

## 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

### (i) Introduction

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 Occupied Territories, was taken up, at the initiative of the Government of the Islamic Republic of Iran at the Committee's 27<sup>th</sup> Session which was held in Singapore. During this Session the delegation of the Islamic Republic of Iran pointed out that: "The Zionist entity (Israel) had deported a number of Palestinians from Palestine, the deportation of people from occupied territory, both in past and recent times constituted a violation of the principles of international law as well as provisions of international instruments and conventions such as the Hague Conventions of 1899 and 1907, the UN Charter of 1945, and the Geneva Convention Relating to Protection of Civilian Persons in time of War, 1949 all of which prohibited deportation as a form of punishment, in an occupied territory". The Government of Islamic Republic of Iran, after a preliminary exchange of views had submitted to the AALCC Secretariat a memorandum, and the Secretariat was called upon to study the legal consequences of the deportation of Palestinians from occupied territories. The item has since been discussed at successive session of the Committee to be on its Work Programme

At AALCC's 34<sup>th</sup> Session held in Doha, the Committee, *inter alia* decided that this item be considered in conjunction with the question of the Status and Treatment of Refugees. At its 35<sup>th</sup> Session (Manila, 1996) after due deliberations the Secretariat was directed to continue to monitor the developments in the occupied territories from the view point of relevant legal aspects.

The study prepared for the 36<sup>th</sup> Session (Tehran 1997) apprised the AALCC Member States of the 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 in the Middle East.

The Secretariat brief for the 37<sup>th</sup> Session (New Delhi 1998) monitored the situation which unfortunately was not satisfactory. The Israeli Government had continued to evade the implementation of the agreements, among them the Wye River memorandum (1998) which *inter alia* comprised of steps to facilitate the implementation of the Israeli-Palestinian Agreement of 1995 and other related agreements, including the Note of the Record of 1997 and commitments that had been agreed upon, thus endangering the whole peace process. At that Session the scope of the topic was expanded to "Deportation of Palestinians and *other Israeli Practices*". The Secretariat was directed to enlarge the scope of monitoring the developments in the occupied territories from the view point of relevant legal aspects; and placed 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 38<sup>th</sup> Session (Accra 1999).

During the 38<sup>th</sup> (Accra, 1999) Session the **Deputy Secretary General Ambassador Dr. Wafik Zaher Kamil** stated that in view of its importance the item had been on the agenda for the last twelve years. The Secretariat continued to monitor the legal aspects at successive sessions, and the subject had gone through three phases: during the first phase the Secretariat had highlighted the Massive Immigration of Jews from the former Soviet Union and the Israeli Practices of Settlement of Jews in the occupied Palestinian territory. He noted that in the second phase agreements were signed between the parties, the process began at Madrid with the signing of the Declaration of Principles on Interim Self Government Arrangements of 1993. At consecutive sessions of the AALCC it was felt that these steps towards peace, would settle all pending issues including the deportation of Palestinians in violation of International Law and would restore full respect and implementation of international instruments including the fourth Geneva Convention and rules of international law. He further noted that the Secretariat had continued to monitor developments and at the 37<sup>th</sup> Session and after due deliberations the scope of the topic was

broadened to include "Other Israeli Practices", this was reflected in a resolution adopted during the 38<sup>th</sup> session.

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

### **Thirty-ninth Session: Discussion**

Introducing the item the **Deputy Secretary General Ambassador Dr. Wafiq Zaher Kamil** stated that "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" had been on the agenda of the Committee since the 27<sup>th</sup> session following a reference made by the Government of the Islamic Republic of Iran. The Secretariat had monitored the legal aspects at successive sessions. He noted that after due deliberations, at the 37<sup>th</sup> Session the scope of the topic was broadened to include "other Israeli Practices" along with "Deportation of Palestinians". Pursuant to the resolution adopted at the 38<sup>th</sup> Session held in Accra, the Secretariat monitored the legal developments on the subject.

He observed that the year 1999 had witnessed important, regional and international meetings aimed at saving the peace process and enhancing the applicability of the rule of law and implementation of the agreements signed between the parties.

