



**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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CONTENTS

I. INTRODUCTION	
A. Background	1-3
B. Deliberations at the Fifty-Second Annual Session of AALCO (New2 Delhi (HQ), Republic of India, 9-12 September 2013)	3-6
C. Issues for focused deliberation at the Fifty-Third Annual Session of AALCO, 2014	6-7
II. ISRAEL'S VIOLATION OF INTERNATIONAL LAW, PARTICULARLY INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS LAW	7-13
A. Violations of the Fourth Geneva Conventions in the Occupied Palestinian Territory	7-9
1. Annexation and Illegal Expropriation of Palestinian Land	9-10
2. Jewish Colonial Settlements	10-10
3. Deportation of Palestinians	11-11
4. Construction of the Wall in the Occupied Palestinian Territory	11-12
B. UN Security Council and general Assembly Resolutions	12-13
III. THE QUESTYION OF THE STATEHOOD OF PALESTINE	13-14
IV. INTERNATIONAL RECOGNITION OF THE STATE OF PALESTINE	14-14
V. DEVELOPMENTS AT THE 68TH SESSION OF THE UNGA (2013)	14-24
A. Statement by H.E. Mr. Mohmoud Abbas, President of the State of Palestine	14-16
B. The response to the statement by the UN Secretary-General and AALCO Member States	16-18
C. Report of the UN Secretary-General on the Status of Palestine in the United Nations Presented to the UNGA	18-21
D. Resolutions adopted by the UNGA at its 68 th Session	21-23
E. The debate in the UN Security Council	23-24

VI.	OTHER MAJOR DEVELOPMENTS	
A.	Report of the independent international fact- finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem	24-32
B.	Resolutions adopted by the Human Rights Council in 2013	32-32
C.	West Bank and Gaza: A World Bank report on Area C and the Future of the Palestinian Economy	32-34
VII.	COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT	34-37
Annex I	List of AALCO Members who expressed support to Palestine’s application for full Membership	38-38
Annex II	Voting of AALCO Members at the 36 th General Conference of the UNESCO	39-39
Annex III	List of AALCO Members with whom Palestine Maintains Diplomatic Relations	40-40
Annex IV	Draft Resolution for the Fifty-Third Annual Session	41-44

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I. INTRODUCTION

A. 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 AALCO’s Twenty-Seventh Session, held in Singapore (1988), at the initiative of the Government of the Islamic Republic of Iran.¹ 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.

2. At the Thirty-Fourth 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 Thirty Fifth 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. At the subsequent Sessions, the scope of the item was enlarged, *inter-alia*, to include, at the Thirty-Seventh Session, “Deportation of Palestinians and other Israeli Practices”, and the item “Deportation of Palestinians and other Israeli Practices among them the Massive Immigration and Settlement of Jews in the Occupied Territories in Violation of International Law Particularly the Fourth Geneva Convention of 1949” was placed on the agenda of the Thirty-Eight Session (Accra 1999).

4. At the Thirty-Ninth (Cairo, 2000) Session, it was decided to further 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. The item has since been seriously discussed at the successive Sessions of the Organization as part of its Work Programme and the Organization has examined the violations of international law committed by the State of Israel against the Palestinian People.

5. The issue relating to the Statehood of Palestine once again gained international momentum in 2012. The Fifty-First Annual Session of AALCO held in Abuja, in June 2012, mandated the Secretariat, vide resolution RES/51/S 4 adopted on 22 June 2012, to *inter alia*

¹ During that 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.”

conduct a study to examine and establish the legal requirements and principles that would determine the status of Palestine as a State, taking into consideration requirements of international law and existing international norms and standards, and to submit the outcome of the study for the further consideration of Member States.

6. In compliance with the above mandate, the AALCO Secretariat has brought out the study entitled “The Statehood of Palestine under International law”. Palestine, as a territorial entity, has experienced a unique history. Until World War I, Palestine was part of the expansive Ottoman Empire. After the war, Palestine came under the administration of Great Britain by an arrangement with the League of Nations. In 1948 Israel established itself in part of Palestine's territory, and Egypt and Jordan assumed administration of the remaining part. By 1967 Israel took control of the parts administered by Egypt and Jordan and by 1988 Palestine reasserted itself as a state. Recent years saw the international community acknowledging Palestinian statehood as it promotes the goal of two independent states, Israel and Palestine, co-existing peacefully. The special study conducted by AALCO draws on evidence from the 1924 League of Nations mandate to suggest that Palestine was constituted as a state at that time. Palestine remained a state after 1948, even as its territory underwent transformation. Further, the study also provides an account of how Palestine has been perceived until the United Nations General Assembly overwhelmingly upgraded the Palestinian Authority's status to that of “Non-Member Observer State” on 29 November 2012 vide resolution 67/19.

7. The aforementioned study contains the following chapters: Executive Summary; a brief history of the conflict; Israeli practices in the Occupied Palestinian Territories in violation of international law; AALCO's work on the Israel-Palestine conflict; Israel's violation of international law, in particular, human rights and humanitarian law; jurisdiction of the International Criminal Court with respect to acts committed by Israel in the Occupied Palestinian Territories; recognition of States; criteria for statehood in international law and Palestine; right to self-determination of Palestinian people and its impact on statehood and conclusion To make the publication more useful for AALCO Member States and interested readers, some documents that have an important bearing on the subject matter have also been compiled and included as “Annexures”. The study conducted by the Secretariat was welcomed and appreciated by the Member States of AALCO.

8. The present report prepared for the Fifty-Third Annual Session of AALCO, contains an overview of the following developments: Deliberations at the Fifty-Second Annual Session of AALCO (2013 - New Delhi, (Headquarters), Republic of India, 09 – 12 September 2013); Israel's violation of international law, particularly international humanitarian law and human rights law; UN Security Council and General Assembly Resolutions; The question of Statehood of Palestine; International recognition of the State of Palestine; Developments at the 68th Session of the United Nations General Assembly; Statement by H.E. Mr. Mahmoud Abbas, President of The State of Palestine; The Response of AALCO Members To the Statement; Report of the UN Secretary General on the Status of Palestine in the United Nations presented at the General Assembly in 2013; Security Council debates; Important resolutions adopted during the Sixty-Eighth Session of the United Nations General Assembly; Report of the independent international fact- finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied

Palestinian Territory, including East Jerusalem; Resolutions adopted by the Human Rights Council; West Bank and Gaza: A World Bank report on Area C and the Future of the Palestinian Economy; and Comments and Observations of AALCO Secretariat.

B. Deliberations at the Fifty-Second Annual Session of AALCO (2013 - New Delhi, (Headquarters), Republic of India, 09 – 12 September 2013)

9. **H.E. Prof. Dr. Rahmat Mohamad, Secretary-General, AALCO** introduced the topic. He pointed out that the issue has been on the agenda of the Organization since the year 1988 and that over the past twenty-five years the Organization has devoted its attention to the numerous legal issues that touch the situation in the Middle East. He then referred to the mandate that was given at the Fifty First annual session of the Organization - to make a study concerning the legal requirements and principles that would determine the status of Palestine as a “State”, taking into account the relevant international law principles and stated that in tune with that mandate the secretariat has prepared a study on the “Statehood of Palestine under International Law”. He then referred to the contents of the study and also proposed a framework for discussions.

10. Dr. Mohamad stated that the illegal military occupation of Palestinian territories and the human rights abuses perpetrated on the people of Palestine has been continuing now for more than four decades in flagrant violation of the binding resolutions of the Security Council and the General Assembly. It was pointed out that even as peace talks have resumed after a significant length of time, Israel was continuing to pursue its expansionist policies. He then pointed out that time and again the international community has continuously asserted the illegal nature of these acts and the other acts that are in the nature of collective punishments. He also referred to the judgment of the International Court of Justice in *The Wall case* and the documentation of the human rights abuses in the OPT by the Special Committee appointed by the United Nations.

11. Dr. Mohamad pointed out the importance of pursuing legal remedies to redress this situation and that the attempts made by Palestine to pursue this at the International Criminal Court had to be viewed in this context. However, that the prosecutor had refused to initiate investigations for the reason that it doubted whether Palestine was a “State” was also pointed out. He then referred to the special study conducted by the Organization on the “Statehood of Palestine” and stated that there were compelling reasons to conclude that Palestine does satisfy the international requirements for Statehood: that it had a territory (though disputed in its extent), that it had a permanent population, that it had a government and has proved the ability to enter into relations with other States. He then stated that despite these criteria, Statehood was intimately connected to recognition and that Palestine has been recognized by the vast majority of the Member States of the UN. He also referred to the right of the Palestinian People’s right to self-determination in this context. He pointed out that the study prepared by the secretariat had covered these issues. He then drew the framework for deliberations: the violations of international law, particularly international human rights law and humanitarian law committed by the Israel in the Occupied Palestinian Territory (OPT); the role of the International Criminal Court in redressing these violations and the role of the international community to pressurize Israel to comply with its international obligations.

12. The Delegations of the **State of Palestine, Japan, Islamic Republic of Iran, Indonesia, Mauritius, Arab Republic of Egypt, Republic of South Africa, India and people's republic of China** presented their statements on the topic.

13. **The Delegate of the State of Palestine** made a statement welcoming the study conducted by the Secretariat and outlined the concerns and the views of his country on this issue. He reiterated the importance of the publication, which according to him, would be a legal reference point of use at the global level and stated that all attempts would be put in to translate and publish the book in different languages. Expressing sympathy for AALCOs financial conditions, the delegation however requested for a waiver of the arrears for Palestine and stated that necessary actions would be taken on the coming years to clear of the arrears in the coming years.

14. **The Delegate of Japan** appreciated the new publication released by the Secretariat "A study on the Statehood of Palestine under International Law". He said that so far they had not had an opportunity to go through the same, however he felt it should be a useful study relevant to the agenda item Deportation of Palestinians and other Israeli practices which had been discussed by the Organization since 1989. He stated that the question was inseparably linked to the overall situation in the region. Japan, he pointed out, had been supporting the efforts to seek the realization of lasting peace in the Middle East based on a two-state solution in which Israel and a future independent Palestinian State coexist in peace and for that it was necessary that direct negotiations resume between both the parties. He pointed out that Japan's basic position had always been that on the basis of UN Security Council resolutions 242 and 338 Israel should withdraw from the area it had occupied in 1967, Palestinian people's right to self-determination including establishment of an independent state should be recognized and that peace should be realized. He stated that on its part Japan would continue its efforts to push forward the peace process from political and economic side. He recounted the initiatives taken by Japan in that regard. In conclusion he deplored Israel's construction of further settlement activities which clearly went against the efforts of the parties involved to resume the peace process, and strongly called on Israel not to implement this plan. In conclusion he mentioned that Japan had voted in favour of the UNGA resolution which was adopted last year, granting non-member observer state status to Palestine.

15. **The Delegate of the Islamic Republic of Iran** expressed the sincere appreciation of his delegation to the Secretariat for the special study on the "Statehood of Palestine under International Law". He pointed out that the question of Palestine has been one of the main challenges facing the International Community for over 60 years and that the crisis in the region was as a result of the Zionist occupation Palestine and that ignoring the legitimate right of the Palestinian people to self-determination would hinder the steps towards a just solution of the question.

16. The delegation condemned the Israeli Authorities for breach of International Human Rights and Humanitarian Law, some of which amounted to war crimes and pointed out reports by International Organizations that detailed the magnitude of these atrocities. He also referred to the recent proliferation of such incidents. The delegate stated that Iran had always approved the firm position of AALCO over the years in condemning Israel's violations of international law in the Occupied Territories. The delegation stated that these violations must not be allowed to go

unpunished and affirmed the application of the Geneva Convention in the Occupied Territories. The delegation called on the Member States to respond to this situation and ensure that all were equal before the law. The delegation further called on the Israel to comply with the judgment of the ICJ in *The Wall Case*. Affirming the right of the Palestinian people to exercise sovereignty over their occupied territory, it was pointed out that the ICJ had held that the existence of Palestinian people was no longer an issue and had affirmed their right to self determination. Welcoming the decision of the United Nations General Assembly in 2012 to upgrade the Status of Palestine within the Organization as an “observer”, the need to further help the Palestinians remove the obstacles to the exercise of their right to Self Determination.

