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**ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION**



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**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**

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# **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**

## **I. BACKGROUND**

1. 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 AALCO’s 27<sup>th</sup> Session which was held in Singapore (1988). During the 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 constitutes 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 Relative to Protection of Civilian Persons in time of War, 1949 all of which prohibit 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 AALCO 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 sessions<sup>1</sup> of the Organization as part of its Work Programme.

2. At the 34<sup>th</sup> Session held in Doha (1995) the Organization, *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.

3. The study prepared for the 36<sup>th</sup> Session (Tehran, 1997) apprised the AALCO 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.

4. For the 37<sup>th</sup> (New Delhi, 1998) Session, the Secretariat brief 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 item “Deportation of Palestinians and other Israeli Practices among them the

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1. The topic has been considered at the 28<sup>th</sup> (Nairobi); 29<sup>th</sup> (Beijing); 30<sup>th</sup> (Cairo); 31<sup>st</sup> (Islamabad 1992); 32<sup>nd</sup> (Kampala 1993).

Massive Immigration and Settlement of Jews in the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949” was placed on the agenda of the 38<sup>th</sup> Session (Accra 1999).

5. For the 39<sup>th</sup> (Cairo, 2000) Session, the Secretariat monitored the situation in the Middle East and 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. However, 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 Government’s continued illegal and destructive settlement activities. During this session it was decided to enlarge the scope of the item and the Secretariat was directed to monitor the developments in (all) occupied territories from the viewpoint of relevant legal aspects.

## **II. DELIBERATIONS DURING THE 42<sup>ND</sup> SESSION HELD IN SEOUL, REPUBLIC OF KOREA (2003)**

6. Deliberations during the 42<sup>nd</sup> Seoul Session revealed that despite all international efforts, the situation in the Middle East was deteriorating everyday on account of the atrocities being committed by the occupying power. However, the international community as well as the AALCO were supportive of the Palestinian determination to uphold the rule of law and relevant UN Resolutions as the main terms of reference of solving the crisis and in protection of the rights of the Palestinian people.

7. The Delegations of Arab Republic of Egypt, Kuwait, Pakistan, Indonesia, Islamic Republic of Iran, and Sudan and the Observer from Tunisia took the floor during these deliberations and expressed grave concern about this deterioration.

8. One Delegate pointed to the violation of human rights of Palestinians on a daily basis. In addition to violations of international humanitarian law, which was a collective punishment to Palestinians, Israel was trying to change the demographic composition of Palestine by ever increasing settlements, which was in complete violation of the Fourth Geneva Convention of 1949. He stated that the legal aspects could not be separated from the political ones however, Israel continued to provoke political violations of the human rights of Palestinians and did not respect the culture of peace. He underlined that international and regional organizations like the League of Arab States, Organization of Islamic Conference (OIC) as well as the Non-Aligned Movement (NAM) continued to condemn the atrocities being committed by Israel. In addition, peace plans had also been proposed by the Jordanian – Egyptian initiative as well as the initiative by the Crown Prince Abdullah of Saudi Arabia. This plan had envisaged the naturalization of relations between the Parties and recommended Israel’s withdrawal from the Occupied Palestinian Territory. He briefly outlined the “Road-map of Peace” by the Quartet and was confident that the proper implementation of the “Road-map” could bring peace to the region.

9. Nevertheless, he maintained that it was important that all peace loving nations should compel Israel to abide by international agreements so that a just solution could be found for the Palestinian problem.

10. Another Delegate pointed to the brutal atrocities committed by the Israeli forces against the innocent Palestinians in violation of the well-established conventions and principles of International Humanitarian Law. Israel continues to disrespect the resolutions of the General Assembly, Security Council and various other international and regional organizations. In the prevailing circumstances, it was most important to differentiate between terrorism and the struggle for self-determination by the Palestinian people. For peace to be attained, it was necessary that Israel discontinued all terrorist activities in the occupied Palestinian territory. He said his Government condemned the illegal activities of Israel against Palestinians particularly settlement activities and demanded that it withdraws from all Arab occupied territories.

11. Another Delegate was of the view that no concrete progress has been made in eliminating the gross violation of international law principles and the occupation of territories in violation of the General Assembly and Security Council resolutions. Further, deportation of Palestinians and Settlement of Jews, indiscriminate use of force had been continuing in violation of principles of international law as well as provisions of international instruments and conventions such as the Hague Convention of 1899 and 1907, and the Geneva Convention of 1949, all of which prohibit deportation as a form of punishment in an occupied territory.

12. He deplored the continued suppression of right to self-determination of Palestinian people, despite the fact that this right had been recognized as *jus cogens* norm of international law. He fully supported the struggle of Palestinians for their right to self-determination in accordance with the resolutions of the United Nations General Assembly.

13. Deep concern was expressed by another Delegate about the continuing dangerous deterioration of the situation in the occupied Palestinian territory and the severe consequences of continuing illegal Israeli settlement activities. He also deplored the excessive and disproportionate use of force and the policy of collective punishment by Israel against the Palestinians. He called upon the international community to give special attention to the violation of international humanitarian law being continuously committed by Israel and said that in this context it was imperative that the international community in accordance with Article 1 of the Fourth Geneva Convention, takes steps to secure Israeli compliance with relevant provisions of international humanitarian law.

14. He believed that lasting peace in the Middle East required the impartial implementation of Security Council Resolutions 194 (1949), 242 (1967), 338 (1973), 425 (1978) and 1397 (2002). He welcomed the Peace Plan offered by the Quartet and called upon the Parties to the conflict to take parallel and reciprocal steps for the effective implementation of the Road-map which set out clear phases, targets and aimed at progress in the political, security, economic, humanitarian and institution building fields. He hoped that the Road-map would be able to provide an acceptable and fair settlement for both Parties to the conflict. He emphasized that in order to bring an end to the Palestinian Israeli conflict, it was of paramount importance that the

Palestinian refugee problem be addressed which could indeed bring a just and lasting peace settlement.

15. Another Delegate stated that the item entitled “Deportation of Palestinians and other Israeli practices” was self explanatory on account of the gravity of the situation in the Palestinian occupied territories. He pointed out that the deportation of Palestinian people by Israel from the occupied territories 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, and the Geneva Convention of 1949, all of which prohibited deportation as a form of punishment in an occupied territory.

16. He stated that since September 11, terrorist attacks in the United States of America, Israeli regime had made the most sinister use of anti-terrorism campaign. He briefly enumerated the atrocities being committed by Israel in the occupied Palestinian territory. The delegate stressed the explicit applicability of the Fourth Geneva Convention of 1949. He believed that the Security Council should act more resolutely and demand the compliance with its resolutions and seriously consider the deployment of an international force to provide basic protection for the defenseless Palestinian civilians.

17. Other Delegations were of the view that the deportation of Palestinians and the killing of innocent people including children, elderly and women were grave violations of the Fourth Geneva Convention of 1949 and International Humanitarian Law. As a result of the violation of human rights by the policies and practices of Israel, the Palestinians did not even have the right to live on their own land and Israel’s occupation was a flagrant violation of international law. They emphasized the necessity to distinguish between the legitimate struggle for self-determination and terrorism. They underlined that since the September 11 terrorist attacks in the US, Israel exploited the worldwide condemnation of these acts to spread the confusion between terrorism and the legitimate opposition and struggle of the Palestinian people against the occupation. There was a suggestion that AALCO within its mandate, as a legal organization, should try to help in drafting the definition of terrorism and the difference between it and the legitimate militant action against the occupation.

18. There was a unanimous condemnation of Israel’s continued disregard to the provisions of the United Nations Charter as well as the Security Council resolutions, the International humanitarian laws and the Fourth Geneva Convention. It was suggested to deploy an international force to protect the Palestinian people from the state terrorism perpetrated by Israel on a daily basis. The monitoring by an international presence in the occupied territories of the implementation of the Road Map is a *sine qua non* condition to prevent Israel from its continuous attempts to derail the chances for a lasting peace in the Middle-east.

19. The 42<sup>nd</sup> Session of the AALCO demanded 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 Geneva Convention relative to the Protection of Civilian Persons in Times of War of 12 August 1949, in order to protect the rights of Palestinians.” It condemned in its resolution 42/4 “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 on 1949” and directed “the Secretariat to closely follow-up the developments in occupied territories from the viewpoint of relevant legal aspects.”

### **III. ISRAEL’S VIOLATIONS OF INTERNATIONAL LAW INCLUDING UNITED NATIONS SECURITY COUNCIL AND GENERAL ASSEMBLY RESOLUTIONS**

20. For more than 35 years, Israel has administered a military occupation of the West Bank, the Gaza strip and East Jerusalem in consistent and relentless defiance of the will of the international community.<sup>2</sup> The international consensus has been expressed through widely supported resolutions passed by the UN Security Council (UNSC) and UN General Assembly (UNGA). The Security Council Resolutions 242 and 338 affirmed the legal obligation of Israel to withdraw from Palestinian territories obtained in the 1967 six-day war. This must be the end point of any peace process that can lead to a lasting and just peace.

21. Until such time as Israel respects this obligation, the relevant principles of international law that need to be implemented are contained in the Fourth Geneva Convention concerning the Protection of Civilian Persons in Time of War, 12 August, 1949, in particular those provisions of the Convention that require an occupying power to protect the status quo, human rights and prospects for self determination of the occupied people. The Convention also obliges all State Parties to enforce the Convention in the face of “grave breaches”. Since 1967, Israel has refused to accept this framework of legal obligations. Not only has Israel failed to withdraw from the occupied territories, but during the occupation Israel has created facts, heavily armed settlements, bypass roads and security zones in the midst of a future Palestinian State that seriously compromise basic Palestinian rights.

