], elected the following members of the United Nations Commission on Palestine:

BOLIVIA, CZECHOSLOVAKIA, DENMARK, PANAMA
AND PHILIPPINES.

¹ This resolution was without reference to a Committee.

PLAN OF PARTITION WITH ECONOMIC UNION

PART I

Future constitution and government of Palestine

A. TERMINATION OF MANDATE, PARTITION AND INDEPENDENCE

1. The Mandate for Palestine shall terminate as soon as possible but in any case not later than 1 August 1948.
2. The armed forces of the mandatory Power shall be progressively withdrawn from Palestine, the withdrawal to be completed as soon as possible but in any case not later than 1 August 1948.

The mandatory Power shall advise the Commission, as far in advance as possible, of its intention to terminate the Mandate and to evacuate each area.

The mandatory Power shall use its best endeavours to ensure that an area situated in the territory of the Jewish State, including a seaport and hinterland adequate to provide facilities for a substantial immigration, shall be evacuated at the earliest possible date and in any event not later than 1 February 1948.

3. Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem, set forth in part III of this plan, shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case not later than 1 October 1948. The boundaries of the Arab State, the Jewish State, and the City of Jerusalem shall be as described in parts II and III below.

4. The period between the adoption by the General Assembly of its recommendation on the question of Palestine and the establishment of the independence of the Arab and Jewish States shall be a transitional period.

B. STEPS PREPARATORY TO INDEPENDENCE

1. Commission shall be set up consisting of one representative of each of five Member States. The Members represented on the Commission shall be elected by the General Assembly on as broad a basis, geographically and otherwise, as possible.
2. The administration of Palestine shall, as the mandatory Power withdraws its armed forces, be progressively turned over to the Commission; which shall act in conformity with the recommendations of the General Assembly, under the guidance of the Security Council. The mandatory Power shall to the fullest possible extent co-ordinate its plans for withdrawal with the plans of the Commission to take over and administer areas which have been evacuated.

In the discharge of this administrative responsibility the Commission shall have authority to issue necessary regulations and take other measures as required.

The mandatory Power shall not take any action to prevent, obstruct or delay the implementation by the Commission of the measures recommended by the General Assembly.

1. On its arrival in Palestine the Commission shall proceed to carry out measures for the establishment of the frontiers of the Arab and Jewish States and the City of Jerusalem in accordance with the general lines of the recommendations of the General Assembly on the partition of Palestine. Nevertheless, the boundaries as described in part II of this plan are to be modified in such a way that village areas as a

rule will not be divided by state boundaries unless pressing reasons make that necessary.

2. The Commission, after consultation with the democratic parties and other public organizations of The Arab and Jewish States, shall select and establish in each State as rapidly as possible a Provisional Council of Government. The activities of both the Arab and Jewish Provisional Councils of Government shall be carried out under the general direction of the Commission.

If by 1 April 1948 a Provisional Council of Government cannot be selected for either of the States, or, if selected, cannot carry out its functions, the Commission shall communicate that fact to the Security Council for such action with respect to that State as the Security Council may deem proper, and to the Secretary-General for communication to the Members of the United Nations.

3. Subject to the provisions of these recommendations, during the transitional period the Provisional Councils of Government, acting under the Commission, shall have full authority in the areas under their control, including authority over matters of immigration and land regulation.
4. The Provisional Council of Government of each State acting under the Commission, shall progressively receive from the Commission full responsibility for the administration of that State in the period between the termination of the Mandate and the establishment of the State's independence.
5. The Commission shall instruct the Provisional Councils of Government of both the Arab and Jewish States, after their formation, to proceed to the establishment of administrative organs of government, central and local.

6. The Provisional Council of Government of each State shall, within the shortest time possible, recruit an armed militia from the residents of that State, sufficient in number to maintain internal order and to prevent frontier clashes.

This armed militia in each State shall, for operational purposes, be under the command of Jewish or Arab officers resident in that State, but general political and military control, including the choice of the militia's High Command, shall be exercised by the Commission.

7. The Provisional Council of Government of each State shall, not later than two months after the withdrawal of the armed forces of the mandatory Power, hold elections to the Constituent Assembly which shall be conducted on democratic lines.

The election regulations in each State shall be drawn up by the Provisional Council of Government and approved by the Commission. Qualified voters for each State for this election shall be persons over eighteen years of age who are: (a) Palestinian citizens residing in that State and (b) Arabs and Jews residing in the State, although not Palestinian citizens, who, before voting, have signed a notice of intention to become citizens of such State.

Arabs and Jews residing in the City of Jerusalem who have signed a notice of intention to become citizens, the Arabs of the Arab State and the Jews of the Jewish State, shall be entitled to vote in the Arab and Jewish States respectively.

Women may vote and be elected to the Constituent Assemblies.

During the transitional period no Jew shall be permitted to establish residence in the area of the proposed Arab State, and no Arab shall be permitted to establish residence in the

area of the proposed Jewish State, except by special leave of the Commission.

8. The Constituent Assembly of each State shall draft a democratic constitution for its State and choose a provisional government to succeed the Provisional Council of Government appointed by the Commission. The constitutions of the States shall embody chapters 1 and 2 of the Declaration provided for in section C below and include inter alia provisions for:
 - (a) Establishing in each State a legislative body elected by universal suffrage and by secret ballot on the basis of proportional representation, and an executive body responsible to the legislature;
 - (b) Settling all international disputes in which the State may be involved by peaceful means in such a manner that international peace and security, and justice, are not endangered;
 - (c) Accepting the obligation of the State to refrain in its international relations from the threat or use of force against the territorial integrity of political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;
 - (d) Guaranteeing to all persons equal and non-discriminatory rights in civil, political, economic and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, language, speech and publication, education, assembly and association;
 - (e) Preserving freedom of transit and visit for all residents and citizens of the other State in Palestine and the City of Jerusalem, subject to considerations of national security,

provided that each State shall control residence within its borders.

9. The Commission shall appoint a preparatory economic commission of three members to make whatever arrangements are possible for economic co-operation, with a view to establishing, as soon as practicable, the Economic Union and the Joint Economic Board, as provided in section D below.
10. During the period between the adoption of the recommendations on the question of Palestine by the General Assembly and the termination of the Mandate, the mandatory Power in Palestine shall maintain full responsibility for administration in areas from which it has not withdrawn its armed forces. The Commission shall assist the mandatory Power in the carrying out of these functions. Similarly the mandatory Power shall co-operate with the Commission in the execution of its functions.
11. With a view to ensuring that there shall be continuity in the functioning of administrative services and that, on the withdrawal of the armed forces of the mandatory Power, the whole administration shall be in the charge of the Provisional Councils and the Joint Economic Board, respectively, acting under the Commission, there shall be a progressive transfer, from the mandatory Power to the Commission, of responsibility for all the functions of government, including that of maintaining law and order in the areas from which the forces of the mandatory Power have been withdrawn.
12. The Commission shall be guided in its activities by the recommendations of the General Assembly and by such instructions as the Security Council may consider necessary to issue.

The measures taken by the Commission, within the recommendations of the General Assembly, shall become immediately effective unless the Commission has previously received contrary instructions from the Security Council.

The Commission shall render periodic monthly progress reports, or more frequently if desirable, to the Security Council.

13. The Commission shall make its final report to the next regular session of the General Assembly and to the Security Council simultaneously.

C. DECLARATION

A declaration shall be made to the United Nations by the provisional government of each proposed State before independence. It shall contain inter alia the following clauses:

GENERAL PROVISION

The stipulations contained in the declaration are recognized as fundamental laws of the State and no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

CHAPTER 1

Holy Places, religious buildings and sites

1. Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired.
2. In so far as Holy Places are concerned, the liberty of access, visit and transit shall be guaranteed, in conformity with existing rights, to all residents and citizens of the other State and of the City of Jerusalem, as well as to aliens, without distinction as to nationality, subject to

requirements of national security, public order and decorum.

Similarly, freedom of worship shall be guaranteed in conformity with existing rights, subject to the maintenance of public order and decorum.

3. Holy Places and religious buildings or sites shall be preserved. No act shall be permitted which may in any way impair their sacred character. If at any time it appears to the Government that any particular Holy Place, religious building or site is in need of urgent repair, the Government may call upon the community or communities concerned to carry out such repair. The Government may carry it out itself at the expense of the community or communities concerned if no action is taken within a reasonable time.
4. No taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the creation of the State.

No change in the incidence of such taxation shall be made which would either discriminate between the owners or occupiers of Holy Places, religious buildings or sites, or would place such owners or occupiers in a position less favourable in relation to the general incidence of taxation than existed at the time of the adoption of the Assembly's recommendations.

5. The Governor of the City of Jerusalem shall have the right to determine whether the provisions of the Constitution of the State in relation to Holy Places, religious buildings and sites within the borders of the State and the religious rights appertaining thereto, are being properly applied and respected, and to make decisions on the basis of existing rights in cases of disputes which may arise between the different religious communities or the rites of a religious

community with respect to such places, buildings and sites. He shall receive full co-operation and such privileges and immunities as are necessary for the exercise of his functions in the State.

CHAPTER 2

Religious and Minority Rights

1. Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all.
2. No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex.
3. All persons within the jurisdiction of the State shall be entitled to equal protection of the laws.
4. The family law and personal status of the various minorities and their religious interests, including endowments, shall be respected.
5. Except as may be required for the maintenance of public order and good government, no measure shall be taken to obstruct or interfere with the enterprise of religious or charitable bodies of all faiths or to discriminate against any representative or member of these bodies on the ground of his religion or nationality.
6. The State shall ensure adequate primary and secondary education for the Arab and Jewish minority, respectively, in its own language and its cultural traditions.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the State may impose, shall not be denied

or impaired. Foreign educational establishments shall continue their activity on the basis of their existing rights.

7. No restriction shall be imposed on the free use by any citizen of the State of any language in private intercourse, in commerce, in religion, in the Press or in publications of any kind, or at public meetings.¹
8. No expropriation of land owned by an Arab in the Jewish State (by a Jew in the Arab State) shall be allowed except for public purposes. In all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dispossession.²

CHAPTER 3

Citizenship, international conventions and financial obligations

1. Citizenship. Palestinian citizens residing in Palestine outside the City of Jerusalem, as well as Arabs and Jews who, not holding Palestinian citizenship, reside in Palestine outside the City of Jerusalem shall, upon the recognition of independence, become citizens of the State in which they are resident and enjoy full civil and political rights. Persons over the age of eighteen years may opt, within one year from the date of recognition of independence of the State in which they reside, for citizenship of the other State, providing that no Arab residing in the area of the proposed

¹ The following stipulation shall be added to the declaration concerning the Jewish State: "In the Jewish State adequate facilities shall be given to Arabic speaking citizens for the use of their language, either orally or in writing, in the legislature, before the Courts and in the administration."

² In the declaration concerning the Arab State, the words "by an Arab in the Jewish State" should be replaced by the words "by a Jew in the Arab State".

Arab State shall have the right to opt for citizenship in the proposed Jewish State and no Jew residing in the proposed Jewish State shall have the right to opt for citizenship in the proposed Arab State. The exercise of this right of option will be taken to include the wives and children under eighteen years of age of persons so opting.

Arabs residing in the area of the proposed Jewish State and Jews residing in the area of the proposed Arab State who have signed a notice of intention to opt for citizenship of the other State shall be eligible to vote in the elections to the Constituent Assembly of that State, but not in the elections to the Constituent Assembly of the State in which they reside.

2. *International conventions.* (a) The State shall be bound by all the international agreements and conventions, both general and special, to which Palestine has become a party. Subject to any right of denunciation provided for therein, such agreements and conventions shall be respected by the State throughout the period for which they were concluded.

(b) Any dispute about the applicability and continued validity of international conventions or treaties signed or adhered to by the mandatory Power on behalf of Palestine shall be referred to the International Court of Justice in accordance with the provisions of the Statute of the Court.
3. *Financial obligations.* (a) The State shall respect and fulfil all financial obligations of whatever nature assumed on behalf of Palestine by the mandatory Power during the exercise of the Mandate and recognized by the State. This provision includes the right of public servants to pensions, compensation or gratuities.

- (b) These obligations shall be fulfilled through participation in the Joint economic Board in respect of those obligations applicable to Palestine as a whole, and individually in respect of those applicable to, and fairly apportionable between, the States.
- (c) A Court of Claims, affiliated with the Joint Economic Board, and composed of one member appointed by the United Nations, one representative of the United Kingdom and one representative of the State concerned, should be established. Any dispute between the United Kingdom and the State respecting claims not recognized by the latter should be referred to that Court.
- (d) Commercial concessions granted in respect of any part of Palestine prior to the adoption of the resolution by the General Assembly shall continue to be valid according to their terms, unless modified by agreement between the concession-holder and the State.

CHAPTER 4

Miscellaneous provisions

1. The provisions of chapters 1 and 2 of the declaration shall be under the guarantee of the United Nations, and no modifications shall be made in them without the assent of the General Assembly of the United Nations. Any Member of the United Nations shall have the right to bring to the attention of the General Assembly any infraction or danger of infraction of any of these stipulations, and the General Assembly may thereupon make such recommendations as it may deem proper in the circumstances.
2. Any dispute relating to the application or the interpretation of this declaration shall be referred, at the request of either party, to the International Court of Justice, unless the parties agree to another mode of settlement.

D. ECONOMIC UNION AND TRANSIT

1. The Provisional Council of Government of each State shall enter into an undertaking with respect to economic union and transit. This undertaking shall be drafted by the commission provided for in section B, paragraph 1, utilizing to the greatest possible extent the advice and co-operation of representative organizations and bodies from each of the proposed States. It shall contain provisions to establish the Economic Union of Palestine and provide for other matters of common interest. If by 1 April 1948 the Provisional Councils of Government have not entered into the undertaking, the undertaking shall be put into force by the Commission.

The Economic Union of Palestine

2. The objectives of the Economic Union of Palestine shall be:
 - (a) A customs union;
 - (b) A joint currency system providing for a single foreign exchange rate;
 - (c) Operation in the common interest on a non-discriminatory basis of railways; inter-State highways; postal, telephone and telegraphic services, and port and airports involved in international trade and commerce;
 - (d) Joint economic development, especially in respect of irrigation, land reclamation and soil conservation;
 - (e) Access for both States and for the City of Jerusalem on a non-discriminatory basis to water and power facilities.
3. There shall be established a Joint Economic Board, which shall consist of three representatives of each of the two States and three foreign members appointed by the Economic and Social Council of the United Nations. The foreign members shall be appointed in the first instance for a term of three years; they shall serve as individuals and not as representatives of States.
4. The functions of the Joint Economic Board shall be to implement either directly or by delegation the measures necessary to realize the objectives of the Economic Union. It shall have all powers of organization and administration necessary to fulfil its functions.
5. The States shall bind themselves to put into effect the decisions of the Joint Economic Board. The Board's decisions shall be taken by a majority vote.

