

ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



**VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND OTHER OCCUPIED
TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL LEGAL ISSUES
RELATED TO THE QUESTION OF PALESTINE**

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VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND OTHER OCCUPIED TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL LEGAL ISSUES RELATED TO THE QUESTION OF PALESTINE

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. 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 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-Eighth Session in Accra (1999). The item has since been 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.

2. The issue relating to the Statehood of Palestine once again gained international attention in 2012. The Fifty-First Annual Session of AALCO held in Abuja (2012) mandated the Secretariat, *vide* resolution RES/51/S 4, to, *inter alia*, conduct a study to examine and establish the legal requirements and principles that would determine the status of Palestine as a State, and to submit the outcome of the study for the further consideration of Member States. In compliance with this mandate, the AALCO Secretariat published a study entitled “The Statehood of Palestine under International law”.

3. Most recently, in light of the grave violations of international law by the State of Israel in Gaza, the issue was once again deliberated at the Fifty-Fourth Annual Session held in Beijing, (2015) and AALCO/RES/54/S 4 was passed which changed the title of the agenda item to “Violations of International Law in Palestine and Other Occupied Territories by Israel and other International Legal Issues related to the Question of Palestine.”

4. The present brief contains an overview of recent developments including: deliberations at the Fifty-Fourth Annual Session of AALCO; Israel’s violations of international law, particularly international humanitarian law and human rights law; UNSC and UNGA Resolutions; the question of the Statehood of Palestine; The role of the International Criminal Court (ICC); Developments at the Seventieth Session of the United Nations General Assembly; the OIC summit on the question of Palestine; and any other developments.

B. Deliberations at the Fifty-Fourth Annual Session of AALCO held in Beijing, People's Republic of China, 13-17 April 2015

5. **The Deputy Secretary-General of AALCO, Ms. Yukiko Harimoto**, introduced the agenda item and pointed out that AALCO has been following developments in Palestine and providing legal support relating to this issue since 1988. She briefly discussed recent developments, referring to the illegal annexation of Palestinian land, creation of Jewish settlements and the massive deportation of Palestinians. She also noted that Israel's illegal occupation and violations of international law have persisted for five decades despite binding UN Security Council resolutions and other international efforts.

6. While citing the International Court of Justice's advisory opinion in *The Wall* case,¹ Ms. Harimoto pointed out the illegality of the continued occupation and expansion that continues to thwart peace talks and attempts at a two-State solution. She drew attention to the study undertaken by the AALCO Secretariat – “A Study on the Statehood of Palestine under International Law” – and emphasized its continued relevance and significance. She also asserted that the State of Palestine's joining of the International Criminal Court (ICC) as its 123rd member marked an important step towards attaining accountability and justice for victims in the world's longest-running conflict. Ms. Harimoto concluded by emphasizing that resolution to the conflict could only be achieved in accordance with the principles of the rule of law, including the widely supported UN Security Council and UN General Assembly resolutions 242, 338 and 1515. She also brought to the attention of Member States the proposed change in the title of topic in accordance with the comments made by Member States at the Fifty-Third Session in Tehran (2014).

7. Following Deputy Secretary-General Harimoto's presentation, several Member States presented their views, namely: **State of Palestine, Qatar, Japan, Indonesia, Islamic Republic of Iran, Islamic Republic of Egypt, Kingdom of Saudi Arabia, People's Republic of China, India, Pakistan, Syria, Nigeria and Libya.**

8. **The Delegate from the State of Palestine** covered the past and current status of the ongoing Israeli occupation. He noted that the Israel's occupation and systematic attacks have continuously violated international humanitarian and human rights principles, in addition to other international charters and norms. Referring to the UN resolutions that called for a separate independent State of Palestine with its boundary as defined in 1967, the delegate pointed out that Israel has obeyed none of these diktats and has continually blocked all efforts at progress. Israel has also implemented a displacement policy against Palestinian Bedouin communities in and around Jerusalem and the Jordan Valley.

9. Furthermore, the delegate pointed out the organized crimes committed by Israeli settlers against Palestinian civilians and property in occupied territories. He asserted that these attacks were incited by the Israeli government and usually committed in the presence of Israeli army forces. Additionally, with respect to Jerusalem, he asserted that Israel continues taking arbitrary actions against holy Islamic and Christian sites and its natives in order to Judaize the city and

¹ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ Reports 2004, p. 136.

effect the displacement of its population. The delegate finally mentioned Israeli military aggression on the Gaza Strip on 8 July 2014, which was the third such act in the last five years. The aggression on the Gaza Strip has resulted in, according to the Palestinian Ministry of Health report on 23 August 2014, 2,102 deceased, including 567 children and 259 women, and 10,630 injured, including 3,192 children and 2,018 women.

10. The delegate then acknowledged the considerable political support from the international community, as embodied in UNGA resolution 67/19 dated 29 November 2012, which admitted Palestine as a Non-Member Observer State at the UN – an action that was supported by 135 UN Member States. The resolution once again called for the end of the occupation, the attainment of an independent and sovereign State of Palestine with its capital in East Jerusalem and its borders as defined in 1967, resolving the refugee problem in accordance with resolution 194, the complete stop of settlement, the release of prisoners, and the end the siege on the Gaza Strip.

11. In conclusion, the delegate stated that the Palestinian people have suffered for a long time as a result of the illegal Israeli practices and prolonged military occupation. He affirmed that no effort would be spared to ensure accountability for the crimes of occupation, especially in light of the latest aggression on Gaza Strip, and that Palestine's decision to join the International Criminal Court was to seek justice and not revenge. He also asked for support to be given to the State of Palestine at all levels, especially to ensure the prosecution of war criminals before the International Criminal Court, as well as to ensure that Israel respects Palestinian human rights.

12. **The Delegate of Qatar** voiced his appreciation of the support given by AALCO to Palestine. He also emphasized the importance of a speedy resolution to the Palestinian issue in a fair and equitable way, based on the achievement of a just and comprehensive peace, and that this was the responsibility of the international community to the Palestinian people and Government.

13. **The Delegate of Japan** voiced Japan's support for the two-State solution to the ongoing conflict and emphasized that the conflict should be resolved through negotiations based on the relevant UN Security Council Resolutions, the Madrid Principles, the Road map, the agreements previously reached by the parties and the Arab Peace Initiative. However, the delegate also expressed concern over the suspension of negotiations and the deteriorating humanitarian situation in the Gaza Strip while outlining Japan's contribution to the humanitarian efforts in the region. The delegate therefore urged that both Palestine and Israel resume negotiations and refrain from any actions that might hinder the process.

14. **The Delegate of Indonesia** strongly expressed support for the independence and Statehood of Palestine, as well as the peaceful settlement of the conflict, while drawing attention to the 2014 UNRWA Report that detailed the hardships faced by Palestinian refugees. The delegate also supported the establishment of the Commission of Inquiry of the Human Rights Council as a welcome effort to put a stop to the culture of impunity for Israel's violations of international law.

15. **The Delegate of the Islamic Republic of Iran** expressed concern at the blatant disregard of the fundamental human rights of the Palestinian people despite numerous calls by the

international community to put an end to the occupation as well as the constant violation of the Fourth Geneva Convention. The delegate also voiced the opinion that, according to State practice, recognition of situations created as a result of the violation of a *jus cogens* rule of international law is null and void, and therefore the enactment and implementation of law does not change the legal status of the occupied territories and territories acquired by force and war. The delegate also called upon the Israeli regime to desist from transferring its own population into the occupied territories and from changing their demographic make up. The delegate recalled the ICJ's declaration in *The Wall* case and UNGA resolution ES-10/15 demanding that Israel comply with its legal obligations in relation to this. Additionally, the delegate denounced the war crimes and crimes against humanity that have resulted in the death, injury and displacement of thousands of Palestinians, most recently during the 50-day attacks against residents of Gaza. The delegate finally expressed his hope that pursuant to Human Rights Council resolution S21/1, that the Independent Commission of Inquiry would finally bring justice to Israeli perpetrators and also that AALCO Member States would continue to support and assist the Palestinian people in the realization of their right to self-determination.