#### **A. Israeli violations of the Fourth Geneva Convention in the Occupied Palestinian Territory (OPT)**

22. Various provisions of the Fourth Geneva Convention dealing with the protection of civilians are applicable to the Occupied Palestinian Territory (OPT). There have been large-scale violations of Convention obligations by Israel to the utter dismay of international community. Both parties to the conflict are parties to the Geneva Conventions.<sup>3</sup> Since October 1967, Israel has taken a consistent position that the Geneva Convention is *de jure* not applicable to the West Bank and the Gaza Strip.<sup>4</sup>

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<sup>2</sup>. Beyond Oslo: The new uprising International law and the al-Aqsa Intifada – Middle East Report 219, Winter 2002

<sup>3</sup>. Israel ratified the Geneva Conventions on 06.07.1951  
On 21 June 1989, the Swiss Federal Department of Foreign Affairs received a letter from the Permanent Observer of Palestine to the United Nations Office at Geneva informing the Swiss Federal Council "that the Executive Committee of the Palestine Liberation Organization, entrusted with the functions of the Government of the State of Palestine by decision of the Palestine National Council, decided, on 4 May 1989, to adhere to the Four Geneva Conventions of 12 August 1949 and the two Protocols additional thereto". On 13 September 1989, the Swiss Federal Council informed the States that it was not in a position to decide whether the letter constituted an instrument of accession, "due to the uncertainty within the international community as to the existence or non-existence of a State of Palestine". The note also stated:



23. Israel claims that it is not in “occupation” of OPT but is in “administration” and therefore, does not come under the purview of the Fourth Geneva Convention and the law of belligerent occupation. To justify its position Israel resorted to legal fiction and attempted to bring forth doctrinal justification developed in vacuum. Accordingly, Missing Reversioner theory was developed to strengthen its arguments for its non-compliance with Fourth Geneva Convention and law of belligerent occupation.<sup>5</sup> This theory contended that Jordan and Egypt were not the legitimate sovereign in OPT. Since there was no ousted legitimate sovereign “a missing reversioner” to whom the territory would revert, Israel could make possession of OPT given that Israel has a relatively stronger title to the territories. This is argued on the basis of strange interpretation of common article 2 of the Geneva Conventions. Article 2 reads: “The Convention shall...apply to all cases of partial or total occupation of the territory of a High Contracting Party....” Thus it is argued that the object and purpose of the law of belligerent occupation is to protect the rights of the ousted sovereign holding valid legal title. Therefore, it is argued that because Jordan and Egypt were not the legitimate sovereigns in the OPT prior to 1967 owing to their alleged unlawful aggression against Israel in 1948, that territory can not be said to constitute the ‘territory of a High Contracting Party’. According to this line of thinking, the legal standing of Israel in the Occupied Territory is that of a State which is lawfully in control of territory in respect of which no other States can show better title.

24. It is further argued in this regard that Israel possesses better title over OPT in comparison to Jordan and Egypt based on the concept of “defensive conquest”. Based on this concept it is argued that Israel came into control of the OPT in 1967 through a defensive war against Jordan and Egypt and neither of them held valid legal title to that territory, and therefore it has a perfect legal control over OPT.

25. However, these arguments of Israel were strongly refuted by international law scholars<sup>6</sup> as “strained and artificial in character, and commanded little or no respect

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4. “The unilateral declaration of application of the four Geneva Conventions and of the Additional Protocol I made on 7 June 1982 by the Palestine Liberation Organization remains valid”. Initially Israel was in favor of applying the Geneva Convention to Occupied Palestine Territory but later on it changed its position and the same continues till today. This can be seen from the relevant military orders. Article 35 of Proclamation No. 3, issued by Chaim Herzog, then the Military Governor, instituted military courts and stated that the military court and its officers, ‘must apply the provisions of the Geneva Conventions of 13 August 1949 regarding the protection of civilians during war as to all which pertains to legal proceedings. If there should be any contradiction between the provisions of the order and the Geneva Conventions, the provisions of the Conventions should apply.’ In October 1967, Article 35 was deleted by Military Order 144, and in 1970, Proclamation No. 3 was replaced by Military Order 378.

5. The argument was first put forward by Yehuda Blum, ‘The Missing Reversioner: Reflections on the Status of Judea and Samaria’, 3 *Israel Law Review* 279 (1968).

6. See Richard A. Falk & Burns H. Weston, ‘The Relevance of International Law to Israeli and Palestinian Rights in the West Bank and Gaza’, in Emma Playfair, ed., *International Law and the Administration of Occupied Territories: Two Decades of Israeli Occupation of the West Bank and Gaza Strip*, (Oxford: Clarendon Press, 1992). 132. Yoram Dinstein, an Israeli professor of law at Tel Aviv University, has dismissed the theory being “based on dubious legal grounds”. Yoram Dinstein, ‘The International Law of Belligerent Occupation and Human Rights’, 8 *Israeli Yearbook on Human Rights* 104, 107 (1978); W. Thomas Mallison & Sally V. Mallison, *The Palestine Problem in International Law and World Order*, (London: Longman, 1986).

among “highly qualified publicists” or within the organized international community” and also it did not receive any support from the international community. In 1976, the President of the UN Security Council, after consulting all the members and concluding that the majority agreed, stated that, ‘The Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Arab territories occupied by Israel since 1967.’<sup>7</sup> In 1980, by a vote of 14 to none, with one abstention, the Security Council censured the enactment by Israel of a ‘basic law’ on Jerusalem, which it found to constitute a violation of international law that did not affect the continued application of the Fourth Convention.<sup>8</sup> It decided not to recognize the ‘basic law’ and other actions seeking to alter the character and status of Jerusalem. Similarly, UN General Assembly also has been reiterating that Israel is bound by the obligations of the Fourth Geneva Convention in OPT. In its 5 December 2001 Declaration, the reconvened International Conference of High Contracting Parties to the Fourth Geneva Convention expressed its deep concern over the deteriorating humanitarian situation, reaffirmed the applicability of the Convention to Occupied Palestinian Territory, including East Jerusalem, and reiterated the need for full respect for the Convention in that Territory.<sup>9</sup> It is of relevance to quote the International Court of Justice in this regard, which reiterated the paramount importance of the international humanitarian law:

“It is undoubtedly because a great many rules of humanitarian law applicable in armed conflict are so fundamental to the respect of the human person and

“elementary considerations of humanity” as the Court put it in its Judgment of 9 April 1949 in the Corfu Channel case (I.C.J. Reports 1949, p. 22), that the Hague and Geneva Conventions have enjoyed a broad accession. Further these fundamental rules are to be observed by all States whether or not they have ratified the conventions that contain them, because they constitute intransgressible principles of international customary law...

These rules indicate the normal conduct and behaviour expected of States.”<sup>10</sup>

26. Thus, Israel’s compliance with the Fourth Geneva Convention is not optional based unilateral interpretations. Therefore, enumeration of Israeli activities in the OPT that violated the Fourth Geneva Convention and other relevant international law would become an exhaustive list as it has violated almost every provision of the Fourth Geneva Convention. Some of the glaring illegal activities of Israel are mentioned below.

#### **a. Annexation and Illegal Expropriation of Palestinian Land**

27. Since 1967, Israel has engaged in a systematic campaign of usurpation of Palestinian land in the OPT for the purpose of establishing exclusively Jewish colonies.

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<sup>7</sup>. UN SC Presidential Statement: UN doc. S/PV.1922, 26 May 1976.

<sup>8</sup>. SC res. 478 (1980).

<sup>9</sup>. Conference of High Contracting Parties to the Fourth Geneva Convention: Declaration, Geneva, 5 December 2001.

<sup>10</sup>. *Legality of the Threat of Use of Nuclear Weapons*, Advisory Opinion, ICJ Reports, 1996, 226, 257, paras. 79, 82.

This illegal campaign is implemented through two methods: one is annexation in and around occupied East Jerusalem and the second is the policies of expropriation in the remaining OPT. The Israeli government passed a number of Acts that extended its municipal law and jurisdiction to occupied East Jerusalem annexing the city in violations of international law. The law and policy of Israel in respect of other parts of OPT is also similar to that implemented in occupied Jerusalem with an exception that it has not been formally annexed. Host of military orders are used to implement these policies. For e.g., Military Order N. 59 (1967), permitting the Israeli government to declare all lands not registered with them as “State lands”, thereby restricting their use to Israeli authorities; Military Order No. 58 (1968), authorizing Israeli authorities to confiscate lands of those “absent” during the 1967 census; Military Order No. 70 (1967), allowing Israeli authorities to arbitrarily declare any locale a “closed military area” transferring all use to the State; Military Order no. 150, enabling the state to expropriate land belonging to “absentee” Palestinian owners, or individuals who were not accounted for in an Israeli census following the 1967 war; Military Order No. 321 (1968), authorizing the State to unilaterally expropriate Palestinian land for “public” purposes, which is always for the exclusive Jewish use; Military Order No. S/1/96, allowing Israeli authorities to unilaterally declare Palestinian land a “closed military area” and Military Order No. T/27/96, permitting Israeli authorities to expropriate Palestinian land for “public” purposes.