6. In the event of failure of a State to take the necessary action the Board may, by a vote of six members, decide to withhold an appropriate portion of that part of the customs revenue to which the State in question is entitled under the Economic Union. Should the State persist in its failure to co-operate, the Board may decide by a simple majority vote upon such further sanctions, including disposition of funds which it has withheld, as it may deem appropriate.
7. In relation to economic development, the functions of the Board shall be the planning, investigation and encouragement of joint development projects, but it shall not undertake such projects except with the assent of both States and the City of Jerusalem, in the event that Jerusalem is directly involved in the development project.
8. In regard to the joint currency system the currencies circulating in the two States and the City of Jerusalem shall be issued under the authority of the Joint Economic Board, which shall be the sole issuing authority and which shall determine the reserves to be held against such currencies.
9. So far as is consistent with paragraph 2 (b) above, each State may operate its own central bank, control its own fiscal and credit policy, its foreign exchange receipts and expenditures, the grant of import licenses, and may conduct international financial operations on its own faith and credit. During the first two years after the termination of the Mandate, the Joint Economic Board shall have the authority to take such measures as may be necessary to ensure that--to the extent that the total foreign exchange revenues of the two States from the export of goods and services permit, and provided that each State takes appropriate measures to conserve its own foreign exchange resources--each State shall have available, in any twelve months' period, foreign exchange sufficient to assure the

supply of quantities of imported goods and services for consumption in its territory equivalent to the quantities of such goods and services consumed in that territory in the twelve months' period ending 31 December 1947.

10. All economic authority not specifically vested in the Joint Economic Board is reserved to each State.
11. There shall be a common customs tariff with complete freedom of trade between the States, and between the States and the City of Jerusalem.
12. The tariff schedules shall be drawn up by a Tariff Commission, consisting of representatives of each of the States in equal numbers, and shall be submitted to the Joint Economic Board for approval by a majority vote. In case of disagreement in the Tariff Commission, the Joint Economic Board shall arbitrate the points of difference. In the event that the Tariff Commission fails to draw up any schedule by a date to be fixed, the Joint Economic Board shall determine the tariff schedule.
13. The following items shall be a first charge on the customs and other common revenue of the Joint Economic Board:
 - (a) The expenses of the customs service and of the operation of the joint services;
 - (b) The administrative expenses of the Joint Economic Board;
 - (c) The financial obligations of the Administration of Palestine consisting of:
 - (i) The service of the outstanding public debt;
 - (ii) The cost of superannuation benefits, now being paid or falling due in the future, in accordance with the rules

and to the extent established by paragraph 3 of chapter 3 above.

14. After these obligations have been met in full, the surplus revenue from the customs and other common services shall be divided in the following manner: not less than 5 per cent and not more than 10 per cent to the City of Jerusalem; the residue shall be allocated to each State by the Joint Economic Board equitably, with the objective of maintaining a sufficient and suitable level of government and social services in each State, except that the share of either State shall not exceed the amount of that State's contribution to the revenues of the Economic Union by more than approximately four million pounds in any year. The amount granted may be adjusted by the Board according to the price level in relation to the prices prevailing at the time of the establishment of the Union. After five years, the principles of the distribution of the joint revenues may be revised by the Joint Economic Board on a basis of equity.
15. All international conventions and treaties affecting customs tariff rates, and those communications services under the jurisdiction of the Joint Economic Board, shall be entered into by both States. In these matters, the two States shall be bound to act in accordance with the majority vote of the Joint Economic Board.
16. The Joint Economic Board shall endeavour to secure for Palestine's export fair and equal access to world markets.
17. All enterprises operated by the Joint Economic Board shall pay fair wages on a uniform basis.

Freedom of transit and visit

18. The undertaking shall contain provisions preserving freedom of transit and visit for all residents or citizens of both States and of the City of Jerusalem, subject to security considerations; provided that each state and the City shall control residence within its borders.

Termination, modification and interpretation of the undertaking

19. The undertaking and any treaty issuing there from shall remain in force for a period of ten years. It shall continue in force until notice of termination, to take effect two years thereafter, is given by either of the parties.
20. During the initial ten-year period, the undertaking and any treaty issuing there from may not be modified except by consent of both parties and with the approval of the General Assembly.
21. Any dispute relating to the application or the interpretation of the undertaking and any treaty issuing there from shall be referred, at the request of either party, to the international Court of Justice, unless the parties agree to another mode of settlement.

E. ASSETS

1. The movable assets of the Administration of Palestine shall be allocated to the Arab and Jewish States and the City of Jerusalem on an equitable basis. Allocations should be made by the United Nations Commission referred to in section B, paragraph 1, above. Immovable assets shall become the property of the government of the territory in which they are situated.
2. During the period between the appointment of the United Nations Commission and the termination of the Mandate, the mandatory Power shall, except in respect of ordinary

operations, consult with the Commission on any measure which it may contemplate involving the liquidation, disposal or encumbering of the assets of the Palestine Government, such as the accumulated treasury surplus, the proceeds of Government bond issues, State lands or any other asset.

F. ADMISSION TO MEMBERSHIP IN THE UNITED NATIONS

When the independence of either the Arab or the Jewish State as envisaged in this plan has become effective and the declaration and undertaking, as envisaged in this plan, have been signed by either of them, sympathetic consideration should be given to its application for admission to membership in the United Nations in accordance with Article 4 of the Charter of the United Nations.

PART II **Boundaries¹**

A. THE ARAB STATE

The area of the Arab State in Western Galilee is bounded on the west by the Mediterranean and on the north by the frontier of the Lebanon from Ras en Naqura to a point north of Saliha. From there the boundary proceeds southwards, leaving the built-up area of Saliha in the Arab State, to join the southernmost point of this village. Thence it follows the western boundary line of the villages of `Alma, Rihaniya and Teitaba, thence following the northern boundary line of Meirun village to join the Acre-Safad sub-district boundary

¹ The boundary lines described in part II are indicated in Annex A. The base map used in marking and describing this boundary is "Palestine 1:250,000" published by the Survey of Palestine, 1946.

line. It follows this line to a point west of Es Sammu'i village and joins it again at the northernmost point of Farradiya. Thence it follows the sub-district boundary line to the Acre-Safad main road. From here it follows the western boundary of Kafr I'nan village until it reaches the Tiberias-Acre sub-district boundary line, passing to the west of the junction of the Acre-Safad and Lubiya-Kafr I'nan roads. From south-west corner of Kafr I'nan village the boundary line follows the western boundary of the Tiberias sub-district to a point close to the boundary line between the villages of Maghar and Eilabun, thence bulging out to the west to include as much of the eastern part of the plain of Battuf as is necessary for the reservoir proposed by the Jewish Agency for the irrigation of lands to the south and east.

The boundary rejoins the Tiberias sub-district boundary at a point on the Nazareth-Tiberias road south-east of the built-up area of Tur'an; thence it runs southwards, at first following the sub-district boundary and then passing between the Kadoorie Agricultural School and Mount Tabor, to a point due south at the base of Mount Tabor. From here it runs due west, parallel to the horizontal grid line 230, to the north-east corner of the village lands of Tel Adashim. It then runs to the north-west corner of these lands, whence it turns south and west so as to include in the Arab State the sources of the Nazareth water supply in Yafa village. On reaching Ginneiger it follows the eastern, northern and western boundaries of the lands of this village to their south-west corner, whence it proceeds in a straight line to a point on the Haifa-Afula railway on the boundary between the villages of Sarid and El Mujeidil. This is the point of intersection.

The south-western boundary of the area of the Arab State in Galilee takes a line from this point, passing northwards along the eastern boundaries of Sarid and Gevat to the north-

eastern corner of Nahalal, proceeding thence across the land of Kefar ha Horesh to a central point on the southern boundary of the village of `Ilut, thence westwards along that village boundary to the eastern boundary of Beit Lahm, thence northwards and north-eastwards along its western boundary to the north-eastern corner of Waldheim and thence north-westwards across the village lands of Shafa 'Amr to the south-eastern corner of Ramat Yohanan'. From here it runs due north-north-east to a point on the Shafa 'Amr-Haifa road, west of its junction with the road to I'Billin. From there it proceeds north-east to a point on the southern boundary of I'Billin situated to the west of the I'Billin-Birwa road. Thence along that boundary to its westernmost point, whence it turns to the north, follows across the village land of Tamra to the north-westernmost corner and along the western boundary of Julis until it reaches the Acre-Safad road. It then runs westwards along the southern side of the Safad-Acre road to the Galilee-Haifa District boundary, from which point it follows that boundary to the sea.

The boundary of the hill country of Samaria and Judea starts on the Jordan River at the Wadi Malih south-east of Beisan and runs due west to meet the Beisan-Jericho road and then follows the western side of that road in a north-westerly direction to the junction of the boundaries of the sub-districts of Beisan, Nablus, and Jenin. From that point it follows the Nablus-Jenin sub-district boundary westwards for a distance of about three kilometres and then turns north-westwards, passing to the east of the built-up areas of the villages of Jalbun and Faqqu'a, to the boundary of the sub-districts of Jenin and Beisan at a point north-east of Nuris. Thence it proceeds first north-westwards to a point due north of the built-up area of Zir'in and then westwards to the Afula-Jenin railway, thence north-westwards along the district boundary line to the point of intersection on the Hejaz railway. From here the boundary

runs south-westwards, including the built-up area and some of the land of the village of Kh.Lid in the Arab State to cross the Haifa-Jenin road at a point on the district boundary between Haifa and Samaria west of El Mansi. It follows this boundary to the southernmost point of the village of El Buteimat. From here it follows the northern and eastern boundaries of the village of Ar'ara, rejoining the Haifa-Samaria district boundary at Wadi'Ara, and thence proceeding south-south-westwards in an approximately straight line joining up with the western boundary of Qaqun to a point east of the railway line on the eastern boundary of Qaqun village. From here it runs along the railway line some distance to the east of it to a point just east of the Tulkarm railway station. Thence the boundary follows a line half-way between the railway and the Tulkarm-Qalqiliya-Jaljuliya and Ras el Ein road to a point just east of Ras el Ein station, whence it proceeds along the railway some distance to the east of it to the point on the railway line south of the junction of the Haifa-Lydd and Beit Nabala lines, whence it proceeds along the southern border of Lydda airport to its south-west corner, thence in a south-westerly direction to a point just west of the built-up area of Sarafand el'Amar, whence it turns south, passing just to the west of the built-up area of Abu el Fadil to the north-east corner of the lands of Beer Ya'Aqov. (The boundary line should be so demarcated as to allow direct access from the Arab State to the airport.) Thence the boundary line follows the western and southern boundaries of Ramle village, to the north-east corner of El Na'ana village, thence in a straight line to the southernmost point of El Barriya, along the eastern boundary of that village and the southern boundary of 'Innaba village. Thence it turns north to follow the southern side of the Jaffa-Jerusalem road until El Qubab, whence it follows the road to the boundary of Abu Shusha. It runs along the eastern boundaries of Abu Shusha, Seidun, Hulda to the southernmost point of Hulda,

thence westwards in a straight line to the north-eastern corner of Umm Kalkha, thence following the northern boundaries of Umm Kalkha, Qazaza and the northern and western boundaries of Mukhezin to the Gaza District boundary and thence runs across the village lands of El Mismiya, El Kabira, and Yasur to the southern point of intersection, which is midway between the built-up areas of Yasur and Batani Sharqi.

From the southern point of intersection the boundary lines run north-westwards between the villages of Gan Yavne and Barqa to the sea at a point half way between Nabi Yunis and Minat el Qila, and south-eastwards to a point west of Qastina, whence it turns in a south-westerly direction, passing to the east of the built-up areas of Es Sawafir, Es Sharqiya and Ibdis. From the south-east corner of Ibdis village it runs to a point south-west of the built-up area of Beit 'Affa, crossing the Hebron-El Majdal road just to the west of the built-up area of Iraq Suweidan. Thence it proceeds southwards along the western village boundary of El Faluja to the Beersheba sub-district boundary. It then runs across the tribal lands of 'Arab el Jubarat to a point on the boundary between the sub-districts of Beersheba and Hebron north of Kh. Khuweilifa, whence it proceeds in a south-westerly direction to a point on the Beersheba-Gaza main road two kilometres to the north-west of the town. It then turns south-eastwards to reach Wadi Sab' at a point situated one kilometre to the west of it. From here it turns north-eastwards and proceeds along Wadi Sab' and along the Beersheba-Hebron road for a distance of one kilometre, whence it turns eastwards and runs in a straight line to Kh. Kuseifa to join the Beersheba-Hebron sub-district boundary. It then follows the Beersheba-Hebron boundary eastwards to a point north of Ras Ez Zuweira, only departing from it so as to cut across the base of the indentation between vertical grid Lines 150 and 160.

About five kilometres north-east of Ras ez Zuweira it turns north, excluding from the Arab State a strip along the coast of the Dead Sea not more than seven kilometres in depth, as far as Ein Geddi, whence it turns due east to join the Transjordan frontier in the Dead Sea.

The northern boundary of the Arab section of the coastal plain runs from a point between Minat el Qila and Nabi Yunis, passing between the built-up areas of Gan Yavne and Barqa to the point of intersection. From here it turns south-westwards, running across the lands of Batani Sharqi, along the eastern boundary of the lands of Beit Daras and across the lands of Julis, leaving the built-up areas of Batani Sharqi and Julis to the westwards, as far as the north-west corner of the lands of Beit Tima. Thence it runs east of El Jiya across the village lands of El Barbara along the eastern boundaries of the villages of Beit Jirja, Deir Suneid and Dimra. From the south-east corner of Dimra the boundary passes across the lands of Beit Hanun, leaving the Jewish lands of Nir-Am to the eastwards. From the south-east corner of Dimra the boundary passes across the lands of Beit Hanun, leaving the Jewish lands of Nir-Am to the eastwards. From the south-east corner of Beit Hanun the line runs south-west to a point south of the parallel grid line 100, then turns north-west for two kilometres, turning again in a south-westerly direction and continuing in an almost straight line to the north-west corner of the village lands of Kirbet Ikhza'a. From there it follows the boundary line of this village to its southernmost point. It then runs in a southerly direction along the vertical grid line 90 to its junction with the horizontal grid line 70. It then turns south-eastwards to Kh. el Ruheiba and then proceeds in a southerly direction to a point known as El Baha, beyond which it crosses the Beersheba-El 'Auja main road to the west of Kh. el Mushrifa. From there it joins Wadi El Zaiyatin just to the west of El Subeita. From there it turns to the north-east and then to the south-east following this Wadi

and passes to the east of 'Abda to join Wadi Nafkh. It then bulges to the south-west along Wadi Nafkh. It then bulges to the south-west along Wadi Nafkh, Wadi Ajrim and Wadi Lassan to the point where Wadi Lassan crosses the Egyptian frontier.

The area of the Arab enclave of Jaffa consists of that part of the town-planning area of Jaffa which lies to the west of the Jewish quarters lying south of Tel-Aviv, to the west of the continuation of Herzl street up to its junction with the Jaffa-Jerusalem road, to the south-west of the section of the Jaffa-Jerusalem road lying south-east of that junction, to the west of Miqve Israel lands, to the north-west of Holon local council area, to the north of the line linking up the north-west corner of Holon with the north-east corner of Bat Yam local council area and to the north of Bat Yam local council area. The question of Karton quarter will be decided by the Boundary Commission, bearing in mind among other considerations the desirability of including the smallest possible number of its Arab inhabitants and the largest possible number of its Jewish inhabitants in the Jewish State.

B. THE JEWISH STATE

The north-eastern sector of the Jewish State (Eastern Galilee) is bounded on the north and west by the Lebanese frontier and on the east by the frontiers of Syria and Transjordan. It includes the whole of the Hula Basin, Lake Tiberias, the whole of the Beisan sub-district, the boundary line being extended to the crest of the Gilboa mountains and the Wadi Malih. From there the Jewish State extends north-west, following the boundary described in respect of the Arab State.