16. **The Delegate of Egypt** believed that Israel is the main cause for the deterioration of the situation within the occupied Palestinian areas through its continued deportation of Palestinian people and the violation of human rights through the excessive use of force, destruction of property and expansion of settlements in violation of international law and the Fourth Geneva Convention. The delegate also reaffirmed the support of Egypt for the Palestinian peoples' right to self-determination and sovereignty in the UN and other international and regional organizations. The delegate also made mention of that the Cairo International Conference on Palestine "Reconstructing Gaza", which aimed at strengthening the ceasefire in place and improving the prospects of a political solution to the conflict through: (i) Strengthening the Palestinian government's ability to assume its responsibility in the rehabilitation of the Gaza Strip; (ii) Enhancing the UN mechanism for import and export of goods and materials to and from Gaza; (iii) Providing the financial support required for reconstructing Gaza. The delegate also expressed his gratitude to the Chinese government for its active engagement in the Palestinian cause and drew attention to the Chinese four-point initiative proposed by the H.E. Mr. Xi Jinping, the President of the People's Republic of China in May 2013, which represents a cornerstone in the process of regaining the rights of the Palestinian People.

17. **The Delegate of Saudi Arabia** condemned Israel's intransigence and refusal to cooperate, despite its promises and stressed on the information in the report of the Special Rapporteur of the Human Rights Council in Geneva on the situation of human rights in the occupied territories since 1967; a situation that persists after more than six decades and the issuance of hundreds of reports and recommendations. The delegate expressed the opinion that it is unreasonable nations of the world to continue to demand and strongly protect human rights everywhere in the world except the occupied Palestinian territories. He asked all Member States to put pressure on Israel to forcing it to implement resolutions of international legitimacy for the establishment of an independent Palestinian State and the development of a comprehensive and lasting solution to this issue that will restore stability and security in the region.

18. **The Delegate of the People's Republic of China** expressed his grief and concern over the ongoing conflict between Palestine and Israel and mentioned President Xi Jinping's four-

point proposal on resolving the Palestine-Israel issue as well as Chinese Minister of Foreign Affairs Wang Yi proposed a five-point peace proposal on settling the Palestine-Israel conflict, as possible solutions. He also noted China's consistent efforts to promote the peace process and provide humanitarian aid to the people in Gaza. The delegate further stated that advancing peace in the Middle East calls for joint efforts from both sides as well as the international community and therefore called upon all parties concerned and the international community to make full use of various resources to help Palestine and Israel to end the cycle of violence and resume peaceful negotiation. The delegate also mentioned Chinese support for the UN Security Council in playing its role for the resolution of the Palestinian issue, and in responding to the legitimate requests of Palestine and other Arabic countries.

19. **The Delegate of India** expressed his concern over the violations of human rights and international humanitarian law by all sides as well as restrictions on the movements of Palestinians in the West Bank and their forced evictions and expansions of Israeli settlements in the occupied Palestinian territories. The delegate also called for an early easing of restrictions on the free movement of persons and goods. The delegate mentioned incidents in East Jerusalem, in particular the continued settlement activity, house demolition, tensions over the Temple Mount/Al Aqsa Mosque complex, and rising levels of tensions of violence as a cause of concern for all. The delegate further mentioned that India had supported Palestine's bid for full and equal membership of the UN in 2011 and also cosponsored the UNGA resolution in November 2012 that upgraded the status of Palestine to a Non-Member Observer State. The delegate also reaffirmed India's commitment to assisting Palestine in the fields of capacity development and education and information technology and has also implemented a series of development projects under the India-Brazil-South-Africa (IBSA) Fund in Palestine.

20. **The Delegate of Pakistan** condemned the Israeli policies in occupied territories requested that AALCO Member States help to stop the illegal expropriation of Palestinian land, unlawful construction of settlement in the Palestinian territories and ensure the smooth repatriation of Palestinian refugees. The delegate affirmed that it is the moral responsibility of the international community to put it into effect the principles of UN Charter and human rights to alleviate the plight of the Palestinian people and work for a permanent solution of this long-standing issue. The delegate also reaffirmed Pakistan's supports for the two-State solution and expressed his belief that delays in dispensation of justice would lead to intensified unrest and instability in this region. The delegate therefore called for the immediate implementation of Security Council resolutions and suggested the establishment of an endowment fund for students of international law from the State of Palestine.

21. **The Delegate of Syria** extended Syria's full support to Palestine and pointed out that western at the top of the existing international system were paralyzing the international organizations, notably the United Nations, and closed their eyes to the crimes committed by Israel against the Palestinian people. He concluded by stating that the former international system has failed for lack of motivation to find a solution to the crises and that the people of the region are looking for an effective Asian presence in the future international system that will create peace and restore the rights of all persons.

22. **The Delegate of Libya** asserted that the State of Libya condemns the acts carried out by Israel and called for an end to the Israeli occupation of the State of Palestine, for the end of all settlement construction in addition to the killing and displacement of citizens, and also for the termination of the arrest campaign being waged on civilians.

23. In a written statement, **the Delegate of Nigeria** affirmed Nigeria's solidarity with the Palestinian people in their present difficulties and called on all parties in the Israeli-Palestinian dispute to respect all the relevant UN General Assembly and Security Council resolutions on the dispute as the basis for an enduring and equitable resolution of the issues. He equally called for the respect of the provisions of the Fourth Geneva Convention of 1949 as well as other international humanitarian law instruments in order to ensure the full protection of the rights of innocent civilians.

C. Issues for Focused deliberation at Fifty-Fifth Annual Session of AALCO, 2016

24. Issues for focused consideration at the Fifty-Fifth Annual Session could include: (i) Violations of international law, particularly international human rights law and humanitarian law, committed by the Government of Israel in the Occupied Palestinian Territory (OPT); (ii) The status of human rights and the right to self-determination of Palestinians; (iii) Israeli military excesses in the Occupied Palestinian Territories, with reference to the Fourth Geneva Convention of 1949 and UN Security Council and General Assembly resolutions; (iv) Note by the Secretary-General of the United Nations – situation of Human Rights in Palestinian Occupied Territories; (v) War crimes committed in Gaza by Israeli forces, including the blockade of Gaza; (vi) Role of the international community in exerting pressure on Israel to comply with its international obligations, focusing on the extraordinary meeting of the Organization of Islamic Cooperation on the Issue of Palestine; (vii) Highlighting the humanitarian situation and rehabilitation of Palestinians who are suffering due to the occupation; and, (viii) The question of Statehood of Palestine and peaceful settlement between the State of Palestine and Israel.

II. ISRAEL'S VIOLATION OF INTERNATIONAL LAW, PARTICULARLY INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS LAW²

25. Over the past five 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.³ 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 atrocities perpetrated on the civilian population in the OPT beginning from 27 December 2008, which

² This section 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) as well as the brief prepared for the Fifty-Third Annual Session, 2014. The same is reiterated here as well in order to highlight the illegal activities unabatedly perpetuated by Israel on the Occupied Palestinian territories.

³ Beyond Oslo: The new uprising International law and the Al-Aqsa Intifada – Middle East Report 219, Winter 2002

continue in one form or the other till date have clearly demonstrated this trend. These violations intensified in 2014 and 2015 with the targeted shelling of UNRWA shelters and schools in Gaza.