17. **The Delegate of Indonesia** congratulated the Palestinian delegation for their upgraded status in the United Nations and complimented all the Member States for their effort and support to Palestine. He stated that the historic decision by the general Assembly to accord non-member Observer State status to Palestine was a strong testament to the support of the majority of UN Member States in supporting the struggle of Palestine to exercise its right to self-determination. He felt however that this support would have to continue till it got full statehood, in line with the principles outlined in relevant Security Council resolutions, the Road Map of the Quartet and the Arab Peace initiative. Indonesia ardently supported the two-state solution based on the conviction that an independent state of Palestine with rights and responsibilities would contribute to achieving a just, lasting and comprehensive peace in the Middle East.

18. **The Delegate of Mauritius** reiterated their deep commitment, consistent and unwavering support to the Palestinian people in the pursuit of their legitimate aspirations for freedom and equality as a sovereign member of the family of nations. He reaffirmed unequivocal solidarity with the Government and people of Palestine. He expressed his concern that the perennial question of Palestine remained unresolved and pointed out the Palestinians could not exercise their inalienable rights, including the right to self-determination without interference and the right to national independence, sovereignty and sustainable development in the present conditions. In this respect he saluted the Palestinian leadership for submitting an application to the UN General Assembly, for the statehood of Palestine. Mauritius fully supported this initiative as they were convinced that full membership would correct an injustice that had lasted more than six decades and would result to a comprehensive, lasting and just resolution of the Israeli-Palestinian conflict.

19. **The Delegate of the Arab Republic of Egypt** stated that Egypt appreciates AALCO for its comprehensive study on the Palestinian issue, particularly because it provides a legal perspective to countries that have not yet decided to support the Palestinian State. He stated that Egypt supports the honourable Minister of Justice of Palestine’s statements on Israeli practices concerning human rights and the Al-Aqsa Mosque. He stated that Egypt would continue to support the Palestinian people in their aspirations towards an independent state along the borders decided in June 1967 with Jerusalem as its capital. He denounced the Israeli settlements and the storming of the Al-Aqsa Mosque and urged AALCO Member States to continue rejecting Israel’s decision to expand settlements and its punishing of the Palestinian people for their bid for international legitimacy in the United Nations.

20. **The Delegate of the Republic of South Africa** condemned the deportation of people by force and the disregard of international law especially with regard to the ongoing issue of the Palestinian Occupied Territories. The Government of South Africa noted with concern that since 1967 Israel had deported 1,522 Palestinians from the occupied territories. The delegate agreed that the continued illegal occupation of Palestinian territory was an obstacle to negotiations for peace and contrary to international law; this view was articulated in all interactions with the Israeli government, which regarded the area it occupied in June 1964 as “disputed territory”. He stated that South Africa remained deeply concerned about the expansion of Israeli settlements, especially in East Jerusalem. He stated that the South African Government had called on Israel to abandon all settlement activities and that it shared the view that a two-state solution to the conflict was under increasing threat as Israeli settlement activities in the West Bank made the separation of both people into two states increasingly difficult. Thereafter, he recounted the various efforts for a settlement, including the NAM Ministerial meeting in Sharm El Sheikh, Egypt on 10 May 2012 where South Africa had demonstrated its unwavering commitment to the call for a Palestinian State. He pointed out that South Africa had also called for the lifting of the on-going Israeli blockade of Gaza as it amounted to collective punishment of the population of the enclave. He further added that South Africa did not support the Israeli practices relating to the detention of Palestinian children, the arbitrary use of administrative detention against Palestinians, the demolition of Palestinian homes, and other illegal Israeli practices. In conclusion he said that since 1994, successive governments had expressed strong support in regional and international forums for the Palestinian cause within the framework of a viable two-state solution.

21. **The Delegate of India** welcomed the special study conducted by the Secretariat. He stated that the issue was still to be resolved. He pointed out that the Palestine borders are well defined, that the people of Palestine have the right to Self-Determination.²

22. **The Delegate of People's Republic of China** expressed their appreciation for the special study conducted by the Secretariat and expressed firm support for the Palestinian Cause for Statehood with the 1967 borders and for membership in the United Nations and other International Organizations. Recalling that China has rendered assistance to the Palestinian cause over the years, the delegate assured the Member States that her country would continue to play an active role in supporting the issue.

C. Issues for focused deliberation at the Fifty-Third Annual Session of AALCO, 2014

1. *Violations of international law, particularly international human rights law and humanitarian law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT)*

- ***Special focus on the Renewed Israeli military excesses in the Occupied Palestine Territories with reference to the Fourth Geneva Convention of 1949 and United Nations Security Council and General Assembly Resolutions***
- ***War Crimes committed in Gaza by Israeli forces including blockade of Gaza***

² The Detailed statement by the Delegate of India is reported in the Verbatim Record of Discussions of the Fifty-Second Annual Session, 9-12 September 2013 (AALCO/52/NEW DELHI (HQ)/2013/VR) pp. 167-168.

2. *Establishing peace in the Middle East*

- *The role of the international community to pressurize Israel to comply with its international obligations*
- *Highlighting the need for establishing an independent sovereign State of Palestine as a prelude to establishing everlasting peace in the Middle East*

II. ISRAEL'S VIOLATION OF INTERNATIONAL LAW, PARTICULARLY INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS LAW³

23. For well over four decades, 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.⁴ The international consensus on this issue 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 occupied 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. However, Israel the occupying power continues to defy the will of the international community, and the horrific atrocities perpetrated on the civilian population in the OPT beginning from 27th December 2008, which continue in one form or the other till date have clearly demonstrated this trend. The latest spiral of violence that has begun in the region surpasses all earlier atrocities as now the target is children and civilians without discrimination to their age.

A. Violations of Fourth Geneva Conventions in the Occupied Palestinian Territory (OPT)

24. Until such time as Israel respects its obligation under the Fourth Geneva Convention concerning the Protection of Civilian Persons in Time of War, 12 August, 1949, as well as other principles of international law 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, violations of the rights of Palestinian civilians shall continue. 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 it failed to withdraw from the occupied territories, but during the occupation, Israel has created heavily armed settlements, bypass roads and security zones in the midst of a future Palestinian State that seriously compromises basic Palestinian rights.

25. Various provisions of the Fourth Geneva Convention dealing with the protection of civilians are applicable to the Occupied Palestinian Territory (OPT). and both parties to the conflict are parties to the Geneva Conventions.

26. 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

³ This part of the study was also reflected in the brief prepared for the Fifty-First Annual Session, held in Abuja in 2012 (AALCO/51/ABUJA/2012/SD/S 4). The same is reiterated here to highlight the illegal activities unabatedly perpetuated by Israel on the Occupied Palestinian territories.

⁴ Beyond Oslo: The new uprising International law and the Al-Aqsa Intifada – Middle East Report 219, Winter 2002

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.⁵ This theory contended that Jordan and Egypt were not the legitimate sovereigns 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.

27. However, these justifications of Israel were strongly refuted by international law scholars as "strained and artificial in character", and commanded little or no respect among "highly qualified publicists" or within the "organized international community" and also it did not receive any support from the international community.⁶

28. 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.'⁷ 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.⁸ 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.⁹ 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

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).

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

⁸ SC res. 478 (1980).

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

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.”¹⁰

29. Thus, Israel’s compliance with the Fourth Geneva Convention is not optional based on unilateral interpretations. An enumeration of Israeli activities in the OPT that violated the Fourth Geneva Convention and other relevant provisions of international law would become a long one as it has violated almost every provision of the Fourth Geneva Convention. Some of the glaring illegal activities of Israel are mentioned below.

1. Annexation and Illegal Expropriation of Palestinian Land

30. 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. 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. A number of military orders are used to implement these policies. For example, Military Order No. 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.

31. 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.¹¹ Similarly, article 147 of the Convention declares as a grave breach of any extensive destruction

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

¹¹ 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.

and appropriation of property, not justified by military necessity and carried out unlawfully.¹² 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 its request if the requesting state has sufficient evidence to commence a prosecution.

2. Jewish Colonial Settlements

32. For more than four decades 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.

33. 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 Drobls 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."¹³

34. 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.¹⁴

¹²Article 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."

¹³Mattiyahu Drobls, 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.

¹⁴For 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."

3. Deportation of Palestinians

35. 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 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.

36. 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.

4. Construction of the Wall in the Occupied Palestinian Territory

37. The International Court of Justice (ICJ), rendered its Advisory Opinion in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Request for advisory opinion)*. Highlights of the Opinion include: The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law (14 votes to 1); and Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion (by 14 votes to 1). (Details of the Advisory Opinion: See Report on the Item AALCO/44/NAIROBI/2005/SD/S 4, pp.10-15)

38. The United Nations General Assembly Tenth Resumed Emergency Special Session on 20 July 2004, overwhelmingly adopted a resolution demanding Israel to comply with the ICJ Advisory Opinion on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. It called upon the Israel to halt construction on its security barrier in the West Bank; tear down the portions built on the Palestinian land; and provide reparations to Palestinians whose lives have been harmed by the wall. 150 countries voted in favor of the resolution and six countries against, with ten abstentions. The resolution also called on both Israel Government and the Palestinian Authority to immediately implement their obligations under the Road Map, which calls for a series of parallel and reciprocal steps by each party leading to two States living side by side in peace by 2005. It called on all UN Member States to comply with their obligations as contained in the finding by the ICJ, which include a duty “ not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem”. It also called upon the Member States not to render aid or assistance in maintaining the situation created by such construction.

The resolution requested the UN Secretary General to set up a register of all damage caused to all the natural or legal persons in connection with Israel's construction of the barrier.

39. A resolution to establish a Register of Damage arising from the construction of separation wall by Israel in the Occupied Palestinian Territory was adopted as the General Assembly continued its tenth special emergency session on Israeli actions in the Occupied Palestinian Territory.

40. Introduced by Iraq, the United Nations Register of Damage calls for the establishment of a Register (and an office for the same) which serves as a comprehensive record of the damage caused to all natural and legal persons as a result of the building of the wall. The office would be composed of a three-member board, an executive director and a secretariat. As a subsidiary organ of the Assembly, the office would operate under the administrative authority of the Secretary-General.

B. UN Security Council and General Assembly Resolutions

41. The UN consensus is particularly persuasive since majority of UN Member States recognize the Palestinian right of self-determination. This right is also legitimized by 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 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. Also Resolutions 1405 (2002) of 19 April 2002, 1435 (2002) of 24 September 2002, 1515 (2003) of 19 November 2003 and 1544 (2004) of 19 May 2004, 1850 (2008) and 1860 (2009) are of great relevance to the Palestinian cause.

III. THE QUESTION OF STATEHOOD OF PALESTINE

42. The question of Palestine was discussed by the General Assembly as a part of the attention that it bestowed on the conflict situation in the Middle East and in the context of the human rights and refugee aspects. It was in 1974 that the question was then again approached by the General Assembly as a national question in the light of the 1967 war and the continuing occupation of its territory. In its resolution 3210 (XXIX) the General Assembly recognized and invited the Palestine Liberation Organization (PLO) as the representative of the Palestinian people to participate in its deliberations at the plenary meetings on the question of Palestine.¹⁵ In resolution 3236 (XXIX), the General Assembly reaffirmed and specified the inalienable right of the Palestinian People, which included the right to self determination, to national independence and sovereignty.¹⁶ Vide resolution 3237 (XXIX) the Palestine Liberation Organization was granted the observer Status and was invited to participate in the sessions and in the work of the General Assembly in the capacity of an observer. The PLO has established a Permanent Observer mission since 1974 at U.N. headquarters in New York and another one in Geneva.¹⁷

43. Regarding the participation of the PLO in the Security Council, at its 1859th meeting through a decision by a vote, on 4 December 1975, it was decided that an invitation be extended to PLO to participate in the debate on the situation in the Middle East and also that the same rights of participation as those conferred on a Member State when it is invited to participate in a discussion be extended to it. Vide Resolution 43/177 the General Assembly acknowledged the proclamation of the State of Palestine by the Palestine National Council in 1988 and decided that the designation "Palestine" shall be used instead of PLO in the United Nations System.¹⁸ In 1994, the General Assembly without a vote adopted a resolution approving the report of the Preparatory Committee for the Fiftieth Anniversary of the United Nations in which the Committee had authorized its Chairman to issue a letter to the Permanent Observer of Palestine confirming that the arrangements decided for the Special Commemorative Meeting of the General Assembly on the occasion of the Fiftieth Anniversary of the U.N. shall apply also to Palestine in addition to all the member and observer States.¹⁹

44. On 23 September 2011, H.E. the President of Palestine delivered to the UN secretary General the official application for recognition of a Palestinian State by the UN and a membership in the same organization.