One of the most important events, he stated, was a Conference convened on 15 July, 1999 in Geneva, which considered a specific case of violation of Fourth Geneva Convention relative to the Protection of Civilian Persons in time of War, (August 12, 1949). The practical impact of the Conference, he said, lay in the fact that it elevated the position of the international community with regard to Israeli breaches and violations of the Convention, especially settlement activities, to a new level; a level where the parties to a treaty have legally affirmed its applicability and the need for full respect of its provisions. In his view such an affirmation would help the Palestinians, as it created parity between the parties.

He noted that another important event, in 1999, was the signing of "Sharm-el-Sheikh" Memorandum on Implementation timeline of Outstanding Commitments of Agreements signed and the resumption of Permanent Status Negotiations". It was concluded after intensive negotiations between the Palestinian and Israeli sides in Cairo, with full scale Egyptian, Jordanian and US participation. The UN Secretary General had welcomed this new step which he hoped would pave the way for further agreements leading to a comprehensive peace in the Middle East. The memorandum was heavily built on the Wye River Memorandum and largely remained within its parameters.

He felt that, while the negotiations concerning the final settlement of the Middle East Peace Process had gained momentum, yet there were many uncertain factors, one of the most important being the Israeli Governments continued illegal and destructive settlement activities.

He reiterated the necessity for commitment to the principle of "land for peace" and the implementation of all Security Council Resolutions mainly 242 (1967), 338 (1973) and 425 (1975), which formed the basis of the Middle East Peace process, and the need for immediate and unflinching implementation of the agreements reached between the parties.

The **Delegate of Palestine** while deliberating upon the Palestinian problem, stated that though during the 38<sup>th</sup> session of the AALCC, there had been real hope of peace the situation had actually worsened now. He noted that the Oslo accords and the Sharm-el-Sheikh Memorandum had done nothing new and were just trying to impose settlement at the expense of the Arab and Palestinian people. He pointed out that there were now 17,000 Israeli Settlements in Golan,

occupying Syrian - Arab Villages. He said that it is very unreasonable of Israel to ask for a huge sum to remove these settlements from Syrian land. He emphasized that it is very encouraging that the AALCC, backed by the Arab Republic of Egypt has taken up for study the problem of illegal occupation. He pointed out that there were other problems as well notably the serious water problem in the Golan heights, the threat from Jordan and the problem of infrastructure. He said that the Palestinian people were now being subjected to state terrorism perpetrated by Israel, which is in total violation of all international conventions and treaties. He urged all the Arab Nations to hold a summit to look into these issues, with support from the AALCC on the legal aspects.

The **Delegate of Syrian Arab Republic** in his intervention stated that Israel had been acting in complete violation of international law since 1948 by occupying other Arab territories. The mass immigration of Jews led to the Arabs and Palestinians being tortured and uprooted from their land. He drew attention to the UN General Assembly resolution adopted in 1994 which disapproved of the 1967 and 1981 Israeli occupation of Golan. He stated that Israeli policies of settlement have expanded and there is still considerable illegal occupation. He also drew attention to the pathetic conditions under which the Syrians in Golan are living, having to pay taxes for soil, and even water to the Israelis. He called upon the AALCC to protect and safeguard the interests of the Syrian Arabs in Golan.

The **Deputy Secretary General** Dr. Kamil requested the Syrian Minister of Justice to give his proposal in writing to the Secretariat.

The **Delegate of Iraq** fully supported the views expressed by the delegates from Palestine and Syria. He believed that the most important reason for deportation was settlement of Jews on Arab land. He urged the AALCC to adopt a resolution condemning Israeli practices and an early settlement of the refugee problem and to evacuate Syrian and Lebanese territory.

The **Delegate of the Arab Republic of Egypt** welcomed the brief prepared by the Secretariat, and at the same time sought a clarification in regard to the title of the item itself. In his view the words "massive immigration" in English amounted to "massive expulsion" in Arabic. He felt that the title of the item be changed from "Deportation of Palestinians" to "Deportation from Arab Occupied" which would include all their effected states i.e. Palestine, Lebanon and Syria. In his opinion though the territories, especially Jerusalem have been under Israeli control, international law, especially the UN Charter provisions clearly pointed to the fact that these territories had always belonged to Palestine. In this regard, he cited a number of General Assembly and Security Council resolutions that called for upholding the sovereign status of Palestine as a State. Condemning the Israeli expresses in Lebanon and the Syrian Arab Republic, he also called for an early solution to the water crisis suffered by the Palestinian people.