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

26. The international norms and principles that have historically been violated by Israel particularly relate to the Fourth Geneva Convention with offending acts consisting of: the annexation and illegal expropriation of Palestinian land; the expanding of settlements; the deportation of Palestinians; and the construction of the wall in Palestinian Territory.⁴

27. The major drivers of humanitarian vulnerability in the occupied Palestinian territory (OPT) remain unchanged in 2015. The situation is characterized by a protracted occupation, now approaching its fiftieth year, the systematic denial of Palestinian rights, and continuing conflict, punctuated by frequent outbreaks of violence. In the West Bank, continuing settlement expansion and the lack of a horizon for ending the occupation are major sources of frustration and conflict. In Gaza, years of blockade and recurrent outbreaks of hostilities have eroded basic infrastructure, service delivery, livelihoods and coping mechanisms. OPT-wide, high food insecurity (26 percent), poverty (25 percent), and labour force unemployment rates (25 percent) indicate the fragility of the economic situation. An estimated 2.3 million people are in need of humanitarian assistance in the OPT, including 1.2 million refugees mostly in the Gaza Strip, and Area C and East Jerusalem of the West Bank. Overall, the context remains that of a protracted protection crisis driven by lack of respect for international law, and a lack of accountability for violations.

28. On 15 February 2016, the Israeli army demolished almost all existing structures in the Palestinian Bedouin community of Ein Ar Rashash, in the Ramallah governorate, on grounds of lack of building permits. According to OCHA's initial assessment, a total of 43 structures were targeted, including ten homes, 25 animal-related structures and eight external kitchens. Nearly 60 people, including 38 children, permanently residing in the community were displaced, and another 35 residing there seasonally or having their livestock structures on this site, were otherwise affected. Residents have remained in the community in precarious conditions. Ein Ar Rashash is located in an area designated by the Israeli military as a "firing zone" and is one of the 46 Palestinian Bedouin communities at risk of forcible transfer in the context of an Israeli "relocation" plan. Since the beginning of 2016, Israeli forces destroyed or dismantled 283 homes and other structures across the West Bank, the vast majority in Area C, displacing over 400 Palestinians, more than half of them children. More than 1,000 other people lost structures related to their source of income. More than a third of the structures targeted since the beginning of the year were provided as humanitarian assistance to families in need.

29. According to the Office for the Coordination of Humanitarian Affairs (OCHA), in October and November 2015 the escalation of violence resulted in the deaths of more than 100 Palestinians and some 11,300 injured, and 17 Israeli fatalities and some 170 injured.

⁴ A detailed analysis of the legal aspects of these historical violations is contained in the AALCO brief for the 2014 Annual Session (AALCO/53/TEHRAN/2014/SD/S 4).

30. 2015 witnessed a relaxation in some of the Israeli-imposed restrictions on Gaza, including the marketing of some goods to the West Bank and to Israel; an increase in the exit of Palestinians through the Israeli-controlled Erez Crossing; and the removal of aggregates from the list of goods identified by the Israeli authorities as having a "dual use." However, the remaining "dual-use" (both civilian and military) restrictions continue to impede basic service delivery and hamper reconstruction efforts for IDPs while, on a monthly basis, the volume of exports remained at 10 percent of what exited Gaza before the blockade was imposed in 2007. The impact of the eight-year long blockade has been exacerbated by the almost continuous closure by Egypt of the Rafah passenger crossing since October 2014, confining the vast majority of the 1.8 million Palestinians to Gaza.

31. The blockade and three major escalations of hostilities in the last six years have inflicted large-scale destruction on Gaza's economy, productive assets and infrastructure. A chronic energy crisis, with power outages reaching 12-16 hours a day, also impairs service delivery, students' educational outcomes, the functioning of hospitals and medical equipment and the operation of more than 280 water and wastewater facilities. No major new displacement was recorded in Gaza during 2015, but an estimated 95,000 IDPs remain homeless as a result of the 2014 hostilities (the majority UNRWA registered refugees) of whom 78,000 continue to need temporary support. Although repairs to moderately-damaged homes and educational and health facilities have progressed, the rate of reconstruction of the approximately 18,000 houses that were completely destroyed or severely damaged in 2014 is very slow.

32. By August 2015, donor disbursement of pledges made at the October 2014 Cairo Gaza reconstruction conference was only 35 percent. Negligible progress by the Government of National Consensus (GNC) in intra-Palestinian reconciliation has prevented 40,000 public sector employees from receiving their full salaries for over a year. The fragile economic situation is indicated by high rates of poverty (39 percent); unemployment (41.5 percent, exceeding 60 percent among youth); and food insecurity, which at 47 percent of households, is compounding low resilience and high vulnerability to shocks. In 2015, per capita GDP in Gaza is 72 percent below the level it was in 1994.

33. In East Jerusalem, tension increased in the latter part of 2015, with violence spreading to Israel, the wider West Bank and Gaza in October, characterized by almost daily attacks on Israelis, and widespread confrontations with Israeli forces. This led to 17 Israeli fatalities (as of the end of November) and the highest number of casualties recorded in a single month (October) among West Bank Palestinians (69 deaths and 7,392 injuries) since OCHA began monitoring conflict-related casualties in 2005. The escalation has also led to a sharp increase in arrest and detentions, including of children, and increased restrictions on movement and access in Palestinian neighbourhoods in East Jerusalem and the wider West Bank. This deterioration must be seen in the context of the prolonged occupation, stalled Israeli-Palestinian peace negotiations towards a two-State solution, the expansion of settlements, illegal under international law and lack of accountability, including for settler violence.

34. Palestinians in the West Bank continue to be subject to a complex system of control, including physical (the Barrier, checkpoints, roadblocks) and bureaucratic barriers (permits, closure of areas), which restrict their freedom of movement. Israeli policies, including the

planning regime in place, continue to curtail the ability of Palestinians in Area C and East Jerusalem to plan their communities and build homes and infrastructure. By end-October 2015, the Israeli authorities had demolished or dismantled 471 structures, displacing 581 people, at least 200 of whom were refugees. Over 7,000 Bedouins and herders, the majority of whom are refugees, living in 46 communities in the central West Bank are at risk of forcible transfer due to a "relocation" plan by the Israeli authorities, while other communities such as Susiya and those of Massafer Yatta in the southern West Bank are also at high risk of displacement.

35. Although the economic situation in the West Bank is not as fragile as Gaza, in September, prior to the escalation of violence, the International Monetary Fund was projecting growth in the West Bank to decline from five percent in 2014 to 1.8 percent in 2015, assuming no change in restrictions and/or security conditions. A total of 16 percent of households are considered moderately or severely food insecure in the West Bank, with low purchasing power and limited resilience, with refugees residing in camps representing the highest level of food insecurity.

36. In December 2015, the situation in the State of Palestine has remained tense, with violent attacks and clashes across the West Bank, and particularly in East Jerusalem. There have been 26 attacks and incidents resulting in multiple Palestinian and Israeli deaths and injuries, as well as property damage and large numbers of arrests.⁵ During the last three month of 2015, a total of 34 Palestinians have been killed, including nine children and a woman, and 2,116 were injured, including 225 children, the vast majority in protests and confrontations with Israeli forces. During the same period there was one Israeli killed, and 47 injured.

37. On 3 and 4 December, the Egyptian-controlled Rafah Crossing was opened in both directions, allowing a 1,526 people to exit and 860 to enter Gaza. The Crossing was closed in 2015, including for humanitarian assistance, except for 39 days of partial openings. On 4 and 7 December in Gaza, Israeli forces fired a number of shells towards Fakhari area east of Khan Younis and at a military training site south-east of Gaza city, causing damage to a few adjacent houses. No injuries were reported. On 10 December, the Israeli authorities destroyed with explosives two apartments in Shu'fat Refugee Camp (East Jerusalem) and Nablus city, home to the families of two Palestinians (one killed and another in custody) suspected of attacks against Israelis in 2014 and 2015. A total of 37 people including 18 children were displaced, including the two targeted families along with the residents of adjacent homes, which were severely damaged. Also six residential structures, including donor-funded tents, and one commercial structure were demolished in Area C and East Jerusalem on the grounds of lack of building permits. The East Jerusalem demolitions occurred in Beit Hanina area and resulted in the displacement 16 people including 10 children.