28. All these activities are clearly in violation of the Fourth Geneva Convention. Article 47 of the Fourth Geneva Convention makes annexation of the occupied land as an illegal act.<sup>11</sup> Similarly, article 147 of the Convention declares as a grave breach of any extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully.<sup>12</sup> Article 146 of the Convention places an obligation on the High Contracting Parties to enact effective penal sanctions for persons who have committed, or ordered to be committed, "grave breaches" of the Convention. In addition, Article 146 requires each High Contracting Party "to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and [it] shall bring such persons, regardless of their nationality, before its own courts". If it does not do so, it must extradite such suspects to any other High Contracting Party on request if that state has sufficient evidence to commence a prosecution.

## **b. Jewish Colonial Settlements**

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<sup>11</sup>. Article 47 reads as follows:

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.

<sup>12</sup>. Article 147 defines "grave breaches" as "wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, wilfully depriving a protected person of the rights of fair and regular trial, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly."

29. For more than 35 years now, the creation of Jewish Settlements has been a central component of Israel's efforts to consolidate control over the Gaza Strip and the West Bank, including East Jerusalem. Israeli settlement construction has served not only to facilitate territorial acquisition and to justify the continuing presence of Israel armed forces on Palestinian lands, but also to limit the territorial contiguity of areas populated by Palestinians and thereby to preclude the establishment of a viable independent Palestinian State.

30. Israel has been practicing its colonial settlement policy since 1967 which is aimed at settling the Jewish population in the OPT to make the local population a minority community and for other forms of subjugation. According to a plan prepared by Mattiyahu Drobles of the Settlement Department of the World Zionist Organization, in 1980; "the best and most effective way of removing every shadow of doubt about our intention to hold on to Judea and Samaria [i.e., the West Bank] forever is by speeding up the [Jewish colonial] settlement momentum in these territories. The purpose of settling the areas between and around the centers occupied by the minorities [that is, the Palestinian majority in the West Bank] is to reduce to the minimum the danger of an additional Arab state being established in these territories. Being cut off by Jewish settlements, the minority population will find it difficult to form a territorial and political continuity."<sup>13</sup>

31. Thus, the total settlement population reached 213,672, in West Bank and Gaza Strip, 170,400 in East Jerusalem and 17,000 in Golan Heights.<sup>14</sup> These acts of settlement of Jewish population in OPT is in clear violation of article 49 of the Fourth Geneva Convention which says that 'the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies'. These acts are intended to change the physical character and to bring demographic changes in the OPT. This policy is being continued by Israel despite its condemnation in unequivocal terms by the international community.<sup>15</sup>

### **c. Deportation of Palestinians**

32. Israel has resorted systematically to deportation of Palestinians since 1967 onwards. These deportation decisions were taken summarily without any appeal procedure. The deported Palestinians included various groups of people like lawyers, professors, teachers, doctors, trade unionists, religious leaders and human rights activists. This is in clear violation of article 49 of the Fourth Geneva Convention, which

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<sup>13</sup>. Mattiyahu Drobles, master plan for the Development of Settlement in Judea and Samaria (1980), cited by Ardi Imseis, 'On the Fourth Geneva Convention and the Occupied Palestinian Territory', *Harvard International Law Journal*, Vol. 44, No. 1, 2003, p. 104.

<sup>14</sup>. For more details in this regard see; <http://www.fmep.org/>

<sup>15</sup>. For e.g., UN Security Council Resolution 465 of 1980 says: "...all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity and that Israel's policy and practices of settling parts of its population and new immigrants in those territories constitute a flagrant violation of the Fourth Geneva Convention 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."

prohibits deportation of protected persons from the occupied territory. Article 147 of the Convention also prohibits this act and categorizes it as the “grave breach” of the Convention.

33. Apart from the above-mentioned acts Israel also indulged in the deprivation of the rights of fair trial, torture and inhuman treatment, extra judicial killings and executions. All these acts are in clear violation of the fourth Geneva Convention and other important human rights instruments.

## **B. United Nations Security Council and General Assembly Resolutions**

34. The UN consensus is particularly persuasive since majority of UN Member States recognize the Palestinian right of self-determination. This right is also legitimate from the fact that Palestine was a mandated territory, administered as a sacred trust by the United Kingdom. The UN has made clear the legal rights and duties in the OPT in a series of widely supported resolutions, including the following:

(i) UNGA Resolution 181 (ii) concerning the Future Government of Palestine (November 29, 1947) establishes the parity of the two peoples with respect to their respective rights to establish states on the former mandated territory of Palestine, and the duty of both states to respect both minorities and the special juridical status of Jerusalem.

(ii) UNGA Resolution 194 (iii) (December 11, 1948) affirms the right of Palestinians to return to their original homes and lands, and to receive compensation for any losses incurred, as well as the right of resettlement for those Palestinian refugees choosing not to return and compensation for their losses. The UN established the UN Conciliation Commission to uphold the rights of Palestinian refugees.

(iii) UNSC Resolution 242 and 338 (November 22, 1967), and October 22, 1973) require Israeli withdrawal from the territory occupied during the 1967 and 1973 wars, and call for a just settlement of the refugee problem.

(iv) UNGA Resolution 34/70 (December 6, 1979) asserts the need for any solution of the conflict to be in accordance with the right of self-determination, regardless of what the parties might negotiate.

(v) UNGA Resolution 43/177 (December 15, 1988) acknowledges the 1988 Palestinian proclamation of a Palestinian state as consistent with UNGA Resolution 181.

(vi) UNSC Resolutions 476, 480, 1322, 1397, 1402 and 1403 (1980, 1980, 2000, 2002, 2002, 2002) reaffirm the basic principle of International and UN Law that it is inadmissible to acquire territory by force or conquest, as well as the unconditional applicability of the Fourth Geneva Convention to the civilian population of occupied territory.

#### **IV. REACTIONS TO ISRAEL'S DECISION TO BUILD A WALL IN THE OCCUPIED PALESTINIAN TERRITORY**

##### **A. International Court of Justice Advisory Opinion on the Wall: Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Request for advisory opinion)**

35. On 8 December 2003, the General Assembly of the United Nations in its tenth emergency special session adopted resolution ES-10/14, in which the Assembly decided "in accordance with article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to article 65 of the Statute of the Court, 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?

36. The request for an advisory opinion was transmitted to the Court by the Secretary-General of the United Nations in a letter dated 8 December 2003 which was received in the Registry on 10 December 2003.

37. On 19 December 2003, the ICJ issued an order, setting 30 January 2004 as the date for written statements to be submitted to the Court on the matter and setting 23 February 2004 as the date for the oral hearings. The Registry further informed the League of Arab States and the Organization of the Islamic Conference that the Court had agreed to their request to participate in the proceedings and that accordingly they were authorized to submit to the Court a written statement within the time-limit of 30 January 2004 and to participate in the hearings.

38. The United Nations, 44 of its Member States, Palestine, the League of Arab States and the Organisation of the Islamic Conference have filed written statements within the time-limit fixed by the International Court of Justice.<sup>16</sup> The public hearings in the case were held from 23 to 25 February 2004.<sup>17</sup> The Court will now start its

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<sup>16</sup>. The United Nations Member States which have transmitted a written statement are: (in order of receipt): Guinea, Saudi Arabia, Egypt, Cameroon, the Russian Federation, Australia, Jordan, Kuwait, Lebanon, Canada, Syria, Switzerland, Israel, Yemen, United States of America, Morocco, Indonesia, France, Italy, Sudan, South Africa, Germany, Japan, Norway, the United Kingdom, Pakistan, the Czech Republic, Greece, Ireland (on its own behalf and, separately, on behalf of the European Union), Cyprus, Brazil, Namibia, Malta, Malaysia, the Netherlands, Cuba, Sweden, Spain, Belgium, Palau, Federated States of Micronesia, Marshall Islands, Senegal and the Democratic People's Republic of Korea.

<sup>17</sup>. During the public hearings following oral statements were made. On behalf of Palestine, by: H.E. Mr. Nasser Al-Kidwa, Ambassador, Permanent Observer of Palestine to the United Nations, Head of Delegation; Ms Stephanie Koury, Member, Negotiations Support Unit, Counsel; Mr. James Crawford, Whewell Professor of International Law, University of Cambridge, Counsel and Advocate; Mr. Georges Abi-Saab, Professor of International Law, Graduate Institute of International Studies, Geneva, Member of the Institute of International Law, Counsel and Advocate; Mr. Vaughan Lowe, Chichele Professor of International Law,

deliberation. The date of the public sitting at which the Court will render its advisory opinion will be announced later.

## **B. Illegal Activities of Israel Leading to the Request for the Advisory Opinion**

39. The Government of Israel has since 1996 considered plans to halt infiltration into Israel from the central and northern West Bank, with the first Cabinet approval of such a plan in July 2001. After the Palestinian response in the spring of 2002, the Cabinet approved Government Decision 64/B on 14 April 2002, which called for construction of 80 kilometres of the Barrier in the three areas of the West Bank. The Seam Zone Administration, headed by the Director General of the Israeli Ministry of Defence, was established to implement that decision.

40. On 23 June 2002, Israel's Cabinet Decision 2077 approved the first phase of a "continuous" barrier in parts of the West Bank and Jerusalem. The decision stated that the Barrier "is a security measure" that "does not represent a political or other border". The route discussed was not made public; the decision stated that the "exact and final route of the fence will be decided by the Prime Minister and Minister of Defence". On 14 August 2002, the Cabinet approved the final route for Phase A construction, which ultimately included 123 kilometres in the northern West Bank and 19.5 kilometres around Jerusalem, almost entirely on land occupied by Israel in 1967.