The Jewish Section of the coastal plain extends from a point between Minat et Qila and Nabi Yunis in the Gaza sub-district and includes the towns of Haifa and Tel-Aviv, leaving Jaffa as an enclave of the Arab State. The eastern frontier of the Jewish State follows the boundary described in respect of the Arab State.

The Beersheba area comprises the whole of the Beersheba sub-district, including the Negeb and the eastern part of the Gaza sub-district, but excluding the town of Beersheba and those areas described in respect of the Arab State. It includes also a strip of land along the Dead Sea stretching from the Beersheba-Hebron sub-district boundary line to Ein Geddi, as described in respect of the Arab State.

C. THE CITY OF JERUSALEM

The boundaries of the City of Jerusalem are as defined in the recommendations on the City of Jerusalem. (See Part III, Section B, below).

PART III

City of Jerusalem

A. SPECIAL REGIME

The City of Jerusalem shall be established as a *corpus separatum* under a special international regime and shall be administered by the United Nations. The Trusteeship Council shall be designated to discharge the responsibilities of the Administering Authority on behalf of the United Nations.

B. BOUNDARIES OF THE CITY

The City of Jerusalem shall include the present municipality of Jerusalem plus the surrounding villages and

towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem; the most western, Ein Karim (including also the built-up area of Motsa); and the most northern Shu'fat, as indicated on the attached sketch-map (annex B).

C. STATUTE OF THE CITY

The Trusteeship Council shall, within five months of the approval of the present plan, elaborate and approve a detailed Statute of the City which shall contain inter alia the substance of the following provisions:

1. *Government machinery; special objectives.* The Administering Authority in discharging its administrative obligations shall pursue the following special objectives:
 - (a) To protect and to preserve the unique spiritual and religious interests located in the city of the three great monotheistic faiths throughout the world, Christian, Jewish and Moslem; to this end to ensure that order and peace, and especially religious peace, reign in Jerusalem;
 - (b) To foster co-operation among all the inhabitants of the city in their own interests as well as in order to encourage and support the peaceful development of the mutual relations between the two Palestinian peoples throughout the Holy Land; to promote the security, well-being and any constructive measures of development of the residents, having regard to the special circumstances and customs of the various peoples and communities.
2. *Governor and administrative staff.* A Governor of the City of Jerusalem shall be appointed by the Trusteeship Council and shall be responsible to it. He shall be selected on the basis of

special qualifications and without regard to nationality. He shall not, however, be a citizen of either State in Palestine.

The Governor shall represent the United Nations in the City and shall exercise on their behalf all powers of administration, including the conduct of external affairs. He shall be assisted by an administrative staff classed as international officers in the meaning of Article 100 of the Charter and chosen whenever practicable from the residents of the city and of the rest of Palestine on a non-discriminatory basis. A detailed plan for the organization of the administration of the city shall be submitted by the Governor to the Trusteeship Council and duly approved by it.

3. *Local autonomy.* (a) The existing local autonomous units in the territory of the city (villages, townships and municipalities) shall enjoy wide powers of local government and administration.

(b) The Governor shall study and submit for the consideration and decision of the Trusteeship Council a plan for the establishment of a special town units consisting respectively, of the Jewish and Arab sections of new Jerusalem. The new town units shall continue to form part of the present municipality of Jerusalem.

4. *Security measures.* (a) The City of Jerusalem shall be demilitarized; its neutrality shall be declared and preserved, and no para-military formations, exercises or activities shall be permitted within its borders.

(b) Should the administration of the City of Jerusalem be seriously obstructed or prevented by the non-co-operation or interference of one or more sections of the population, the Governor shall have authority to take such measures as may be necessary to restore the effective functioning of the administration.

(c) To assist in the maintenance of internal law and order and especially for the protection of the Holy Places and religious buildings and sites in the city, the Governor shall organize a special police force of adequate strength, the members of which shall be recruited outside of Palestine. The Governor shall be empowered to direct such budgetary provision as may be necessary for the maintenance of this force.

5. *Legislative organization.* A Legislative Council, elected by adult residents of the city irrespective of nationality on the basis of universal and secret suffrage and proportional representation, shall have powers of legislation and taxation. No legislative measures shall, however, conflict or interfere with the provisions which will be set forth in the Statute of the City, nor shall any law, regulation, or official action prevail over them. The Statute shall grant to the Governor a right of vetoing bills inconsistent with the provisions referred to in the preceding sentence. It shall also empower him to promulgate temporary ordinances in case the council fails to adopt in time a bill deemed essential to the normal functioning of the administration.

6. *Administration of justice.* The Statute shall provide for the establishment of an independent judiciary system, including a court of appeal. All the inhabitants of the City shall be subject to it.

7. *Economic union and economic regime.* The City of Jerusalem shall be included in the Economic Union of Palestine and be bound by all stipulations of the undertaking and of any treaties issued therefrom, as well as by the decision of the Joint Economic Board. The headquarters of the Economic Board shall be established in the territory of the City.

The Statute shall provide for the regulation of economic matters not falling within the regime of the Economic Union,

on the basis of equal treatment and non-discrimination for all members of the United Nations and their nationals.

8. *Freedom of transit and visit; control of residents.* Subject to considerations of security, and of economic welfare as determined by the Governor under the directions of the Trusteeship Council, freedom of entry into, and residence within, the borders of the City shall be guaranteed for the residents or citizens of the Arab and Jewish States. Immigration into, and residence within, the borders of the city for nationals of other States shall be controlled by the Governor under the directions of the Trusteeship Council.

9. *Relations with the Arab and Jewish States.* Representatives of the Arab and Jewish States shall be accredited to the Governor of the City and charged with the protection of the interests of their States and nationals in connexion with the international administration of the City.

10. *Official languages.* Arabic and Hebrew shall be the official languages of the city. This will not preclude the adoption of one or more additional working languages, as may be required.

11. *Citizenship.* All the residents shall become ipso facto citizens of the City of Jerusalem unless they opt for citizenship of the State of which they have been citizens or, if Arabs or Jews, have filed notice of intention to become citizens of the Arab or Jewish State respectively, according to part I, section B, paragraph 9, of this plan.

The Trusteeship Council shall make arrangements for consular protection of the citizens of the City outside its territory.

12. *Freedoms of Citizens.*

- (a) Subject only to the requirements of public order and morals, the inhabitants of the City shall be ensured the

enjoyment of human rights and fundamental freedoms, including freedom of conscience, religion and worship, language, education, speech and press, assembly and association, and petition.

- (b) No discrimination of any kind shall be made between the inhabitants on the grounds of race, religion, language or sex.
- (c) All persons within the City shall be entitled to equal protection of the laws.
- (d) The family law and personal status of the various persons and communities and their religious interests, including endowments, shall be respected.
- (e) Except as may be required for the maintenance of public order and good government, no measure shall be taken to obstruct or interfere with the enterprise of religious or charitable bodies of all faiths or to discriminate against any representative or member of these bodies on the ground of his religion or nationality.
- (f) The City shall ensure adequate primary and secondary education for the Arab and Jewish communities respectively, in their own languages and in accordance with their cultural traditions.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the City may impose, shall not be denied or impaired. Foreign educational establishments shall continue their activity on the basis of their existing rights.

- (g) No restriction shall be imposed on the free use by any inhabitant of the City of any language in private

intercourse, in commerce, in religion, in the Press or in publications of any kind, or at public meetings.

13. *Holy Places.* (a) Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired.
- (b) Free access to the Holy Places and religious buildings or sites and the free exercise of worship shall be secured in conformity with existing rights and subject to the requirements of public order and decorum.
- (c) Holy Places and religious buildings or sites shall be preserved. No act shall be permitted which may in any way impair their sacred character. If at any time it appears to the Governor that any particular Holy Place, religious building or site is in need of urgent repair, the Governor may call upon the community or communities concerned to carry out such repair. The Governor may carry it out himself at the expense of the community or communities concerned if no action is taken within a reasonable time.
- (d) No taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the creation of the City. No change in the incidence of such taxation shall be made which would either discriminate between the owners or occupiers of Holy Places, religious buildings or sites, or would place such owners or occupiers in a position less favourable in relation to the general incidence of taxation than existed at the time of the adoption of the Assembly's recommendations.
14. Special powers of the Governor in respect of the Holy Places, religious buildings and sites in the City and in any part of Palestine. (a) The protection of the Holy Places,

religious buildings and sites located in the City of Jerusalem shall be a special concern of the Governor.

- (b) With relation to such places, buildings and sites in Palestine outside the city, the Governor shall determine, on the ground of powers granted to him by the Constitutions of both States, whether the provisions of the Constitutions of the Arab and Jewish States in Palestine dealing therewith and the religious rights appertaining thereto are being properly applied and respected.
- (c) The Governor shall also be empowered to make decisions on the basis of existing rights in cases of disputes which may arise between the different religious communities or the rites of a religious community in respect of the Holy Places, religious buildings and sites in any part of Palestine.

In this task he may be assisted by a consultative council of representatives of different denominations acting in an advisory capacity.

D. DURATION OF THE SPECIAL REGIME

The Statute elaborated by the Trusteeship Council on the aforementioned principles shall come into force not later than 1 October 1948. It shall remain in force in the first instance for a period of ten years, unless the Trusteeship Council finds it necessary to undertake a re-examination of these provisions at an earlier date. After the expiration of this period the whole scheme shall be subject to re-examination by the Trusteeship Council in the light of the experience acquired with its functioning. The residents of the City shall be then free to

express by means of a referendum their wishes as to possible modifications of the regime of the City.

PART IV CAPITULATIONS

States whose nationals have in the past enjoyed in Palestine the privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection, as formerly enjoyed by capitulation or usage in the Ottoman Empire, are invited to renounce any right pertaining to them to the re-establishment of such privileges and immunities in the proposed Arab and Jewish States and the City of Jerusalem.

Annex A* Plan of Partition with Economic Union

Annex B City of Jerusalem Boundaries Proposed By The Ad Hoc Committee On The Palestinian Question

* Annex A and Annex B have not been reproduced.

**B. Resolution Adopted by the General Assembly
194 (III). Palestine - Progress Report of the
United Nations Mediator
[Resolution adopted on the report of the
Ad hoc Committee on the Palestinian Question]**

The General Assembly,

Having considered further the situation in Palestine,

1. *Expresses* its deep appreciation of the progress achieved through the good offices of the late United Nations Mediator in promoting a peaceful adjustment of the future situation of Palestine, for which cause he sacrificed his life; and

Extends its thanks to the Acting Mediator and his staff for their continued efforts and devotion to duty in Palestine;

2. *Establishes* a Conciliation Commission consisting of three States members of the United Nations which shall have the following functions:
 - (a) To assume, in so far as it considers necessary in existing circumstances, the functions given to the United Nations Mediator on Palestine by resolution 186 (S-2) of the General Assembly of 14 May 1948;
 - (b) To carry out the specific functions and directives given to it by the present resolution and such additional functions and directives as may be given to it by the General Assembly or by the Security Council;
 - (c) To undertake, upon the request of the Security Council, any of the functions now assigned to the United Nations Mediator on Palestine or to the United Nations Truce Commission by resolutions of the Security Council; upon such request to the Conciliation Commission by the

Security Council with respect to all the remaining functions of the United Nations Mediator on Palestine under Security Council resolutions, the office of the Mediator shall be terminated;

3. *Decides* that a Committee of the Assembly, consisting of China, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, shall present, before the end of the first part of the present session of the General Assembly, for the approval of the Assembly, a proposal concerning the names of the three States which will constitute the Conciliation Commission;
4. *Requests* the Commission to begin its functions at once, with a view to the establishment of contact between the parties themselves and the Commission at the earliest possible date;
5. *Calls upon* the Governments and authorities concerned to extend the scope of the negotiations provided for in the Security Council's resolution of 16 November 1948¹ and to seek agreement by negotiations conducted either with the Conciliation Commission or directly, with a view to the final settlement of all questions outstanding between them;
6. *Instructs* the Conciliation Commission to take steps to assist the Governments and authorities concerned to achieve a final settlement of all questions outstanding between them;
7. *Resolves* that the Holy Places - including Nazareth - religious buildings and sites in Palestine should be protected and free access to them assured, in accordance with existing rights and historical practice; that arrangements to this end should be under effective United

¹ See *Official Records of the Security Council*, Third Year, No. 126.

Nations supervision; that the United Nations Conciliation Commission, in presenting to the fourth regular session of the General Assembly its detailed proposals for a permanent international regime for the territory of Jerusalem, should include recommendations concerning the Holy Places in that territory; that with regard to the Holy Places in the rest of Palestine the Commission should call upon the political authorities of the areas concerned to give appropriate formal guarantees as to the protection of the Holy Places and access to them; and that these undertakings should be presented to the General Assembly for approval;

8. *Resolves* that, in view of its association with three world religions, the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem; the most western, Ein Karim (including also the built-up area of Motsa); and the most northern, Shu'fat, should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control;

Requests the Security Council to take further steps to ensure the demilitarization of Jerusalem at the earliest possible date;

Instructs the Conciliation Commission to present to the fourth regular session of the General Assembly detailed proposals for a permanent international regime for the Jerusalem area which will provide for the maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area;

The Conciliation Commission is authorized to appoint a United Nations representative, who shall co-operate with

the local authorities with respect to the interim administration of the Jerusalem area;

9. *Resolves* that, pending agreement on more detailed arrangements among the Governments and authorities concerned, the freest possible access to Jerusalem by road, rail or air should be accorded to all inhabitants of Palestine;

Instructs the Conciliation Commission to report immediately to the Security Council, for appropriate action by that organ, any attempt by any party to impede such access;

10. *Instructs* the Conciliation Commission to seek arrangements among the Governments and authorities concerned which will facilitate the economic development of the area, including arrangements for access to ports and airfields and the use of transportation and communication facilities;

11. *Resolves* that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;

Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations;

12. *Authorizes* the Conciliation Commission to appoint such subsidiary bodies and to employ such technical experts, acting under its authority, as it may find necessary for the effective discharge of its functions and responsibilities under the present resolution;

The Conciliation Commission will have its official headquarters at Jerusalem. The authorities responsible for maintaining order in Jerusalem will be responsible for taking all measures necessary to ensure the security of the Commission. The Secretary-General will provide a limited number of guards to the protection of the staff and premises of the Commission;

13. *Instructs* the Conciliation Commission to render progress reports periodically to the Secretary-General for transmission to the Security Council and to the Members of the United Nations;
14. *Calls upon* all Governments and authorities concerned to co-operate with the Conciliation Commission and to take all possible steps to assist in the implementation of the present resolution;
15. *Requests* the Secretary-General to provide the necessary staff and facilities and to make appropriate arrangements to provide the necessary funds required in carrying out the terms of the present resolution.

Hundred and eighty-sixth plenary meeting,

11 December 1948

* * *

At the 186th plenary meeting on 11 December 1948, a committee of the Assembly consisting of the five States designated in paragraph 3 of the above resolution proposed that the following three States should constitute the Conciliation Commission:

FRANCE, TURKEY, UNITED STATES OF AMERICA.

The proposal of the Committee having been adopted by the General Assembly at the same meeting, the Conciliation Commission is therefore composed of the above-mentioned three States.