38. The Hebron governorate remained the area most affected by movement restrictions, resulting in long delays and disruptions in the access of large segments of the population to services and livelihoods. In the Jerusalem governorate, around 20,000 Palestinians including more than 7,000 children continue to be affected by the closure of the main entrance to Ar Ram town, and a permanent checkpoint placed at one of the entrances to Hizma village. In East Jerusalem, seven of the new checkpoints and roadblocks deployed in October 2015 were

⁵ <https://unispal.un.org/DPA/DPR/UNISPAL.NSF/47D4E277B48D9D3685256DDC00>

removed during the reporting period, leaving a total of eight obstacles in place. From January to December 2015, there have been more than 500 demolitions in West Bank and East Jerusalem affecting over 650 people, including more than 250 children.

B. UN Security Council and General Assembly Resolutions

39. 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, 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 (December 11, 1948), which 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), which 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), which 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), which 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), which 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

40. 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.⁶ 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.⁷ *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 the UN Headquarters in New York and another one in Geneva.⁸

41. 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.⁹ 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.¹⁰

42. 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 membership in the same organization. On 31 October 2011, the General Council of UNESCO voted in favour of admitting Palestine as a member state. This membership became effective on 23 November 2011. On 29 November 2012, by an overwhelming majority, the General Assembly of the United Nations resolved to upgrade the status of Palestine as a “Non-Member Observer State” at the United Nations.¹¹ One hundred and thirty Member States voted in favour of the resolution, while only 9 members specifically voted against the resolution and 41 of them abstained from voting. The said resolution equates Palestine with the status of the Holy See.

⁶ A/RES/3210 (XXIX) (14 October 1974)

⁷ A/RES/3236 (XXIX) (22 November 1974)

⁸ A/RES/3236 (XXIX) (22 November 1974)

⁹ A/RES/43/177 (15 December 1988)

¹⁰ A/RES/49/12 (24 May 1995)

¹¹ A/RES/67/19 (29 November 2014)

43. 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 135 States Members of the United Nations (i.e. close to seventy percent of the total membership of the United Nations) recognize Palestine to date. A list of AALCO members with whom Palestine maintains diplomatic relations was annexed to the last year's brief on this topic. Recently the State of Sweden recognized the Statehood of Palestine.¹² In December 2014 the European Parliament voted in favour of a non-binding resolution calling for the recognition of Palestinian statehood as part of a two-State solution and alongside the development of the peace process with 498 votes in favour, 88 against and 111 abstentions.¹³

IV. THE ROLE OF THE ICC IN THE PRESENT SITUATION

44. On 7 January 2015, the President of the Assembly of States Parties to the Rome Statute ("the Assembly"), Minister Sidiki Kaba, welcomed the deposit by the State of Palestine of the instruments of accession to the Rome Statute of the International Criminal Court and to the Agreement on the Privileges and Immunities of the International Criminal Court (APIC), which were notified on 6 January 2015 by the Secretary-General of the United Nations acting in his capacity as depositary. The deposit of the instruments of accession by the State of Palestine, effected on 2 January 2015, brings to one hundred twenty-three (123) the number of States Parties to the Rome Statute, and to seventy-four (74) the number of States Parties to the APIC.

45. It may be recalled that the Office of the Prosecutor previously conducted a preliminary examination of the situation in Palestine upon receipt of a purported article 12(3) declaration lodged by the Palestinian National Authority on 22 January 2009. The Office considered all legal arguments submitted to it and, after thorough analysis and public consultations, concluded in April 2012 that Palestine's status at the United Nations (UN) as an "observer entity" was determinative, since entry into the Rome Statute system is through the UN Secretary-General (UNSG), who acts as treaty depositary. The Palestinian Authority's "observer entity", as opposed to "non-member State" status at the UN, at the time meant that it could not sign or ratify the Statute. As Palestine could not join the Rome Statute at that time, the Office concluded that it could also not lodge an article 12(3) declaration bringing itself within the ambit of the treaty either, as it had sought to do.

¹² "Sweden has today recognised the State of Palestine. The Government considers that the international law criteria for the recognition of Palestine have been satisfied. Sweden hopes that its decision will facilitate a peace agreement by making the parties less unequal, supporting the moderate Palestinian forces and contributing to hope at a time when tensions are increasing and no peace talks are taking place". For more information see, <<http://unispal.un.org/unispal.nsf/9a798adbf322aff38525617b006d88d7/f3b88383b12cc1af85257d8100534c55?OpenDocument>>.

¹³ Peter Beaumont, 'EU Parliament Backs Palestinian State 'In Principle'' (*the Guardian*, 2014) <<http://www.theguardian.com/world/2014/dec/17/eu-parliament-backs-palestine-state>> accessed 9 February 2015.

46. On 29 November 2012, the UN General Assembly (UNGA) adopted Resolution 67/19 granting Palestine "Non-Member Observer State" status in the UN with a majority of 138 votes in favour, 9 votes against and 41 abstentions. The Office examined the legal implications of this development for its own purposes and concluded, on the basis of its previous extensive analysis of and consultations on the issues, that, while the change in status did not retroactively validate the previously invalid 2009 declaration lodged without the necessary standing, Palestine would be able to accept the jurisdiction of the Court from 29 November 2012 onward, pursuant to articles 12 and 125 of the Rome Statute.

47. On 2 January 2015, Palestine deposited its instrument of accession to the Rome Statute with the UNSG. As outlined in the Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties, "the Secretary-General, in discharging his functions as a depositary of a convention with an 'all States' clause, will follow the practice of the [General] Assembly in implementing such a clause [...]." The practice of the UNGA "is to be found in unequivocal indications from the Assembly that it considers a particular entity to be a State." In accordance with this practice and specifically UNGA Resolution 67/19, on 6 January 2015, the UNSG, acting in his capacity as depositary, accepted Palestine's accession to the Rome Statute, and Palestine became the 123rd State Party to the ICC. It was welcomed as such by the President of the Assembly of States Parties to the Rome Statute. Likewise, on 7 January 2015, the Registrar of the ICC informed President Abbas of his acceptance of the article 12(3) declaration lodged by the Government of Palestine on 1 January 2015 and that the declaration had been transmitted to the Prosecutor for her consideration. The Office considers that, since Palestine was granted observer State status in the UN by the UNGA, it must be considered a "State" for the purposes of accession to the Rome Statute (in accordance with the "all States" formula). Additionally, as the Office has previously stated publicly, the term "State" employed in article 12(3) of the Rome Statute should be interpreted in the same manner as the term "State" used in article 12(1). Thus, a State that may accede to the Rome Statute may also lodge a declaration validly under article 12(3). For the Office, the focus of the inquiry into Palestine's ability to accede to the Rome Statute has consistently been the question of Palestine's status in the UN, given the UNSG's role as treaty depositary of the Statute. The UNGA Resolution 67/19 is therefore determinative of Palestine's ability to accede to the Statute pursuant to article 125, and equally, its ability to lodge an article 12(3) declaration.

48. On 16 January 2015, the Prosecutor of the International Criminal Court (ICC), Mrs. Fatou Bensouda, opened a preliminary examination into the situation in Palestine. The Prosecutor's decision follows the Government of Palestine's accession to the Rome Statute on 2 January 2015 and its declaration of 1 January 2015, lodged under article 12(3) of the Rome Statute – the Court's founding treaty – accepting the jurisdiction of the ICC over alleged crimes committed "in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014." Upon receipt of a referral or a valid declaration made pursuant to article 12(3) of the Statute, the Prosecutor, in accordance with Regulation 25(1)(c) of the Regulations of the Office of the Prosecutor, and as a matter of policy and practice, opens a preliminary examination of the situation at hand. Accordingly, the Prosecutor has opened a preliminary examination into the situation in Palestine.

