

2. States shall promote comprehensive approaches, including a mix of solutions involving all concerned States and relevant international organisations in the search for, and implementation of, durable solutions to refugee problems.<sup>55</sup>

3. The issue<sup>56</sup> of root<sup>57</sup> causes is crucial for solutions and international efforts should also be directed to the removal of the causes of refugee movements<sup>58</sup> and the creation of the political, economic, social, humanitarian and environmental conditions conducive to voluntary repatriation.<sup>59</sup>

#### (iv) Burden Sharing

##### Article IX<sup>60</sup>

1. The refugee phenomenon continues to be a matter of global concern and needs the support of international community as a whole for its solution and as such the principle of burden sharing should be viewed in that context.

2. The principle of international solidarity and burden sharing needs to be applied progressively to facilitate the process of durable solutions for [...] refugees, whether within or outside a particular region, keeping in perspective that durable solutions in certain situations may need to be found by allowing

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<sup>55</sup> Manila Seminar (see Report of the Seminar, p. 6). At the Tehran Meeting, of Experts, one participant recommended the consideration of "regional approaches", which in fact are not at all excluded from the concept of "comprehensive approaches".

<sup>56</sup> The word "issue" is substituted for "aspect" for stylistic purposes.

<sup>57</sup> The word "root" is added to the text in order better to reflect the recommendation made at the Tehran Meeting of Experts.

<sup>58</sup> UNHCR's EXCOM Conclusion No. 40(XXXVI), para. (c).

<sup>59</sup> Addressing the root causes of refugee movements by ensuring "sustainable repatriation" was recommended at the Tehran Meeting of Experts.

<sup>60</sup> The Manila Seminar recommended that paras. 1 to IV of the 1987 Addendum be incorporated into the Bangkok Principles under the heading of "Burden Sharing and become a new Art. IX.

access to refugees in countries outside the region, due to political, social and economic considerations.

3. The principle of international solidarity and burden sharing should be seen as applying to all aspects of the refugee situation, including the development and strengthening of the standards of treatment of refugees, support to States in protecting and assisting refugees, the provision of durable solutions and the support of international bodies with responsibilities for the protection and assistance of refugees.

4. International solidarity and cooperation in burden sharing should be manifested whenever necessary, through effective concrete measures in support of States requiring assistance, whether through financial or material aid through resettlement opportunities.

*5<sup>61</sup> In all circumstances the respect for fundamental humanitarian principles is an obligation for all members of the international community. Giving practical effect to the principle of international solidarity and burden sharing considerably facilitates States' fulfillment of their responsibilities in this regard.*

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<sup>61</sup> This paragraph is added to ensure a more complete statement of the principle of burden sharing and arises out of the discussions at the Tehran Meeting of Experts.

## V. Additional Provisions<sup>62</sup>

### Article X<sup>63</sup>

#### *Rights granted apart from these Principles*<sup>64</sup>

Nothing in these Articles shall be deemed to impair any higher rights and benefits granted or which may hereafter be granted by a state to refugees.

### Article XI<sup>65</sup>

#### *Cooperation with international organizations*

*States shall co-operate with the Office of the United Nations High Commissioner for Refugees and, in the region of its mandate, with the United Nations Relief and Works Agency for Palestine Refugees in the Near-East.*<sup>66</sup>

<sup>62</sup>. Title added for clarity.

<sup>63</sup>. This is the former Art. IX. The Manila Seminar had recommended that a new Art. IX be inserted under the rubric "Burden Sharing," and that this text be renumbered Art. X.

<sup>64</sup>. Title added for clarity.

<sup>65</sup>. Under the heading of "Cooperation with international organizations", the Manila Seminar "expressed its appreciation to UNHCR as well as to UNRWA for their dedication to their duties on behalf of refugees." (Report of the Seminar, p.5)

<sup>66</sup>. On cooperation with UNHCR, see Art. VIII (1) of the OAU Convention, Art. 35 of the 1951 Convention, and Art. II of the 1967 Protocol relating to the Status of Refugees.