Tenth emergency special Session
Agenda item 5

C. Resolution Adopted by the General Assembly

[without reference to a Main Committee (A/ES-10/L.18/Rev.1)]

**ES-10/15. Advisory opinion of the International Court of
Justice on the *Legal Consequences of the Construction of a
Wall in the Occupied Palestinian Territory, including in and
around East Jerusalem***

The General Assembly,

Guided by the principles enshrined in the Charter of the
United Nations,

Considering that the promotion of respect for the
obligations arising from the Charter and other instruments and
rules of international law is among the basic purposes and
principles of the United Nations,

Recalling its 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,

Reaffirming the illegality of any territorial acquisition
resulting from the threat or use of force,

Recalling the Regulations annexed to the Hague Convention Respecting the Laws and Customs of War on Land of 1907,¹

Recalling also the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,² and relevant provisions of customary law, including those codified in Additional Protocol I to the Geneva Conventions,³

Recalling further the International Covenant on Civil and Political Rights,⁴ the International Covenant on Economic, Social and Cultural Rights⁴ and the Convention on the Rights of the Child,⁵

Reaffirming the permanent responsibility of the United Nations towards the question of Palestine until it is resolved in all aspects in a satisfactory manner on the basis of international legitimacy,

Recalling relevant Security Council resolutions, including resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 446 (1979) of 22 March 1979, 452 (1979) of 20 July 1979, 465 (1980) of 1 March 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980, 904 (1994) of 18 March 1994, 1073 (1996) of 28 September 1996, 1397 (2002) of 12 March 2002, 1515 (2003) of 19 November 2003 and 1544 (2004) of 19 May 2004,

¹ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

² United Nations, *Treaty Series*, vol. 75, No. 973.

³ *Ibid.*, vol. 1125, No. 17512.

⁴ See resolution 2200 A (XXI), annex.

⁵ Resolution 44/25, annex.

Recalling also the resolutions of its tenth emergency special session on illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory,

Reaffirming the most recent resolution of the fifty-eighth session of the General Assembly on the status of the Occupied Palestinian Territory, including East Jerusalem, resolution 58/292 of 6 May 2004,

Reaffirming also the right of the Palestinian people to self-determination, including their right to their independent State of Palestine,

Reaffirming further the commitment to the two-State solution of Israel and Palestine, living side by side in peace and security within recognized borders, based on the pre-1967 borders,

Condemning all acts of violence, terrorism and destruction,

Calling upon both parties to fulfil their obligations under relevant provisions of the road map,⁶ the Palestinian Authority to undertake visible efforts on the ground to arrest, disrupt and restrain individuals and groups conducting and planning violent attacks, and the Government of Israel to take no actions undermining trust, including deportations and attacks on civilians and extrajudicial killings,

Reaffirming that all States have the right and the duty to take actions in conformity with international law and international humanitarian law to counter deadly acts of violence against their civilian population in order to protect the lives of their citizens,

⁶ S/2003/529, annex.

Recalling its resolution ES-10/13 of 21 October 2003, in which it demanded that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem,

Recalling also its resolution ES-10/14 of 8 December 2003, in which it requested the International Court of Justice to urgently render an advisory opinion on the following question:

“What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention, of 1949, and relevant Security Council and General Assembly resolutions?”,

Having received with respect 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 2004,⁷

Noting in particular that the Court replied to the question put forth by the General Assembly in resolution ES-10/14 as follows:⁸

“A. 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;

⁷ See A/ES-10/273 and Corr.1.

⁸ *Ibid.*, para. 163.

- “B. 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, in accordance with paragraph 151 of this Opinion;
- “C. Israel is 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;
- “D. All States are under an 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; all States Parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention;
- “E. The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the present Advisory Opinion.”,

Noting that the Court concluded that “the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law”,⁹

Noting also the statement made by the Court that “Israel and Palestine are under an obligation scrupulously to observe the rules of international humanitarian law, one of the paramount purposes of which is to protect civilian life”,¹⁰ and that “in the Court’s view, this tragic situation can be brought to an end only through implementation in good faith of all relevant Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973)”,¹⁰

Considering that respect for the Court and its functions is essential to the rule of law and reason in international affairs,

1. *Acknowledges* the advisory opinion of the International Court of Justice of 9 July 2004 on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,⁷ including in and around East Jerusalem;
2. *Demands* that Israel, the occupying Power, comply with its legal obligations as mentioned in the advisory opinion;
3. *Calls upon* all States Members of the United Nations to comply with their legal obligations as mentioned in the advisory opinion;
4. *Requests* the Secretary-General to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the advisory opinion;

⁹ Ibid., para. 120.

¹⁰ Ibid., para. 162.

5. *Decides* to reconvene to assess the implementation of the present resolution, with the aim of ending the illegal situation resulting from the construction of the wall and its associated regime in the Occupied Palestinian Territory, including East Jerusalem;
6. *Calls upon* both the Government of Israel and the Palestinian Authority to immediately implement their obligations under the road map,⁶ in cooperation with the Quartet, as endorsed by Security Council resolution 1515 (2003), to achieve the vision of two States living side by side in peace and security, and emphasizes that both Israel and the Palestinian Authority are under an obligation scrupulously to observe the rules of international humanitarian law;
7. *Calls upon* all States parties to the Fourth Geneva Convention² to ensure respect by Israel for the Convention, and invites Switzerland, in its capacity as the depositary of the Geneva Conventions,¹¹ to conduct consultations and to report to the General Assembly on the matter, including with regard to the possibility of resuming the Conference of High Contracting Parties to the Fourth Geneva Convention;
8. *Decides* to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume its meeting upon request from Member States.

*27th plenary meeting
20 July 2004*

¹¹ United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

Sixtieth Session

Agenda item 31

D. Resolution Adopted by the General Assembly

*[on the report of the Special Political and Decolonization
Committee (Fourth Committee) A/60/477]*

60/105. Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

The General Assembly,

Recalling its relevant resolutions, including its resolution 59/122 of 10 December 2004,

Recalling also its resolution ES-10/15 of 20 July 2004,

Bearing in mind the relevant resolutions of the Security Council,

Recalling the Regulations annexed to the Hague Convention IV of 1907,¹ the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² and relevant provisions of customary law, including

¹ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

² United Nations, *Treaty Series*, vol. 75, No. 973.

those codified in Additional Protocol I³ to the four Geneva Conventions,⁴

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories⁵ and the relevant reports of the Secretary-General,⁶

Considering that the promotion of respect for the obligations arising from the Charter of the United Nations and other instruments and rules of international law is among the basic purposes and principles of the United Nations,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,⁷ and also recalling General Assembly resolution ES-10/15,

Noting in particular the Court's reply, including that the Fourth Geneva Convention² is applicable in the Occupied Palestinian Territory, including East Jerusalem, and that Israel is in breach of several of the provisions of the Convention,

Noting the convening for the first time, on 15 July 1999, of a Conference of High Contracting Parties to the Fourth Geneva Convention, as recommended by the General Assembly in its resolution ES-10/6 of 9 February 1999, on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure respect thereof in accordance with article 1 common to the four Geneva Conventions, and aware of the statement adopted by the Conference,

³ Ibid., vol. 1125, No. 17512.

⁴ Ibid., vol. 75, Nos. 970-973.

⁵ See A/60/380.

⁶ A/60/294-298.

⁷ See A/ES-10/273 and Corr.1.

Welcoming the reconvening of the Conference of High Contracting Parties to the Fourth Geneva Convention on 5 December 2001 in Geneva and stressing the importance of the Declaration adopted by the Conference, and underlining the need for the parties to follow up the implementation of the Declaration,

Welcoming and encouraging the initiatives by States parties to the Convention, both individually and collectively, according to article 1 common to the four Geneva Conventions, aimed at ensuring respect for the Convention,

Stressing that Israel, the occupying Power, should comply strictly with its obligations under international law, including international humanitarian law,

1. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
2. *Demands* that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;
3. *Calls upon* all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions⁴ and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004,⁷ to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;

4. *Reiterates* the need for speedy implementation of the relevant recommendations contained in the resolutions adopted by the General Assembly at its tenth emergency special session, including resolution ES-10/15, with regard to ensuring respect by Israel, the occupying Power, for the provisions of the Convention;
5. *Requests* the Secretary-General to report to the General Assembly at its sixty-first session on the implementation of the present resolution.

*62nd plenary meeting
8 December 2005*

Sixty-first session

Agenda item 32

E. Resolution adopted by the General Assembly

*[on the report of the Special Political and Decolonization
Committee (Fourth Committee) A/61/408]*

61/117. Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

The General Assembly,

Recalling its relevant resolutions, including its resolution 60/105 of 8 December 2005,

Recalling also its resolution ES-10/15 of 20 July 2004,

Bearing in mind the relevant resolutions of the Security Council,

Recalling the Regulations annexed to the Hague Convention IV of 1907,¹ the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² and relevant provisions of customary law, including those codified in Additional Protocol I,³ to the four Geneva Conventions,⁴

¹ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

² United Nations, *Treaty Series*, vol. 75, No. 973.

³ *Ibid.*, vol. 1125, No. 17512.

⁴ *Ibid.*, vol. 75, Nos. 970-973.

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories⁵ and the relevant reports of the Secretary-General,⁶

Considering that the promotion of respect for the obligations arising from the Charter of the United Nations and other instruments and rules of international law is among the basic purposes and principles of the United Nations,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,⁷ and also recalling General Assembly resolution ES-10/15,

Noting in particular the Court's reply, including that the Fourth Geneva Convention² is applicable in the Occupied Palestinian Territory, including East Jerusalem, and that Israel is in breach of several of the provisions of the Convention,

Noting the convening, on 15 July 1999, of a Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure respect thereof in accordance with article 1 common to the four Geneva Conventions, and stressing the importance of the Declaration adopted by the reconvened Conference on 5 December 2001 and the need for the parties to follow up the implementation of the Declaration,

Welcoming and encouraging the initiatives by States parties to the Convention, both individually and collectively,

⁵ See A/61/500.

⁶ A/61/327-331.

⁷ See A/ES-10/273 and Corr.1.

according to article 1 common to the four Geneva Conventions, aimed at ensuring respect for the Convention,

Stressing that Israel, the occupying Power, should comply strictly with its obligations under international law, including international humanitarian law,

1. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
2. *Demands* that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;
3. *Calls upon* all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions⁴ and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004,⁷ to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
4. *Reiterates* the need for speedy implementation of the relevant recommendations contained in the resolutions adopted by the General Assembly at its tenth emergency special session, including resolution ES-10/15, with regard to ensuring respect by Israel, the occupying Power, for the provisions of the Convention;

5. *Requests* the Secretary-General to report to the General Assembly at its sixty-second session on the implementation of the present resolution.

*79th plenary meeting
14 December 2006*

Tenth emergency special session
Agenda item 5

F. Resolution adopted by the General Assembly

[without reference to a Main Committee (A/ES-10/L.20/Rev.1)]

**ES-10/17. Establishment of the United Nations Register of
Damage Caused by the Construction of the Wall in the
Occupied Palestinian Territory**

The General Assembly,

Guided by the principles enshrined in the Charter of the United Nations and the rules and principles of international law, including international humanitarian law and human rights law,

Reaffirming the permanent responsibility of the United Nations towards the question of Palestine until it is resolved in all its aspects in a satisfactory manner on the basis of international legitimacy,

Recalling the relevant resolutions of the Security Council,

Recalling also its relevant resolutions, including the resolutions of its tenth emergency special session on illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory,

Recalling further 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*,¹ and recalling in particular the Court's reply to the question put forth by the General Assembly in

¹ See A/ES-10/273 and Corr.1.

resolution ES-10/14 of 8 December 2003, as set forth in the *dispositif* of the advisory opinion,²

Recalling in this regard the Court's conclusion that, *inter alia*, "Israel is 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",

Reaffirming its resolution ES-10/15 of 20 July 2004 entitled "Advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, including in and around East Jerusalem",

Recalling the request made in resolution ES-10/15 for the Secretary-General to establish a register of damage caused to all natural or legal persons concerned in connection with paragraphs 152 and 153 of the advisory opinion,

Noting in this connection the Court's conclusion whereby, *inter alia*:

Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction,³

² Ibid., para.163.

³ Ibid., para.153.

Deploping the continuing construction, contrary to international law, by Israel, the occupying Power, of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, against the conclusions of the International Court of Justice in its advisory opinion of 9 July 2004 and resolution ES-10/15 and in breach of the applicable rules and principles of international law,

Recognizing the necessity of accurately documenting the damage caused by the construction of the wall for the purpose of fulfilling the obligation to make the above-mentioned reparations, including restitution and compensation, in accordance with the rules and principles of international law, and noting that the act of registration of damage, as such, does not entail, at this stage, an evaluation or assessment of the loss or damage caused by the construction of the wall,

Taking note with appreciation of the report of the Secretary-General of 17 October 2006 pursuant to resolution ES-10/15,⁴

1. *Reaffirms* its resolution ES-10/15 entitled “Advisory opinion of the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory, including in and around East Jerusalem”, and reiterates the demands made therein, inter alia, the demand that Israel, the occupying Power, comply with its legal obligations as mentioned in the advisory opinion;
2. *Takes note with appreciation* of the report of the Secretary-General submitted pursuant to resolution ES-10/15;⁴

⁴ A/ES-10/361.