49. A preliminary examination is not an investigation but a process of examining the information available in order to reach a fully informed determination on whether there is a reasonable basis to proceed with an investigation pursuant to the criteria established by the Rome Statute. Specifically, under article 53(1) of the Rome Statute, the Prosecutor must consider issues of jurisdiction, admissibility and the interests of justice in making this determination.

50. The Office gives due consideration to all submissions and views conveyed to the Office during the course of a preliminary examination, strictly guided by the requirements of the Rome Statute in the independent and impartial exercise of its mandate. There are no timelines provided in the Rome Statute for a decision on a preliminary examination. Depending on the facts and circumstances of each situation, the Office will decide whether to continue to collect information to establish a sufficient factual and legal basis to render a determination, initiate an investigation, subject to judicial review as appropriate, or decline to initiate an investigation.¹⁴

V. DEVELOPMENTS AT THE SEVENTIETH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY (2015)

A. Statement by H.E. Mr. Mahmoud Abbas, President of the State of Palestine¹⁵

51. The President, while addressing the General Assembly on 30 September 2015,¹⁶ noted that the question of Palestine was one of the first issues brought before the United Nations, but it remained unresolved. He mentioned that the transitional Oslo Agreement and its annexes, and the subsequent agreements signed with Israel, stipulated that the agreements would be implemented within five years, ending in 1999, with full independence for the State of Palestine and the termination of the Israeli occupation. However, Israel stopped the withdrawal of its forces from areas classified as "B" and "C", which represent more than 60% of the territory of the West Bank including East Jerusalem, and intensified its settlement activities. Since the speech of US President Barack Obama in Cairo in 2009, which called for the cessation of settlement activities, the Israeli Government increased settlement activities by at least 20%. Moreover, the occupying power has repeatedly infringed upon the areas classified "A", which are supposed to be under full Palestinian security jurisdiction and in which institutions of the Palestinian State have been developed.

52. The President pointed out that despite the obstacles imposed by the occupation, the Palestinian National Authority had worked to build the foundation of its State, its infrastructure and sovereign national institutions. It had made progress as affirmed by several international bodies, including the United Nations, the World Bank and International Monetary Fund (IMF). He asserted that Palestine will not accept temporary solutions or a fragmented State but seeks to form a united national government that functions according to the programme of the Palestine Liberation Organization (PLO) and will hold presidential and legislative elections.

¹⁴<http://unispal.un.org/unispal.nsf/eed216406b50bf6485256ce10072f637/a586a025b963a81b85257dcf0069010c?OpenDocument> last assessed on 8 February 2015.

¹⁵ <http://gadebate.un.org/70/palestine-State>

¹⁶ <http://gadebate.un.org/70/palestine-State#sthash.EAwI0ja6.dpuf>

53. The President also emphasized that the Palestinian people aspire to see the independent State of Palestine take its rightful place among the community of nations. He was very grateful to the countries that voted in favor of the resolution enabling the flag of the State of Palestine to be raised at the UN Headquarters and he assured all that soon the flag of Palestine would be raised in East Jerusalem. He recalled that Palestine, with its borders based on the decision of 4 June 1967 and with East Jerusalem as its capital, is a State under occupation. He asserted that Palestine is recognized by 137 countries around the world and the right of our people to self-determination, freedom and independence is recognized globally as being inalienable and unquestionable. Further recalling UNGA resolution 67/19 of 2012, which accorded to Palestine the status of a Non-Member Observer State, he reaffirmed that the Executive Committee of the Palestine Liberation Organization would be the interim government of the State of Palestine and that the Palestinian National Council is the parliament of the State of Palestine.

54. The President reiterated that the current situation in Palestine is unsustainable and that its people need genuine hope and need to see credible efforts for ending the conflict, ending their misery and achieving their rights. He also asserted that the implementation of this declaration would be done by all peaceful and legal means. Either the Palestinian National Authority will be the conduit of the Palestinian people from occupation to independence, or Israel, the occupying power, must bear all of its responsibilities. Referring to various agreements, including the transitional Oslo Agreement and its annexes and economic agreements, the President said that as long as Israel refused to commit to these agreements and violated them, Palestine could not continue to be bound by the agreements.

B. Resolutions adopted at the Seventieth Session of the UNGA

- (1) UNGA Resolution 70/15 (November 24, 2015) affirmed that the peaceful settlement of the question of Palestine is the permanent responsibility of the United Nations with regard to the question of Palestine until the question is resolved in all its aspects in accordance with international law and relevant resolutions. It reaffirmed the illegality of Israeli actions aimed at changing the status of Jerusalem, including settlement construction and expansion, home demolitions, evictions of Palestinian residents, excavations in and around religious and historic sites, and all other unilateral measures aimed at altering the character, status and demographic composition of the city and of the Territory as a whole, and demanded their immediate cessation.
- (2) UNGA Resolution 70/84 (December 9, 2015) affirmed that the rights of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence in the territories occupied by Israel since 1967.
- (3) UNGA Resolution 70/86 (December 9, 2015) affirmed that the Palestine refugees are entitled to their property and to the income derived therefrom, in conformity with the principles of equity and justice, calling Israel to render all facilities and assistance to the Secretary-General in the implementation of the present resolution.
- (4) UNGA Resolution 70/88 (December 9, 2015) affirmed the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories by Israel since 1967. It also stressed that that Israel, the occupying Power, should comply strictly with its obligations under

international law, including international humanitarian law and adherence to the *de jure* applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention and to continue to exert all efforts to ensure respect for its provisions.

- (5) UNGA Resolution 70/89 (December 9, 2015) affirmed regarding Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan that the transfer by the occupying power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in additional Protocol I to the four Geneva Conventions and further affirmed that the occupation is illegal and an obstacle to peace and economic and social development. It also stressed by noting that the International Court of Justice in its advisory opinion concluded that “the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law and stressed on the responsibility of Israel, the occupying Power, to investigate all acts of settler violence against Palestinian civilians and their properties and to ensure accountability for these acts.
- (6) UNGA Resolution 70/91 (December 9, 2015), regarding the occupied Syrian Golan, affirmed that the Syrian Golan, occupied since 1967, has been under continued Israeli military occupation, while referring to Security Council resolution 497 (1981) the illegality of the decision of 14 December 1981 taken by Israel to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory, stressed that the acquisition of territory by force is inadmissible under international law, including the Charter of the United Nations, and called upon Israel to put an end to its occupation of the Arab territories.

VI. EXTRAORDINARY SUMMIT OF THE IOC ON THE ISSUE OF PALESTINE (7 MARCH 2016)

55. The Fifth Extraordinary Islamic Summit concluded in Jakarta and expressed support for the call made by the Palestinian President Mahmoud Abbas to convene an international peace conference to end the Israeli occupation as an essential step towards ending the unsustainable and volatile situation. It was also agreed that this step would promote calm and revive hope in a peaceful solution to end occupation, and allow the Palestinian people to live in freedom and dignity in their Palestinian State, with Al-Quds as its capital. The resolution on Palestine and Al-Quds Al-Sharif “United For a Just Solution” submitted to the Fifth Extraordinary Summit of the IOC, also affirmed the OIC Member States’ central role in taking all necessary measures at all levels to provide protection for the Palestinian people and safeguard the sanctity and status of Al-Quds Al-Sharif, in particular Al-Aqsa Mosque Compound.

56. It further reaffirmed that “the Member States stand firm in their defense of the Holy Al-Aqsa Mosque Compound”, and cautioned against any measures that would affect its sanctity as an exclusive right of Muslims, including its surface, underground and environs. The resolution expressed support for the Palestinian reconciliation under the chairmanship of President Abbas, calling for continuing efforts at all fronts to end the illegal and immoral blockade Israel imposes

on the Gaza Strip. It reaffirmed the resolve to continue efforts at the UN Security Council to ensure that the latter upholds its duties consistent with its Charter and assumes its legal and moral responsibilities to ensure accountability for illegal actions perpetrated by the occupying Power.