¹⁵ A/RES/3210 (XXIX) (14 October 1974)

¹⁶ A/RES/3236 (XXIX) (22 November 1974)

¹⁷ A/RES/3236 (XXIX) (22 November 1974)

¹⁸ A/RES/43/177 (15 December 1988)

¹⁹ A/RES/49/12 (24 May 1995)

45. On 31 October 2011, the General Council of UNESCO voted in favour of admitting Palestine as a member state. This membership became effective on November 23, 2011.

IV. INTERNATIONAL RECOGNITION OF THE STATE OF PALESTINE

46. The State of Palestine maintains a network of diplomatic missions to countries that have recognized or has partially recognized the State. These are predominantly in Africa, Asia and Eastern Europe. In addition to this, Palestine also maintains delegations and other representative offices that represent the Palestinian Authority to other states and multilateral organizations, of which their agents may be accorded some degree of recognition similar to that of other diplomats. According to the Palestine Liberation Organization Negotiations Affairs Department, more than 127 States Members of the United Nations recognize Palestine to date.²⁰ A list of AALCO members with whom Palestine maintains diplomatic relations as on 25 January 2011 can be found in Annexure III.

V. DEVELOPMENTS AT THE SIXTY-EIGHTH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY (2013)

A. Statement by H.E. Mr. Mahmoud Abbas, President of The State of Palestine.²¹

47. **H.E. Mr. Mohmoud Abbas**, the President of the State of Palestine, in his first address to the United Nations General Assembly in the name of the State of Palestine, after the historic decision of 29 November 2012 to raise Palestine's status to that of an observer State, thanked the representatives of Governments and peoples, who had championed justice, right, and peace, and thereby affirmed their refusal of occupation, and stood for principles and ethics for Palestinian peoples yearning for freedom.

48. The Palestinian people, he said, celebrated this resolution, because they rightly felt that they did not stand alone in the world, but that the world stood with them, and because they realized that the result of the overwhelming vote meant that justice was still possible and that there was still room for hope.

49. The President recalled that he had assured the General Assembly last year that the quest to raise Palestine's status did not aim to delegitimize an existing State - Israel, but to consecrate the legitimacy of a State that must exist, which is Palestine. The President had also affirmed that the quest did not aim to affect the peace process, nor was it a substitute for serious negotiations. To the contrary, their quest was supportive of the path of peace and had revived a comatose process.

²⁰ Report of the committee on the Exercise of the Inalienable Rights of the Palestinian People, A/66/35 (7 November 2011), available at : <http://unispal.un.org/unispal.nsf/796f8bc05ec4f30885256cef0073cf3a/13f28f0963f95ee385257943004fe121?OpenDocument> accessed 25 March 2012.

²¹Statement by H.E. . Mahmoud Abbas, President of The State of Palestine at the 68th Session of the United Nations General Assembly, available at: http://gadebate.un.org/sites/default/files/gastatements/68/PS_en.pdf, last assessed on 26 June 2014.

50. He reiterated that the State of Palestine, abides by the United Nations Charter, international humanitarian law and the resolutions of international legitimacy, and would exercise its role and uphold its responsibilities in the international system in a positive and constructive manner, and in a way that reinforces peace.

51. The President said that a new round of negotiations began a few weeks ago and there was strong determination and an insistence on their success. Palestine on its part would respect all its commitments and foster the most conducive atmosphere for the continuation of these negotiations in a serious, intensive manner and provide the guarantees for its success, aimed at reaching a peace accord within nine months. He emphasized that the objective of the negotiations was to secure a lasting peace accord that immediately leads to the establishment of the independence of a fully sovereign State of Palestine, on all of the Palestinian lands occupied in 1967, with East Jerusalem as its capital, so that it may live in peace and security alongside the State of Israel, and the resolution of the plight of Palestine refugees in a just agreed upon solution, according to United Nations resolution 194, as called for by the Arab Peace Initiative.

52. The President refused to enter into a vortex of a new interim agreement that becomes eternalized, or to enter into transitional arrangements that would become a fixed rule rather than an urgent exception. The objective was to achieve a permanent and comprehensive agreement and a peace treaty between the States of Palestine and Israel that resolves all outstanding issues and answers all questions, which allows them to officially declare an end of conflict and claims. The terms of reference and parameters of these negotiations, its goals, and the basis of the agreement sought were found in the General Assembly's historic decision to raise Palestine's status, as well as in the countless resolutions of the General Assembly, Security Council, the Arab League, European Union, Non-Aligned Movement, the African Union, and the Organization of Islamic Cooperation, which over the years had formed an international consensus.

53. The President recalled that twenty years ago, on 13 September 1993, the Palestine Liberation Organization (PLO), signed with the Government of Israel a Declaration of Principles Agreement (Oslo Accords), and on 15 November 1988, the Palestinian National Council adopted its program for the achievement of peace, thereby taking an extremely difficult decision and making a historical and painful concession, by agreeing to the establishment of a Palestinian State on 22% of the land of historic Palestine, in order to achieve a two State solution on the borders of 4 June 1967. He recalled that the event was a historical breakthrough that caused an unprecedented political dynamism, fostered great hopes and generated high expectations. However, he pointed out that, after the passage of twenty years, the picture continues to appear dispiriting and bleak as goal of the Accords were not achieved, its provisions not implemented, and its deadlines not respected. He also pointed out that all the while, the continuation of intense settlement construction, which aimed to change the facts on the ground in the Occupied Palestinian Territory, in violation of the spirit of the agreement, which in turn struck at the core of the peace process, and caused a deep fracture in its cornerstone - that of the two-State solution.

54. The President cautioned that even though the start of a new round of negotiations was good news, it could not be sufficient ground for relaxing vigilance or give the international

community an exaggerated sense of tranquility. He pointed out that the negotiations with the Israeli Government under the auspices of the United States required that the international community should exert every effort to make them succeed, namely by international and regional organizations, as well as by individual States upholding the international consensus on the goal of peace, the objectives of the negotiations, the terms of reference and the basis for a permanent peace agreement. He requested the international community to remain alert to condemn and stop any actions on the ground that would undermine negotiations in particular continuation of settlement construction on Palestinian land, particularly in Jerusalem.. He stated that the position of the European Union with regard to settlement products was a positive model of what could possibly be done in order to ensure an environment supportive of the negotiations and the peace process.

55. The President expressed confidence that the Israeli people too want peace, and that its majority supports a two-State solution and reached out to the Israeli for a future of peace, where Israel would gain the recognition of 57 Arab and Muslim countries.

56. The President noted that while discussions were ongoing that the realization of peace between Palestine and Israel was an imperative to achieve a comprehensive peace between the Arab countries and Israel, according to the resolutions of the United Nations. Turning to the situation in the Middle East, he condemned the crime of the use of chemical weapons in Syria, and affirmed their rejection of a military solution and the need to find a peaceful political solution to fulfill the aspirations of the Syrian people.

57. The President recounted that an overwhelming majority of the Palestinian people were born in Palestine and were in exile after the 1948 Al-Nakba but that even after the passage of 65 years, they were still its direct victims. He stated that since the beginning of 2013, 27 Palestinian citizens have been killed and that 951 have been wounded by the bullets of the occupation, and that 5000 fighters for freedom and peace were held captive in occupation prisons. He stated that the current scenario demanded that the Palestinian people should gain independence at the earliest.

58. He stated that despite the prevailing circumstances, the Palestinian people, continued to build their institutions, to strengthen internal unity, to achieve reconciliation by returning to the ballot box, to wage peaceful, popular resistance to counter the oppression of occupation and settlements and settler terrorism, and continued to adhere to their rights.

B. The Response of The Secretary General of the United Nations and the AALCO Members To the Statement²²

59. **Mr. Ban Ki Moon**, the Secretary-General of the United Nations in the general debate that took place during the Sixty-Eighth Session of the United Nations, welcomed the re-engagement of Israelis and Palestinians in direct negotiations. , Urging the parties to show leadership — and a sense of the long-term interests of their peoples and the region, he said he

²² See, General Debate at the 68th Session of the General Assembly of United Nations, available at :<<http://gadebate.un.org/>>, last assessed on 27 June 2014.

would convene a meeting of the Quartet principals meeting later that week.²³ He recalled that in his address to the General Assembly on 22 January 2014 he had identified five priorities in this regard: first, renew collective international engagement; second, resume meaningful negotiations; third, preserve stability in Gaza; fourth, make progress on Palestinian reconciliation under the leadership of President Abbas within the framework of the commitments of the Palestinian Liberation Organization and the positions of the Quartet; and fifth, prevent the financial collapse of the Palestinian Authority. Concerted action on these lines was essential if the world leadership wants to salvage the realization on the ground of the two-State solution.²⁴.

60. **H.E. Abdullah Gül**, President of Turkey, in his statement, while referring to the Palestinian question, said that denial of Palestinians' right to a State of their own could not be justified, with illegal settlements on Palestinian land undermining the prospects for a two-State solution. He strongly supported talks initiated by the United States; he further stated that their success depended on Israel's acceptance of the creation of a viable Palestinian State, as well as a unified Palestinian front.²⁵

61. **H.M. Abdullah II Bin Al Hussein**, King of Jordan, turning to the Palestinian-Israeli conflict, which he called "the region's core crisis", said he was encouraged by resumed talks. He pointed out that the resources that the conflict consumed could be better used, and with willing parties, determined United States leadership and strong regional and international backing, success was possible. He urged commitment from Palestinian and Israeli leaders to reach agreement within the set timeframe, and to avoid any actions that could derail the still-fragile process. He pointed out that there should be no settlement construction and no unilateral actions that could affect the status quo in East Jerusalem. According to him a two-State solution could be reached, giving Israel real security, and normalizing relations with 57 Arab and Muslim countries, which in turn will also give the Palestinian people the rights they deserved: a viable and independent Palestinian State, on Palestinian national soil, based on 1967 lines with East Jerusalem as its capital.²⁶

62. **H.H. Sheikh Tamim Bin Hamad Al-Thani**, Qatar, said that the Israeli occupation continued to inflict injustices upon the Palestinian people by extending the scope of settlement activity; Judaizing the city of Jerusalem; intensifying its unjust embargo of the Gaza strip and intensified settlement activity in the occupied Syrian Golan Heights. That could not be accepted as normal, he said, adding that the United Nations was established on the basis of human rights and it was unreasonable that it "could not do anything about the last colonial issue". He also stated that real peace would come only through coexistence, good-neighbourliness and mutual respect and the formation of two States and the withdrawal of Israel from all occupied Arab territories. The ongoing de facto policy in Palestine, he stated, "transforms before our eyes into a more complicated issue" as the continuation of settlements led to a destruction of the basis for

²³ See The Statement of the Secretary General of the United Nations at the 68th Session of United Nations, available at: < <http://gadebate.un.org/68/secretary-general-united-nations#sthash.N2587Bav.dpuf>>, last assessed on 30 June 2014

²⁴ Report of the Secretary General on the Status of Palestine in the United Nations, A/67/738 (8 March 2013)

²⁵ See The Statement of the President of the Republic of Turkey at the 68th Session of the General Assembly of the United Nations, available at: < <http://gadebate.un.org/68/turkey#sthash.cLCWpBI4.dpuf>>

²⁶ The Statement of the King of Jordan at the 68th Session of the General Assembly of the United Nations, available at: < <http://gadebate.un.org/68/jordan#sthash.8oey6mqE.dpuf>>

establishing a Palestinian State. He stated that the situation resembled apartheid. He asserted that a Palestinian State, with Jerusalem as its capital within the limits of the 1967 borders, was not only an Arab demand, but it represented an international standard for testing the credibility of international legality. He called on the Security Council, therefore, to uphold its responsibility and adopt the required decisions to stop illegitimate Israeli practices.²⁷

C. Report of the United Nations Secretary General on the Status of Palestine in the United Nations presented at the General Assembly in 2013²⁸.