3. *Establishes* the United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory:
 - (a) To serve as a record, in documentary form, of the damage caused to all natural and legal persons concerned as a result of the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem;
 - (b) To be referred to henceforth in brief as the “Register of Damage”;
4. *Decides* to set up an office of the Register of Damage, which will be:
 - (a) Responsible for the establishment and comprehensive maintenance of the Register of Damage;
 - (b) Composed of a three-member Board and a small secretariat, headed by an Executive Director and consisting of substantive, administrative and technical support staff;
 - (c) A subsidiary organ of the General Assembly operating under the administrative authority of the Secretary-General;
 - (d) Established at the site of the United Nations Office at Vienna;
5. *Requests* the Secretary-General to appoint the three-member Board of the Office of the Register of Damage, according to the selection criteria in the above-mentioned report, at the earliest practicable date;

6. *Decides* that the responsibilities assumed by the Board of the Office of the Register of Damage shall be as follows:
- (a) The Board shall have overall responsibility for the establishment and maintenance of the Register of Damage;
 - (b) The Board shall establish the rules and regulations governing the work of the Office of the Register of Damage;
 - (c) The Board shall determine the eligibility criteria, bearing in mind varying circumstances with regard to the title and residency status of the claimants, for the inclusion of damages and losses caused in the Register of Damage with an established causal link to the construction of the wall;
 - (d) The Board shall, guided by the relevant findings of the advisory opinion, general principles of international law and principles of due process of law, also determine the criteria of damage and the procedure for the collection and registration of damage claims;
 - (e) The Board, on the recommendation of the Executive Director, shall have the ultimate authority in determining the inclusion of damage claims in the Register of Damage;
 - (f) The Board shall meet at least four times each year at the Office of the Register of Damage to determine which claims should be included in the Register of Damage, based on the established objective criteria defined in the rules and regulations;
 - (g) The Board shall engage, periodically and as deemed necessary, the expertise of technical specialists in relevant fields, *inter alia*, agriculture, land law,

topography and assessment and compensation, to assist it in establishing and maintaining the Register of Damage;

- (h) The Board shall render progress reports periodically to the Secretary-General for transmission to the General Assembly, including, as appropriate, possible further steps in connection with paragraphs 152 and 153 of the advisory opinion;
- 7. *Requests* the Secretary-General to appoint, at the earliest practicable date, the Executive Director of the Office of the Register of Damage, who shall:
 - (a) Have responsibility for overseeing and administering the work of the secretariat of the Office of the Register of Damage;
 - (b) Be responsible for forwarding all damage claims to the Board for its approval for inclusion in the Register of Damage and serve in an advisory capacity to the Board in this regard;
- 8. *Decides* that the secretariat of the Office of the Register of Damage shall provide substantive, technical and administrative support for the establishment and maintenance of the Register of Damage by undertaking, inter alia, the following functions:
 - (a) Designing the format of the damage claims;
 - (b) Administering a public awareness programme to inform the Palestinian public about the possibility of and the requirements for filing a damage claim for registration, including an extensive community outreach programme to explain the purpose of the Register of Damage and provide guidance on how to fill out and submit the claim forms;

- (c) Receiving and processing all damage claims and establishing the credibility of the causal link of those claims to the construction of the wall for registration in the Register of Damage;
 - (d) Submitting all processed damage claims through the Executive Director to the Board for inclusion in the Register of Damage;
 - (e) Aggregating and maintaining the records of damage claims approved by the Board, including both hard copies of the claims and their electronic version, which shall be maintained at the Office of the Register of Damage;
 - (f) Providing legal advice regarding the operations of the Office of the Register of Damage and the submitted claims;
9. *Resolves* that the Register of Damage shall remain open for registration for the duration of existence of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;
10. *Resolves also* that the Office of the Register of Damage shall remain active for the duration of the process of registration and shall carry out the specific functions and directives ascribed to it by the Secretary-General in his report, as set out in the present resolution, and such additional functions as requested by the General Assembly upon recommendation by the Secretary-General;
11. *Calls for* the establishment and operation of the Office of the Register of Damage and the establishment of the Register of Damage itself within six months of the adoption of the present resolution and the immediate

undertaking thereafter of the process of registration of damage claims;

12. *Instructs* the Office of the Register of Damage, immediately upon its establishment, to seek the cooperation of the concerned Governments and authorities so as to facilitate its work in connection with the collection, submission and processing of damage claims in the Occupied Palestinian Territory, including East Jerusalem;
13. *Calls upon* the Government of Israel and the Palestinian Authority and relevant Palestinian institutions to cooperate with the Office of the Register of Damage;
14. *Calls upon* the Secretary-General to instruct the United Nations agencies and offices present on the ground in the Occupied Palestinian Territory to lend their support and expertise to the Office of the Register of Damage, upon its request, so as to facilitate its work;
15. *Requests* the Secretary-General to provide the necessary staff and facilities and to make appropriate arrangements to provide the necessary funds required to carry out the terms of the present resolution;
16. *Also requests* the Secretary-General to report to the General Assembly within six months on the progress made with regard to the establishment and operation of the Office of the Register of Damage and the establishment of the Register of Damage;
17. *Decides* to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume the meeting of the special session upon request from Member States.

31st plenary meeting

15 December 2006

Sixty-second session

Agenda item 33

G. Resolution adopted by the General Assembly

*[on the report of the Special Political and
Decolonization Committee(Fourth Committee) (A/62/405)]*

62/107. Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

The General Assembly,

Recalling its relevant resolutions, including its resolution 61/117 of 14 December 2006,

Recalling also its resolution ES-10/15 of 20 July 2004,

Bearing in mind the relevant resolutions of the Security Council,

Recalling the Regulations annexed to the Hague Convention IV of 1907,¹ the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² and relevant provisions of customary law, including those codified in Additional Protocol I³ to the four Geneva Conventions,⁴

¹ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

² United Nations, *Treaty Series*, vol. 75, No. 973.

³ *Ibid.*, vol. 1125, No. 17512.

⁴ *Ibid.*, vol. 75, Nos. 970-973.

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories⁵ and the relevant reports of the Secretary-General,⁶

Considering that the promotion of respect for the obligations arising from the Charter of the United Nations and other instruments and rules of international law is among the basic purposes and principles of the United Nations,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,⁷ and also recalling General Assembly resolution ES-10/15,

Noting in particular the Court's reply, including that the Fourth Geneva Convention² is applicable in the Occupied Palestinian Territory, including East Jerusalem, and that Israel is in breach of several of the provisions of the Convention,

Noting the convening, on 15 July 1999, of a Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure respect thereof in accordance with article 1 common to the four Geneva Conventions, and stressing the importance of the Declaration adopted by the reconvened Conference on 5 December 2001 and the need for the parties to follow up the implementation of the Declaration,

Welcoming and encouraging the initiatives by States parties to the Convention, both individually and collectively,

⁵ See A/62/360.

⁶ A/62/330-334.

⁷ See A/ES-10/273 and Corr.1.

according to article 1 common to the four Geneva Conventions, aimed at ensuring respect for the Convention,

Stressing that Israel, the occupying Power, should comply strictly with its obligations under international law, including international humanitarian law,

1. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
2. *Demands* that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;
3. *Calls upon* all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions⁴ and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004,⁷ to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
4. *Reiterates* the need for speedy implementation of the relevant recommendations contained in the resolutions adopted by the General Assembly at its tenth emergency special session, including resolution ES-10/15, with regard to ensuring respect by Israel, the occupying Power, for the provisions of the Convention;

5. *Requests* the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution.

*75th plenary meeting
17 December 2007*

Sixty-second session

Agenda item 33

H. Resolution adopted by the General Assembly

*[on the report of the Special Political and
Decolonization Committee (Fourth Committee) (A/62/405)]*

**62/109. Israeli practices affecting the human rights of the
Palestinian people in the Occupied Palestinian Territory,
including East Jerusalem**

The General Assembly,

Recalling its relevant resolutions, including resolution 61/119 of 14 December 2006, as well as those adopted at its tenth emergency special session,

Recalling also the relevant resolutions of the Commission on Human Rights and the Human Rights Council,

Bearing in mind the relevant resolutions of the Security Council, and stressing the need for their implementation,

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories¹ and the report of the Secretary-General,²

Taking note of the recent reports of the Special Rapporteur of the Human Rights Council on the situation of human rights in the Palestinian territories occupied since 1967,³

¹ See A/62/360.

² A/62/334.

³ A/HRC/5/11 and A/62/275.

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,⁴ and recalling also General Assembly resolutions ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006,

Noting in particular the Court's reply, including 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,

Recalling the International Covenant on Civil and Political Rights,⁵ the International Covenant on Economic, Social and Cultural Rights⁵ and the Convention on the Rights of the Child,⁶ and affirming that these human rights instruments must be respected in the Occupied Palestinian Territory, including East Jerusalem,

Aware of the responsibility of the international community to promote human rights and ensure respect for international law, and recalling in this regard its resolution 2625 (XXV) of 24 October 1970,

Reaffirming the principle of the inadmissibility of the acquisition of territory by force,

Reaffirming also the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,⁷ to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967,

⁴ See A/ES-10/273 and Corr.1.

⁵ See resolution 2200 A (XXI), annex.

⁶ United Nations, *Treaty Series*, vol. 1577, No. 27531.

⁷ *Ibid.*, vol. 75, No. 973.

Reaffirming further the obligation of the States parties to the Fourth Geneva Convention⁷ under articles 146, 147 and 148 with regard to penal sanctions, grave breaches and responsibilities of the High Contracting Parties,

Reaffirming that all States have the right and the duty to take actions in conformity with international law and international humanitarian law to counter deadly acts of violence against their civilian population in order to protect the lives of their citizens,

Stressing the need for full compliance with the Israeli-Palestinian agreements reached within the context of the Middle East peace process, including the Sharm El-Sheikh understandings, and the implementation of the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict,⁸

Stressing also the need for the full implementation of the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing, both of 15 November 2005, to allow for the freedom of movement of the Palestinian civilian population within and into and out of the Gaza Strip,

Noting the Israeli withdrawal from within the Gaza Strip and parts of the northern West Bank and the importance of the dismantlement of settlements therein as a step towards the implementation of the road map,

Expressing grave concern about the continuing systematic violation of the human rights of the Palestinian people by Israel, the occupying Power, including that arising from the excessive use of force, the use of collective punishment, the reoccupation and closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction

⁸ S/2003/529, annex.

of the wall inside the Occupied Palestinian Territory in departure from the Armistice Line of 1949, the destruction of property and infrastructure, and all other actions by it designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem,

Gravely concerned about the military actions that have been carried out since 28 September 2000 and that have led to thousands of deaths among Palestinian civilians, including hundreds of children, and tens of thousands of injuries,

Expressing deep concern about the continuing deterioration in the humanitarian and security situation in the Gaza Strip, including that resulting from the Israeli military actions against civilian areas, air raids and the prolonged closure of crossings into and out of the Gaza Strip, as well as from the firing of rockets into Israel and the negative impact of the events of June 2007 leading to the unlawful takeover of Palestinian Authority institutions in the Gaza Strip,

Expressing deep concern also about the vast destruction caused by the Israeli occupying forces, including of religious, cultural and historical sites, of vital infrastructure and institutions of the Palestinian Authority, and of agricultural land throughout Palestinian cities, towns, villages and refugee camps, and expressing deep concern about the short- and long-term detrimental impact of such destruction on the socio-economic and humanitarian conditions of the Palestinian civilian population,

Expressing deep concern further about the Israeli policy of closures, severe restrictions, and a permit regime that obstruct the movement of persons and goods, including medical and humanitarian personnel and goods, throughout the Occupied Palestinian Territory, including East Jerusalem, and about the

consequent violation of the human rights of the Palestinian people and negative impact on their socio-economic situation, which remains that of a dire humanitarian crisis,

Concerned in particular about the continued establishment of Israeli checkpoints in the Occupied Palestinian Territory, including East Jerusalem, and the transformation of several of these checkpoints into structures akin to permanent border crossings inside the Occupied Palestinian Territory, which are severely impairing the territorial contiguity of the Territory and severely undermining efforts and aid aimed at rehabilitating and developing the Palestinian economy,

Expressing deep concern that thousands of Palestinians, including hundreds of children and women, continue to be held in Israeli prisons or detention centres under harsh conditions that impair their well-being, and expressing concern about the ill treatment and harassment of any Palestinian prisoners and all reports of torture,

Convinced of the need for an international presence to monitor the situation, to contribute to ending the violence and protecting the Palestinian civilian population and to help the parties implement the agreements reached and, in this regard, recalling the positive contribution of the Temporary International Presence in Hebron,

1. *Reiterates* that all measures and actions 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, of 12 August 1949,⁷ and contrary to the relevant resolutions of the Security Council, are illegal and have no validity;
2. *Demands* that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention of

1949⁷ and cease immediately all measures and actions taken in violation and in breach of the Convention, including all of its settlement activities and the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

3. *Condemns* all acts of violence, including all acts of terror, provocation, incitement and destruction, especially the excessive use of force by the Israeli occupying forces against Palestinian civilians, which have caused extensive loss of life and vast numbers of injuries, including among children, massive destruction of homes, properties, agricultural lands and vital infrastructure, and internal displacement of civilians;
4. *Expresses grave concern* at the firing of rockets against Israeli civilian areas resulting in loss of life and injury;
5. *Notes* the Israeli withdrawal from within the Gaza Strip and parts of the northern West Bank and the dismantlement of the settlements therein as a step towards the implementation of the road map;⁸
6. *Calls upon* Israel, the occupying Power, in this regard, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem;
7. *Demands* that Israel, the occupying Power, cease all practices and actions that violate the human rights of the Palestinian people, including the extrajudicial executions, and that it respect human rights law and comply with its legal obligations in this regard;
8. *Calls upon* Israel, the occupying Power, to release all remaining tax revenues due to the Palestinian Authority, in

accordance with the Paris Economic Protocol of 1994, to cease its imposition of closures and restrictions on movement, and, in this regard, to implement the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing, both of 15 November 2005;

9. *Acknowledges* the role the Temporary International Mechanism has played in assisting the Palestinian people directly;
10. *Urges* Member States to continue to provide emergency assistance to the Palestinian people to alleviate the financial crisis and the dire socio-economic and humanitarian situation being faced by the Palestinian people, particularly in the Gaza Strip;
11. *Emphasizes* the need to preserve the Palestinian institutions and infrastructure for the provision of vital public services to the Palestinian civilian population and the promotion of Palestinian civil, political, economic, social and cultural rights;
12. *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 Justice⁴ and as demanded in resolutions ES-10/15 of 20 July 2004 and ES-10/13 of 21 October 2003, and that it immediately 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, which has gravely

impacted the human rights and the socio-economic living conditions of the Palestinian people;

13. *Stresses* the need for respect for the unity and territorial contiguity and integrity of all of the Occupied Palestinian Territory and for guarantees of the freedom of movement of persons and goods within the Palestinian territory, including movement into and from East Jerusalem, into and from the Gaza Strip, and to and from the outside world;
14. *Requests* the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution.

*75th plenary meeting
17 December 2007*

Sixty-third session

Agenda item 30

I. Resolution adopted by the General Assembly

[on the report of the Special Political and Decolonization
Committee (Fourth Committee) A/63/401)]

63/96. Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

The General Assembly,

Recalling its relevant resolutions, including its resolution 62/107 of 17 December 2007,

Bearing in mind the relevant resolutions of the Security Council,

Recalling the Regulations annexed to the Hague Convention IV of 1907,¹ the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² and relevant provisions of customary law, including those codified in Additional Protocol I,³ to the four Geneva Conventions,⁴

¹ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

² United Nations, *Treaty Series*, vol. 75, No. 973.

³ *Ibid.*, vol. 1125, No. 17512.

⁴ *Ibid.*, vol. 75, Nos. 970-973.

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories⁵ and the relevant reports of the Secretary-General,⁶

Considering that the promotion of respect for the obligations arising from the Charter of the United Nations and other instruments and rules of international law is among the basic purposes and principles of the United Nations,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,⁷ and also recalling General Assembly resolution ES-10/15 of 20 July 2004,

Noting in particular the Court's reply, including that the Fourth Geneva Convention² is applicable in the Occupied Palestinian Territory, including East Jerusalem, and that Israel is in breach of several of the provisions of the Convention,

Recalling the Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, held on 15 July 1999, as well as the Declaration adopted by the reconvened Conference on 5 December 2001 and the need for the parties to follow up the implementation of the Declaration,

Welcoming and encouraging the initiatives by States parties to the Convention, both individually and collectively,

⁵ See A/63/273.

⁶ A/63/482-484, 518 and 519.

⁷ See A/ES-10/273 and Corr.1; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004, p. 136.

according to article 1 common to the four Geneva Conventions, aimed at ensuring respect for the Convention,

Stressing that Israel, the occupying Power, should comply strictly with its obligations under international law, including international humanitarian law,

1. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, ² is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
2. *Demands* that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;
3. *Calls upon* all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions ⁴ and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004, ⁷ to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
4. *Reiterates* the need for speedy implementation of the relevant recommendations contained in the resolutions adopted by the General Assembly at its tenth emergency special session, including resolution ES-10/15, with regard to ensuring respect by Israel, the occupying Power, for the provisions of the Convention;

5. *Requests* the Secretary-General to report to the General Assembly at its sixty-fourth session on the implementation of the present resolution.