## IX. 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

### **(i) Introduction**

The subject "Deportation of Palestinians in Violation of International Law, perpendicularly the Fourth Geneva Convention of 1949" was taken up by the AALCC consequent upon a reference made by the delegation of the Islamic Republic of Iran at the 27th Session of the Committee (Singapore). During that Session it was pointed out by the delegate of the Islamic Republic of Iran that: "the Zionist entity (Israel) had deported a number of Palestinians from Palestine as a brutal response to the upheaval by the people in the occupied territory. The deportation of people from the occupied territory, both in past and recent times constituted a severe violation of the principles of International Law and also violated the provisions of international instruments and Conventions such as the Hague Conventions of 1899 and 1907, the UN Charter, 1945 and the Geneva Convention relative to Protection of Civilian Persons in time of war, 1949 all of which prohibited deportation as a form of punishment of deterrent factor, especially in an occupied territory". After preliminary exchange of views the Islamic Republic of Iran had submitted to the AALCC Secretariat a memorandum and called upon to study the legal consequences of the deportation of Palestinians from occupied territories.

The topic was considered at the 28th and 29th Sessions of the Committee held at Nairobi and Beijing respectively. The study presented at the 28th Session concluded that the deportation of Palestinians did indeed constitute a flagrant violation of customary international law of armed conflicts as well as contemporary international humanitarian law, and hence the occupying powers were acting in flagrant violation of international law. It also affirmed the inalienable right of Palestinian people for self determination and the right to return to their land and directed the Secretariat to undertake a further study including the question of payment of compensation to Palestinians. Pursuant to that decision the study presented at the 29th Session tried to

establish that payment of compensation for deportation is both a matter of customary international law as well as an explicit stipulation of contemporary international law as codified in the Hague Convention of 1907, the Fourth Geneva Convention of 1949 and the 1977 Protocols thereto. The study also emphasised that not only had the Palestinian people been denied exercise of their fundamental human rights and freedoms but grave injustice had been perpetrated against them. After due consideration of the topic in Beijing (1990) the Secretariat was directed to follow up the subject with consideration of legal aspects, of the resettlement in violation of international law by the State of Israel, of a large number of Jewish migrants in Palestine.

The study presented at the 30th Session (Cairo 1991) focussed on the Israeli Settlements in the occupied territories. Since 1967 through expropriation of Palestinian lands and the issue of massive immigration of Jews from the former Soviet Union and their resettlement in the occupied territories of Palestine. The right of the Palestinian people to return to their homeland had also been discussed in the Secretariat study. During the Session concern was expressed at the continuing denial and deprivation of the inalienable human rights of the Palestinian People including the right to self-determination and the right to return and establishment of their independent State on their national soil. The committee requested the Secretary General to continue to monitor the events and legal developments in the occupied territories of Palestine and decided to include the item on the agenda of its 31st Session.

Thereafter, following the conclusion of a Co-operation Agreement with the League of Arab States, the Secretariat convened in conjunction with the office of the League of Arab States, a two-day workshop in New Delhi on the question of deportation of Palestinians and the Israeli policy and practice of immigration and settlement of Jews. The brief for the 32nd session (Kampala 1993), reflecting the developments included a report of the aforementioned workshop for which the Secretariat had prepared a working paper on the legal aspects of the Palestine Question. The brief of documents prepared for consideration at the AALCC's 32nd session established that the Hague Conventions of 1899 and 1907 are applicable to the territories occupied by the Israelis since 1967 as their occupation stems from acts of aggression and invasion. It also demonstrated that the 1949 Geneva Conventions are also

applicable to these occupied territories, particularly since Israel is a High Contracting Party to those conventions and that therefore the Palestinians in the occupied territories are protected persons by virtue of the applicability of the principles of International Humanitarian Law. Further, it demonstrated that contemporary International Law prohibits the deportation of the civilian population in occupied territories to the territory of the occupying power or any other State. It also pointed out that the International Law Commission had in its Draft Code of Crimes Against the Peace and Security of Mankind expressly stipulated that the deportation of people, and the resultant demographic changes, is a crime against humanity.

The study prepared for the 34th Session (Doha) reflected the events and developments following the Middle East Peace Process including the principles on Interim self Government Arrangement of September 1993 and, the 1994 Agreement on the Gaza Strip and Jericho area. At that Session, the Conunittee, inter alia. decided that this item be considered in conjunction with the question of the Status and Treatment of Refugees. After due deliberations the AALCC at its 35th (Manila 1996) Session took cognizance of the hardships suffered by the Palestinian refugees and directed the Secretariat to continue to monitor the developments in the occupied territories from the view point of relevant legal aspects. It also decided to place the item on the agenda of the 36th Session.