41. On 1 October 2003, after nearly a year of construction on various sections, the Israeli Cabinet approved a full Barrier route in Decision 883. Ministry of Defence documents say the planned route of the Barrier will form one continuous line stretching 720 kilometres along the West Bank. A map of the route, which shows both completed and planned sections, was posted on the Ministry of Defence web site on 23 October 2003, two days after the General Assembly approved resolution ES-10/13.

42. Much of the completed Barrier, excluding East Jerusalem, runs close to the Green Line, though within Palestinian territory. The completed Barrier deviates more than 7.5 kilometres from the Green Line in certain places to incorporate settlements, while encircling Palestinian population areas. The part of the Barrier that roughly hews to the Green Line is along the northernmost part of the West Bank. A 1-2 kilometre stretch west of Tulkarm appears to run on the Israeli side of the Green Line. The planned route, if fully constructed, would deviate up to 22 kilometres in places from the Green Line.

43. Based on the route on the official map, including depth barriers and East Jerusalem, approximately 975 square kilometres, or 16.6 per cent of the entire West Bank, will lie between the Barrier and the Green Line. This area is home to approximately 17,000 Palestinians in the West Bank and 220,000 in East Jerusalem. If

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University of Oxford, Counsel and Advocate; and Mr. Jean Salmon, Professor Emeritus of International Law, Université libre de Bruxelles, Member of the Institute of International Law, Counsel and Advocate;

Following States and intergovernmental organizations also made oral statements. South Africa, Algeria, Saudi Arabia, Bangladesh, Belize, Cuba, Indonesia, Hashemite Kingdom of Jordan, Madagascar, Malaysia, Senegal, Sudan, League of Arab States, Organization of the Islamic Conference.

the full route is completed, another 160,000 Palestinians will live in enclaves, areas where the Barrier almost completely encircles communities and tracts of land. The planned route incorporates nearly 320,000 settlers, including approximately 178,000 in occupied East Jerusalem.

**C. United Nations International Meeting on the Impact of the Construction of the Wall in the Occupied Palestinian Territory, United Nations Office at Geneva, 15 and 16 April 2004**

44. The United Nations International Meeting on the Impact of the Construction of the Wall in the Occupied Palestinian Territory, including in and around East Jerusalem, was held on 15 and 16 April 2004, at the United Nations Office at Geneva, under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Participants in the Meeting included eminent personalities, internationally renowned experts, including Israelis and Palestinians, representatives of United Nations Members and Observers, parliamentarians, representatives of the United Nations system and other intergovernmental organizations, the academic community, representatives of civil society organizations, as well as the media.

45. A final document issued by the meeting said that participants expressed deep concern over the dangerous current and potential humanitarian consequences of the construction of the wall, noting that it would bring further dispossession for a significant number of Palestinians. They also noted that by destroying, confiscating and putting off-limits Palestinian agricultural lands and water sources in the process of the wall construction, Israel dealt another devastating blow to the Palestinian economy, which was on the verge of collapse after three years of destruction and restrictions imposed by the occupying Power.

46. The final document said that participants further noted that the protracted and complete lack of dialogue between the parties necessitated an active involvement of the international community. They reaffirmed the permanent responsibility of the United Nations with respect to all the aspects of the question of Palestine, until it was resolved in conformity with relevant United Nations resolutions and norms of international law, and until the inalienable rights of the Palestinian people were fully realized.

47. The Permanent Observer for Palestine to United Nations Headquarters in New York, Nasser Al-Kidwa, said that the wall presented the biggest threat to establish peace in the region and made the two-State solution practically impossible; it constituted a war crime and, thus, should be stopped and removed.

48. The final document said the meeting was held at a time, when, despite a broad opposition by the world community, the Government of Israel continued to build the wall in the occupied Palestinian territory. In light of this situation, the Committee was of the view that the far-reaching humanitarian, economic and political implications of the construction of the wall warranted further attention of all actors of the international community.



## **D. Israel's Response to the Advisory Opinion Request**

49. The Israeli government is refusing to accept the jurisdiction of the International Court of Justice (ICJ) render an "advisory opinion" on the legality of its West Bank security barrier. Its stance is supported by the United States and the European Union, which claim that it is outside the court's purview. The Likud-led coalition has not attended the three-day hearing and has mounted protests outside the court by various Zionist groups claiming that the fortified wall is solely to prevent suicide bombings and other terrorist activities.

## **V. RECENT DEVELOPMENTS**

### **A. General Assembly Tenth Emergency Session<sup>18</sup> on Illegal Israeli Activities in Occupied Palestinian Territory, 19 September 2003, 20-21 October 2003 and 24 November 2003, New York**

#### **19 September 2003**

50. On 19 September 2003, the tenth emergency special session was resumed (ninth resumption) at the request of the Permanent Representative of the Sudan, in his capacity as Chairman of the Group of Arab States for the month of September 2003 (A/ES-10/237), to discuss the situation on the ground under the item entitled "Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory". At the end of the debate, the Assembly adopted resolution ES-10/12.

#### **20-21 October 2003**

51. Later, following the Security Council's failure to act regarding the security barrier being built by Israel in the West Bank, the General Assembly resumed its tenth emergency session on 20 October 2003, at the request of Arab nations, to consider a resolution declaring the barrier illegal.

52. The Assembly resumed its tenth emergency session on illegal Israeli activities in occupied East Jerusalem and the rest of the occupied territories to address what the Arab League called "the grave issue of Israel's expansionist wall in the occupied Palestinian territory, including East Jerusalem".

53. The United States vetoed a draft resolution that would have had the Security Council declare illegal the construction by Israel, the occupying Power, of a wall in the occupied territories departing from the Armistice Line of 1949. The text, which the

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<sup>18</sup>. The tenth emergency special session dates back to 1997 when Israel began construction of a new settlement south of East Jerusalem. The Security Council met twice on this issue, but failed to adopt resolutions. Using the "Uniting for Peace" formula, a special emergency session of the Assembly was convened in April and again in July and November of 1997. It also resumed in 1998, 1999, 2000 and 2001.

United States said was one-sided, was defeated by a vote of 10 in favour, to 1 against, with 4 abstentions (Bulgaria, Cameroon, Germany and United Kingdom).

54. Opening the meeting, the Observer of Palestine said Israel was committing an "immense war" against the Palestinians, as it built an expansionist wall in the occupied Palestinian territory, including East Jerusalem. The construction had not only involved the confiscation of Palestinian lands, but the destruction of Palestinian livelihoods, and the illegal, *de facto* annexation of expansive areas of occupied Palestinian land. "This matter is thus of extreme importance", he said. "It is about our national existence and peace in the region. It is either the wall or the 'Road Map' ... It is impossible to have both." He said Israel's claim that the wall was a security measure to prevent suicide bombings was incredulous — "repetition of the same lie that had been used by Israel over the years to commit all its crimes against the Palestinian people".

55. Most speakers condemned the construction of the barrier, and called for an end to what they felt were Israel's expansionist policies. Several wondered why the wall's route deviated from the so-called "green line" established under the 1949 Armistice Line. Most maintained that the barrier would create a major obstacle to the implementation of the Quartet-backed Road Map, which calls for a series of parallel and reciprocal steps by both sides, leading to two States living side by side in peace by 2005.

56. The representative of Malaysia, speaking on behalf of the Non-Aligned Movement, said that the "unfortunate" veto in the Council did not bode well for future progress towards a comprehensive peace. The crux of the ongoing Arab-Israeli conflict was not terrorism but the illegal occupation of Palestine by Israel. The Israeli expansionist wall was not justified as a measure to protect against terrorist attacks targeted at Israeli civilians.

57. Increasing tensions in the Middle East had seriously damaged the efforts for a peaceful settlement, said the representative of the Russian Federation, a member of the diplomatic Quartet, along with the United Nations, the United States and the European Union. More energetic actions by the international community were required to prevent the worst scenario. While condemning unilateral action in the occupied territories, he stressed that the immediate task was the earliest possible implementation of the Road Map, and both Palestinians and Israelis should forgo actions, which contradicted its spirit.

58. Also addressing the emergency session were the representatives of Syria (on behalf of the League of Arab States), Afghanistan (as Vice-Chairman of the Committee on the Inalienable Rights of the Palestinian People), South Africa, Indonesia, Iran, Cuba, Senegal, Pakistan, India, China, Zimbabwe, Italy (on behalf of the European Union and associated States) and the United States. The representative of the Organization of the Islamic Conference (OIC) also spoke.

59. Following the Security Council's failure to act, the emergency session of the General Assembly overwhelmingly approved a measure on the situation in the Middle East -- in this instance, demanding that Israel stop and reverse construction of the wall being built in the West Bank.

60. Condemning all acts of violence, terrorism and destruction, the Assembly adopted the resolution on illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory (document A/ES-10/L.10) by a recorded vote of 144 in favour to 4 against (Federated States of Micronesia, Israel, Marshall Islands, United States), with 12 abstentions as it resumed its tenth emergency session on illegal Israeli activities in occupied East Jerusalem and the rest of the occupied territories.

61. The text, which had been introduced by Italy, on behalf of the European Union, expressed the Assembly's particular concern that the route marked out for the wall under construction by Israel in the occupied Palestinian territory, including in and around East Jerusalem, could prejudice future negotiations and make the two-State solution physically impossible to implement and would cause further humanitarian hardship to the Palestinians.