63. This report was submitted pursuant to General Assembly resolution 67/19. In that resolution, the Assembly accorded to Palestine non-member observer State status in the United Nations, without prejudice to the acquired rights, privileges and role of the Palestine Liberation Organization in the United Nations as the representative of the Palestinian people, in accordance with the relevant resolutions and practice. It also reaffirmed the right of the Palestinian people to self-determination and expressed hope that the Security Council would consider favourably the application submitted on 23 September 2011 by the State of Palestine for admission to full membership in the United Nations. The Assembly also affirmed its determination to contribute to the attainment of a peaceful settlement in the Middle East that ends the occupation that began in 1967 and fulfils the vision of two States: an independent, sovereign, democratic, contiguous and viable State of Palestine, living side by side in peace and security with Israel on the basis of the pre-1967 borders. It expressed the urgent need for the resumption and acceleration of negotiations within the Middle East peace process, and urged all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination, independence and freedom. The report of the Secretary General outlines the impact of the resolution within the UN system and some of the consequences of the resolution on the statehood of Palestine. The report further highlights the events on ground since the adoption of the resolution, including the progress of negotiations and the efforts of the United Nations in support of the people of Palestine.

64. **Non-member observer status in the United Nations-** In accordance with paragraph 2 of resolution 67/19, Palestine has been treated as a non-member observer State by the Secretariat since the adoption of the resolution. On 12 December 2012, Palestine informed the Secretary-General that the designation “State of Palestine” should be used in all documents and for its nameplate in all United Nations meetings. It further informed the Secretary-General that the Head of State was Mahmoud Abbas, President of the State of Palestine. On 8 January 2013, Palestine informed the Secretary-General that the Head of Government was Salam Fayyad, Prime Minister of the State of Palestine, and that the Minister for Foreign Affairs of the State of Palestine was Riad Malki. In accordance with its request, the designation “State of Palestine” is

²⁷ The Statement of the representative of Qatar at the 68th Session of the General Assembly of the United Nations, available at: <<http://gadebate.un.org/68/qatar#sthash.sb79dkOF.dpuf>>

²⁸ Report of Secretary General, A/67/738, (8th March 2013), available at: <<http://unispal.un.org/unispal.nsf/181c4bf00c44e5fd85256cef0073c426/0dfe97db5a9a633185257b2d004943a7?OpenDocument>>

now used in all documents of the United Nations and on nameplates to be used in United Nations meetings.

65. **Participation in the Work of the United Nations and other related conferences-** The State of Palestine continues to enjoy the right of participation in the sessions and work of the General Assembly and the international conferences convened under the auspices of the Assembly or other organs of the United Nations, as well as in United Nations conferences, pursuant to resolutions 43/160 and 52/250 and as set out in the note of 4 August 1998 by the Secretary-General on participation of Palestine in the work of the United Nations (A/52/1002). As a general matter, the State of Palestine does not enjoy the right to vote, including in elections. Nor may the State of Palestine submit its own candidacy for any election or appointment or, submit the names of candidates for any election or appointment.

66. Pursuant to Article 35, paragraph 2, of the Charter of the United Nations, the State of Palestine may also place items on the provisional agenda of the Security Council and the General Assembly. With respect to conferences convened under the auspices of the General Assembly and other United Nations conferences, as a non-member observer State of the United Nations and a member of UNESCO, the State of Palestine may participate fully and on an equal basis with other States in conferences that are open to members of specialized agencies or that are open to all States. Arrangements are being made to ensure the full participation of the State of Palestine in conferences convened on that basis.

67. **The Middle East Peace Process-**Both parties have repeated their commitment to the two-State solution. In his speech to the General Assembly and in other statements he has made since, President Abbas proclaimed his willingness to engage with Israel after the formation of a new Government following its parliamentary elections of 22 January. Addressing the Security Council on 23 January 2013, the Minister for Foreign Affairs of the State of Palestine had reiterated the Palestinian commitment to peace and the two-State solution and observed that the overwhelming support for resolution 67/19 clearly demonstrated the international community's commitment, including that of the Arab and Muslim world, to the two-State solution

68. The Prime Minister of Israel reiterated his commitment to peace and a two-State solution in press conferences held on 5 December 2012 and 19 February 2013. However, on 29 November 2012 in the Assembly and on 23 January 2013 in the Security Council open debate on the situation in the Middle East, the Permanent Representative of Israel stated the position of Israel that in their view General Assembly resolution 67/19 could not serve as acceptable terms of reference for future peace negotiations and that it did not confer Palestinian statehood or constitute recognition of a Palestinian State. The Permanent Representative of Israel also objected to any attempt to alter the status of Palestinians, outside the agreed negotiating framework. At the same meetings, the United States of America and Canada echoed these positions.

69. Following the adoption of the resolution, the Government of Israel announced plans for construction of thousands of housing units in the occupied West Bank, including East Jerusalem, and, most alarmingly, several thousand housing units in the "E-1" area east of Jerusalem. The Government of Israel also initially withheld approximately \$115 million of Palestinian customs

revenue collected in December and January. The backdrop to these events has been a worsening security situation in the West Bank and a tenuous calm in Gaza.

70. In the West Bank, Israeli security forces, citing security concerns, conducted 969 operations and made 1,101 arrests from 29 November 2012 to 26 February 2013. A total of 7 Palestinians were killed and 1,065 were injured. Confrontations between Palestinians and Israeli settlers have occurred on an almost daily basis. Occupation measures have continued to impede Palestinian movement, while demolitions in Area C have intensified, leading to further displacements. Following the death of a Palestinian man who dies in detention, a series of popular demonstrations and clashes with the Israeli Defense Forces ensued. The report noted that earlier, such popular demonstrations in solidarity with prisoners on hunger strike had resulted in clashes with Israeli security forces. The report noted that in Gaza, following the ceasefire understanding that was reached on 21 November 2012 under the auspices of Egypt, calm largely held, however was a significant disruption on 26 February 2013, when a rocket fired from Gaza landed on a street near the industrial area in the southern part of the city of Ashkelon.

71. The report pointed out that, as illustrated by the statements made during the open debate on the situation in the Middle East held by the Security Council on 23 January 2013, regional and international partners have voiced their alarm at the increasing risk the prolonged impasse in the peace process and facts on the ground, in particular Israeli settlement activity, pose to the viability of the two-State solution. Everyone has recognized the urgent need for action.

72. **Support to Palestinian institutions and the right to self-determination**-The report state that the United Nations has continued to provide support in the six areas that were highlighted in the report entitled “Palestinian State-building: a decisive period” presented by the Office of the United Nations Special Coordinator for the Middle East Peace Process to the meeting of the Ad Hoc Liaison Committee on 13 April 2011 (governance, rule of law and human rights; livelihoods and productive sectors; education and culture; health; social protection; and infrastructure and water). According to the report, in each of these sectors, governmental functions were deemed sufficient for a functioning Government of a State. The report, however, noted that the Palestinian fiscal situation represented a core challenge and the full, timely and predictable transfer of Palestinian tax and customs revenues by Israel in accordance with the provisions of the Paris Protocol on Economic Relations was essential for the Government of the State of Palestine to be able to meet its financial obligations.

73. **Observations**- The adoption by the General Assembly of resolution 67/19 on 29 November 2012 by a majority of 138 votes in favour, following a period of prolonged stalemate in the political process, symbolized the growing international impatience with the long-standing occupation and clearly endorsed Palestinian aspirations to live in freedom and dignity in an independent State of their own, side by side with Israel in peace and security. The end to the occupation and to the conflict and the achievement of the two-State solution on the ground is long overdue. This can only be achieved, however, through negotiations to solve all final status issues.

74. The situation on the ground remains a cause for serious concern. Continued settlement activity in the occupied Palestinian territory, including East Jerusalem, is illegal under international law and runs contrary to Israel's obligations under the road map. It also undermines the viability of the two-State solution and the prospects for peace. Israel should heed the repeated calls of the international community and stop such activity.

75. No international effort alone is sufficient for progress absent the requisite will from the parties themselves. Israeli and Palestinian leaders have stated that they are convinced the two-State solution is the only path towards a durable peace. They should realize that without serious engagement, the consequences for inaction could be dire for everyone. The parties must not only remain open to new initiatives to overcome the current impasse, but must now demonstrate their seriousness and refrain from actions and negative steps that undermine the situation on the ground and complicate a return to meaningful negotiations in the critical period ahead.

76. The Secretary-General reiterated his commitment to achieving a negotiated two-State solution, in accordance with Security Council resolutions 242 (1967), 338 (1973), 1397 (2002), 1515 (2003) and 1860 (2009), that will resolve the core issues — territory, security, Jerusalem, refugees, settlements, water — and constitute the end of the Israeli-Palestinian conflict and all claims related to it. The parties and all stakeholders were called upon, to act with determination, responsibility and vision. It was affirmed that the international community could not afford another year without courageous action for the purpose of achieving the two-State solution reaffirmed by resolution 67/19.

D. Important resolutions adopted during the Sixty-Eighth Session of the United Nations General Assembly.

77. In the general debate preceding the adoption of Resolutions relating to the situation in Palestine, the Member States sent a strong message of support for the Middle East peace process, albeit with the traditionally divergent views on how to achieve its aims.²⁹

78. The Assembly then adopted the following resolutions by recorded vote and an overwhelming majority, under that agenda item. By the first, "L.12", the Assembly proclaimed 2014 the International Year of Solidarity with the Palestinian People and requested the Committee on the Exercise of the Inalienable Rights of the Palestinian People to organize activities around that observance, in cooperation with Governments, the United Nations system, intergovernmental organizations and civil society.³⁰

79. The next resolution "L.13" requested the Division for Palestinian Rights to continue to monitor developments relevant to the question of Palestine, and asked the Secretary-General to ensure the continued cooperation with the Division of United Nations bodies in connection with programme components addressing various aspects of the question of Palestine.

²⁹United Nations Department of Public Information, Press Note, 26 November 2013 <<http://www.un.org/News/Press/docs/2013/ga11460.doc.htm>> last assessed on 1 July 2014

³⁰ Resolution adopted by the General Assembly on 26 November 2013, A/RES/68/12 (9 January 2014).

80. Under draft “L.14”, the Assembly encouraged the Department of Public Information’s programme on the Question of Palestine to formulate ways for the media and civil society representatives to engage in open and positive discussions to explore means for encouraging people-to-people dialogue and promoting peace and mutual understanding in the region.

81. According to the draft resolution on the peaceful settlement of the Question of Palestine, “L.15”, the Assembly, among other things, called for the timely convening of an international conference in Moscow, as envisioned by the Security Council in resolution 1850 (2008), for the advancement and acceleration of the resumed peace process.

82. When the Assembly turned to the situation in the Middle East, the representative of Egypt expressed concern about recent developments in negotiations. Palestinians, he said, had been put in an arduous situation due to measures taken by Israel, including continued settlement expansion. He then introduced two draft texts, both of which were adopted by recorded vote.

83. Resolution “L.16”, on Jerusalem, stated that all legal and administrative measures taken by Israel to change the legal status of East Jerusalem were null and void. The draft also, among other things, called for a halt to settlement construction and any attempts to desecrate the Al-Aqsa Mosque.

84. A resolution on the Syrian Golan, “L.17”, included a call for Israel to withdraw from the territory to 1967 borders, he said, adding that peace, stability and co-existence would not be achieved until Palestinians recovered their rights. The illegal measures of the occupying Power were halted, hoping the draft texts would be supported.