'The Secretariat monitored with great concern the important events which occurred in Palestine and the occupied territory within the context of this Agenda item-since Manila Session. It registered through these events and through the specialized comments and analysis contained in legal journals of international law the major developments concerning the deportaion of Palestinians and massive immigration of Jews topic.

The study prepared by the Secretariat had exposed to the AALCC Member States the current serious developments in the occupied territories which could lead to deterioration of the situation in the region and to resumed cycle of tension and violence, endangering peace and security not only in the Middle East but throughout the world.

### Thirty Seventh Session : Discussion

The Deputy Secretary General Dr. W. Z. Kamil while introducing 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" stated that the item was included on the agenda of the Committee in 1988. It was referred to the Committee in the 27<sup>th</sup> Session held in Singapore by the Government of the Islamic Republic of Iran. From that time, the Secretariat has in its successive sessions monitored the subject, very carefully and added that the subject has gone through three phases:

He noted that during the first phase, it was concluded that the deportation of Palestinians did indeed constitute a flagrant violation of customary international law of armed conflicts as well as contemporary international law, and hence occupying powers were acting in flagrant violation of international law. The follow-up emphasized that not only had the Palestinian people been denied the exercise of their fundamental human rights and freedoms but grave injustice aimed at the destruction of these rights had been perpetrated against them by Israel. The Secretariat also underlined the massive immigration of Jews from the former Soviet Union and the Israeli practice of settlement of Jews in occupied Palestinian territories.

During the second phase the international community saw a ray of hope, by virtue of the signing of agreements between the parties. The Study presented at the 34<sup>th</sup> Session held in Doha (1995) reflected the events and developments following the Middle East Peace Process including the Principles on Interim Self-Government Arrangements of September 1993 and the May 4, 1994 Agreement on the Gaza Strip and Jericho Area. At that Session, the Committee, *inter alia* decided that this item be considered in conjunction with the question of the Status and Treatment of Refugees.

The Deputy Secretary General stated that during the 35<sup>th</sup> Session Manila (1996) it was *inter alia* felt that the steps towards peace between the conflicting parties would hopefully settle all pending issues including the deportation of Palestinians in violation of International law, and would also

restore full respect and implementation of international instruments including the Fourth Geneva Convention and rules of international law.

After due deliberations at that Session AALCC in the resolution related to this item underlined the hardships suffered by the Palestinian people and directed the Secretariat to continue to monitor the developments in the occupied territories, from the viewpoint of relevant legal aspects.

He observed that a glance of hope which marked the second phase almost vanished and third phase which set in, too soon, brought with it disappointment. The 36<sup>th</sup> Session of the AALCC held in Tehran, last year was particularly important, because it was held in the wake of difficulties being experienced in the implementation of the peace process. It was noticed that despite all documents, agreements and resolutions, the unlawful measures taken by the Israeli armed forces against innocent Palestinians was a flagrant contradiction to the principles of international law and needed to be strongly denounced. Further the Secretariat brief had brought to the knowledge of the AALCC Member States the serious developments in the occupied territories which could lead to a deterioration of the situation and to a resumed cycle of tension and violence, endangering peace and security not only in the Middle East, but throughout the world.

The Secretariat had monitored the situation over the past one year and that the situation was far from satisfactory. The Israeli Government continues to evade the implementation of the agreements and commitments that have been agreed upon thus endangering the whole Peace Process, through building settlements, confiscating of land and the Judiasation of Jerusalem by imposing the policy of dictations and "fait accompli" on the ground, military escalation and threatening to reoccupy Palestinian Authority areas.

The decision which was taken by the Israeli Government to build a Jewish residential neighbourhood on Jabal Abu Ghneim. South of Arab Jerusalem, is a step which is considered a flagrant violation of the principles on which the peace process was based and of all international laws and resolutions in particular Security Council resolutions 242 and 338. He was of the firm view that these Israeli measures, which are inconsistent with the principles on