62. Particularly condemning the recent suicide bombings and intensification of violence with the attack in Haifa and the bomb attack in the Gaza strip, which killed three American security officers, the Assembly also called on both parties to fulfill their obligations under the Quartet-backed "Road Map"; the Palestinian Authority to undertake visible efforts to restrain individuals and groups conducting and planning violent attacks, and the Israeli Government to take no actions undermining trust, including deportations and attacks on civilians and extra-judicial killings.

63. Further, the Assembly requested the Secretary-General to report periodically on compliance with the resolution, with the first report on compliance with the demand to cease construction on the wall within one month.

## **24 November 2003**

64. Pursuant to General Assembly resolution ES-10/13 of 21 October 2003, adopted at the resumed tenth emergency special session of the Assembly, the report of Secretary General was submitted. In paragraph 3 of the said resolution, the Assembly requested the Secretary General to report periodically on compliance with the resolution, but with the first report on compliance with paragraph 1.<sup>19</sup>

65. The report focused on the period from 14 April 2002, when the Government of Israel first decided to build a system of fences, walls, ditches and barriers in the West Bank ("the Barrier"), to 20 November 2003. It was primarily based on publicly available research carried out by United Nations offices on the ground and the other materials available to the United Nations, including those in the public domain. The Government of Israel and the Palestinian Authority were consulted in the preparation of this report and asked to provide information they deemed relevant.

66. The report provided that, based on the information from the United Nations field monitoring, Israel has not complied with the demand stipulated in paragraph 1 of the said resolution and has not stopped or reversed the continuing construction of the

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<sup>19</sup>. In paragraph 1 of the said resolution, the Assembly "demands that Israel stop and reverse the construction of the wall in the Occupied Palestinian territory, including in and around East Jerusalem, which is in departure of the Armistice Line of 1949 and is in contradiction to relevant provisions of international law."

Barrier. The report also highlighted the shortcomings of the process of land requisition as part of the Barrier's construction.

67. Further, the report outlined the humanitarian and socio-economic impact of the construction of the Barrier. It was noted that the main component of the closer system is a series of checkpoints and blockades that severely restrict the movement of Palestinian people and goods. The construction has dramatically increased the damage in communities along its route, primarily through the loss of, or severely limited access to, land, jobs and markets. Further, completed sections of the Barrier have had a serious impact on agriculture in what is considered the "breadbasket" of the West Bank. Lands lying on the Barrier's route has been requisitioned and destroyed and farmers separated from their lands, and often also from their water sources, must cross the barrier via controlled gates that have irregular opening timings and arbitrary granting and denial of passage.

68. Also, the report highlighted the affects of the already constructed Barrier, which has resulted in adverse effects on access to jobs and essential social services, like schools and hospitals and also that the Barrier has harmed long-standing commercial and social connections for tens of thousands of people. Also, the report observed that although Israel has a right and duty to protect its people against terrorist attacks, however, that duty should not be carried out in a manner that is in contradiction to international law and that could impair the longer-term prospects for peace negotiations.

## **B. Security Council Adopted Resolution Endorsing Road Map Leading Towards Two-State Resolution of the Issue**

69. The Security Council, on 19 November 2003, endorsed the Middle East Quartet's Road Map<sup>20</sup> towards a permanent, two-State solution to the conflict. By its unanimous adoption of resolution 1515 (2003) the Council called on the parties to fulfill their obligations under the plan in cooperation with the Quartet.

70. In its preambular section, the text also reiterated the Council's demand for an immediate cessation of all acts of violence, including all acts of terrorism, provocation, incitement and destruction. It emphasized that a just and lasting peace should take into account the Israeli-Syrian and Israeli-Lebanese tracks, as well as the Israeli-Palestinian question.

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<sup>20</sup>. On 20 December 2002, the "Quartet" (Russian Federation, United States, European Union, United Nations) reached agreement on the text of the Road Map with the goal of resolving the Israeli-Palestinian conflict and ending the occupation that began in 1967. That goal was to be achieved on the basis of the 1991 Madrid peace conference, the principle of land for peace, Council resolutions 242 (1967), 338 (1973) and 1397 (2002), agreements reached previously by the parties, and the "Arab Initiative" of Saudi Crown Prince Abdullah endorsed by the Council of the League of Arab States on 28 March 2002. The performance-based and goal-driven Road Map presented clear phases, time lines, target dates and benchmarks aimed at the progression by the two parties through reciprocal steps in the political, security, economic, humanitarian and institution-building fields, under the auspices of the Quartet. The Road Map was officially submitted to the parties on 30 April 2003.

### **C. Palestinian Rights Committee Sought End to Israeli Settlement Activities, Reversal of Building of Separation Wall, 11 November 2003**

71. The Committee on the Exercise of the Inalienable Rights of the Palestinian People met on 11 November 2003 to review developments in the Middle East peace process and the situation in the occupied Palestinian territory, including East Jerusalem. It was also expected to consider four draft resolutions on the question of Palestine.

72. These draft resolutions concerned: the peaceful settlement of the question of Palestine; the Division for Palestinian Rights of the United Nations Secretariat; the special information programme of the Department of Public Information (DPI) on the question of Palestine; and the work of the Committee itself.

73. According to one of four draft resolutions approved today by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the General Assembly would call on Israel to halt all settlement activities, and stress the urgent need for it to stop and reverse construction of the wall in the occupied Palestinian territory.

74. By further terms of that text, the Assembly would call for implementation of the "Road Map", and urge Member States to expedite the provision of economic, humanitarian, and technical assistance to the Palestinian people and Palestinian Authority to help alleviate the people's suffering, rebuild their economy and infrastructure, and support the restructuring and reform of their institutions.

75. The other texts approved at the meeting by the Committee would have the Assembly: request the Secretary-General to provide the Secretariat's Division for Palestinian Rights with the necessary resources; request the Department of Public Information to continue its special information programme on the question of Palestine through 2003 and 2004; and request the Committee to continue promoting the realization of the inalienable rights of the Palestinian people, to support the Middle East peace process and to mobilize international support for, and assistance to, the Palestinian people.

76. The Committee Chairman, who called all four resolutions "realistic and sensible", said they should receive the Assembly's overwhelming support. He also urged Committee Members to express their active solidarity by co-sponsoring the texts.

77. Speaking after approval of the drafts, the Palestine Observer said the most important current development in the conflict was Israel's construction of its "conquest expansionist" wall; if allowed to continue, the wall would destroy the two-State solution and the potential for peace in the region.

78. Referring to a draft before the General Assembly's Fourth Committee, concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), he said the unsolicited text, which had been presented to the Assembly by the United States, without prior consultations with Palestine or the Arab-concerned parties, needed improvement. For that reason, the Arab Group had tabled five amendments to the draft, which would help avoid different legal and political bases for the functions and operations of UNRWA.

79. It is envisaged in one draft, on the peaceful settlement of the question of Palestine, the General would call upon Israel to stop all settlement activities, and gravely concerned about Israel's construction of a wall in the occupied Palestinian territory, the Assembly would also stress the urgent need for Israel to stop and reverse that construction, including in and around East Jerusalem.

80. These draft resolutions, observed by Papa Louis Fall (Senegal), Chairman of the Committee, were updated to reflect recent developments on the ground and in the peace process, and streamlined to avoid repetition and lengthy references to past resolutions. The texts were approved without a vote.

**D. General Assembly President, on International Day of Solidarity Message, Calls for Support for Efforts to Resolve the Conflict, 1 December 2003**

81. The International Day of Solidarity with the Palestinian People was commemorated on 1 December 2003 at the Palais des Nations with a number of speakers condemning the construction of a separation wall by Israel in the Occupied Palestinian Territories which they said would hamper the creation of a viable Palestinian State.

82. Sergei Ordzhonikidze, Director-General of the United Nations Office at Geneva, read out a message from United Nations Secretary-General Kofi Annan in which he said that he joined with those from around the world who expressed the deepest solidarity with the Palestinian people in their continued suffering. Israeli actions -- such as extrajudicial killings, use of heavy weapons against civilians, demolition of houses, continued expansion of settlements, and the building of a barrier that cut deep into Palestinian territory -- had enhanced misery and feelings of helplessness among Palestinians, Mr. Annan said in the statement.

83. Referring to the signing of the Geneva Accord in Geneva today, at the same time as the commemoration of the International Day of Solidarity with the Palestinian People, Mr. Ordzhonikidze said that Palestinians and Israelis were gathered today in Geneva in search of peace. The United Nations fully supported the Geneva Accord event and appreciated and understood the notable role that the Government of Switzerland had played in realizing the initiative.

84. Other speakers emphasized that the construction of a separation wall by Israel in the Occupied Territories would establish a new border with land taken from the Palestinians, while others said that if the wall was allowed to be completed, it would create an obstacle to the establishment of a viable and independent State of Palestine. Speakers also condemned the Israeli practices aimed at eliminating the people of Palestine and the expansion of Jewish settlements.

85. Contributing statements were representatives of the Committee on the Exercise of the Inalienable Rights of the Palestinian People; Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories; League of Arab States; Organization of the Islamic Conference; Non-Aligned Movement; African Union; Non-Governmental Organizations accredited to the Committee on the Exercise of the Inalienable Rights of

the Palestinian People; and The Permanent Observer of Palestine. In addition, Turkey, Senegal and Iran sent messages of solidarity.