The **Delegate of Pakistan** supported the views reflected by the delegate of Egypt, however he condemned the breaches of Israel, and stated that Pakistan has always taken a consistent and principled position on the question of Palestine. He hoped that a final settlement would conform to international obligations on these issues and would lead to Palestinian people being able to exercise their right of self-determination through the establishment of an independent homeland. He fully supported permanent sovereignty of the Palestinian people in the occupied Palestinian territory, including Jerusalem and of the Arab People in occupied Syrian Golan over their natural resources.

The **Observer from the League of Arab States** confirmed the views expressed by the delegates from Palestine and Syria. He drew attention to the General Assembly Resolution adopted on 9 January 1999 during the 54<sup>th</sup> Session of the General Assembly, which *inter alia* stated that the goal of the current peace process is the implementation of Security Council resolutions 242, 338,425 and the principle of "land for peace" -- that is total Israeli withdrawal from all the Palestinian and other territories occupied in 1967 including Al-Quds Al-Sharif, the Holy City of Jerusalem. Jerusalem, the Holy City, is at the heart of the question of Palestine and Arab Jerusalem must be the capital of Palestine. He also condemned the attacks by Israel against the Syrians in the Golan.

The **Vice President** opined that the Delegate from Egypt had rightly pointed out the disparity arising out of the translation of the words "massive immigration" in English which amounted to "massive expulsion" in Arabic.

The **Deputy Secretary General** after having heard all the important interventions from the Ministers of Justice from Palestine, Iraq, Syria and the delegates of Egypt, Pakistan and the Observer from the League of Arab States, requested them to give their proposals in writing to the Secretariat. He pointed out that any amendment in the title of any topic could be done under the Rules of Procedure of the Committee. However these suggestions would be carefully looked into and the amended title of the item would be placed for consideration in accordance with the rules of the Committee.

The **Delegate of Iraq** accepted that it was difficult to change the title of the item at this stage and the same could be considered when adopting the resolution on the topic.

(ii) **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"**

**(Adopted on 23.2.2000)**

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

**Having** considered 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 Document No. AALCCXXXIX/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 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.

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

Pursuant to the resolution adopted at the Accra Session the AALCC Secretariat monitored the legal developments on the subject. The year 1999 has witnessed important, Regional and International Meeting aiming mainly on how to save the peace process, and enhance the applicability of the rule of law, and to implement signed agreements between parties concerned. The most important events:

United Nations International Meeting on the Convening of the Conference on Measures to Enforce the Fourth Geneva Convention in the Occupied Palestinian Territory, including Jerusalem, Cairo (Egypt) 14-15 June 1999

The United Nations International Meeting on the Convening of the Conference on Measures to Enforce the Fourth Geneva Convention in the Occupied Palestinian Territory, including Jerusalem, was held at Cairo, Egypt on 14 and 15 June 1999<sup>[1]</sup> and was attended by 100 Governments, Palestine, 5 Intergovernmental Organizations, 11 United Nations bodies and agencies, including ICRC as well as representatives of non-governmental organizations.

---

<sup>[1]</sup> Under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

The participants emphasized the importance to uphold and enforce the purposes and principles of the Charter of the United Nations, international humanitarian law and human rights law. They stressed the universal character of the Geneva Conventions and the fact that their provisions have been accepted as norms of international customary law. They also recalled that 1999 marked the 50<sup>th</sup> anniversary of the signing of the four Geneva Conventions and the centenary of the First Hague Peace Conference. It was therefore, opportune for the international community to renew its determination to promote international humanitarian law further and to ensure respect for the four Geneva Conventions.

The participants in the meeting were unanimous in the view that the Palestinian people had been subjected to flagrant violations of their basic human rights as well as their rights as protected persons under Israeli occupation. They expressed concern with regard to grave breaches and violations by Israel, which is the occupying power according to Geneva Convention, including arbitrary detention, ill treatment of and violence against civilian population, torture, summary execution, confiscation and destruction of property, forcible transfers and deportations, and the various forms of collective punishment, as well as the destruction of economic and social structures of the occupied Territory.