57. On the other hand, the Summit called on all Member States and on the international community to ban the products of Israeli illegal settlements from their markets, and to take measures against entities and individuals involved in or taking advantage of the advancement of the occupation and settlement regime; and to include settler leaders in the list of terrorists and criminals to be brought before international justice.

58. The resolution also called on all OIC Member States to engage with the cause of Palestine and Al-Quds Al-Sharif, including in the UN Security Council and Human Rights Council and urging them to honor their commitments to provide necessary support and assistance to Palestine's efforts to join international institutions and treaties, including full membership in the United Nations.

59. Following the closing of the Summit, the President of Indonesia, H.E. Joko Widodo, the President of Palestine, H.E. Mahmoud Abbas, and the OIC Secretary General, H.E. Iyad Ameen Madani, held a press conference in which they all highlighted the importance of the Palestinian cause. President Widodo presented a briefing on the decisions of the Summit, particularly the decision to support holding an international peace conference for the two-State solution, and condemned Israeli measures and violations. For his part, President Abbas commended Indonesia for hosting the Summit in Jakarta, while the Secretary General stated that the Summit reaffirmed the strong presence of the Palestinian cause in the Islamic world and that its convening in Jakarta confirmed its profound Islamic significance.

VII. OTHER DEVELOPMENTS

A. Report of Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan – 14 October 2015¹⁷

60. The report prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to General Assembly resolution 69/93, focuses on the Israeli practices affecting the human rights of Palestinians in the Occupied Palestinian Territory, with a particular focus on the Gaza Strip in the aftermath of the 2014 escalation and factors affecting reconstruction and recovery in Gaza. It provides updates on accountability measures by duty bearers and treaty accession by the State of Palestine. The report presents an analysis of how the continuing blockade of Gaza is undermining reconstruction and recovery efforts, including as regards the economy and the provision of basic public services. It also provides an update on the situation in the West Bank, including East Jerusalem, and an explanation as to how lifting the blockade and

¹⁷ A/70/421

accountability for violations and abuses of human rights and international humanitarian law are prerequisites for sustainable peace and security.

1. Accountability for human rights and humanitarian law violations

61. The 2014 escalation in hostilities mirrored previous escalations in 2008-2009 and 2012, which resulted in large-scale destruction and loss of life. Despite calls by the international community for proper accountability for international human rights and humanitarian law violations, impunity continues to prevail. For a detailed analysis of the escalations and the impunity for serious violations that has prevailed, see recent reports of the UNs Secretary-General and the High Commissioner for Human Rights.¹⁸

2. Treaty accession by the State of Palestine

62. During the reporting period, the State of Palestine became party to seven of the core international human rights treaties,¹⁹ the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, the Geneva Conventions of 12 August 1949, Additional Protocol I to the Geneva Conventions and the Convention respecting the Laws and Customs of War on Land.

63. In accordance with the international legal obligations contained in those treaties, the State of Palestine has an obligation to protect and promote human rights to the greatest extent possible. At the same time, Israel, as the occupying Power, remains under an obligation to protect the human rights of the Palestinians in the Occupied Palestinian Territory in accordance with international human rights law and international humanitarian law, including with respect to Israel's international treaty obligations.²⁰

B. Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967- 11 January 2016²¹

64. The present report examines the need for effective protection of the rights of Palestinians living under Israeli occupation since 1967. Since assuming his mandate in June 2014, the Special Rapporteur has been struck by the abundant amounts of information and reports on violations of international human rights law and international humanitarian law, on the one hand, and the seeming inability of the international community to match the situation with more effective protection of Palestinians in the Occupied Palestinian Territory.

¹⁸ See. A/HRC/12/48, A/HRC/22/35/Add.1, A/HRC/28/80/Add.1, A/HRC/28/45, paras. 14-17, and A/69/347, paras. 52-69

¹⁹ International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child and Convention on the Rights of Persons with Disabilities. The two Covenants entered into force on 2 July 2014 and the other five treaties on 2 May 2014.

²⁰ International Court of Justice advisory opinion, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", paras. 102-113.

²¹ A/HRC/31/73

65. As the mandate of the Special Rapporteur is focused on investigation of violations by Israel of the principles of international law,²² the Special Rapporteur has previously noted the fact that both Palestinians and Israelis have been victims of the protracted Israeli-Palestinian conflict. The scale of the impact, however, whether in terms of casualty figures or wider impacts, differs significantly in that the daily lives of Palestinians are affected by the Israeli occupation. The destructive impact of the Israeli-Palestinian conflict is particularly clear in times of active hostilities, such as in the summer of 2014 in Gaza, or as has been witnessed particularly in the fourth quarter of 2015, especially in the West Bank, during escalations in violence.

66. The Special Rapporteur reiterated two points related to the current violence that are interlinked. The first is that any wanton act of individual violence, whether committed by Palestinians or Israelis, is unacceptable and must be investigated and prosecuted in accordance with international standards. The second is that the upsurge of violence with serious concerns of excessive use of force by Israeli security forces in the context of attacks and alleged attacks by Palestinians and during clashes, and ongoing settler violence, is arising within a pre-existing context. Anyone seeking to quell the unrest would, notwithstanding the unequivocal position that individual perpetrators of crimes must be held responsible, need to look to the context and related root causes of the overall heightened tension. To simply condemn individual attacks does not offer any viable way out of the violence rolling over the Occupied Palestinian Territory.

67. The Special Rapporteur deeply regretted reporting that he had been obstructed in his ability to fulfill his mandate by the lack of cooperation of Israel. The Special Rapporteur assumed the mandate as an impartial observer and has from the outset made great efforts to engage in dialogue with the Government of Palestine and the Government of Israel.

1. Blockade

68. The effect of blockade has isolated Gaza from the rest of the Occupied Palestinian Territories, which has affected a range of human rights, especially the right to freedom of movement and the right to an adequate standard of living. There is a dire lack of potable water and a severely limited electricity supply.²³ Many of the families hit hardest in terms of damage and destruction of their homes during the 2014 Israeli military operation, some 95,000 people, were still displaced as of November 2015.²⁴

2. Prisoners and detainees

69. The Special Rapporteur has detailed his concerns regarding the treatment of Palestinian prisoners and detainees, including children, under the Israeli military court system.²⁵ Figures

²² see Commission on Human Rights resolution 1993/2 A

²³ In the context of the blockade as a primary obstacle to the right to an adequate standard of living in Gaza, the Special Rapporteur recognizes that the Palestinian political situation also impacts on the ability of civil servants to provide basic services. See e.g. Office for the Coordination of Humanitarian Affairs, "Humanitarian Bulletin - November 2015

²⁴ Office for the Coordination of Humanitarian Affairs, "Humanitarian Bulletin: occupied Palestinian territory - October 2015", p. 6

²⁵ A/HRC/28/78, sect. IV, and A/70/392, sect. IV

reported by various non-governmental organizations show a sharp rise in the number of Palestinians detained in the month of October 2015, during the escalation of violence. According to figures published by an Israeli non-governmental organization, the number of Palestinians in the custody of the Israeli security forces reached some 5,680; a rise of more than 400 persons held compared to September 2015.²⁶

3. Cases of alleged violations raised with Israel through communications from special procedures

70. Between June 2014 and the end November 2015, the Special Rapporteur transmitted 10 communications²⁷ joint letters of allegation or joint urgent appeals to the Government of Israel, raising allegations of violations of international human rights law and international humanitarian law by Israeli authorities. Through communications, the Special Rapporteur seeks to intervene in individual cases but also to raise broader concerns regarding the legislation, policies and practices of the Government of Israel that give rise to human rights violations in the Occupied Palestinian Territory.