#### **E. Report of the Secretary-General on Peaceful Settlement of the Question of Palestine, 10 October 2003**

86. The report is submitted in accordance with General Assembly resolution 57/110 of 3 December 2002, pursuant to the request contained in paragraph 10 of the above-mentioned resolution. It contains replies received from the President of the Security Council and the concerned parties to the notes verbales sent by the Secretary-General pursuant to the request contained in paragraph 10 of the resolution. The report also contained the observations of the Secretary-General on the current state of the conflict and on international efforts to revive the peace process with a view to achieving a peaceful solution.

87. The report contained the verbales received from the Permanent Representative of Israel, the Permanent Observer of Palestine, the Permanent Representative of the Syrian Arab Republic and the Permanent Representative of the Hashemite Kingdom of Jordan.

88. Further, the observations were made by the Secretary-General on the current state of the conflict and on international efforts to revive the peace process with a view to achieving a peaceful solution. It was observed that renewed violence in the latter half of August 2003 signaled the breakdown of the ceasefire and a reversal in progress. In the renewed cycle of violence and counter-violence, suicide bombings by Palestinian militant groups and targeted assassinations of members of those groups by Israel have regrettably resumed. Consequently, the implementation of the road map has been frozen, and some steps have actually been reversed.

89. It was further noted that while recognizing Israel's right to self-defence, the Quartet called upon the Government of Israel to respect international humanitarian law and to exert maximum efforts to avoid civilian casualties among the Palestinians. It also pointed out that steps must be taken to improve the humanitarian situation and to normalize the daily lives of the Palestinian people.

90. The number of casualties in the past three years speaks eloquently to the need to persevere in order to achieve a lasting resolution to the conflict. The Secretary-General expressed his deep concerns that most of these deaths resulted from actions that violated basic tenets of international humanitarian law, especially the obligation to protect civilians. Also, he stated that he has repeatedly and consistently condemned all terrorist attacks on Israel as morally wrong and counterproductive for the Palestinian cause and have stressed the obligation of the Palestinian Authority to assume full security responsibility in areas still under its control. In addition, he urged the Government of Israel to refrain from the excessive and disproportionate use of deadly force in civilian areas and, consistent with international humanitarian law, to take steps to ensure the protection of Palestinian civilians.

91. It further noted that continued Israeli settlement construction activity and the building of a separation wall are two key challenges to the fulfillment of the Road Map's goal of the two-State solution. The construction of the separation wall is a

unilateral act not in keeping with the Road Map. Its building has involved the separation of Palestinians from their lands and from each other. Israel's continued expansion of settlements and construction of bypass roads have, over time, made the creation of a viable and contiguous Palestinian State more difficult. Despite the obligation in phase I of the road map to dismantle settlement outposts and to freeze all settlement expansion, the Government of Israel has not taken decisive action in that direction.

92. It has been of great concern that, despite political developments, the humanitarian and economic situation of the Palestinian people continued to deteriorate during the past year. This deterioration was a direct result of the policy of systematic closures and curfews and its impact on Palestinian social and economic life. Also, the humanitarian situation was worsened this year by unprecedented movement restrictions imposed on United Nations and non-governmental organization personnel, especially limiting their access into and out of the Gaza Strip.

93. The reference was made to the inter-agency United Nations humanitarian action plan, released in November 2002, which included activities to reinforce existing relief programmes and to provide temporary assistance to the affected population in priority sectors such as food security, health, education, employment generation and agricultural production to help mitigate the devastating impact of repeated military incursions, closures, curfews and economic decline.

94. The Secretary-General called upon the international community to provide the resources necessary to support United Nations programmes in addressing the deteriorating economic and humanitarian situation of the Palestinian people, and especially to provide adequate funding to UNRWA so that it can continue to deliver the necessary services to the Palestinian refugees.

## **F. 58<sup>th</sup> Session of the General Assembly**

95. At its 58<sup>th</sup> Session, convinced that achieving a final and peaceful settlement to the question of Palestine – the core of the Arab-Israeli conflict – was imperative to comprehensive and lasting peace in the Middle East, the General Assembly adopted a series of resolutions reaffirming international commitment to the Road Map peace plan and to the realization of the inalienable rights of the Palestinian people. The six texts relating to the question of Palestine and the situation in the Middle East were all adopted by recorded votes. This clearly indicates the efforts of the UN and the international community aimed at solving the complex issues involved in this problem and their efforts towards a solution. The following 17 important resolutions were adopted on the question of Palestine:

1. Assistance to the Palestinian People<sup>21</sup>
2. The occupied Syrian Golan<sup>22</sup>
3. Assistance to Palestinian Refugees<sup>23</sup>
4. Persons displaced as a result of the June 1967 and subsequent hostilities<sup>24</sup>

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<sup>21</sup>. A/RES/58/113, 17 Dec.2003

<sup>22</sup>. A/RES/58/100, 9 Dec. 2003

<sup>23</sup>. A/RES/58/91, 9 Dec. 2003

<sup>24</sup>. A/RES/58/92, 9 Dec. 2003



5. Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East<sup>25</sup>
6. Palestine refugees' properties and their revenues<sup>26</sup>
7. Assistance to Palestine refugees and support for the United Nations Relief and Works Agency for Palestine Refugees in the Near East<sup>27</sup>
8. Work of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories<sup>28</sup>
9. 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 Jerusalem, and the other occupied Arab territories<sup>29</sup>
10. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan<sup>30</sup>
11. Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem<sup>31</sup>
12. Establishment of a nuclear-weapon-free zone in the region of the Middle East<sup>32</sup>
13. The risk of nuclear proliferation in the Middle East<sup>33</sup>
14. Strengthening of security and cooperation in the Mediterranean region<sup>34</sup>
15. Special information programme on the question of Palestine of the Department of Public Information of the Secretariat<sup>35</sup>
16. Peaceful settlement of the question of Palestine<sup>36</sup>
17. Jerusalem<sup>37</sup>

#### **G. United Nations Meeting for Asia and the Pacific on the Question of Palestine, Beijing, 16 and 17 December 2003**

96. The United Nations Meeting for Asia and Pacific on the Question of Palestine was held in Beijing, on 16 and 17 December 2003, under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Participants in the Meeting included international experts, representatives of Governments, Palestine, intergovernmental organizations, United Nations system entities, civil society organizations, academic institutions and the media.

97. The Meeting was convened by the Committee with a view to mobilizing international support for a peaceful solution of the question of Palestine. In the course of the Meeting, the participants have reviewed the situation in the Occupied Palestinian Territory, including East Jerusalem and expressed grave concern about its deterioration. The participants discussed the Road Map and emphasized that it remained the principal

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<sup>25</sup>. A/RES/58/93, 9 Dec. 2003  
<sup>26</sup>. A/RES/58/94, 9 Dec. 2003  
<sup>27</sup>. A/RES/58/95, 9 Dec. 2003  
<sup>28</sup>. A/RES/58/96, 9 Dec. 2003  
<sup>29</sup>. A/RES/58/97, 9 Dec. 2003  
<sup>30</sup>. A/RES/58/98, 9 Dec. 2003  
<sup>31</sup>. A/RES/58/99, 9 Dec. 2003  
<sup>32</sup>. A/RES/58/34, 8 Dec. 2003  
<sup>33</sup>. A/RES/58/68, 8 Dec. 2003  
<sup>34</sup>. A/RES/58/70, 8 Dec. 2003  
<sup>35</sup>. A/RES/58/20, 3 Dec. 2003  
<sup>36</sup>. A/RES/58/21, 3 Dec. 2003  
<sup>37</sup>. A/RES/58/22, 3 Dec. 2003

mechanism for moving towards a peaceful settlement of the conflict. They welcomed recent civil society initiatives, such as the Geneva and People's Voice initiatives.

98. The participants also welcomed the unanimous adoption by the Security Council of resolution 1515 (2003), in which the Council endorsed the Road Map, and called on the parties to fulfill their obligations under the plan in cooperation with the Quartet.

99. The participants condemned the constantly expanding illegal settlement activities, throughout the Occupied Palestinian Territory, including East Jerusalem, and new Israeli-only roads and security zones cutting through the Palestinian land, and described them as illegal facts which also jeopardized the chances for a political settlement and an eventual establishment of a sovereign, contiguous Palestinian State.

100. The construction of separation wall in the occupied West Bank and around East Jerusalem was seen as an extension of the illegal annexation by Israel of Palestinian land in violation of its obligations under the Fourth Geneva Convention. The participants welcomes the resolutions of the resumed Tenth Emergency Special Session of the General Assembly and subsequent report of the Secretary-General, and called upon the Security Council to take steps in consonance with General Assembly's demand to stop and reverse the construction of the wall. They also considered the request by the General Assembly to the International Court of Justice to determine the legal consequences arising from the construction of the wall an important step towards upholding international law in efforts to resolve the Israel-Palestinian conflict.

101. The Committee delegation expressed its deep appreciation for the active and constructive role played by China, a permanent member of the Security Council and an Observer in the Committee and also welcomed the constructive efforts by H.E. Mr. Wang Shiji, China's Special Envoy for Middle East Affairs, towards the resumption of the political dialogue between the parties.

#### **H. ICRC Opinion on Separation Barrier and the Resultant Humanitarian and Legal Problems, 18 February 2004**

102. Based on the ICRC's monitoring of the living conditions of the Palestinian population and on its analysis of the applicable International Humanitarian Law (IHL) provisions, it provided the following findings and opinions.