*64th plenary meeting
5 December 2008*

Tenth emergency special session

Agenda item 5

J. Resolution adopted by the General Assembly

[without reference to a Main Committee (A/ES-10/L.21/Rev.1)]

ES-10/18. General Assembly resolution supporting the immediate ceasefire according to Security Council resolution 1860 (2009)

The General Assembly,

Reaffirming the permanent responsibility of the United Nations with regard to the question of Palestine until it is solved in all its aspects, in accordance with international law,

Recalling the relevant rules and principles of international law, including international humanitarian and human rights law, particularly the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,¹ which is applicable to the Occupied Palestinian Territory, including East Jerusalem,

Expressing grave concern about the developments on the ground since the adoption of Security Council resolution 1860 (2009) on 8 January 2009, especially following the intensified military operations in the Gaza Strip, causing heavy casualties among civilians, including

¹ United Nations, *Treaty Series*, vol. 75, No. 973.

children and women, and the shelling of United Nations headquarters, hospitals, media premises and public infrastructure, and emphasizing that the Palestinian and Israeli civilian populations must be protected and that their suffering must end,

Convinced that achieving a just, lasting and comprehensive settlement of the question of Palestine, the core of the Arab-Israeli conflict, is imperative for the attainment of comprehensive, just and lasting peace and stability in the Middle East,

1. *Demands* full respect for Security Council resolution 1860 (2009), including its urgent call for an immediate, durable and fully respected ceasefire, leading to the full withdrawal of Israeli forces from the Gaza Strip, and its call for the unimpeded provision and distribution throughout the Gaza Strip of humanitarian assistance, including food, fuel and medical treatment;
2. *Calls upon* all parties to exert all efforts to ensure, in cooperation with the Security Council, full and urgent compliance with resolution 1860 (2009);
3. *Expresses its support* for international and regional initiatives and efforts under way and for the mission undertaken by the Secretary-General of the United Nations;
4. *Expresses its support* for the extraordinary efforts by the United Nations agencies, particularly the United Nations Relief and Works Agency for Palestine Refugees in the Near East, to provide emergency

relief, medical and other humanitarian assistance to the Palestinian civilian population in the Gaza Strip;

5. *Calls upon* all Member States to urgently extend the necessary support to international and regional efforts aimed at alleviating the critical humanitarian and economic situation in the Gaza Strip, and emphasizes in this regard the need to ensure the sustained opening of border crossings for the free movement of persons and goods into and out of the Gaza Strip, in accordance with the Agreement on Movement and Access of 15 November 2005;
6. *Decides* to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume its meeting upon request from Member States.

*36th plenary meeting
16 January 2009*

Sixty-fourth session

Agenda item 64

Resolution adopted by the General Assembly

[*without reference to a Main Committee (A/64/L.11 and Add.1)*]

64/10. Follow-up to the report of the United Nations Fact-Finding Mission on the Gaza Conflict

The General Assembly,

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

Recalling the relevant rules and principles of international law, including international humanitarian and human rights law, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,¹ which is applicable to the Occupied Palestinian Territory, including East Jerusalem,

Recalling also the Universal Declaration of Human Rights² and the other human rights covenants, including the International Covenant on Civil and Political Rights³ the International Covenant on Economic, Social and Cultural Rights³ and the Convention on the Rights of the Child,⁴

Recalling further its relevant resolutions, including resolution ES-10/18 of 16 January 2009 of its tenth emergency special session,

¹ United Nations, *Treaty Series*, vol. 75, No. 973.

² Resolution 217 A (III).

³ See resolution 2200 A (XXI), annex.

⁴ United Nations, *Treaty Series*, vol. 1577, No. 27531.

Recalling the relevant Security Council resolutions, including resolution 1860 (2009) of 8 January 2009,

Recalling also the relevant resolutions of the Human Rights Council, including resolution S-12/1 of 16 October 2009,

Expressing its appreciation to the United Nations Fact-Finding Mission on the Gaza Conflict, led by Justice Richard Goldstone, for its comprehensive report,⁵

Affirming the obligation of all parties to respect international humanitarian law and international human rights law,

Emphasizing the importance of the safety and well-being of all civilians, and reaffirming the obligation to ensure the protection of civilians in armed conflict,

Gravely concerned by reports regarding serious human rights violations and grave breaches of international humanitarian law committed during the Israeli military operations in the Gaza Strip that were launched on 27 December 2008, including the findings of the Fact-Finding Mission and of the Board of Inquiry convened by the Secretary-General,⁶

Condemning all targeting of civilians and civilian infrastructure and institutions, including United Nations facilities,

Stressing the need to ensure accountability for all violations of international humanitarian law and international human rights law in order to prevent impunity, ensure justice, deter further violations and promote peace,

⁵ A/HRC/12/48.

⁶ A/63/855-S/2009/250.

Convinced that achieving a just, lasting and comprehensive settlement of the question of Palestine, the core of the Arab-Israeli conflict, is imperative for the attainment of a comprehensive, just and lasting peace and stability in the Middle East,

1. *Endorses* the report of the Human Rights Council on its twelfth special session, held on 15 and 16 October 2009;⁷
2. *Requests* the Secretary-General to transmit the report of the United Nations Fact-Finding Mission on the Gaza Conflict⁵ to the Security Council;
3. *Calls upon* the Government of Israel to take all appropriate steps, within a period of three months, to undertake investigations that are independent, credible and in conformity with international standards into the serious violations of international humanitarian and international human rights law reported by the Fact-Finding Mission, towards ensuring accountability and justice;
4. *Urges* , in line with the recommendation of the Fact-Finding Mission, the undertaking by the Palestinian side, within a period of three months, of investigations that are independent, credible and in conformity with international standards into the serious violations of international humanitarian and international human rights law reported by the Fact-Finding Mission, towards ensuring accountability and justice;
5. *Recommends* that the Government of Switzerland, in its capacity as depositary of the Geneva Convention relative to the Protection of Civilian Persons in Time of War,¹ undertake as soon as possible the steps necessary to reconvene a Conference of High Contracting Parties to the

⁷ A/64/53/Add.1.

Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure its respect in accordance with common article 1;

6. *Requests* the Secretary-General to report to the General Assembly, within a period of three months, on the implementation of the present resolution, with a view to the consideration of further action, if necessary, by the relevant United Nations organs and bodies, including the Security Council;
7. *Decides* to remain seized of the matter.

*39th plenary meeting
5 November 2009*

Sixty-fourth session

Agenda item 16

L. Resolution adopted by the General Assembly

*[without reference to a Main Committee
(A/64/L.23 and Add.1)]*

64/19. Peaceful settlement of the question of Palestine

The General Assembly,

Recalling its relevant resolutions, including those adopted at its tenth emergency special session,

Recalling also its resolution 58/292 of 6 May 2004,

Recalling further relevant Security Council resolutions, including resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1515 (2003) of 19 November 2003, 1544 (2004) of 19 May 2004 and 1850 (2008) of 16 December 2008,

Welcoming the affirmation by the Security Council of the vision of a region where two States, Israel and Palestine, live side by side within secure and recognized borders,

Noting with concern that it has been more than sixty years since the adoption of its resolution 181 (II) of 29 November 1947 and forty-two years since the occupation of Palestinian territory, including East Jerusalem, in 1967,

Having considered the report of the Secretary-General submitted pursuant to the request made in its resolution 63/29 of 26 November 2008,¹

¹ A/64/351-S/2009/464.

Reaffirming the permanent responsibility of the United Nations with regard to the question of Palestine until the question is resolved in all its aspects in accordance with international law,

Recalling 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*,² and recalling also its resolutions ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006,

Convinced that achieving a just, lasting and comprehensive settlement of the question of Palestine, the core of the Arab-Israeli conflict, is imperative for the attainment of comprehensive and lasting peace and stability in the Middle East,

Aware that the principle of equal rights and self-determination of peoples is among the purposes and principles enshrined in the Charter of the United Nations,

Affirming the principle of the inadmissibility of the acquisition of territory by war,

Recalling its resolution 2625 (XXV) of 24 October 1970,

Reaffirming the illegality of the Israeli settlements in the Palestinian territory occupied since 1967, including East Jerusalem,

² See A/ES-10/273 and Corr.1; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004, p. 136.

Stressing the detrimental impact of Israeli settlement policies, decisions and activities on efforts to resume the peace process and achieve peace in the Middle East,

Reaffirming the illegality of Israeli actions aimed at changing the status of Jerusalem, including measures such as the so-called E-1 plan and all other unilateral measures aimed at altering the character, status and demographic composition of the city and of the Territory as a whole,

Reaffirming also that the construction by Israel, the occupying Power, of a wall in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime are contrary to international law,

Expressing deep concern about the continuing Israeli policy of closures and severe restrictions on the movement of persons and goods, including medical and humanitarian personnel and goods, via the imposition of prolonged closures and severe economic and movement restrictions that in effect amount to a blockade, crossing closures, checkpoints and a permit regime throughout the Occupied Palestinian Territory, including East Jerusalem, and the consequent negative impact on the socio-economic situation of the Palestinian people, which remains that of a dire humanitarian crisis, as well as on efforts aimed at rehabilitating and developing the damaged Palestinian economy and on the contiguity of the Territory,

Recalling the mutual recognition between the Government of the State of Israel and the Palestine Liberation Organization, the representative of the Palestinian people,³ and the need for full compliance with the agreements concluded between the two sides,

³ See A/48/486-S/26560, annex.

Recalling also the endorsement by the Security Council, in resolution 1515 (2003), of the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict⁴ and the call in Council resolution 1850 (2008) for the parties to fulfil their obligations under the road map, as affirmed in the Israeli-Palestinian Joint Understanding reached at the international conference held in Annapolis, United States of America, on 27 November 2007,⁵ and to refrain from any steps that could undermine confidence or prejudice the outcome of negotiations,

Noting the Israeli withdrawal in 2005 from the Gaza Strip and parts of the northern West Bank and the dismantlement of the settlements therein as a step towards the implementation of the road map,

Recalling the Arab Peace Initiative adopted by the Council of the League of Arab States at its fourteenth session, held in Beirut on 27 and 28 March 2002,⁶

Expressing support for the agreed principles for bilateral negotiations, as affirmed by the parties at the Annapolis conference, aimed at concluding a peace treaty resolving all outstanding issues, including all core issues, without exception, for the achievement of a just, lasting and peaceful settlement of the Israeli-Palestinian conflict and ultimately of the Arab-Israeli conflict as a whole for the realization of a comprehensive peace in the Middle East,

⁴ S/2003/529, annex.

⁵ Available from <http://unispal.un.org/>.

⁶ A/56/1026-S/2002/932, annex II, resolution 14/221.

Expressing support also for the convening of an international conference in Moscow, as envisioned by the Security Council in resolution 1850 (2008), for the advancement and acceleration of a resumed peace process,

Noting the important contribution to the peace process of the United Nations Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General to the Palestine Liberation Organization and the Palestinian Authority, including within the framework of the activities of the Quartet,

Welcoming the reconvening of the Ad Hoc Liaison Committee for the Coordination of the International Assistance to Palestinians, under the chairmanship of Norway, at United Nations Headquarters on 22 September 2009, affirming the importance of continued follow-up and fulfilment of pledges made at the International Conference in Support of the Palestinian Economy for the Reconstruction of Gaza, held in Sharm el-Sheikh, Egypt, on 2 March 2009, for the provision of emergency assistance and support for reconstruction and economic recovery in the Gaza Strip and alleviation of the socio-economic and humanitarian crisis being faced by the Palestinian people, and acknowledging the contribution of the Palestinian-European Mechanism for the Management of Socio-Economic Aid of the European Commission in this regard,

Recognizing the efforts being undertaken by the Palestinian Authority, with international support, to rebuild, reform and strengthen its damaged institutions, emphasizing the need to preserve and develop the Palestinian institutions and infrastructure, and welcoming in this regard the Palestinian Authority's plan for constructing the institutions of a Palestinian State within a twenty-four-month period as a demonstration of its serious commitment to an independent

State that provides opportunity, justice and security for the Palestinian people and is a responsible neighbour to all States in the region,

Welcoming the efforts and progress made in the security sector by the Palestinian Authority, calling upon the parties to continue cooperation that benefits both Palestinians and Israelis, in particular by promoting security and building confidence, and expressing the hope that such progress will be extended to all major population centres,

Reiterating its concern over the negative developments that have continued to occur in the Occupied Palestinian Territory, including East Jerusalem, including the large number of deaths and injuries, mostly among Palestinian civilians, the acts of violence and brutality committed against Palestinian civilians by Israeli settlers in the West Bank, the widespread destruction of public and private Palestinian property and infrastructure, the internal displacement of civilians and the serious deterioration of the socio-economic and humanitarian conditions of the Palestinian people,

Expressing grave concern, in particular, over the crisis in the Gaza Strip as a result of the continuing prolonged Israeli closures and severe economic and movement restrictions that in effect amount to a blockade and the military operations in the Gaza Strip between December 2008 and January 2009, which caused extensive loss of life and injury, particularly among Palestinian civilians, including children and women, widespread damage and destruction to Palestinian homes, properties, vital infrastructure, public institutions, including hospitals and schools, and United Nations facilities, and internal displacement of civilians,

Stressing the need for the full implementation by all parties of Security Council resolution 1860 (2009) of 8 January 2009 and General Assembly resolution ES-10/18 of 16 January 2009,

Expressing concern over continuing military actions in the Occupied Palestinian Territory, including raids and arrest campaigns, and over the continued imposition of hundreds of checkpoints and obstacles to movement in and around Palestinian population centres by the Israeli occupying forces, and emphasizing in this regard the need for the implementation by both sides of the Sharm el-Sheikh understandings,

Emphasizing the importance of the safety, protection and well-being of all civilians in the whole Middle East region, and condemning all acts of violence and terror against civilians on both sides,

Expressing concern over the unlawful takeover of Palestinian Authority institutions in the Gaza Strip in June 2007, and calling for the restoration of the situation to that which existed prior to June 2007 and for the continuation of the serious efforts being exerted by Egypt, the League of Arab States and other concerned parties for the promotion of dialogue towards reconciliation and the restoration of Palestinian national unity,

Stressing the urgent need for sustained and active international involvement, including by the Quartet, to support both parties in resuming, advancing and accelerating the peace process negotiations for the achievement of a just, lasting and comprehensive peace settlement, on the basis of United Nations resolutions, the road map and the Arab Peace Initiative,

Acknowledging the efforts being undertaken by civil society to promote a peaceful settlement of the question of Palestine,

Recalling the findings by the International Court of Justice, in its advisory opinion, including on the urgent necessity for the United Nations as a whole to redouble its efforts to bring the Israeli-Palestinian conflict, which continues to pose a threat to international peace and security, to a speedy conclusion, thereby establishing a just and lasting peace in the region,⁷

Affirming once again the right of all States in the region to live in peace within secure and internationally recognized borders,

1. *Reaffirms* the necessity of achieving a peaceful settlement of the question of Palestine, the core of the Arab-Israeli conflict, in all its aspects, and of intensifying all efforts towards that end;
2. *Also reaffirms* its full support for the Middle East peace process, based on the relevant United Nations resolutions, the terms of reference of the Madrid Conference, including the principle of land for peace, the Arab Peace Initiative adopted by the Council of the League of Arab States at its fourteenth session⁶ and the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict,⁴ and for the existing agreements between the Israeli and Palestinian sides, stresses the necessity for the establishment of a comprehensive, just and lasting peace in the Middle East, and welcomes in this regard the ongoing efforts of the Quartet and of the League of Arab States;

⁷ See A/ES-10/273 and Corr.1, advisory opinion, para. 161; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004, p. 136.