85. A total of as many as 20 resolutions relating to the question of Palestine were adopted at the Sixty-Eighth Session of the United Nations General Assembly. The two most important resolutions adopted were: *the Peaceful Settlement of the Question of Palestine*³¹ and *Palestine Refugees’ properties and their revenues*.³² These were in addition to the other resolutions that related to Permanent sovereignty over natural resources in the OPT, Golan³³, Right of the Palestinian people to self-determination³⁴, Assistance to the Palestinian People³⁵, Assistance to Palestine refugees³⁶, Persons displaced as a result of the June 1967 and subsequent hostilities³⁷, Palestine refugees’ properties and their revenues³⁸, Work of the Special Committee to investigate Israeli practices³⁹, Applicability of the 4th Geneva Convention⁴⁰, Israeli settlements⁴¹, Israeli practices in the OPT⁴², Israeli Practices/Golan⁴³, UNRWA operations⁴⁴, Palestine question/

³¹ A/RES/68/15

³² A/RES/68/79 (11 December 2013)

³³ A/RES/68/235 (20 December 2013)

³⁴ A/RES/68/154 (18 December 2013)

³⁵ A/RES/68/100 (13 December 2013)

³⁶ A/RES/68/76 (11 December 2013)

³⁷ A/RES/68/77 (11 December 2013)

³⁸ A/RES/68/79 (11 December 2013)

³⁹ A/RES/68/80 (11 December 2013)

⁴⁰ A/RES/68/81 (11 December 2013)

⁴¹ A/RES/68/82 (11 December 2013)

⁴² A/RES/68/83 (11 December 2013)

CEIRPP/International Year of Solidarity⁴⁵, Palestine question/DPR⁴⁶, Palestine question/DPI⁴⁷, Peaceful settlement of the questions of Palestine⁴⁸, Mideast situation/Jerusalem⁴⁹, and Israeli practices/Golan⁵⁰.

E. The Debate at the United Nations Security Council.⁵¹

86. At the Security Council, 2013 marked a decisive year for the peace process, a year that would be pivotal for salvaging a two-State solution, a year that would decide whether the Palestinians already accorded non-Member observer State status by the General Assembly could realize their aspirations to statehood, self-determination and an end to the occupation that began in 1967 through a negotiated solution, the only solution that would also bring Israel the security and recognition in the region that it deserves. It was to be a year that would test the commitment of the international community to re-engaging and breaking the deadlock in this conflict, in the face of competing priorities in the region and elsewhere. 2013 has certainly been an important year, in which we witnessed the renewal of direct talks, brokered by the United States and now in their fifth month.

87. Both Palestine and Israel were urged to refrain from steps that would increase mistrust and undermine the prospects for progress in the critical period ahead when bolder decisions are required to bridge the gaps towards a final status agreement. During the reporting period, Israeli security forces carried out some 217 search-and-arrest operations. A total of 352 Palestinians were arrested and 206 injured, including during demonstrations against the barrier. Six Israeli soldiers were also injured. Violence between Palestinians and settlers continued. Settler attacks injured eight Palestinians, including four children. So-called price-tag attacks by settlers on Palestinian property included several incidents of racist graffiti and vandalism in the West Bank. Palestinian stone-throwing attacks, on the rise in recent months, injured four settlers, including two children. Demolitions of unlicensed Palestinian structures in Area C and East Jerusalem have been increasing. A total of 74 structures, including more than 30 in the Jordan Valley last week, were demolished, leading to the displacement of 98 Palestinians, including 55 children.

88. In Gaza, thanks to a generous Turkish contribution a safety net is in place to allow the most critical water, sanitation and health-related facilities to continue operating. However, Gaza's deficient infrastructure was not able to cope with the impact of the current inclement weather. While the West Bank was also affected, heavy flooding in many parts of the Gaza Strip has resulted in the displacement of approximately 10,000 people. There are also deep concerns about

⁴³ A/RES/68/84 (11 December 2013)

⁴⁴ A/RES/68/78 (11 December 2013)

⁴⁵ A/RES/68/12 (26 November 2013)

⁴⁶ A/RES/68/13 (26 November 2013)

⁴⁷ A/RES/68/14 (16 November 2013)

⁴⁸ A/RES/68/15 (26 November 2013)

⁴⁹ A/RES/68/16 (26 November 2013)

⁵⁰ A/RES/68/17 (26 November 2013)

⁵¹ Security Council debates held at the 7084th meeting on 16th December 2013. S/PV. 7084, available at :<<http://unispal.un.org/unispal.nsf/181c4bf00c44e5fd85256cef0073c426/70f6b1cbe073e78e85257c45004baa0b?OpenDocument>>

the energy situation in Gaza, especially since the Gaza power plant ceased operations on 1 November 2013. Some skirmish continues between the two parties on the ground, though this period has experienced relative calm.

VI. OTHER MAJOR DEVELOPMENTS

A. Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem.⁵²

89. In its resolution 19/17, the Human Rights Council had decided to establish an independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem. On 6 July 2012, the President of the Human Rights Council appointed three high-level experts as members of the fact-finding mission: Christine Chanet (Chairperson), Asma Jahangir and Unity Dow.

90. The mission interpreted its mandate to require it to conduct its investigations within the legal framework of international human rights law, together with other relevant bodies of international law. Guided by the principles of —do no harm, independence, impartiality, objectivity, discretion, transparency, confidentiality, integrity and professionalism, the mission carefully analysed all available information that it considered relevant and credible. To ensure the greatest availability of such information, the mission issued a public call for written submissions, which it also directly shared with representatives of Israeli settler communities. In response to the call, it received 62 submissions. The mission analysed information received from Governments, intergovernmental organizations, international and national non-governmental organizations, professional bodies, academics, victims, witnesses and the media.

91. The mission had expected to undertake field visits to Israel and the Occupied Palestinian Territory in order to observe directly the situation on the ground. The mission regrets the fact that the Government did not respond and that, consequently, it did not have access to Israel and the Occupied Palestinian Territory. Alternative arrangements were made to obtain direct and first-hand information in the form of a series of meetings held with a wide range of interlocutors from 3 to 8 November 2012 in Jordan. It met with victims of human rights violations, officials from the Ministry of Foreign Affairs of Jordan, officials from the Palestinian Authority, and representatives of international and non-governmental organizations and United Nations agencies.

⁵² Report Submitted to the General Assembly on 7th February 2013. A/HRC/22/63, available at : <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-63_en.pdf>.

92. **Applicability of Legal Framework-** The Committee observed that Israel is bound to respect, protect, promote and fulfil the full range of the social, economic, cultural, civil and political human rights of all persons within its jurisdiction as a result of its being party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict, and the International Convention on the Elimination of All Forms of Racial Discrimination. Israel is also bound by relevant international human rights rules that are a part of customary international law.

93. A situation of military occupation prevails in the Occupied Palestinian Territory. As the occupying Power, Israel is bound under international humanitarian law by a set of obligations which are provided for in the Hague Regulations of 1907, annexed to the Convention with Respect to the Laws and Customs of War on Land, which are recognized as part of customary international law, and the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949 (Fourth Geneva Convention), to which Israel is a High Contracting Party. The applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory was decisively established by the International Court of Justice, and has been recognized and consistently reaffirmed by, inter alia, the Commission on Human Rights, the Human Rights Council, the Security Council and the General Assembly. Under the Fourth Geneva Convention, Palestinians living under occupation are protected persons and thus to be the focus of the obligations of Israel under humanitarian law therein. The mission also considered, where necessary, other international law frameworks and principles.

94. **Context of Israeli Occupation of Palestinian territories-** Israeli settlements are located beyond the Green Line of 1949 and include structures in East Jerusalem and in Area C of the West Bank. The Oslo Accords established Area A, comprising approximately 18 per cent of the West Bank and encompassing urban Palestinian areas under the full control of the Palestinian Authority; Area B, representing some 22 per cent of the vast majority of Palestinian rural areas, under Palestinian civil control, while the Israeli army has security control; and Area C, comprising an estimated 60 per cent of the territory, under full Israeli control for security, planning and construction purposes. Settlements are generally located among the more vulnerable sections of Palestinian society, predominantly the agrarian villages.

95. In September 2005, through the disengagement plan, Israel dismantled 21 settlements in the Gaza Strip (and four in the West Bank), evacuated the settlers residing there and withdrew the army, while maintaining exclusive control of the airspace of Gaza and continued to conduct military activities in the territorial waters of the Gaza Strip. The disengagement plan was presented in Israel as an essential step to preserve its control over the settlements in the West Bank. Former Prime Minister Ariel Sharon has been quoted as saying in the framework of the 'disengagement plan', Israel would strengthen its control of those parts of the land that will constitute an inalienable part of the State of Israel in any future agreement. Since 1967, some 250 settlements in the West Bank, including East Jerusalem, have been established, either with or without Government authorization.

96. The number of settlers is estimated at 520,000 (200,000 in East Jerusalem and 320,000 in the rest of the West Bank). According to the Israeli Central Bureau of Statistics, over the past decade, the settler population has grown at a much higher rate than the population in Israel itself, with a yearly average growth of 5.3 per cent (excluding East Jerusalem), compared with 1.8 per cent in Israel. After years of court orders, the Migron and Ulpana outposts were evacuated in 2012. Settlers responsible for appropriating private Palestinian land without Government authorization were, however, provided after the evacuation with new homes in nearby settlements. The Government paid for the transfer of their property and the rental on the new homes. The Government in office since April 2009 has contributed to the consolidation and expansion of settlements. Government spending on the settlements during 2011 was 38 per cent more than what it was in 2010.¹⁷ On 14 November 2012, the Minister for Finance, Yuval Steinitz, stated that the budget for Judea and Samaria (the West Bank) has been doubled in a low-profile manner, so as to prevent the thwarting of the same by parties in Israel or abroad.

97. **Implications of Israeli settlements on the rights of Palestinians**—The mission notes that the impact of settlements on the human rights of the Palestinians is manifested in various forms and ways. These are interrelated, forming part of an overall pattern.

A. *Violations with respect to Right to self-determination*— The mission noted that, in its resolution 67/19, the General Assembly reaffirmed the right of the Palestinian people to self-determination and to independence in their State of Palestine on the Palestinian Territory occupied since 1967.

The committee noted that the establishment of the settlements and the creation of dozens of enclaves have caused the fragmentation of the West Bank. The Wall, where it is built or planned to be built, the committee notes, truncates and chops up Palestinian space and its route threatened to divide the West Bank into two separate areas cutting off East Jerusalem from the rest of the West Bank.

The Government of Israel has full security and administrative control over the settlement areas, and effectively controls the external borders of the Occupied Palestinian Territory. Regional councils composed exclusively of representatives of Israeli settlers exercise planning functions in settlement areas. Neither the Palestinian Authority nor local Palestinian communities have any control over the governance, administration and planning of these areas. The settlements, including the associated restrictions, impede Palestinian access to and control over their natural resources.

In December 2012, the Office for the Coordination of Humanitarian Affairs reported that, while the fenced areas of settlements cover only 3 per cent of the West Bank, in reality 43 per cent of the territory is allocated to local and regional settlement councils. There are approximately 150,000 Palestinians living in Area C in close proximity to more than 320,000 Israeli settlers. In East Jerusalem, some 200,000 settlers have been introduced into Palestinian areas with a Palestinian population of about 390,000. The negative impact of Israeli settlements on the right of self-determination of the Palestinian people extends, however, to the Palestinian people as a whole. The mission considers that the right to self-determination of the Palestinian people, including the right to determine how to implement self-determination, the right to have a

demographic and territorial presence in the Occupied Palestinian Territory and the right to permanent sovereignty over natural resources, is clearly being violated by Israel through the existence and ongoing expansion of the settlements.

B. Violations of Equality and right to non-discrimination

1. *Inequality and discrimination in the application of the law* - Information presented to the mission demonstrated that distinct legal systems exist in the Occupied Palestinian Territory and are applied separately to Israeli settlers and Palestinians. Broadly, Israelis in Area C are subject to Israeli domestic law enforced by the police and courts in Israel. A patchwork of Israeli military orders and Ottoman, British and Jordanian legislation is applied to Palestinians, who are also subject to a military court system with a wide jurisdictional reach. By channeling Israeli civil law into the territory of settlements, legal zones have been established within the West Bank where Israeli laws apply to settlers in order, for example, to regulate the status and authority of governmental institutions within settlements. These laws do not apply to Palestinians. Other Israeli laws are applied personally to Israelis in the West Bank, giving them preferential legal status over Palestinians.