The continuing of settlement activities, which include illegal land confiscations, transfer of Israeli civilians to the occupied Palestinian Territory, including Jerusalem, provoked immense concern as it is in clear violation of Article 49 of the Fourth Geneva Convention which stipulates that: "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies". This policy, aimed at expansion and annexation apart from being illegal, was deemed to be detrimental to the peace process.

The participants reaffirmed the existing international consensus on the *de jure* applicability of the Fourth Geneva convention to the occupied Palestinian Territory, including Jerusalem, in accordance with relevant General Assembly and Security Council resolutions. They also called upon Israel, the occupying power, to fully comply with the provisions of the Convention. Furthermore, they recalled that the Fourth Geneva Convention, as an instrument of international humanitarian law, has to be applicable regardless of national legislation of Israel, which is a High Contracting Party to the Convention. The participants appealed to all the High Contracting parties to the Fourth Geneva Convention to fulfill their obligations in accordance with common article 1 which requires the High Contracting Parties to respect and ensure respect for the Convention in all circumstances.

The participants supported the convening of the Conference on measures to enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, as recommended in General Assembly resolutions ES-10/3, 4 and 5. They also supported that the High Contracting Parties convene the said Conference on 15 July 1999 at the United Nations Office at Geneva in accordance with General Assembly resolution ES-10/6, overwhelmingly adopted on 9 February 1999. They also called upon all High Contracting Parties to actively participate in the conference. They welcomed the consultations taking place on the preparations for the Conference, including those conducted by Switzerland in its capacity as the depositary of the Geneva Conventions, and emphasized the need for the widest possible participation in those consultations.

The participants called upon the High Contracting Parties to strive for concrete results by the Conference to be incorporated in a declaration or resolution or both.

The Conference should emphasize the responsibility of the High Contracting Parties to ensure respect for the Convention. It should reaffirm, among others, the *de jure* applicability of the fourth Geneva Convention in the occupied Palestinian Territory, including Jerusalem, and in view of the various Israeli violations of the provisions of the convention, in particular its illegal settlement policy, call upon the High Contracting Parties to live up to their obligations under the Convention. The participants called upon the High Contracting Parties participating in the Conference to establish a follow-up mechanism.

On 20 June 1999, the G-8 Summit, which was held in Germany (in its capacity as G-8 Presidency), issued a statement on regional issues, including a statement on the Middle East Peace Process (The G-8 nations include Canada, France, Germany, Italy, Japan, Russian Federation, the United States and the United Kingdom). The statement reaffirmed the positions held by the leaders of the G-8 nations on various aspects of the peace process, including the Palestinian-Israeli track with regard to the process in general, the leaders reaffirmed their support for a negotiated settlement in the Middle East, which should be based on the full implementation of existing commitments and the principle of "Land for Peace", Security Council Resolutions 242 (1967) and 338 (1973), the Madrid and Oslo Agreements, Security Council resolution 425 (1978) and secure and recognized boundaries. They called upon all parties to pursue the Middle East peace process with resolve, renewed efforts and good faith, leading to a comprehensive, just and lasting peace.

The Conference of the High Contracting Parties to the Fourth Geneva Convention on Measures to Enforce the Convention in the Occupied Palestinian Territory including Jerusalem, Geneva, 15 July 1999

For the first time in the history of the Geneva Conventions, a Conference was convened to consider a specific case of violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of August 12, 1949. The Conference of the High Contracting parties to the 4<sup>th</sup> Geneva Convention on Measures to Enforce the Convention on Measures to Enforce the Convention in the Occupied Palestinian Territory, including Jerusalem, was held on 15 July 1999 at United Nations Headquarters at Geneva, Switzerland.<sup>2[2]</sup>

The conference was convened on time as recommended by the resolutions of the 10<sup>th</sup> Emergency Special Session of the General Assembly. An important statement, reflecting "the common understanding reached by the participating High Contracting Parties to the Conference" was adopted by the Conference.