103. The ICRC expressed its increasing concern about the humanitarian impact of the West Bank Barrier on many Palestinians living in occupied territory. Where it deviates from the "Green Line" into occupied territory, the Barrier deprives thousands of Palestinian residents of adequate access to basic services such as water, health care and education, as well as sources of income such as agriculture and other forms of employment. The construction of the West Bank Barrier continues to give rise to widespread appropriation of Palestinian property and extensive damage to or destruction of buildings and farmland. The ICRC has repeatedly condemned deliberate attacks against Israeli civilians and stressed that all acts intended to spread terror among the civilian population are in clear violation of international humanitarian law (IHL). It recognizes Israel's right to take measures to ensure the security of its population. However, these measures must respect the relevant rules of IHL.

104. The ICRC's opinion is that the West Bank Barrier, in as far as its route deviates from the "Green Line" into occupied territory, is contrary to IHL. The problems affecting the Palestinian population in their daily lives clearly demonstrate that it runs counter to Israel's obligation under IHL to ensure the humane treatment and well-being of the civilian population living under its occupation. The measures taken by the Israeli authorities linked to the construction of the Barrier in occupied territory go far beyond what is permissible for an occupying power under IHL.

105. The ICRC therefore called upon Israel not to plan, construct or maintain this Barrier within occupied territory.

#### **I. Switzerland and UNRWA to Host a Conference on Humanitarian Assistance to Palestinian Refugees**

106. The Swiss Government and the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) announced on 20 February 2004 that they are to host a unique conference in Geneva in June to discuss the future of humanitarian assistance to Palestinian refugees.

107. Millions of Palestinian refugees continue to live lives of hardship and poverty across the Middle East. For the first time in 54 years, an estimated 65-70 countries and inter-governmental organisations will gather together to plan humanitarian and human development strategies for the 4.1 million Palestine refugees registered with UNRWA. The conference will discuss these issues without prejudice to the refugees' status or to any future political agreement.

108. The two-day meeting, which will be held on 7-8 June, will be jointly hosted by the Swiss Agency for Development and Cooperation (SDC) and UNRWA at the International Conference Centre in Geneva (CICG). Invitations will be issued to senior officials from Capitals.

109. In advance of the conference, four thematic groups have been established under the leadership of individual countries and major international organizations to propose future initiatives. These groups cover: Palestine refugee children; housing, infrastructure and the environment in Palestine refugee camps; refugee participation in regional economic development and the management and mobilization of resources on behalf of the refugees.

#### **J. Organization of Islamic Conference (OIC) Special Meeting On the Middle East, Putrajaya, Malaysia, 22 April 2004**

110. The Special Meeting of the Organization of the Islamic Conference (OIC) on the Middle East strongly rejected the recent unilateral Israeli plan. It said that the unilateral plan breached the resolutions of international legitimacy and contradicted the provisions stipulated in the Road Map. The Declaration on Palestine said that "the plan and the support of the United States thereto are detrimental to the peace process in the Middle East as they are denying the inalienable rights of the Palestinian people," It called on the United States government to review its recent position which is counter productive to the objectives of the Roadmap.

111. They said in the 15-point declaration that they “affirm that no party has the right to make any concession to Israel on the Palestinian national rights or to negotiate on behalf of the Palestinian people and their legitimate and democratically elected leadership on these issues”. They called on the Quartet to intensify its efforts towards achieving a just and comprehensive peace in the Middle East on the basis of the Arab Peace Initiative, the Road Map and relevant agreements and resolutions and reject any unilateral measures that are not in line with these.

112. They urged "the Security Council to consider the deployment of a United Nations Peacekeeping Force or an international monitoring mechanism to monitor the implementation of the Road Map for Peace in the Middle East". On the construction of the wall in the occupied Palestinian territories, the OIC called on the UN and the international community to demand that Israel stop and reverse the construction. The OIC also condemned the assassination of the Palestinian leaders as a clear example of state terrorism and in contravention of the basic principles on international law.

113. They urged "the Security Council to assume its responsibility in the maintenance of international peace and security by demanding that Israel cease without any further delay its policy and practice of state terrorism". The meeting emphasized the need to implement adequate measures to provide the necessary protection for the Christian and Muslim sacred place of worship and religious significance. It agreed to establish a Ministerial Delegation to make immediate contacts with the members of the Quartet and the United Nations Security Council, aimed at explaining to them the position of the OIC on these grave developments as well as to engage them on issues relating to the peace process. The Ministerial Delegation should also urge them to mobilize and intensify their efforts to put an end to the Israeli aggression and repressive policies and practices against the Palestinian leadership and people. The Ministerial Delegation should also urge them to work towards the full implementation of the relevant UN resolutions, the Arab Peace Initiative, the Road Map and other agreements to resolve the Israeli-Palestinian conflict.

114. It further said that the 57-member grouping on the other hand needed to take practical measures without any further delay to implement all relevant OIC resolutions regarding the Israeli-Palestinian conflict in order to move the peace process forward. The declaration called on civil societies, non-governmental organizations as well as peace movements throughout the world to express their support to the plight of the Palestinian people through peaceful means.

## **VI. LATEST VIOLATIONS AND DEVELOPMENTS**

### **A. Assassination of Hamas Leader Sheikh Ahmed Yassin**

115. Israeli occupying forces assassinated 66 years old Sheikh Ahmed Yassin, founder and spiritual leader of the Islamic Resistance Movement (Hamas). He was killed at 5:20AM on Monday 22 March 2004. Israeli helicopter gunships fired three rockets at wheelchair-bound Sheikh Ahmed Yassin as he came out of the Islamic

Association Mosque in the densely populated al-Sabra neighborhood in the center of Gaza City.

116. Israel's "targeted killings" as it likes to refer to its firing of missiles from combat helicopters and aircraft into crowded civilian areas, are a blatant form of state terrorism. According to the Palestinian Center for Human Rights (PCHR), between 29 September 2000 and 3 March 2004, Israel killed 337 Palestinians in "targeted killings". Israel's justification of the killing as fight against terrorism is in utter disregard of basic international law and human rights norms.

117. In this regard, the United Nations Security Council failed to adopt a resolution, sponsored by Algeria and Libya, condemning the assassination of Hamas leader Sheikh Ahmed Yassin, with the United States vetoing it. The resolution got 11 votes in favor, with the United States casting the sole vote against it. Germany, Romania and the United Kingdom abstained. Speaking before the vote, Ambassador John D. Negroponte of the United States explained that his country opposed the resolution because it was "silent about the terrorist atrocities committed by Hamas," did not reflect the realities of the conflict in the Middle East and "because it will not further the goals of peace and security in the region."

118. Following the vote, Algeria's Ambassador, Abdallah Baali, said the result was as if the Security Council concluded that it had no say in the terrible tragedy unfolding in that part of the world. "By not condemning the extrajudicial killing of Sheikh Yassin, the Security Council is not sending the right message to the world which has unanimously condemned this crime," he said.

## **B. Assassination of Hamas Leader Abdel Aziz al-Rantissi**

119. On 17 April 2004, less than four weeks after the extra judicial execution of Sheikh Ahmed Yassin in Gaza, the Israeli occupying forces had committed yet another extra judicial execution by killing Abdel Aziz al-Rantissi, the political leader of Hamas. The occupying forces had fired missiles at the vehicle in which he was traveling, killing Dr. Rantissi, and two other Palestinian men who were with him. That was the second time that the occupying forces had targeted Dr. Rantissi for assassination, the first being in June 2003.

120. This killing is the latest in a long series of war crimes committed by the occupying Power in fulfillment of the repeated threats of Israeli Government and military officials to continue targeting Palestinian leaders for assassination in flagrant violation of international law and in complete and total disregard for the condemnation, pleas and demands by the international community for the cessation of such an illegal and barbaric policy. (President Yasser Arafat is also on the list).

121. The UN Security Council was convened on 20 April 2004 on the request in a letter dated 19 April from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council in which he requested, in his capacity as Chairman of the Arab Group for the month of April, and on behalf of the States members of the League of Arab States, the holding of an immediate meeting of the Council to consider Israel's grave violations of international humanitarian law, the most recent of which is the extrajudicial execution of Abdel Aziz al-Rantissi in Gaza,

and the escalation of its military attacks against the Palestinian people and their leadership, and to take the necessary measures in that regard.

122. The majority of the speakers who addressed the meeting strongly condemned the most recent extrajudicial execution, saying that the Council's failure to act last month had sent the wrong message to Israel, which had essentially been given the green signal to continue its illegal policies and defies the overwhelming majority of international community which condemns all these policies.

### **C. United Nations Secretary-General Condemns Israel's Assassination of Hamas Leaders**

123. On 22 March 2004 United Nations officials strongly condemned Israel's killing of Hamas leader Sheikh Ahmad Yassin in a move which also resulted in the death of eight others. A UN spokesman said in a statement that Mr. Annan "is concerned that such an action would lead to further bloodshed and death and acts of revenge and retaliation". "He reiterates that extrajudicial killings are against international law and calls on the Government of Israel to immediately end this practice," spokesman Fred Eckhard added. "The only way to halt an escalation in the violence is for the parties to work towards a viable negotiating process aimed at a just, lasting and comprehensive settlement."

124. Speaking directly to the press Mr. Annan said, "I do condemn the targeted assassination of Sheikh Yassin and the others who died with him. Such actions are not only contrary to international law, but they do not do anything to help the search for a peaceful solution." He also appealed to "all in the region to remain calm and avoid any further escalation in tensions." "As I have indicated earlier, it doesn't really facilitate the task of peacemakers," Mr. Annan said.