3. *Encourages* continued serious regional and international efforts to follow up and promote the Arab Peace Initiative, including by the Ministerial Committee formed at the Riyadh summit in March 2007;
4. *Urges* the parties to undertake, with the support of the Quartet and the international community, immediate and concrete steps in follow-up to the Israeli-Palestinian Joint Understanding reached at the international conference held in Annapolis, United States of America, on 27 November 2007,⁵ including through the resumption of active and serious bilateral negotiations;
5. *Encourages*, in this regard, the convening of an international conference in Moscow, as envisioned by the Security Council in resolution 1850 (2008), for the advancement and acceleration of a resumed peace process;
6. *Calls upon* both parties to act on their previous agreements and obligations, in particular adherence to the road map, irrespective of reciprocity, in order to create the conditions necessary for the resumption of negotiations in the near term;
7. *Calls upon* the parties themselves, with the support of the Quartet and other interested parties, to exert all efforts necessary to halt the deterioration of the situation and to reverse all unilateral and unlawful measures taken on the ground since 28 September 2000;
8. *Underscores* the need for the parties to take confidence-building measures aimed at improving the situation on the ground, promoting stability and fostering the peace process, including the need for the further release of prisoners;

9. *Stresses* the need for a speedy end to the reoccupation of Palestinian population centres, inter alia, by easing movement and access, including through the removal of checkpoints and other obstructions to movement, and the need for respect and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem;
10. *Also stresses* the need for an immediate and complete cessation of all acts of violence, including military attacks, destruction and acts of terror;
11. *Reiterates its demand* for the full implementation of Security Council resolution 1860 (2009);
12. *Reiterates* the need for the full implementation by both parties of the Agreement on Movement and Access and of the Agreed Principles for the Rafah Crossing, of 15 November 2005, and the need, specifically, to allow for the sustained opening of all crossings into and out of the Gaza Strip for humanitarian supplies, movement and access, as well as for commercial flows and all necessary construction materials, which are essential for alleviating the dire humanitarian crisis, improving the living conditions of the Palestinian people and promoting the recovery of the Palestinian economy;
13. *Stresses*, in this regard, the urgent necessity for the advancement of reconstruction in the Gaza Strip, including through the completion of numerous suspended projects managed by the United Nations, according to the proposal of the Secretary-General, and the commencement of United Nations-led civilian reconstruction activities;

14. *Calls upon* Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, and to cease all of its measures that are contrary to international law and unilateral actions in the Occupied Palestinian Territory, including East Jerusalem, that are aimed at altering the character, status and demographic composition of the Territory, including via the de facto annexation of land, and thus at prejudging the final outcome of peace negotiations;
15. *Reiterates its demand* for the complete cessation of all Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and calls for the full implementation of the relevant Security Council resolutions;
16. *Calls for* the cessation of all provocations, including by Israeli settlers, in East Jerusalem, including in and around religious sites;
17. *Demands*, accordingly, 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 Justice² and as demanded in General Assembly resolutions ES-10/13 of 21 October 2003 and ES-10/15, and, inter alia, that it immediately cease its construction of the wall in the Occupied Palestinian Territory, including East Jerusalem, and calls upon all States Members of the United Nations to comply with their legal obligations, as mentioned in the advisory opinion;
18. *Reaffirms its commitment*, in accordance with international law, to the two-State solution of Israel and Palestine, living

side by side in peace and security within recognized borders, based on the pre-1967 borders;

19. *Stresses* the need for:

- (a) The withdrawal of Israel from the Palestinian territory occupied since 1967, including East Jerusalem;
- (b) The realization of the inalienable rights of the Palestinian people, primarily the right to self-determination and the right to their independent State;

20. *Also stresses* the need for a just resolution of the problem of Palestine refugees in conformity with its resolution 194 (III) of 11 December 1948;

21. *Calls upon* the parties to resume and accelerate direct peace negotiations towards the conclusion of a final peaceful settlement on the basis of relevant United Nations resolutions, especially of the Security Council, the terms of reference of the Madrid Conference, the road map and the Arab Peace Initiative;

22. *Urges* Member States to expedite the provision of economic, humanitarian and technical assistance to the Palestinian people and the Palestinian Authority during this critical period in order to help to alleviate the humanitarian crisis being faced by the Palestinian people, particularly in the Gaza Strip, to rehabilitate the Palestinian economy and infrastructure and to support the rebuilding, restructuring and reform of Palestinian institutions and Palestinian State-building efforts;

23. *Encourages*, in this regard, the continuing efforts of the Quartet's Special Representative, Tony Blair, to strengthen Palestinian institutions, promote Palestinian economic development and mobilize international donor support;

24. *Requests* the Secretary-General to continue his efforts with the parties concerned, and in consultation with the Security Council, towards the attainment of a peaceful settlement of the question of Palestine and the promotion of peace in the region and to submit to the General Assembly at its sixty-fifth session a report on these efforts and on developments on this matter.

*54th plenary meeting
2 December 2009*

Sixty-fourth session

Agenda item 32

M. Resolution adopted by the General Assembly

*[on the report of the Special Political and Decolonization
Committee (Fourth Committee) (A/64/406)]*

64/92. Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

The General Assembly,

Recalling its relevant resolutions, including its resolution 63/96 of 5 December 2008,

Bearing in mind the relevant resolutions of the Security Council,

Recalling the Regulations annexed to The Hague Convention IV of 1907,¹ the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² and relevant provisions of customary law, including those codified in Additional Protocol I³ to the four Geneva Conventions,⁴

¹ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

² United Nations, *Treaty Series*, vol. 75, No. 973.

³ *Ibid.*, vol. 1125, No. 17512.

⁴ *Ibid.*, vol. 75, Nos. 970–973.

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories⁵ and the relevant reports of the Secretary-General,⁶

Considering that the promotion of respect for the obligations arising from the Charter of the United Nations and other instruments and rules of international law is among the basic purposes and principles of the United Nations,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,⁷ and also recalling General Assembly resolution ES-10/15 of 20 July 2004,

Noting in particular the Court's reply, including that the Fourth Geneva Convention² is applicable in the Occupied Palestinian Territory, including East Jerusalem, and that Israel is in breach of several of the provisions of the Convention,

Recalling the Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, held on 15 July 1999, as well as the Declaration adopted by the reconvened Conference on 5 December 2001 and the need for the parties to follow up the implementation of the Declaration,

Welcoming and encouraging the initiatives by States parties to the Convention, both individually and collectively, according to article 1 common to the four Geneva

⁵ See A/64/339.

⁶ A/64/332, A/64/340, A/64/354, A/64/516 and A/64/517.

⁷ See A/ES-10/273 and Corr.1; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004, p. 136.

Conventions, aimed at ensuring respect for the Convention, as well as the efforts of the depositary State of the Geneva Conventions in this regard,

Stressing that Israel, the occupying Power, should comply strictly with its obligations under international law, including international humanitarian law,

1. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
2. *Demands* that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;
3. *Calls upon* all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions⁴ and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004,⁷ to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
4. *Reiterates* the need for speedy implementation of the relevant recommendations contained in the resolutions adopted by the General Assembly at its tenth emergency special session, including resolution ES-10/15, with regard to ensuring respect by Israel, the occupying Power, for the provisions of the Convention;

5. *Requests* the Secretary-General to report to the General Assembly at its sixty-fifth session on the implementation of the present resolution.

*62nd plenary meeting
10 December 2009*

Sixty-fourth session
Agenda item 32

N. Resolution adopted by the General Assembly
[on the report of the Special Political and Decolonization
Committee Fourth Committee) (A/64/406)]

**64/94. Israeli practices affecting the human rights of the
Palestinian people in the Occupied Palestinian Territory,
including East Jerusalem**

The General Assembly,

Recalling the Universal Declaration of Human Rights,¹

Recalling also the International Covenant on Civil and Political Rights,² the International Covenant on Economic, Social and Cultural Rights² and the Convention on the Rights of the Child,³ and affirming that these human rights instruments must be respected in the Occupied Palestinian Territory, including East Jerusalem,

Reaffirming its relevant resolutions, including resolution 63/98 of 5 December 2008, as well as those adopted at its tenth emergency special session,

Recalling the relevant resolutions of the Commission on Human Rights and the Human Rights Council,

Recalling also the relevant resolutions of the Security Council, and stressing the need for their implementation,

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 1577, No. 27531.

Having considered the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories⁴ and the report of the Secretary-General,⁵

Taking note of the recent reports of the Special Rapporteur of the Human Rights Council on the situation of human rights in the Palestinian territories occupied since 1967,⁶

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice,⁷ and recalling also General Assembly resolutions ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006,

Noting in particular the Court's reply, including 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,

Aware of the responsibility of the international community to promote human rights and ensure respect for international law, and recalling in this regard its resolution 2625 (XXV) of 24 October 1970,

Reaffirming the principle of the inadmissibility of the acquisition of territory by force,

Reaffirming also the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of

⁴ See A/64/339.

⁵ A/64/517.

⁶ A/HRC/10/20; see also A/64/328.

⁷ See A/ES-10/273 and Corr.1; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, I.C.J. Reports 2004, p. 136.

12 August 1949,⁸ to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967,

Reaffirming further the obligation of the States parties to the Fourth Geneva Convention⁸ under articles 146, 147 and 148 with regard to penal sanctions, grave breaches and responsibilities of the High Contracting Parties,

Reaffirming that all States have the right and the duty to take actions in conformity with international law and international humanitarian law to counter deadly acts of violence against their civilian population in order to protect the lives of the *ir citizens*,

Stressing the need for full compliance with the Israeli-Palestinian agreements reached within the context of the Middle East peace process, including the Sharm el-Sheikh understandings, and the implementation of the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict,⁹

Stressing also the need for the full implementation of the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing, both of 15 November 2005, to allow for the freedom of movement of the Palestinian civilian population within and into and out of the Gaza Strip,

Expressing grave concern about the continuing systematic violation of the human rights of the Palestinian people by Israel, the occupying Power, including that arising from the excessive use of force, the use of collective punishment, the closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction of a wall in the

⁸ United Nations, *Treaty Series*, vol. 75, No. 973.

⁹ S/2003/529, annex.

Occupied Palestinian Territory in departure from the Armistice Line of 1949, the destruction of property and infrastructure, and all other actions by it designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem,

Gravely concerned about the military actions that have been carried out since 28 September 2000 and that have led to thousands of deaths among Palestinian civilians, including hundreds of children, and tens of thousands of injuries,

Gravely concerned in particular about the continuing deterioration in the humanitarian and security situation in the Gaza Strip, including that resulting from the prolonged closures and severe economic and movement restrictions that in effect amount to a blockade and the military operations between December 2008 and January 2009, which caused extensive loss of life and injury, particularly among Palestinian civilians, including children and women; widespread destruction and damage to Palestinian homes, properties, vital infrastructure and public institutions, including hospitals, schools and United Nations facilities; and the internal displacement of civilians, as well as from the firing of rockets into Israel,

Stressing the need for the full implementation by all parties of Security Council resolution 1860 (2009) of 8 January 2009 and General Assembly resolution ES-10/18 of 16 January 2009,

Gravely concerned by reports regarding serious human rights violations and grave breaches of international humanitarian law committed during the military operations in the Gaza Strip between December 2008 and January 2009, including the findings in the summary by the Secretary-

General of the report of the Board of Inquiry¹⁰ and in the report of the United Nations Fact-finding Mission on the Gaza Conflict,¹¹ and stressing the necessity for serious follow-up by all parties to the recommendations addressed to them towards ensuring accountability and justice,

Expressing deep concern about the short- and long-term detrimental impact of such widespread destruction and the impeding of the reconstruction process by Israel, the occupying Power, on the human rights situation and on the socio-economic and humanitarian conditions of the Palestinian civilian population,

Expressing deep concern also about the Israeli policy of closures, severe restrictions, and a permit regime that obstruct the freedom of movement of persons and goods, including medical and humanitarian personnel and goods, throughout the Occupied Palestinian Territory, including East Jerusalem, and about the consequent violation of the human rights of the Palestinian people and the negative impact on their socio-economic situation, which remains that of a dire humanitarian crisis, particularly in the Gaza Strip,

Concerned in particular about the continued establishment of Israeli checkpoints in the Occupied Palestinian Territory, including East Jerusalem, and the transformation of several of these checkpoints into structures akin to permanent border crossings inside the Occupied Palestinian Territory, which are severely impairing the territorial contiguity of the Territory and undermining efforts and aid aimed at rehabilitating and developing the Palestinian economy, adversely affecting other

¹⁰ See A/63/855-S/2009/250.

¹¹ A/HRC/12/48.

aspects of the socio-economic conditions of the Palestinian people,

Expressing deep concern that thousands of Palestinians, including hundreds of children and women, continue to be held in Israeli prisons or detention centres under harsh conditions that impair their well-being, and expressing concern about the ill-treatment and harassment of any Palestinian prisoners and all reports of torture,

Convinced of the need for an international presence to monitor the situation, to contribute to ending the violence and protecting the Palestinian civilian population and to help the parties implement the agreements reached, and, in this regard, recalling the positive contribution of the Temporary International Presence in Hebron,

Emphasizing the right of all people in the region to the enjoyment of human rights as enshrined in the international human rights covenants,

1. *Reiterates* that all measures and actions 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, of 12 August 1949,⁸ and contrary to the relevant resolutions of the Security Council, are illegal and have no validity;
2. *Demands* that Israel, the occupying Power, cease all practices and actions that violate the human rights of the Palestinian people, including the killing and injury of civilians, and that it respect human rights law and comply with its legal obligations in this regard;
3. *Also demands* that Israel, the occupying Power, comply fully with the provisions of the Fourth Geneva Convention

of 1949⁸ and cease immediately all measures and actions taken in violation and in breach of the Convention, including all of its settlement activities and the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, which, *inter alia*, gravely and detrimentally impact the human rights of the Palestinian people;

4. *Condemns* all acts of violence, including all acts of terror, provocation, incitement and destruction, especially the excessive use of force by the Israeli occupying forces against Palestinian civilians, particularly in the Gaza Strip in the recent period, which have caused extensive loss of life and vast numbers of injuries, including among children, massive damage and destruction to homes, properties, vital infrastructure and public institutions, including hospitals, schools and United Nations facilities, and agricultural lands, and internal displacement of civilians;
5. *Expresses grave concern* at the firing of rockets against Israeli civilian areas resulting in loss of life and injury;
6. *Reiterates its demand* for the full implementation of Security Council resolution 1860 (2009);
7. *Calls upon* Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem;
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 Justice⁷ and as demanded in

resolutions ES-10/15 of 20 July 2004 and ES-10/13 of 21 October 2003, and that it immediately 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, which has gravely impacted the human rights and the socio-economic living conditions of the Palestinian people;

9. *Reiterates* the need for respect for the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory and for guarantees of the freedom of movement of persons and goods within the Palestinian territory, including movement into and from East Jerusalem, into and from the Gaza Strip, and to and from the outside world;
10. *Calls upon* Israel, the occupying Power, to cease its imposition of prolonged closures and economic and movement restrictions, including those amounting to a blockade on the Gaza Strip, and, in this regard, to fully implement the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing, both of 15 November 2005;
11. *Urges* Member States to continue to provide emergency assistance to the Palestinian people to alleviate the financial crisis and the dire socio-economic and humanitarian situation, particularly in the Gaza Strip;
12. *Emphasizes* the need to preserve and develop the Palestinian institutions and infrastructure for the provision of vital public services to the Palestinian civilian

population and the promotion of human rights, including civil, political, economic, social and cultural rights;

13. *Requests* the Secretary-General to report to the General Assembly at its sixty-fifth session on the implementation of the present resolution.