A package was agreed upon with regard to the conference among the main parties following difficult negotiations, especially between the Arab Group and the European Union. According to that package, the conference would convene on time, in accordance with resolution ES-10/6, but would be short, without a debate and with a limited outcome. Following this, the conference would adjourn "on the understanding that it will convene again in the light of consultations on the development of the humanitarian situation in the field".

As part of the package, the statement adopted by the High Contracting Parties reaffirmed basic principles with respect to the Convention and the protected Palestinian population, including a reaffirmation of "the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem", and reiteration of "the need for full respect for the provisions of the said Convention in that territory".

The practical impact of the conference lay in the fact that it elevated the position of the international community with regard to Israeli breaches and violations of the Convention, especially settlement activities, to a new level. That level is one in which the parties to a treaty have legally affirmed its applicability and the need for full respect of its provisions. Such an affirmation will help the Palestinians as it creates parity between the parties. While the Israelis have the power on the ground, the Palestinians maintain the power of international law and legitimacy.

---

<sup>2[2]</sup> The process of Convening this conference of the High Contracting Parties to the 4<sup>th</sup> Geneva Convention began with the adoption by the 10<sup>th</sup> ESS of resolution ES-10/3 on 15 July 1997. Three more resolutions were adopted by the 10<sup>th</sup> ESS, ES-10/4 (13 November 1997), ES-10/5 (17 March 1998), and ES-10/6 (9 February 1999), each reiterating the recommendation for convening the conference, the UN Security Council, in resolution 681 of 20 December 1990, had also called "upon the High Contracting Parties to the Fourth Geneva Convention of 1949 to ensure respect by Israel, the occupying Power, for its obligations under the convention in accordance with article 1 thereof".

The need for a conference on measures to enforce the Convention specifically in the Occupied Palestinian Territory, including Jerusalem, rather than simply in general cases of occupied territories, is based on reasons emerging from the very uniqueness of the Palestinian territory has been characterized by a multiplicity and intensity of grave breaches, breaches and serious violations of the Fourth Geneva Convention and other acts contrary to its provisions, all of which have caused the Palestinian civilian population immense suffering. Israel's policies and practices have constituted systematic violations of international humanitarian law.

Secondly, those breaches and other acts have continued for an extensive period of 32 years, in total disregard for the clear position of the international community and in blatant violation of many Security Council and other UN resolutions. Thirdly, the Israeli occupation is unique because it has effectively transformed the situation in the occupied Palestinian Territory, including Jerusalem, from one of "normal" occupation to one of active expansion and annexation, of the Palestinian land and has denied the legitimate national right of an entire people, it is for all these reasons that, after all these years, the High Contracting Parties determined to become serious about addressing such violations by convening a conference on measures to enforce the convention and ensure its respect by Israel, the occupying Power.

Following two years of resolutions, negotiations, meetings and consultations, the Conference of the High Contracting Parties was finally convened on 15 July 1999 at Geneva. While it was not possible to achieve optimum results in the Conference, it was significant because not only did the High Contracting Parties convene to consider a specific situation for the first time in the history of the Convention, they also determined to reconvene the Conference by adjourning "on the understanding that it will convene again in the light of consultations on the development of the humanitarian situation in the field". This clarification was considered an important inclusion in the statement by the Palestinian side as it provides a mechanism for the High Contracting Parties to continue this process in the future. Although it is hoped that Israel, the occupying power and a High Contracting Party to the Convention, will need the message sent by the High Contracting Parties, the Palestinians intend to pursue seriously follow up to ensure respect of the Convention in the occupied Palestinian Territory, including Jerusalem.

Sharm El-Sheikh Memorandum, Cairo (Egypt) 4 September 1999

Another important event in the last year was the signing on 4 September 1999, "The Sharm el-Sheikh Memorandum Implementation Timeline of Outstanding Commitments of Agreements signed and the Resumption of Permanent Status Negotiations". It was concluded after intensive negotiations between the Palestinian and Israeli sides in Cairo, with full scale Egyptian, Jordanian and US participation. The U.N. Secretary General welcomed the signing of the agreement, and hoped that this new important step would pave the way for further agreements leading to a comprehensive peace in the Middle East. The memorandum was built heavily on the Wye River Memorandum and largely remained within its parameters.