A matrix of military orders applies personally, by law or by practice, only to Palestinians to regulate and control most aspects of daily life, including by restricting an extensive range of rights. Israelis and Palestinians are also treated differently by the same laws; for instance, some military orders designate areas in the Occupied Palestinian Territory as closed military zones/areas. With the exception of military training or firing zones, only Palestinians are prohibited from entering such areas unless they have a permit, even if the area encompasses Palestinian land, thereby denying Palestinians access to or ownership of land. The so-called seam zone is closed to Palestinians, while Israelis and foreign visitors have unrestricted access. Certain other Israeli laws expressly discriminate against Palestinians.

In 2012, the Committee on the Elimination of Racial Discrimination reiterated its concern about the Citizenship and Entry into Israel Law (Temporary Provision) that suspends, with rare exceptions, family reunification between an Israeli citizen and a person residing in the Occupied Palestinian Territory, with a severe impact on family rights. The mission again noted the extraterritorial personal application of Israeli legislation, with the application of Israeli criminal law to Israelis in the West Bank with respect to offences they allegedly committed there. Palestinians are routinely subject to arbitrary arrest and detention, including administrative detention, mass arrests and incarceration. It is estimated that more than 700,000 Palestinians, including children, have been held in Israeli military detention since the beginning of the occupation, many in prisons located within Israel. In 2012, approximately 4,100 Palestinians were in Israeli military detention, of whom 143 were aged between 16 and 18 years, and 21 were below 16 years old. It is well documented that the military court system does not ensure Palestinians basic fair trial guarantees, including minimum standards of independence, clear evidentiary or procedural rules, the presumption of innocence or the duty to hear witnesses or examine all material evidence.

2. *Settlers violence and intimidation*- All spheres of Palestinian life are being significantly affected by a minority of settlers who engage in violence and intimidation with the aim of

forcing Palestinians off their land. There was consistency in testimonies with regard to the following facts: attacks and intimidation regularly take place during daylight hours; the identity of perpetrators are well known, or perpetrators could easily be identified; the frequent presence of police and army at the scene; the involvement and presence of settlement security officers; the frequent existence of video and photographic footage of the incidents; and the lack of accountability for the violence.

The mission heard testimonies on incidents of settler violence and intimidation dating back to 1973. A report of the Security Council Commission established under resolution 446 (1979) drew attention to settler attacks on property and acts of intimidation that restricted access to water and obstructed children's schooling. The Commission noted that the intent of these attacks was to pressure Palestinians to leave the land. Palestinian deaths and injuries as a result of settler attacks have been recorded since 1980; the mission notes the statistics compiled by the Office for the Coordination of Humanitarian Affairs that show that, in the period from 1 July 2011 to 30 June 2012, Israeli settlers injured 147 Palestinians, including 34 children. The mission heard numerous testimonies on violent attacks by settlers, including physical assaults, the use of knives, axes, clubs and other improvised weapons, as well as shootings and the throwing of Molotov cocktails. The testimonies also recounted the psychological impact of intimidation by armed settlers trespassing on Palestinian land, at Palestinian water springs or in the midst of Palestinian neighbourhoods in Hebron and East Jerusalem. In some cases, testimonies described years of violence and intimidation directed at the same Palestinian family living in proximity to settlements that had pushed it to abandon its properties.

Violence, verbal and physical abuses, inhumane and degrading treatment, forced evictions, land and property grabbing, the destruction of property and housing and many of the issues for which testimonies and information was gathered gravely affect the right to the enjoyment of the highest attainable standard of physical and mental health. Depression, anxiety, symptomatic stress, mood disorder and behaviour problems, and post-traumatic stress disorders are some of the most current conditions reported by specialists. Impunity, a feeling of injustice, the recurrence of events and anticipation of renewed abuses, especially on relatives and children, compound these conditions.

3. *Restrictions on religious freedom and related intolerance*- In the Occupied Palestinian Territory, Jerusalem, Hebron, Bethlehem and Nablus all host places of considerable religious significance for Christianity, Judaism and Islam. While the impact of settlements is manifested in various forms throughout the West Bank, the mission notes that both Jerusalem and Hebron have been targeted by particularly aggressive settlement policies and practices owing to their religious significance. Settlements have been established in the heart of both cities, disrupting the lives and the development of hundreds of thousands of Palestinians.

The mission expressed its concern over policies and acts aimed at altering the composition of Jerusalem and Hebron by erasing cultural heritage on the basis of religious affiliation, carried out with the involvement of the Government of Israel. The committee concluded that the Palestinians' right to freedom of religion is being restricted by the settlements.

4. *Dispossession and displacement* – The committee noted that Dispossession and displacement featured in most of the submissions, reports and testimony received by the mission.

The information brought to light a number of different mechanisms exploited to seize Palestinian land, as well as a discriminatory planning and zoning policy that favours the development of settlements and, as the Committee on the Elimination of Racial Discrimination concluded, breaches a range of fundamental rights of Palestinians.

The committee noted that Bedouin communities in general are particularly vulnerable to displacement and dispossession. Eighty per cent of them live in the Jordan Valley, the Dead Sea area and around Hebron, constituting the majority of the population in closed military training and firing zones. Many of these communities have already experienced multiple displacements. In addition, it was observed that many are food insecure, do not have access to basic services, and are not connected to the electricity grid, the road network or water systems. More than 90 per cent face water scarcity, living with less than one-quarter of the minimum standards set by the World Health Organization (WHO). The Israeli army routinely demolishes their shelters and property, including those provided by or built with the assistance of aid agencies and international donors.

As corroborated by testimonies, many Palestinians are forced to build without a permit, thus living under the constant threat that their home or property may be demolished. Many families and entire communities are at risk of displacement. In East Jerusalem alone, where 33 per cent of Palestinian homes lack building permits, at least 93,100 residents are potentially at risk of being displaced.

5. *Restrictions on the freedom of movement*- The mission received information according to which the vast majority of restrictions on the freedom of movement of Palestinians seem to be directly linked to the settlements, and include —restrictions aimed at protecting the settlements, securing areas for their expansion, and improving the connectivity between settlements and with Israel itself. The restrictions themselves come in many forms, including settler-only roads, a regime of checkpoints and crossings (closure obstacles), impediments created by the wall and its gate and permit regime, as well as administrative restrictions. The Office for the Coordination of Humanitarian Affairs has reported more than 540 closure obstacles in 2012.

The mission notes that discrimination is particularly evident in the movement restrictions in Hebron and the Jordan Valley, where large Palestinian populations are subjected to permit regimes and areas off limits to traffic and, in some cases, pedestrian transit. The mission notes that the presence of these settlements has a direct impact on Palestinian livelihoods, as military orders have led to the closure of 512 Palestinian businesses, while at least another 1,100 have closed owing to the restricted access of customers and suppliers. The human rights treaty bodies have expressed their deep concern at restrictions on freedom of movement, describing them as being targeted at a particular national or ethnic group and amounting to gross violations of economic, social and cultural rights

6. *Restrictions on freedom of expression and peaceful assembly* -The mission noted that the settlements, including the wall, are the subject of Palestinian demonstrations in places such as Bili'in and Nabi Saleh, where the vast majority of demonstrators are reported to be acting in a non-violent manner. The Israeli authorities often respond to these demonstrations with restrictions on assembly, declaring areas closed military zones, and employing violent means to

suppress demonstrations by firing tear gas, rubber bullets and, on occasion, live rounds. As in the case of closure obstacles that restrict freedom of movement, restrictions on expression and assembly have at their core the aim of ensuring that the daily life of Israeli settlers continues without interruption.

7. *Restrictions on the right to water* - Information and testimonies corroborate the impact of settlement expansion on the right to water of Palestinians, including, as pointed out by, inter alia, the Committee on Economic, Social and Cultural Rights, the great discrepancy between water allocation for Palestinians and settlers, and inequitable access. The ability of the Palestinian Water Authority to transfer water to areas facing water shortages is severely inhibited by territorial fragmentation. The mission received testimony about water resources damaged or destroyed by the construction of the wall or lost to the seam zone, cutting off villages from their wells, springs and cisterns. In the Jordan Valley, deep-water drillings by Mekorot, the Israeli national water company, and Mehadrin, an agro-industrial company, have caused Palestinian wells and springs to dry up. Eighty per cent of the total water resources drilled in the area is consumed by Israel and the settlements. According to testimony received, the destruction of water infrastructure, including rainwater cisterns, by Israeli authorities has increased since the beginning of 2010, doubling in 2012 the number of acts committed in 2011. The denial of water is used to trigger displacement, particularly in areas slated for settlement expansion, especially since these communities are mostly farmers and herders who depend on water for their livelihoods.

8. *Impact on economic rights*- The agricultural sector, considered the cornerstone of Palestinian economic development, has not been able to play its strategic role because of dispossession of land and the denial of access for farmers to agricultural areas, water resources and domestic and external markets. The expansion of settlements and the development of relevant infrastructure have eroded Palestinian agricultural assets. The inability of the Palestinian economy to expand and offer opportunities, high unemployment rates and falling wages in the Palestinian labour market, inflation and increasing poverty are factors that drive Palestinians to seek employment in the settlements and in Israel, where wages are about twice as high as in the Palestinian private sector. The employment conditions of Palestinian workers in settlements are subject to a system characterized by legal uncertainties. Palestinians are contracted under the far less favourable pre-1967 Jordanian labour laws, while Israeli citizens in the West Bank are employed under Israeli labour laws.

C. *Impact of business*- Information gathered by the mission showed that business enterprises have, directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements. In addition to the previously mentioned violations of Palestinian worker rights, the mission identified a number of business activities and related issues that raise particular human rights violations concerns. Some of these include- the supply of equipment and materials facilitating the construction and the expansion of settlements and the wall, and associated infrastructures; the supply of surveillance and identification equipment for settlements, the wall and checkpoints directly linked with settlements; the supply of equipment for the demolition of housing and property, the destruction of agricultural farms, greenhouses, olives groves and crops.

Conclusion

98. The facts brought to the attention of the mission indicate that the State of Israel has had full control of the settlements in the Occupied Palestinian Territory since 1967 and continues to promote and sustain them through infrastructure and security measures. The mission notes that, despite all pertinent United Nations resolutions declaring that the existence of the settlements is illegal and calling for their cessation, the planning and growth of the settlements continues of existing as well as of new structures. The establishment of the settlements in the West Bank, including East Jerusalem, is a mesh of construction and infrastructure leading to a creeping annexation that prevents the establishment of a contiguous and viable Palestinian State and undermines the right of the Palestinian people to self-determination.

99. The mission considers that, with regard to the settlements, Israel is committing serious breaches of its obligations under the right to self-determination and certain obligations under international humanitarian law, including the obligation not to transfer its population into the Occupied Palestinian Territory. The existence of the settlements has had a heavy toll on the rights of the Palestinians. Their rights to freedom of self-determination, non-discrimination, freedom of movement, equality, due process, fair trial, not to be arbitrarily detained, liberty and security of person, freedom of expression, freedom of access to places of worship, education, water, housing, adequate standard of living, property, access to natural resources and effective remedy are being violated consistently and on a daily basis.

Recommendations

- The mission calls upon Israel to, in compliance with article 49 of the Fourth Geneva Convention, cease all settlement activities without preconditions. In addition it should immediately initiate a process of withdrawal of all settlers from the Occupied Palestinian Territory. The mission also urges Israel to ensure adequate, effective and prompt remedy for all Palestinian victims for the harm suffered as a consequence of human rights violations that are a result of the settlements in accordance with that State's international obligation to provide effective remedy. Where necessary, steps must to be taken to provide such remedy in concurrence with the representatives of the Palestinian people and the assistance of the international community.
- The mission calls upon Israel to put an end to the human rights violations that are linked to the presence of settlements. The mission calls upon Israel to ensure full accountability for all violations, including for all acts of settler violence, in a non-discriminatory manner, and to put an end to the policy of impunity.
- The mission urges Israel to put an end to arbitrary arrest and detention of the Palestinian people, especially children, and to observe the prohibition of the transfer of prisoners from the Occupied Palestinian Territory to the territory of Israel, in accordance with article 76 of the Fourth Geneva Convention.
- The mission calls upon all Member States to comply with their obligations under international law and to assume their responsibilities in their relations with a State breaching peremptory norms of international law, and specifically not to recognize an unlawful situation resulting from Israel's violations.