4. Recommendations

71. The Special Rapporteur recalls the well-documented violations related to the Israeli occupation policies and practices in the Occupied Palestinian Territory and sees a critical need for the international community to increase its protection of the Palestinian population. The Special Rapporteur reiterates recommendations²⁸ and presents and re-emphasizes the following recommendations to the Government of Israel:

- (a) Lift the blockade on Gaza, which is a primary obstacle to reconstruction and entails violations of human rights and constitutes collective punishment.
- (b) Halt settlement expansion and refrain from carrying out demolitions of Palestinian property, forced evictions, and other acts causing the forced displacement of Palestinians in the West Bank, including East Jerusalem.
- (c) Ensure compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and conduct full investigations into cases of excessive use of force by Israeli security forces and into allegations of settler violence.
- (d) Ensure that domestic-level investigations provide accountability, including by widening the scope of investigations to include policy-level decisions guiding the Israel Defense Forces during the 2014 military operation in Gaza.
- (e) End the practice of administrative detention and urgently charge or release Palestinian prisoners and detainees, especially children.
- (f) Urgently redouble efforts to implement recommendations by UNICEF with respect to the detention of children, in particular, ensuring that children are detained only as a last resort.

²⁶ B'Tselem, "Statistics on Palestinians in the custody of the Israeli security forces" (accessed on 2 December 2015). This figure does not include Palestinians held in Israel Prison Service facilities for being in Israel illegally.

²⁷ Joint letters of allegation or joint urgent appeals

²⁸ see A/HRC/28/78 and A/70/392

(g) Desist from excessive measures affecting Palestinian freedom of movement and cease immediately the practice of punitive home demolitions.

(h) Cooperate with the mandate of the Special Rapporteur and any United Nations-mandated body, as required of a State Member of the United Nations, and facilitate access to the Occupied Palestinian Territory.

C. Permanent Sovereignty of Palestine People in the Occupied Palestinian Territory (Report of Second Committee)²⁹

72. The report of Second Committee was presented by the Rapporteur, Ms. Chantal Uwizera (Rwanda), at the General Assembly's Seventieth Session as agenda item 64. At its 2nd plenary meeting, on 18 September 2015, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its Seventieth Session the item entitled "Permanent Sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the Occupied Syrian Golan over their Natural Resources" and to allocate it to the Second Committee. Furthermore, the Secretary-General transmitted the report prepared by the Economic and Social Commission for Western Asia on the economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and the Arab population in the occupied Syrian Golan (A/70/82-E/2015/13).

73. The Second Committee report made the recommendation to the General Assembly to adopt the draft resolution on the "*Permanent Sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the Occupied Syrian Golan over their Natural Resources*". It took note of resolution 69/241 of 19 December 2014, and of the Economic and Social Council resolution 2015/17 of 20 July 2015. It affirmed the principle of the permanent sovereignty of peoples under foreign occupation over their natural resources, applying its resolution 2625 (XXV) of 24 October 1970.

74. The Second Committee report expressed its concern about the extensive destruction by Israel, the occupying Power, of agricultural land and orchards in the Occupied Palestinian Territory, including the uprooting of a vast number of fruit-bearing trees and the destruction of farms and greenhouses, and the grave environmental and economic impact in this regard. It has also taken in to account the widespread destruction caused by the occupying Power to vital infrastructure, including water pipelines, sewage networks and electricity networks, in the Occupied Palestinian Territory, in particular in the Gaza Strip during the military operations of July and August 2014. This, *inter alia*, has polluted the environment and negatively affects the functioning of water and sanitation systems and the water supply and other natural resources of the Palestinian people. The report also stresses the urgency of the reconstruction and development of water and other vital civilian infrastructure, including the project for the desalination facility for the Gaza Strip.

75. The Second Committee also stressed on the urgency of achieving, without delay, an end to the Israeli occupation that began in 1967 and a just, lasting and comprehensive peace settlement on all tracks, on the basis of Security Council resolutions 242 (1967), 338 (1973) of

²⁹ A/70/480, 1 December 2015

22 October 1973, 425 (1978) of 19 March 1978 and 1397 (2002) of 12 March 2002, the principle of land for peace, the Arab Peace Initiatives and the Quartet performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict, as endorsed by the Security Council in its resolution 1515 (2003) of 19 November 2003 and supported by the Council in its resolution 1850 (2008) of 16 December 2008.

76. Finally in the draft resolution it requested the Secretary-General to report to the General Assembly at its Seventy-First session on the implementation of the present resolution, including with regard to the cumulative impact of the exploitation, damage and depletion by Israel of natural resources in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan. It also decided to include in the provisional agenda of its Seventy-First Session the item entitled "Permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan over their natural resources".

D. Report of Special Committee to Investigate Israeli Practices Affecting the Human Rights of Palestinian People in Occupied Territories and other Arabs of Occupied Territories. (Report of the Special Political and Decolonization Committee)³⁰ - 24 November 2015

77. The report addressed concern over the issue of serious human rights violations and the killing and injury of thousands of civilians, including women and children, during the military operations in the Gaza Strip in July and August 2014 which were in addition to grave breaches of international humanitarian law committed during the military operations in the Gaza Strip between December 2008 and January 2009.

78. The report reiterating the necessity for serious follow-up by all parties to the recommendations addressed to them towards ensuring accountability and justice. The Special Committee enumerated the effort to continue to investigate the treatment and status of the thousands of prisoners and detainees, including children and women, in Israeli prisons and detention centres in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and expresses grave concern about harsh conditions and ill-treatment of prisoners and recent hunger strikes, stressing the need for respect for all applicable rules of international law, including the Fourth Geneva Convention,³¹ the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

E. Report of United Nations Secretary-General on Israeli Settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan³¹ - 20 January 2016

79. The present report was submitted pursuant to Human Rights Council resolution 28/26 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the

³⁰ A/70/497

³¹ A/HRC/31/43

occupied Syrian Golan. In the report, developments concerning the establishment and expansion of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, are highlighted. An update and analysis is also provided of the effects of related house demolitions, evictions, settlement expansion, settler violence, discriminatory zoning and planning policies on the economic, social and cultural rights of Palestinians. Lastly, in the report, the Secretary-General addresses issues related to Israeli settlements in the occupied Syrian Golan.

80. The presence and continued development of Israeli settlements lie at the root of a broad spectrum of human rights violations in the West Bank, including East Jerusalem. This has been documented extensively, including in previous reports of the Secretary-General, and by 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.³²

81. The escalation in violence in Israel and the Occupied Palestinian Territory, starting in September 2015, led to the hardening of the government position with regard to settlement expansion. A point of particular concern has been the response by the Government to political pressure from pro-settlement lawmakers and settler organizations to increase settlement construction in retaliation for acts of violence by Palestinians: namely, settlement expansion announcements by the Prime Minister regarding the retroactive legalization of settlement outposts around Itamar³³ and the promotion of particularly controversial plans for settlement expansion in the Muslim Quarter of the Old City and in the Ramat Shlomo settlement in East Jerusalem.

82. In October 2015, the Israeli non-governmental organization Peace Now reported on wide-ranging plans for West Bank settlement expansion and related settlement activity based on information obtained from the Ministry of Housing. From the disclosed documents, it appears that plans were promoted and partially implemented under previous Minister for Housing, Uri Ariel, from the Jewish Home party. The Prime Minister has subsequently publicly disavowed elements of these plans.³⁴ However, documents obtained by Peace Now detail funding by the Ministry of residential construction, as well as infrastructure and public structures, in various settlements between 2012 and 2015. This included funding for the construction of over 4,000 housing units, public structures (including the expansion of the Beit Romano and Beit Betar settlements in Hebron) and financial support (roughly US\$ 460,000) disbursed in 2014 to municipal authorities in the West Bank towards public campaigns encouraging Israelis to move to settlements.

83. As mentioned by the Secretary-General in his report on the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan³⁵ an estimated 21,000 Israeli settlers currently live in the occupied Syrian Golan in 33 settlements, heavily subsidized by Israel. These settlements enjoy a number of financial incentives, as well as

³² See A/HRC/22/63)

³³ On 1 October 2015, two Israeli citizens, Eitam and Na'ama Henkin, from the settlement of Neria, were killed in a drive-by shooting attack on the road between the settlements of Itamar and Elon Moreh in the West Bank.