*62nd plenary meeting
10 December 2009*

Sixty-fourth session

Agenda item 40

O. Resolution adopted by the General Assembly

[on the report of the Second Committee (A/64/416)]

64/185. Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources

The General Assembly,

Recalling its resolution 63/201 of 19 December 2008, and taking note of Economic and Social Council resolution 2009/34 of 31 July 2009,

Recalling also its resolutions 58/292 of 6 May 2004 and 59/251 of 22 December 2004,

Reaffirming the principle of the permanent sovereignty of peoples under foreign occupation over their natural resources,

Guided by the principles of the Charter of the United Nations, affirming the inadmissibility of the acquisition of territory by force, and recalling relevant Security Council resolutions, including resolutions 242 (1967) of 22 November 1967, 465 (1980) of 1 March 1980 and 497 (1981) of 17 December 1981,

Recalling its resolution 2625 (XXV) of 24 October 1970,

Reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,¹ to the Occupied Palestinian Territory,

¹ United Nations, *Treaty Series*, vol. 75, No. 973.

including East Jerusalem, and other Arab territories occupied by Israel since 1967,

Recalling, in this regard, the International Covenant on Civil and Political Rights² and the International Covenant on Economic, Social and Cultural Rights,² and affirming that these human rights instruments must be respected in the Occupied Palestinian Territory, including East Jerusalem, as well as in the occupied Syrian Golan,

Recalling also 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*,³ and recalling further its resolutions ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006,

Expressing its concern at the exploitation by Israel, the occupying Power, of the natural resources of the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967,

Expressing its grave concern at the extensive destruction by Israel, the occupying Power, of agricultural land and orchards in the Occupied Palestinian Territory, including the uprooting of a vast number of fruit-bearing trees and the destruction of farms and greenhouses,

Expressing its concern at the widespread destruction caused by Israel, the occupying Power, to vital infrastructure, including water pipelines and sewage networks, in the Occupied Palestinian Territory, in particular in the Gaza Strip in the recent period, which, inter alia, pollutes the environment

² See resolution 2200 A (XXI), annex.

³ See A/ES-10/273 and Corr.1; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 136.

and negatively affects the water supply and other natural resources of the Palestinian people,

Taking note in this regard of the recent report by the United Nations Environment Programme regarding the grave environmental situation in the Gaza Strip,⁴ and stressing the need for follow-up to the recommendations therein,

Aware of the detrimental impact of the Israeli settlements on Palestinian and other Arab natural resources, especially as a result of the confiscation of land and the forced diversion of water resources, and of the dire socio-economic consequences in this regard,

Aware also of the detrimental impact on Palestinian natural resources being caused by the unlawful construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and of its grave effect as well on the economic and social conditions of the Palestinian people,

Reaffirming the need for the resumption and advancement of negotiations within the Middle East peace process, on the basis of Security Council resolutions 242 (1967), 338 (1973) of 22 October 1973, 425 (1978) of 19 March 1978 and 1397 (2002) of 12 March 2002, the principle of land for peace, the Arab Peace Initiative,⁵ and the Quartet performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict,⁶ as endorsed by the Security Council in its resolution 1515 (2003) of 19 November 2003 and supported by the

⁴ United Nations Environment Programme, Environmental Assessment of the Gaza Strip following the Escalation of Hostilities in December 2008-January 2009 (Nairobi, 2009).

⁵ A/56/1026-S/2002/932, annex II, resolution 14/221.

⁶ See S/2003/529, annex.

Council in its resolution 1850 (2008) of 16 December 2008, for the achievement of a final settlement on all tracks,

Noting the Israeli withdrawal from within the Gaza Strip and parts of the northern West Bank and the importance of the dismantlement of settlements therein in the context of the road map,

Stressing the need for respect and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem,

Recalling the need to end all acts of violence, including acts of terror, provocation, incitement and destruction,

Taking note of the note by the Secretary-General transmitting the report prepared by the Economic and Social Commission for Western Asia on the economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan,⁷

1. *Reaffirms* the inalienable rights of the Palestinian people and the population of the occupied Syrian Golan over their natural resources, including land and water;
2. *Demands* that Israel, the occupying Power, cease the exploitation, damage, cause of loss or depletion of, or endangerment of the natural resources in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan;

⁷ A/64/77-E/2009/13.

3. *Recognizes* the right of the Palestinian people to claim restitution as a result of any exploitation, damage, loss or depletion, or endangerment of their natural resources resulting from illegal measures taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and expresses the hope that this issue will be dealt with in the framework of the final status negotiations between the Palestinian and Israeli sides;
4. *Stresses* that the wall being constructed by Israel in the Occupied Palestinian Territory, including in and around East Jerusalem, is contrary to international law and is seriously depriving the Palestinian people of their natural resources, and calls in this regard for full compliance with the legal obligations mentioned in the 9 July 2004 advisory opinion of the International Court of Justice³ and in resolution ES-10/15;
5. *Calls upon* Israel, the occupying Power, to comply strictly with its obligations under international law, including international humanitarian law, with respect to the alteration of the character and status of the Occupied Palestinian Territory, including East Jerusalem;
6. *Also calls upon* Israel, the occupying Power, to cease all actions harming the environment, including the dumping of all kinds of waste materials in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, which gravely threaten their natural resources, namely water and land resources, and which pose an environmental, sanitation and health threat to the civilian populations;
7. *Further calls upon* Israel to cease its destruction of vital infrastructure, including water pipelines and sewage

networks, which, inter alia, has a negative impact on the natural resources of the Palestinian people;

8. *Requests* the Secretary-General to report to it at its sixty-fifth session on the implementation of the present resolution, and decides to include in the provisional agenda of its sixty-fifth session the item entitled “Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources”.

*66th plenary meeting
21 December 2009*

P. Resolution adopted by the General Assembly

[without reference to a Main Committee (A/64/L.48 and Add.1)]

64/254. Second follow-up to the report of the United Nations Fact-Finding Mission on the Gaza Conflict

The General Assembly,

Recalling its relevant resolutions, including resolution 64/10, adopted on 5 November 2009, in follow-up to the report of the United Nations Fact-Finding Mission on the Gaza Conflict,¹

Recalling also the relevant rules and principles of international law, including international humanitarian and human rights law, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,² which is applicable to the Occupied Palestinian Territory, including East Jerusalem,

Recalling further the Universal Declaration of Human Rights³ and the other human rights covenants, including the International Covenant on Civil and Political Rights,⁴ the International Covenant on Economic, Social and Cultural Rights⁴ and the Convention on the Rights of the Child,⁵

¹ A/HRC/12/48.

² United Nations, *Treaty Series*, vol. 75, No. 973.

³ Resolution 217 A (III).

⁴ See resolution 2200 A (XXI), annex.

⁵ United Nations, *Treaty Series*, vol. 1577, No. 27531.

Reaffirming the obligation of all parties to respect international humanitarian law and international human rights law,

Reiterating the importance of the safety and well-being of all civilians, and reaffirming the obligations under international law regarding the protection of civilians in armed conflict,

Stressing the need to ensure accountability for all violations of international humanitarian law and international human rights law in order to prevent impunity, ensure justice, deter further violations and promote peace,

Convinced that achieving a just, lasting and comprehensive settlement of the question of Palestine, the core of the Arab-Israeli conflict, is imperative for the attainment of a comprehensive, just and lasting peace and stability in the Middle East,

1. *Takes note* of the report of the Secretary-General of 4 February 2010,⁶ submitted pursuant to paragraph 6 of its resolution 64/10;
2. *Reiterates its call upon* the Government of Israel to conduct investigations that are independent, credible and in conformity with international standards into the serious violations of international humanitarian and international human rights law reported by the United Nations Fact-Finding Mission on the Gaza Conflict, towards ensuring accountability and justice;
3. *Reiterates its urging* for the conduct by the Palestinian side of investigations that are independent, credible and in conformity with international standards into the serious

⁶ A/64/651.

violations of international humanitarian and international human rights law reported by the Fact-Finding Mission, towards ensuring accountability and justice;

4. *Reiterates its recommendation* to the Government of Switzerland, in its capacity as depositary of the Geneva Convention relative to the Protection of Civilian Persons in Time of War,² to reconvene as soon as possible a Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure its respect in accordance with article 1, bearing in mind the convening of such a Conference and the statement adopted on 15 July 1999 as well as the reconvening of the Conference and the declaration adopted on 5 December 2001;
5. *Requests* the Secretary-General to report to the General Assembly, within a period of five months, on the implementation of the present resolution, with a view to the consideration of further action, if necessary, by the relevant United Nations organs and bodies, including the Security Council;
6. *Decides* to remain seized of the matter.

*72nd plenary meeting
26 February 2010*

Resolutions adopted by
the United Nations
Security Council

5. RESOLUTIONS ADOPTED BY THE UNITED NATIONS SECURITY COUNCIL

A. Resolution 237 (1967) of 14 June 1967

The Security Council,

Considering the urgent need to spare the civil populations and the prisoners of the war in the area of conflict in the Middle East additional sufferings,

Considering that essential and inalienable human rights should be respected even during the vicissitudes of war,

Considering that all the obligations of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949¹ should be complied with by the parties involved in the conflict,

1. *Calls upon* the Government of 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 the areas since the outbreak of hostilities;
2. *Recommends* to the Governments concerned the scrupulous respect of the humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in time of war contained in the Geneva Conventions of 12 August 1949;²
3. *Requests* the Secretary-General to follow the effective implementation of this resolution and to report to the Security Council.

Adopted unanimously at the 1361st meeting

¹ *United Nations, Treaty Series*, vol. 75 (1950), No. 972.

² *United Nations, Treaty Series*, vol. 75 (1950), No. 970-973.

B. Resolution 242 (1967) of 22 November 1967

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace, in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. *Affirms* that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
 - (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;
 - (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;
2. *Affirms further* the necessity
 - (a) For guaranteeing freedom of navigation through international waterways in the area;
 - (b) For achieving a just settlement of the refugee problem;

- (c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;
- 3. *Requests* the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;
- 4. *Requests* the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

Adopted unanimously at the 1382nd meeting.

C. Resolution 446 (1979) of 22 March 1979

The Security Council,

Having heard the statement of the Permanent Representative of Jordan and other statements made before the Council,

Stressing the urgent need to achieve a comprehensive, just and lasting peace in the Middle East,

Affirming once more that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949¹ is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem,

1. *Determines* that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;
2. *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 1976² 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;
3. *Calls once more upon* Israel, as the occupying Power, to abide scrupulously by the 1949 Fourth Geneva

¹ United Nations, *Treaty Series*, vol. 75, p. 287.

² *Official Records of the Security Council, Thirty-first Year, 1969th meeting*

Convention, to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem, and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories;

4. *Establishes* a Commission consisting of three members of the Security Council, to be appointed by the President of the Council after consultations with the members of the Council, to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem;
5. *Requests* the Commission to submit its report to the Security Council by 1 July 1979;
6. *Requests* the Secretary-General to provide the Commission with the necessary facilities to enable it to carry out its mission.
7. *Decides* to keep the situation in the occupied territories under constant and close scrutiny and to reconvene in July 1979 to review the situation in the light of the findings of the Commission.

*Adopted at the 2134th meeting by 12 votes to none,
with 3 abstentions (Norway, United Kingdom of Great Britain
and Northern Ireland, United States of America).*

D. Resolution 476 (1980) of 30 June 1980

The Security Council,

Having considered the letter of 28 May 1980 from the representative of Pakistan, the current Chairman of the Organization of the Islamic Conference, as contained in document S/13966 of 28 May 1980,

Reaffirming that acquisition of territory by force is inadmissible,

Bearing in mind the specific status of Jerusalem and, in particular, the need for protection and preservation of the unique spiritual and religious dimension of the Holy Places in the city,

Reaffirming its resolutions relevant to the character and status of the Holy City of Jerusalem, in particular resolutions 252 (1968) of 21 May 1968, 267 (1969) of 3 July 1969, 271 (1969) of 15 September 1969, 298 (1971) of 25 September 1971 and 465 (1980) of 1 March 1980,

Recalling the Fourth Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War,

Deploring the persistence of Israel, in changing the physical character, demographic composition, institutional structure and the status of the Holy City of Jerusalem,

Gravely concerned over the legislative steps initiated in the Israeli Knesset with the aim of changing the character and status of the Holy City of Jerusalem,

1. *Reaffirms* the overriding necessity to end the prolonged occupation of Arab territories occupied by Israel since 1967, including Jerusalem;

2. *Strongly deplores* the continued refusal of Israel, the occupying Power, to comply with the relevant resolutions of the Security Council and the General Assembly;
3. *Reconfirms* that all legislative and administrative measures and actions taken by Israel, the occupying Power, which purport to alter the character and status of the Holy City of Jerusalem have no legal validity and constitute a flagrant violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;
4. *Reiterates* that all such measures which have altered the geographic, demographic and historical character and status of the Holy City of Jerusalem are null and void and must be rescinded in compliance with the relevant resolutions of the Security Council;
5. *Urgently calls* on Israel, the occupying Power, to abide by this and previous Security Council resolutions and to desist forthwith from persisting in the policy and measures affecting the character and status of the Holy city of Jerusalem;
6. *Reaffirms* its determination in the event of non-compliance by Israel with this resolution, to examine practical ways and means in accordance with relevant provisions of the Charter of the United Nations to secure the full implementation of this resolution.

*Adopted at the 2242nd Meeting by 14 votes to none,
with 1 abstention (United States of America)*

E. Resolution 478 (1980) of 20 August 1980

The Security Council,

Recalling its resolution 476 (1980),

Reaffirming again that the acquisition of territory by force is inadmissible,

Deeply concerned over the enactment of a "basic law" in the Israeli Knesset proclaiming a change in the character and status of the Holy City of Jerusalem, with its implications for peace and security,

Noting that Israel has not complied with resolution 476 (1980),

Reaffirming its determination to examine practical ways and means, in accordance with the relevant provisions of the Charter of the United Nations, to secure the full implementation of its resolution 476 (1980), in the event of non-compliance by Israel,

1. *Censures* in the strongest terms the enactment by Israel of the "basic law" on Jerusalem and the refusal to comply with relevant Security Council resolutions;
2. *Affirms* that the enactment of the "basic law" by Israel constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since June 1967, including Jerusalem;
3. *Determines* that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent

"basic law" on Jerusalem, are null and void and must be rescinded forthwith;

4. *Affirms also* that this action constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;
5. *Decides* not to recognize the "basic law" and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem and calls upon:
 - (a) All Member States to accept this decision;
 - (b) Those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City;
6. *Requests* the Secretary-General to report to the Security Council on the implementation of the present resolution before 15 November 1980;
7. *Decides* to remain seized of this serious situation.

*Adopted at the 2245th meeting by 14 votes to none,
with 1 abstention (United States of America).*