- Private companies must assess the human rights impact of their activities and take all necessary steps – including by terminating their business interests in the settlements – to ensure that they do not have an adverse impact on the human rights of the Palestinian people, in conformity with international law as well as the Guiding Principles on Business and Human Rights.
- The mission calls upon all Member States to take appropriate measures to ensure that business enterprises domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, that conduct activities in or related to the settlements respect human rights throughout their operations. The mission recommends that the Working Group on Business and Human Rights be seized of this matter.

B. Resolutions adopted by the Human Rights Council in 2013

100. Pursuant to the above mentioned report the Human Rights Council adopted resolution 22/29 wherein the Council welcomed the report of the independent fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian People throughout the occupied Palestinian Territories, including East Jerusalem, and requested all parties concerned, including the United Nations bodies, to implement and ensure the implementation of the recommendations contained therein in accordance with their respective mandates.⁵³ In addition the Council also called upon the relevant UN bodies to take all necessary measures and actions within their mandates to ensure full respect for and compliance with HRC resolution 17/4 on the Guiding Principles on Business and Human Rights and other relevant international laws and standards, and to ensure the implementation of the United Nations “Protect, Respect and Remedy” Framework, which provides a global standard for upholding human rights in relation to business activities that are connected with Israeli Settlements in the Occupied Palestinian Territory including East Jerusalem. In addition to the resolutions adopted by the United Nations General Assembly, the Human Rights Council at its 22nd Session also adopted the following resolutions, namely : Follow-up to the report of the UN Fact Finding Mission on the Gaza Conflict (Goldstone Report)⁵⁴, and Israeli Settlements in the OPT, Golan.⁵⁵

C. West Bank and Gaza: A World Bank report on Area C and the Future of the Palestinian Economy⁵⁶.

101. This report was prepared and written by a team of World Bank staff led by Orhan Niksic, Senior Economist (MNSD) and also included Nur Nasser Eddin, Economist (MNSD) and Massimiliano Cali, Economist (PRMTR). Duja Michael, a consultant, assisted the Bank team in conducting research and analysis for the report. The report Observes that :

⁵³ A/HCR/RES/22/29 (15 April 2013).

⁵⁴ A/HRC/RES/22/25 (22 March 2013).

⁵⁵ A/HRC/RES/22/27 (22 March 2013).

⁵⁶ Poverty Reduction and Economic Management Department, Middle East and North Africa Region. World Bank. Report No. AUS2922 October 2, 2013, available at : < <https://openknowledge.worldbank.org/bitstream/handle/10986/16686/AUS29220REPLAC0EVISION0January02014.pdf?sequence=1>>

A. **Restrictions on economic activity in Area C of the West Bank have been particularly detrimental to the Palestinian economy-** Access to this area for most kinds of economic activity has been severely limited. Yet, the potential contribution of Area C to the Palestinian economy is large. Area C is richly endowed with natural resources and it is contiguous. It is observed that “the manner in which Area C is currently administered virtually precludes Palestinian businesses from investing there”.

B. **Mobilizing the Area C potential would help a faltering Palestinian economy-** The Palestinian economy has experienced strong growth in recent years, fuelled by large inflows of donor budget support, some easing of the Israeli movement restrictions that intensified during the second intifada, and a PA reform program. By 2012, however, foreign budget support had declined by more than half, and GDP growth has fallen from 9 percent in 2008-11 to 5.9 percent by 2012 and to 1.9 percent in the first half of 2013.

C. **This slowdown has exposed the distorted nature of the economy and its artificial reliance on donor financed consumption-** “For a small open economy, prosperity requires a strong tradable sector with the ability to compete in the global marketplace.” The faltering nature of the peace process and the persistence of administrative restrictions as well as others on trade, movement and access have had a dampening effect on private investment and private sector activity. Private investment has averaged a mere 15 percent of GDP over the past seven years, compared with rates of over 25 percent in vigorous middle income countries. The manufacturing sector, usually a key driver of export-led growth, has stagnated since 1994, its share in GDP falling from 19 percent to 10 percent by 2011. Consequently, unemployment rates have remained very high in the Palestinian territories and are currently about 22 percent – with almost a quarter of the workforce employed by the Palestinian Authority, an unhealthy proportion that reflects the lack of dynamism in the private sector. While the unsettled political environment and internal Palestinian political divisions have contributed to investor aversion to the Palestinian territories, Israeli restrictions on trade, movement and access have been seen as the dominant deterrent.

D. **Area C is key to future Palestinian economic development-** Area C is particularly important because it is either off limits for Palestinian economic activity, or only accessible with considerable difficulty and often at prohibitive cost. Since Area C is where the majority of the West Bank’s natural resources lie, the impact of these restrictions on the Palestinian economy has been considerable. Thus, the key to Palestinian prosperity continues to lie in the removal of these restrictions with due regard for Israel’s security. As this report shows, rolling back the restrictions would bring substantial benefits to the Palestinian economy and could usher in a new period of increasing Palestinian GDP and substantially improved prospects for sustained growth.

E. **Agriculture:** In the case of agriculture, the key issues are access to fertile land, and the availability of water to irrigate it. Current Palestinian allocations under the Oslo Accords are 138.5 MCM, or 20 percent of the estimated availability – a share to be revisited at Final Status negotiations. Irrigating this unexploited area as well as accessing additional range and forest land could deliver an additional USD 704 million in value added to the Palestinian economy equivalent.

F. Apart from these, the report also discussed the economic potential available with resources in the dead sea, mineral resources, tourism, the construction sector and the

telecommunications sector, all of which were under developed, and if developed could fuel economic growth for Palestine.

102. The report noted that with improvement or opening up of these activities, the impact on Palestinian livelihoods would be impressive with an An increase in GDP equivalent to 35 percent, along with substantial employment being generated. The report acknowledges that access to Area C would not cure all Palestinian economic problems, however alternatives are bleak. It notes that without the ability to conduct purposeful economic activity in Area C, the economic space of the West Bank “will remain crowded and stunted, inhabited by people whose daily interactions with the State of Israel are characterized by inconvenience, expense and frustration.”.

VII. COMMENTS AND OBSERVATIONS OF AALCO SECRETARIAT

103. Precisely, forty-seven years have elapsed since Israel first illegally occupied the Palestinian Territories in 1967. The renewed vigour with which Israel is targeting Palestinian civilians, especially children cannot be justified on any account. With their economy suffocated by the illegal Israeli blockade, Palestinians in Gaza suffer from massive unemployment, as well as ongoing Israeli attacks from air and sea. Economic strangulation is as deadly for Gaza as the renewed Israeli bombings, however, despite all legal efforts exerted by the international community to persuade Israel to stop its illegal expansionist settlement activities and declare Palestine as an Independent State, occupation continues till date, without an early solution in site.

104. Even as this brief is being drafted, after a short period of relative calm, violence has once again erupted in Gaza. The escalation of violence following the abduction and killing of 3 Israeli youth by unidentified persons and the retaliatory measures taken by Israel is rolling into another period of escalated violence. The Secretary General of the United Nations, in his briefing to the Security Council pointed out that over a period of a handful of days the Palestinian factions Hamas and Islamic Jihad have fired a barrage of more than 550 rockets and mortars from Gaza into Israel, and the Israeli Defense Forces (IDF) have launched more than 500 airstrikes on Gaza, primarily targeted at Hamas/Islamic Jihad facilities and private residences of their members.⁵⁷ Irrespective of who is responsible for the initiation of violence, the fact remains that innocent civilians are caught in between this exchange. The Secretary-General notes that “Eighty-eight Palestinians, many of them civilians, are reported to have been killed, and 339 injured. As of yesterday afternoon, some 150 homes have been destroyed or severely damaged, with nearly 900 people displaced.”⁵⁸ The situation is escalating day by day and some fear that a repetition of such incidents can snowball into a full fledged war in the long run. The international community has condemned these acts of violence and called for restraint by both the parties.

105. Developments such as these have direct effect on the peace process. Creating an atmosphere conducive for peace should be the priority of both Israelis and Palestinians. The urgency of the international community should be to establish an independent and sovereign

⁵⁷ U N Secretary-General’s briefing to the Security Council on the situation in the Middle East, including the Question of Palestine, SG/SM/16012 (10 July 2014), available at: <<http://unispal.un.org/unispal.nsf/47d4e277b48d9d3685256ddc00612265/bf205cc2f5d84ab885257d110072a21d?OpenDocument>>

⁵⁸ *Ibid.*

Palestinian State, which is democratic in character and could have peaceful coexistence with its neighbours and in consonance with the Resolutions of the UN General Assembly and Security Council.

106. 10 years have now passed since the International Court of Justice delivered its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.⁵⁹ The decision is an important milestone for the Palestinian peoples as the opinion of the court touches on nearly every legal aspect of the conflict, pronounces on the rights of the Palestinian peoples and the duties of both Israel and the international community at large. The Court was categorical in affirming the illegal nature of the construction of the wall, the continuing occupation of Palestinian lands, the blockade of Gaza and the applicability of the Geneva Convention to the Conflict. The Court also observed that “all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. . . . In addition, all the State parties to the Geneva Convention . . . are under an obligation. . . to ensure compliance by Israel with international humanitarian law as embodied in that Convention”⁶⁰ Despite these strong words and courageous expression by the Court, the situation on ground has changed very little. With impunity and in violation of these determinations, Israel continues to perform every act that the court declared illegal. Such disregard for the opinion of the court (which was widely received by the General Assembly) strikes at the foundations of an international order built on rule of law. The failure of Israel to meet its international obligations, including the obligations to promote and protect international law must be viewed seriously by the community of states.

107. As the numerous reports that were discussed in the brief demonstrate, the continuing occupation of Palestinian lands lies at the root of all the human rights violations faced by the Palestinian peoples. An occupation regime that refuses to earnestly contribute to efforts to reach a peaceful solution should be considered illegal. The occupant has a duty under international law to conduct negotiations in good faith for a peaceful solution.⁶¹ It would seem that an occupant who proposes unreasonable conditions, or otherwise obstructs negotiations for peace for the purpose of retaining control over the occupied territory, could be considered a violator of international law.

108. 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, 338, and 1515 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, since all Israeli measures are for so called security reasons.

⁵⁹ *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of the International Court of Justice, dated, 7 July 2014. ICJ Reports 2004, p.136

⁶⁰ *Ibid*, para 159.

⁶¹ Eyal Benvenisti, *The International Law of Occupation* (2nd Edition), Oxford University Press (2012), p. 245.

109. Israel is obliged to respect and be 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, it has in fact created heavily armed settlements, bypass roads and security zones in the midst of a future Palestinian state that seriously compromises the basic Palestinian rights.

110. The issue concerning the Statehood of Palestine has been debated by the various United Nations Organs since 1947. Even though the UN General Assembly granted “Non-Member Observer Status to the State of Palestine on 29 November 2012, no amicable solution of the issue has been found yet. The Legal Status of Palestine, both in the United Nations and as an independent State recognized as such by other Members of the international community is a vexed question that has evoked different reactions from both the groups of States – that has aligned in favour and not in favour of Palestine’s Statehood. The recognition of Palestine as a full member of the United Nations and as an independent State throws up several issues in International Law.

111. The act of Recognition being a discretionary political act, a prerogative of a recognizing state, a resolution of collective recognition by the General Assembly will not bind other states that have refused to recognize the new state nor will it guarantee UN membership. Nevertheless the resolution will hold a great deal of legal implications for the State of Palestine in its international affairs: Resolution recognizing Palestine could have the effect of allowing Palestine access to international fora and many multilateral treaties which allows membership on the basis of majority of members and not subjected to the veto of a Member of the Security Council. This would allow Palestine to have a greater say and stronger footing to participate and negotiate in international discussions and processes affecting the well being and development of the people of Palestine. Recognition would also give a stronger edge to Palestine in adhering to International treaties. Such adherence would allow Palestinian to have access to stronger international mechanisms for the effective enforcement of International Humanitarian Laws and Human Rights Laws. Recognition will also help in supporting the declaration lodged by the PLO accepting the jurisdiction of the International Criminal Court, which depends on the determination of statehood of the Palestine.