³⁴ Itamar Eichner, "Netanyahu: settlement construction plan led by Uri Ariel", Ynet, 30 December 2015.

³⁵ See A/HRC/28/44, para. 54

a disproportionate allocation of water resources, which contributes to a higher agricultural yield for settlers. In October 2015, reports indicated that Israel intends to expand the size of its settlements over the next five years by adding an additional 100,000 settlers to the region. On the other hand, reports also refer to challenges faced by the Syrian population, which has grown from 7,000 in 1968 to approximately 25,000 people in 2015,³⁶ in the construction of new houses and infrastructure.

84. The Secretary-General voiced concerns at the deteriorating human rights and humanitarian situations facing Palestinian Bedouin and herder populations affected by home demolitions and Israeli plans for "relocation" of entire communities. He has pointed that the Israeli zoning and planning policy in the West Bank, which regulates the construction of housing and structures in Area C, is restrictive, discriminatory and incompatible with requirements under international law (see A/HRC/25/38, paras. 11-20). The planning system favors Israeli settlement interests over the needs of the protected population and makes it practically impossible for Palestinians living in Area C (approximately 300,000, according to the Office for the Coordination of Humanitarian Affairs) to obtain building permits. Severe restrictions on Palestinian planning in Area C further prevents the development of communities, which are effectively denied basic services and infrastructure under the current policy.

85. August 2015 saw the highest number of demolitions of Palestinian structures in a single month since June 2010, with some 140 Palestinian structures demolished and over 200 Palestinians displaced. The overwhelming majority of the demolitions were in Area C, mainly affecting already vulnerable Bedouin herding communities. Activities by the Government of Israel aimed at relocation of Bedouins and herder communities progressed during the period under review. The planned relocation of the Bedouin and herder communities in Area C gives rise to serious concerns under international law. The Secretary-General reiterated concerns that the implementation of proposed relocations may amount to individual and mass forcible transfers. Except for temporary transfers for the security of the population or for imperative military reasons in the context of hostilities, forcible transfers violate human rights law and are prohibited under international humanitarian law. Under article 147 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, the unlawful transfer of protected persons constitutes a grave breach of its provisions, and potentially incurs the individual criminal responsibility of officials engaged in forcible transfers. In addition, the transfer of Palestinian Bedouin communities would contravene the obligations of Israel under international human rights law, particularly regarding the rights to freedom of residence and to adequate housing.³⁷

86. The Secretary-General reiterated that the Security Council, in its resolution 497 (1981), reaffirmed that the acquisition of territory by force is inadmissible, in accordance with the Charter of the United Nations, the principles of international law and relevant Security Council resolutions, and decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights was null and void and without international legal effect.

³⁶ For details on exploitation on natural resources, see A/70/36139, para. 76.

³⁷ See. A/67/372, para. 37, and A/HRC/24/30, para. 29

F. Palestine Refugees' Properties and their Revenues: Report of the Secretary-General - 24 August 2015³⁸

87. On 14 May 2015, the Secretary-General drew the attention of the Permanent Representative of Israel to the United Nations to General Assembly resolutions 69/86 to 69/89, with the request that the Permanent Representative inform him by 10 July 2015 of any steps that his Government had taken or envisaged taking in the implementation of the relevant provisions of the resolutions. Replies were received from Argentina, Australia, Belgium, Japan, Pakistan and the Republic of Korea with regard to the requests contained in paragraph 4 of resolution 69/86, paragraph 4 of resolution 69/87 and paragraphs 26 and 27 of resolution 69/88, which calls for support for the State of Palestine. No information has been received from Member States regarding the implementation of resolution 69/89.

VIII. COMMENTS AND OBSERVATIONS OF THE AALCO SECRETARIAT

88. The occupation of Palestine and East Jerusalem, including the persistent breaches of international law, humanitarian law and human rights law by Israel, has been ongoing for almost exactly five decades now. The persistence and intensity of these illegal actions are a continuing violation of international law on a level that is seldom seen, and ending the Israeli occupation of Palestinian territory remains a priority for the international community.

89. 11 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*.³⁹ 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, and 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.

90. 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."⁴⁰ Despite these strong words by the Court, the situation on the ground has changed very little. With impunity and in violation of these determinations, Israel continues to perform every act that the Court declared illegal. 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.

³⁸ A/70/340

³⁹ *The Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of the International Court of Justice, 7 July 2014, ICJ Reports 2004, p. 136.

⁴⁰ *Ibid*, para 159.

91. Ending Israel's continued violations of international law, humanitarian law and human rights law must be the main priority of the international community in addition to the establishment of Palestinian Statehood and the ultimate implementation of the two-State solution. This latter process has already begun with the induction of Palestine into the UN as a Non-Member Observer State as well as Palestine's accession to international treaties and bodies such as the Rome Statute and the International Criminal Court, and the eventual complete *de jure* and *de facto* recognition of Palestine as a sovereign, independent State in all fora may provide external support for the Palestinian people to exert their right to self-determination.

92. However, measures must also be taken by the international community to curb Israeli breaches of international law in order to both protect the Palestinian people as well as expedite Palestinian independence. To this end, measures such as the initiative of Indonesia at the OIC extraordinary summit, which led to the passing of a resolution to put sanctions on Israel and boycott its exported goods may be of utility. President Abbas' recent visit to the International Criminal Court has also increased confidence in the possibility that prosecutors will initiate proceedings relating to war crimes and crimes against humanity.

93. The continuing occupation of Palestinian land lies at the root of the suffering of the Palestinian people and until all rights accorded to the Palestinian people according to established principles of international law are respected by Israel, this situation will continue. The AALCO Secretariat therefore urges its Member States to stand in solidarity to support the right to self-determination of the Palestinian People and to extend all possible humanitarian relief in the region to reduce the sufferings of the people. The Secretariat also hopes that legal proceedings will be initiated by the ICC to provide justice for all those who have suffered and continue to suffer and to put an end to the ongoing violations of international law in the region.

ANNEX

SECRETARIAT'S DRAFT
AALCO/RES/DFT/55/S 4
20 MAY 2016

VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND OTHER OCCUPIED TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL LEGAL ISSUES RELATED TO THE QUESTION OF PALESTINE

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

Having considered the Secretariat Document No AALCO/55/HEADQUARTERS (NEW DELHI)/2016/SD/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, RES/52/S 4 of 12 September 2013, RES/53/S 4 of 18 September 2014, and RES/55/S 5 of 20 May 2015,

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, demographic 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 more than ten years have elapsed since the International Court of Justice delivered its opinion,

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,

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,

Also taking note of the initiation of a preliminary examination of the situation in Palestine by the Prosecutor of the International Criminal Court,

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 findings 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 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;
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;
13. **Directs** the Secretariat to closely follow the developments in occupied territories from the perspective of relevant legal aspects;
14. **Decides** to place the item on the provisional agenda of the AALCO Annual Session as and when required.

ANNEX

Corrigendum
SECRETARIAT'S DRAFT
AALCO/RES/DFT/55/S 4
20 MAY 2016

VIOLATIONS OF INTERNATIONAL LAW IN PALESTINE AND OTHER OCCUPIED TERRITORIES BY ISRAEL AND OTHER INTERNATIONAL LEGAL ISSUES RELATED TO THE QUESTION OF PALESTINE

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

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

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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, RES/52/S 4 of 12 September 2013, RES/53/S 4 of 18 September 2014, and RES/54/S 4 of 17 April 2015,

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, demographic 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 more than ten years have elapsed since the International Court of Justice delivered its opinion,

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,

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,

Also taking note of the initiation of a preliminary examination of the situation in Palestine by the Prosecutor of the International Criminal Court,

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 findings 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 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;
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 perspective of relevant legal aspects;
13. **Decides** to place the item on the provisional agenda of the AALCO Annual Session as and when required.