125. Further, United Nations Secretary-General has condemned Israel's assassination of Hamas leader Abdel Aziz al-Rantissi and called on the country to end the practice of extrajudicial killings, which violate international law. "He is apprehensive that such an action would lead to further deterioration of an already distressing and fragile situation," a spokesman for the Secretary-General said in a statement issued on 17 April 2004. The statement emphasized that the only way to halt an escalation in the violence is for Israelis and Palestinians to work towards a viable negotiating process aimed at a just, lasting and comprehensive settlement, based on the Road Map for peace outlined by the diplomatic Quartet of the UN, European Union, Russian Federation and United States.

### **D. Special Rapporteur on Extra Judicial Executions Expresses Concern at Assassinations**

126. The Special Rapporteur on extrajudicial, summary or arbitrary executions of the United Nations Commission on Human Rights, Asma Jahangir, issued a statement on 20 April 2004 which stated that "The Special Rapporteur on extrajudicial, summary or arbitrary executions is seriously concerned at the extrajudicial execution of the head of the Hamas militant Islamic movement in Gaza, Abdel Aziz al-Rantisi, which also

resulted in the deaths of two other civilians and the injury of several passers-by on 17 April 2004.”

127. The statement further stated that “only 26 days after Sheik Ahmed Yassin was killed by the Israeli military, the Special Rapporteur reiterates her conviction that aerial bombings or ‘targeted assassinations’ against civilian populations will only lead to escalating violence and calls on the Israeli forces to immediately end this unacceptable practice so as to comply with international human rights standards.”

## VII. CONCLUDING REMARKS

128. Neither international law nor the municipal law of any country permit the state sponsored targeted killing of people under its control. This is exactly what Israel did by assassinating the spiritual guide of the Islamic Resistance Movement, Hamas septuagenarian paraplegic Sheikh Ahmad Yassin in a targeted missile attack on 22 March 2004 and another Hamas Leader Abdel Aziz al-Rantissi on 17 April 2004. Such a barbaric, reckless and inhuman course of action in which the State takes recourse to targeted killing is indefensible in law and no words are strong enough to condemn this brutal and senseless assassination. It may be recalled that in September 2003 Israel had dropped a 550-pound bomb on an apartment complex in the Gaza Strip to assassinate Sheikh Yassin. However, from the state of Israel observance of any norms of law, as regards the rights of Palestinian people in Occupied Palestinian Territory is concerned is expecting too much. What is more shocking and despicable is the reported justification of Israeli Prime Minister Mr. Sharon that Israel had a “natural right” to pursue those who would destroy it. Such an attack which is illegally unbearable, dangerous and stepping on all principles and ‘world community condemnation’ would only exacerbate the violence since all the Palestinian militant factions have sworn retaliation in their quest for liberation.

129. Israel’s refusal to accept the jurisdiction of the International Court of Justice for an Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* strongly indicates that Israel is not prepared to argue its case on the basis of law at the highest judicial forum in the World. Non-participation by the State of Israel in the hearings can be seen as an acceptance of defeat by it. Furthermore, there are no known norms of international law on the basis of which Israel can found its claim of the occupation of the Palestinian territory as well as the construction of wall in it.

130. United Nations Secretary-General Kofi Annan welcomes the possibility of an Israeli withdrawal from the Gaza Strip but hopes that such a step would spark the renewal of the Road Map to peace, his spokesperson said on 15 April 2004. Responding to questions at the daily press briefing in New York, spokesperson Marie Okabe said the Secretary-General “continues to believe that such a withdrawal should be complete and represent the end of the Israeli occupation of Gaza.” Mr. Annan also “reiterates his position that final status issues should be determined in negotiations between the parties based on relevant Security Council resolutions,” she added. “He strongly believes that they should refrain from taking any steps that would prejudice or pre-empt the outcome of such talks.” Thus, Israel’s initiative to withdraw from Gaza needs to be looked at carefully keeping in view the requirement of total withdrawal

from the Occupied Palestinian Territory for any peace process to move forward and for any permanent solution to the conflict.

131. The tension in the Middle East, ever since the founding of the State of Israel in 1948, has been a constant source of threat to the maintenance of international peace and security. At Camp David in 1978 and in Oslo in 1993, Israelis, Egyptians and Palestinians have endorsed the only reasonable prescription for peace: United Nations Resolution 242, it condemns the acquisition of territory by force, calls for withdrawal of Israel from the occupied territories, and provides for Israelis to live securely and in harmony with their neighbors. There is no other mandate whose implementation could more profoundly improve international relations in this troubled area.

132. Over the years, Israel as the occupying power has continued to use excessive and indiscriminate force against the civilian population under its occupation, committing war crimes, state terrorism and systematic human rights violations against the Palestinian people on a daily basis. The world has witnessed, with consternation, powerlessness or resignation, a disconcerting deterioration in the situation on the ground, resulting in an undoubted setback to the Palestinian-Israeli peace process. Now countless months of confrontations, acts of violence and tragedies have brought about the death of thousands of people including children and the elderly, and have left as many injured. Since 28 September 2000, the occupying power has implacably imposed its law: lethal incursions into Gaza, the West Bank and Jerusalem, the destruction of property on a massive scale, the establishment of new settlements and the enlargement of existing ones, military occupation, the closure of towns and a merciless blockade, paralyzing economic activity, imposing hardships on populations and exposing them to rebellion and, at the same time, shattering what little remained of the fragile trust between the two parties.

133. Since the beginning of the Al-aqsa Intifada in September 2000 the atrocities being committed by the Israeli occupying power have increased manifold and are in gross violation of all international law principles. Though the Israeli Government persists in describing the second Intifada as a security crisis or a disruption to the “peace process”, in international law Palestinian resistance to occupation is a legally protected right. For more than 35 years, Israel has administered a military occupation of the West Bank, the Gaza strip and East Jerusalem in consistent and relentless defiance of the will of the international community. The international consensus has been expressed through widely supported resolutions passed by the UN Security Council (UNSC) and UN General Assembly. (UNGA). The UN Security Council Resolutions 242 and 338 affirmed the legal obligation of Israel to withdraw from Palestinian territories obtained in the 1967 six-day war. The principle of land for peace laid down in these resolutions must be the end point of any peace process that can bring lasting peace.

134. Until such time as Israel respects this obligation, it is bound by the relevant principles of international law contained in the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August, 1949, in particular those provisions of the convention that require an occupying power to protect the status quo, human rights and prospects for self determination of the occupied people. Since 1967, Israel has refused to accept this framework of legal obligations. Not only has Israel failed to withdraw from the occupied territories, during the occupation Israel has



created heavily armed settlements, bypass roads and security zones in the midst of a future Palestinian state that seriously compromise basic Palestinian rights.

135. The Fourth Geneva Convention imposes an underlying obligation on an occupying power to protect the civilian population as specified in considerable detail in Articles 47-78.

Article 47 - affirms the “inviolability of rights” granted to the civilian population that can in no circumstances be suspended or evaded.

Article 49 - prohibits individuals or mass forcible transfers, as well as deportation of protected persons from occupied territory to the territory of occupying power.

Article 50 - imposes a special burden on the occupying power to protect children from the effect of war and accompanying hardships.

136. In these contexts the international community has a duty to take steps, in accordance with Article 1 of the fourth Geneva Convention, to secure Israeli Compliance with the relevant provisions of international humanitarian law. The language of Article 1 is clear: “**The High Contracting Parties undertake to respect and to ensure respect for the present convention in all circumstances**”.

137. The events of the “Oslo peace process” do not alter the Palestinian right of resistance to the occupation, due to Israeli refusal to implement the underlying directives established by a consensus within the UN. The UN consensus is particularly persuasive because the Palestinian right of self-determination is recognized by a majority of states, and because Palestine was a mandated territory, administered as a sacred trust by the United Kingdom. The UN has made clear the legal rights and duties in the Israeli-Palestinian conflict in a series of widely supported resolutions.

138. In spite of all the ongoing efforts at the international and regional levels aimed at condemning the actions of Israel the occupying power, it continues to defy the world completely. It seems from the ongoing events that there is no rule of law and no sanctity for the United Nations. We need to ask ourselves that can't we impose the collective will of the international community on an occupying power which is threatening world peace and security disregarding the established rules of law particularly principles enshrined in the UN Charter, human rights law, humanitarian law, the Fourth Geneva Convention of 1949 as well as all other efforts aimed at codification and implementation of International Law.

139. AALCO believes that the above enumerated are some of the core issues that need to be tackled carefully if any meaningful solution is to be brought to this conflict. In the absence of the will to enforce the body of international law on the Israeli – Palestinian conflict, resolutions and conventions cannot on their own bring justice to the people of Palestine. Equally important, the flagrant violation of international law daily increases the injustice to the Palestinian people, intensifies their suffering and cannot be ignored in any approach to conflict resolution. The severity of these violations, and their persistence and frequency, also establishes the foundation for an inquiry into whether an abusive structure of illegal prolonged belligerent occupation does not itself amount to the commission of crimes against humanity, beyond the specific wrongs alleged in relation to the Fourth Geneva Convention of 1949 and international humanitarian law.

140. AALCO as a legal body once again reiterates the urgent need for the international community to take action to address all of the above mentioned serious violations and grave breaches of international law including international humanitarian law being committed by the occupying power against the Palestinian people.