Some of the significant features of the memorandum are as follows:

- (i) The understanding regarding the concept of redeployment remained as it was - separate from the permanent Status negotiations and including exactly the same percentage of the territory. That percentage involves a redeployment from 11.2% of the West Bank, in addition to another 7.2% that will be transferred from an Area B designation to Area A under full Palestinian Control. The third phase of further redeployment was also reaffirmed in the memorandum. The change made in this regard involved the timeline for redeployment which was stretched to extend over 4 1/2 months, until 20 January 2000, when that second phase of redeployment will be concluded. The other change was that the redeployment is now planned to take place in three stages instead of two stages.
- (ii) Another important element in the Memorandum is that it extends the commitment of the parties to the existing agreement until September 2000, the date when "the two sides will conclude a



comprehensive agreement on all permanent status issues". Another new concept included in the memorandum was the introduction of a "Framework Agreement", which should be reached by February 2000.

- (iii) The memorandum does also include a part on the release of prisoners. It also revived the Committee on Displaced Persons (Palestinians who fled Palestine in 1967 as a result of hostilities), which shall resume its activities on 1 October 1999.
- (iv) With regard to the issues concerning prior commitments made between the two sides, such as the Southern and Northern Safe Passage between Gaza and the West Bank the Gaza Seaport and the Heron (Al-Khalil) issues, the Sharm El-Sheik memorandum is more specific than the Wye River Memorandum, it presents clear steps to be taken on specific dates.
- (v) It also addresses the security issues and unilateral actions i.e. the illegal settlement activities, which are viewed as destructive to peace.

#### Security Council Resolution on the Protection of Civilians in Armed Conflict

On 17<sup>th</sup> September 1999, the UN Security Council adopted resolution 1265 (1999) on the Protection of Civilian in Armed Conflict. The resolution was unanimously adopted in follow up of the Council's earlier Presidential Statements on 12 February 1999 and 8 July 1999 and after the Council's consideration of the report submitted by the UN Secretary General on 8 September 1999, which contained specific recommendations to the Council.

Among the many important paragraphs within the comprehensive text of Security Council resolution 1265 (1999), operative paragraph 4 "urges all parties concerned to comply strictly with their obligations under international humanitarian, human rights and refugees law, in particular those contained in the Hague Conventions of 1899 and 1907 and in the Geneva Conventions of 1949 and their Additional Protocols of 1977, as well as with the decisions of the Security Council". Further in this regard, inoperative paragraph 6 the Council" emphasizes the responsibility of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and serious violations of international humanitarian law and acknowledges the historic significance of the adoption of the Rome Status of the International Criminal Court.

#### Oslo Memorial Summit -- 3 November 1999

A two day memorial summit took place in Oslo on 3-4 November 1999, had begun four years ago. During the Summit the U.N. Secretary General, Kofi Annan stressed the need "to work tirelessly and courageously" to complete the Middle East Peace Process. The Secretary General said that the UN would continue to support the Middle East Peace Process and would do 'everything possible to help achieve peace with justice and security for all". The two leaders from Palestine and Israel agreed to draft a framework for final peace by February, 2000 which in his view would be the most decisive steps, towards a just and lasting peace.

#### Final Status Talks -- 8 November 1999

On November 8, 1999, final status talks began in Ramallah (West Bank) between the Palestinian and Israeli negotiators. It was felt that a framework agreement on a final settlement would be reached by February 2000. According to the Palestinians there were three prerequisite for successful negotiations (1) the implementation of United Nations resolution 242 and 338, which call on Israel to withdraw from territories occupied in the 1967 war in exchange for peace; (ii) the realization of the "legitimate rights of the Palestinian people", including the right of self-determination and (iii) the right of Palestinian refugees to return to the homes from which they were expelled in the wars of 1948 and 1967.