112. However, there are also issues that require consideration before according collective recognition such as that the territory claimed by Palestine is currently in dispute and this needs to be resolved before recognition can be granted: that the Palestinian National Authority (PA) does not have sufficient governmental control over the Palestinian territory and that that the Palestinian move would be a unilateral act which aims to change the status of territory which may be prohibited by the instruments governing the Middle East Peace Process.

113. However it is also argued that despite the important symbolic political value of United Nations Membership it would not bear any significant legal implications as such. By seeking UN admission, Palestine does not claim a right to statehood, but rather the rights flowing from an existing statehood status. The importance of granting recognition to Palestine would lie in its

political significance. Full membership and voting rights would help Palestine gain further political leverage to pressure the international community to comply with its responsibility to bring Israel's violations of International law and particularly International Humanitarian law to an end. By raising the State of Palestine on an equal footing with other States and accruing such legitimacy in the international legal order. Further, Palestine would be better situated to claim its rights from the international community, in particular the means to exercise the right to self-determination.

114. Until all the rights accorded to the Palestinian people by virtue of the principles enshrined in international law, are respected by Israel, the Palestinian right of resistance to the occupation, established by a consensus within the UN would continue. The UN consensus is particularly persuasive because the Palestinian right of self-determination is recognized by a majority of States, the UN has made clear the legal rights and duties in the Israeli-Palestinian conflict in a series of widely supported resolutions, as well as in the Road Map and Arab Peace Initiative.

115. AALCO as the only inter-governmental legal Organization in the Asian and African region would continue to reiterate the urgent need on the part of the international community to seriously address all of the above mentioned grave violations and severe breaches of international law, including international humanitarian law, being committed by the occupying power, against the Palestinian people. In the resolutions adopted at the successive Annual Sessions, AALCO has demanded that the Occupying Power "Israel", comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians.

ANNEXURE I

[List of AALCO Members who expressed support to Palestine's application for full Membership at the 66th Session of the United Nations General Assembly, 2011]

Bahrain	Sri Lanka
Egypt	Sudan
Gambia	Syria
India	Turkey
Indonesia	United Arab Emirates
Iraq	Qatar
Jordan	
Kenya	
Kuwait	
Lebanon	
Malaysia	
Mauritius	
Nepal	
Oman	
Pakistan	
Peoples Republic of China	
Saudi Arabia	
Senegal Somalia	
South Africa	

ANNEXURE II

[Voting of AALCO Members at the 36th General Conference of the UNESCO]

Member States that voted in favour of the Resolution

Syria	Myanmar	Iran	Nepal
Egypt	Sri Lanka	Kenya	Mauritius
India	Pakistan	Kuwait	Tanzania
Indonesia	Ghana	Malaysia	Bangladesh
Iraq	Jordan	Nigeria	Gambia
Qatar	Somalia	Yemen	Cyprus
China	Bahrain	Lebanon	Libya
Botswana	Saudi Arabia	Turkey	Oman
Senegal	South Africa	DPR of Korea	
Brunnei Darussalam	United Arab Emirates		

Member States that abstained from voting

Cameroon	Uganda	Singapore	Republic of Korea
Thailand	Japan		

Member States who were Absent from Voting

Mongolia	Sierra Leone
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ANNEXURE III

[List of AALCO Members with whom Palestine Maintains Diplomatic Relations]

Bahrain (Embassy)	Sri Lanka (Embassy)
Bangladesh (Embassy)	Sudan (Embassy)
Cyprus (Embassy)	Syria (Embassy)
Democratic People's Republic of Korea (Embassy)	Tanzania (Embassy)
Egypt (Embassy)	Turkey (Embassy)
The Gambia (Embassy)	Uganda (Embassy)
Ghana (Embassy)	India (Embassy)
United Arab Emirates (Embassy)	Saudi Arabia (Embassy)
Indonesia (Embassy)	Senegal (Embassy)
Iran (Embassy)	South Africa (Embassy)
Iraq (Embassy)	Oman (Embassy)
Japan (General Mission)	Pakistan (Embassy)
Jordan (Embassy)	China (Embassy)
Kenya (Embassy)	Qatar (Embassy)
Kuwait (Embassy)	Yemen (Embassy)
Lebanon (PLO Office)	
Libya (Embassy)	
Malaysia (Embassy)	
Nigeria (Embassy)	

ANNEX-IV

Draft Resolution for the Fifty-Third Annual Session

AALCO/RES/DFT/53/S 4
18 September 2013

THE DEPORTATION OF PALESTINIANS AND OTHER ISRAELI PRACTICES AMONG THEM THE MASSIVE IMMIGRATION AND SETTLEMENT OF JEWS IN ALL OCCUPIED TERRITORIES IN VIOLATION OF INTERNATIONAL LAW PARTICULARLY THE FOURTH GENEVA CONVENTION OF 1949 (*Deliberated*)

The Asian-African Legal Consultative Organization at its Fifty-Third Session,

Having considered the Secretariat Document No.AALCO/53/TEHRAN/2014/S 4,

Noting with appreciation the introductory remarks of the Deputy Secretary-General;

Recalling and reiterating the decisions taken at the consecutive Annual Sessions of the Asian-African Legal Consultative Organization since 1988, when the topic was first introduced on the agenda of the Organization, in particular the decisions adopted on 22 April 1998 and 23 April 1999,

Also recalling and reiterating the resolutions adopted on 23 February 2000; RES/40/4 of 24 June 2001; RES/41/4 of 19 July 2002; RES/42/3 of 20 June 2003; RES/43/S 4 of 25 June 2004; RES/44/S 4 of 1 July 2005; RES/45/S 4 of 8 April 2006; RESW/46/S 4 of 6 July 2007; RES/47/S 4 of 4 July 2008; RES/48/S 4 of 20 August 2009; RES/49/S 4 of 8 August 2010; RES/50/S 4 of 1 July 2011, RES/51/ S 4 of 22 June 2012 and RES/52/S 4 of 12 September 2013.

Having followed with great interest the deliberations on the item reflecting the views of Member States;

Being concerned with the serious obstacles created by the occupying power, which hinder the achievement of a just and lasting peace in the region;

Recognizing that the massive Israeli military operation in the Occupied Palestinian Territories, particularly in the occupied Gaza strip, has caused grave violations of the human rights of the Palestinian civilians therein and international humanitarian law, and exacerbated the severe humanitarian crisis in the Occupied Palestinian Territories;

Also recognizing that the Israeli siege imposed on the occupied Gaza strip, including the closure of border crossings and the cutting of the supply of fuel, food and medicine, constitutes collective punishment of Palestinian civilians and leads to disastrous humanitarian and environmental consequences;

Welcoming the international and regional initiatives for peace in the Middle East;

Condemning Israel's acts of violence and use of force against Palestinians, resulting in injury, loss of life and destruction, coercive migration and deportation in violation of human rights and the Fourth Geneva Convention of 1949;

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

Being concerned about the continuing dangerous deterioration of the situation in the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, the continuous deportation of Palestinians from their homeland, and the continuing serious and systematic violation of human rights of the Palestinian people by Israel, the occupying power, including that arising from the excessive use of force, the use of collective punishment, the occupation and closure of areas, the confiscation of land, the establishment and expansion of settlements, the construction of a wall in the occupied Palestinian Territories, the destruction of property and infrastructure, use of prohibited weapons and all other actions designed to change the legal status, geographic composition of the Occupied Palestinian Territories, including East Jerusalem and Gaza strip, and about war crimes and crimes against humanity committed in these territories, and calling for the implementation of the relevant United Nations resolutions on the humanitarian situation of the Palestinian people;

Recalling the Advisory Opinion rendered by the International Court of Justice in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and related General Assembly Resolution (A/RES/ES-10/15 of 20 July 2004 and ES-10/17 of 15 December 2006), as well as the United Nations initiative of establishment of a Register of Damage arising from the construction of the separation wall; and **bearing in mind** that ten years have elapsed since the International Court of Justice delivered its opinion.

Being deeply concerned about the tenacity of Israel in proceeding with the construction of wall in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, which is contrary to international law;

Acknowledging with deep concern that the Security Council is still unable to adopt a resolution stipulating the illegality of the Israeli expansionist wall;

Expressing its support to the Arab Peace Initiative for resolving the issue of Palestine and the Middle East, adopted by the 14th Arab Summit held in Beirut (Lebanon) on 28 March 2002 and reaffirmed in the 19th Summit Conference of the League of Arab States, Riyadh, 28-29 March 2007 as well as other peace initiatives, including the Quartet Road Map;

Taking note of conclusions and outcomes of all events held at both regional and international levels aiming at the achievement of a just, durable and comprehensive solution of the question of Palestine;

Affirming that a comprehensive, just and durable solution can only be achieved by ending the occupation in pursuance of the Charter of the United Nations, existing agreement between the

parties and the relevant Security Council and General Assembly resolutions, which will allow all the countries of the region to live in peace, security and harmony:

1. **Urges** its Member States to take part in the peace process/efforts exerted by the international community for the achievement of a just and comprehensive solution of the question of Palestine on the basis of relevant Security Council resolutions, including 242 (1967), 338 (1973), 425 (1978), 1397 (2002) and 1860 (2009); and relevant General Assembly Resolutions, including 194 (1949) on the formula of “land for peace” and the legitimate rights of the Palestinian people, and expressing solidarity with the Palestinian people and their elected leadership.

2. **Takes note** of the United Nations Secretary General’s Board of Enquiry as transmitted on 4 May 2009 to the Security Council as well as the findings of the recent report of the Special Rapporteur of the Human Rights Council and other regional organizations.

3. **Also takes note** of the report of the Independent Fact Finding Committee on Gaza presented to the League of Arab States on 30 April 2009.

4. **Strongly condemns** the shocking developments that have continued to occur in the Occupied Palestinian Territory, including East Jerusalem, including the deportation of Palestinians from their homeland, the large number of deaths and injuries, mostly among Palestinian civilians, the acts of violence and brutality against Palestinian civilians, the widespread destruction of public and private Palestinian property and infrastructure, the internal displacement of civilians and the serious deterioration of the socio-economic and humanitarian conditions of the Palestinian people.

5. **Demands** that Israel, the Occupying Power, comply fully with the provisions and principles of the Charter of the United Nations, Universal Declaration of Human Rights, the Regulations annexed to the Hague Convention of 1907 and the Geneva Conventions in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in order to protect the rights of Palestinians.

6. **Also demands** that Israel positively respond to the 2009 Report of Mr. Richard Falk the Special Rapporteur for the Palestinian Territories Occupied Since 1967 and 2010 Report and Recommendations of Justice Goldstone, United Nations Fact Finding Mission on the Gaza Conflict in order to protect the rights of Palestinians.

7. **Further Demands** that Israel comply with its legal obligations as mentioned in the Advisory Opinion rendered by the International Court of Justice in the case concerning the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, and related General Assembly Resolution (A/RES/ES-10/15 of 20th July 2004).

8. **Strongly demands** that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory.

9. **Strongly deplores** the Israeli blockade of the Gaza strip and its consequent human rights and humanitarian law violation and the Israeli attack against the humanitarian aid Flotilla.
10. **Further demands** for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction of property and calls for the immediate and full withdrawal of Israeli (occupying) forces from Palestinians territories in implementation of Security Council Resolutions, including 1402 (2002), 1403 (2002), 1515 (2003), and 1544 (2004) as a first step for ending the Israeli occupation of Palestinian territories occupied since 1967.
11. **Calls upon** Israel to ensure the return of refugees and displaced Palestinians to their homes and the restoration to them of their properties, in compliance with the relevant UN resolutions.
12. **Directs** the Secretariat to closely follow the developments in occupied territories from the view point of relevant legal aspects.
13. **Decides** to place the item on the provisional agenda of the Fifty-Fourth Annual Session.