#### 54<sup>th</sup> Session of the General Assembly

In his address to the 54<sup>th</sup> Session of the General Assembly the President of Palestine stated that the "Sharm El-Sheikh Memorandum" of 4<sup>th</sup> September 1999 aimed at implementation of all the obligations of the interim period under the Oslo Agreement, the Wye River Memorandum and the Hebron Protocol, and for the resumption of the permanent status negotiations. These had been done with the hope of bringing on end to the practice of delaying and freezing implementation of the accords. He hoped that the Israeli Government would decisively cease all measures which violated international resolutions, law and covenants and which destroys the chances for achieving peace. At the forefront of such activities and measure were the settlement activities and confiscation of land, especially in Al-Quds Al-Sharif (Jerusalem) and its surroundings, the siege of the city of Bethlehem and the rest of the Palestinian territories.

In his view the realization of the right of the Palestinian people in establish their independent States, would provide the definitive guarantee for the establishment of a permanent peace in the Middle East and would also be a validation of the Charter of the United Nations and its numerous resolutions for over fifty years, beginning with resolution 181. He added that the goal of the current peace process is the implementation of Security Council resolutions 242, 338, 425 and the principles of "land for peace", that is the total Israeli withdrawal from all the Palestinian and other territories occupied in 1967, including Al-Quds Al-Sharif (Jerusalem).

In conclusion he stated that the question of the Palestine refugees was the oldest and largest refugee question in the contemporary world. Those refugees did have a legitimate right to return to their homeland in accordance with United Nations resolutions. Peace and stability could not come to the Middle East unless resolution 194 was not implemented, which states the refugees right to return to their homeland.

#### Assessment

It is encouraging to note from the foregoing developments and international efforts, that the peace process is now heading towards a new and positive stage. The Minister of Foreign Affairs, H.E. Amre Moussa, of the Arab Republic of Egypt, stated at the 54<sup>th</sup> Session of the General Assembly "it is our hope that this will lead to a comprehensive peaceful settlement that will be beneficial to all the parties concerned".

The AALCC fully supports the ongoing peace process, based on the legal instruments and in particular the Madrid, the Declaration of Principles on Interim self-government Arrangement of 1993, as well as subsequent implementation agreement, including the Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip of 1995, the Wye River Memorandum of 1998 and the most recent Sharm el-Seikh memorandum, and expresses the hope that the process will lead to the establishment of a comprehensive just and lasting peace in the Middle East. However, it was strongly for commitment to the principle of "land of peace" and the implementation of all Security Council resolutions mainly 242 (1967) and 338 (1973, which form the basis of the Middle East Peace Process, and the need for immediate and unflinching implementation of the agreements reached between the Parties.

A significant step in the implementation of the "Sharm El-Sheikh" accord is the "right of passage" to future Palestinians. A safe passage between the West Bank and Gaza, was opened by the Israelis on 25 October 1999. The opening of the 47 km. passage will reunite Palestinians in both areas. This Safe Passage is bound to have a great positive effect of the Palestinians than most other peace clauses. This idea was affirmed in the Wye River accord last year. The passage is a well-thought out measure since the Palestinian Authority is divided between the West Bank and Gaza. The Gaza on the Mediterranean coast has its own airport and seaport under construction. This allows Palestinians to travel abroad from their own territory without having to journey to other countries.

Nevertheless, and despite all the efforts to bring the Middle East "during and lasting peace" for all the people and countries of the region which will lead to a far better "future" for all, it is unfortunately

noticed that this concept still far fetched due to number of violations from the occupying power, which binders and confiscation of land, especially in Al-Quds Al-Sharif (Jerusalem) and its surroundings, the siege of the city of Bethlehem and the rest of the Palestinian territories, cannot help in any way to create the proper atmosphere which will assist all parties to attain the ultimate goal which is, land for peace, and peace for development, and development for a better future.

---

3[1] Under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

4[2] The process of Convening this conference of the High Contracting Parties to the 4<sup>th</sup> Geneva Convention began with the adoption by the 10<sup>th</sup> ESS of resolution ES-10/3 on 15 July 1997. Three more resolutions were adopted by the 10<sup>th</sup> ESS, ES-10/4 (13 November 1997), ES-10/5 (17 March 1998), and ES-10/6 (9 February 1999), each reiterating the recommendation for convening the conference, the UN Security Council, in resolution 681 of 20 December 1990, had also called "upon the High Contracting Parties to the Fourth Geneva Convention of 1949 to ensure respect by Israel, the occupying Power, for its obligations under the convention in accordance with article 1 thereof".

---