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Right of peoples to self-determination**Right of peoples to self-determination****Report of the Secretary-General***Summary*

In its resolution 63/163, the General Assembly requested the Secretary-General to report to it at its sixty-fourth session on the question of the universal realization of the right of peoples to self-determination. The present report has been prepared in accordance with that request. It contains a summary of the developments relating to the consideration of this subject by the Human Rights Council and outlines the relevant jurisprudence of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights on the treaty-based human rights norms relating to the realization of the right of peoples to self-determination.

I. Introduction

1. In its resolution 63/163 adopted on 18 December 2008, the General Assembly requested the Human Rights Council to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation, and requested the Secretary-General to report on this question to the Assembly at its sixty-fourth session. The present report was prepared pursuant to that request.
2. The report contains a summary of the developments relating to the consideration of this subject by the Human Rights Council at its ninth special session and at its ninth, tenth and eleventh regular sessions. It also outlines the recent concluding observations of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, based on their consideration of the periodic reports submitted by the States parties to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in respect of the implementation of the right to self-determination guaranteed in article 1 of the two Covenants.

II. Consideration of the question of the realization of the right of peoples to self-determination by the Human Rights Council

3. At the ninth session of the Human Rights Council, held from 8 to 24 September 2008, the Council considered the question of the realization of the right of peoples to self-determination under several items of its agenda. Under item 7, on the human rights situation in Palestine and other occupied Arab territories, the Council discussed the report of the high-level fact-finding mission on Beit Hanoun ([A/HRC/9/26](#)). In its conclusions, the mission considered that the rule of law had been one victim of the Beit Hanoun shelling, since there had been no accountability for the killings of civilians, and it stressed that accountability involved providing a remedy and redress for victims. The mission also reiterated that the process towards peace must operate within a framework of international law and be guided by respect for the Charter of the United Nations, international human rights law and international humanitarian law. While calling on Israel to honour its obligations to the people of Beit Hanoun, and more generally to the people of occupied Gaza and to respect, protect and fulfil their human rights, the mission recommended that the State of Israel pay the victims adequate compensation without delay and make reparation to the community of Beit Hanoun in the form of a memorial to the victims that would constitute a response to the needs of the survivors. Other possibilities for compensation included a health facility such as a physiotherapy clinic.
4. On 24 September 2008, the Council adopted [resolution 9/18](#), entitled "Follow-up to resolution S-3/1: human rights violations emanating from Israeli military incursions in the Occupied Palestinian Territory and the shelling of Beit Hanoun", in which it called upon all parties concerned to ensure the full and immediate implementation of the recommendations contained in the report of the fact-finding mission. The Council also recommended that the General Assembly consider the report with the participation of the members of the mission and requested the Secretary-General to report to the Council at its next session on the implementation of the mission's recommendations.
5. Within the context of its consideration of the question of human rights and unilateral coercive measures, the Council reaffirmed the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development (resolution 9/4, para. 5).

6. On 9 and 12 January 2009, the Human Rights Council held its ninth special session, which was devoted to the grave violations of human rights in the Occupied Palestinian Territory including the recent aggression in the occupied Gaza Strip, and adopted [resolution S-9/1](#), in which it condemned all forms of violence against civilians, deplored the loss of human lives in the context of the prevailing situation and demanded the occupying Power, Israel, to immediately withdraw its military forces from the occupied Gaza Strip. The Council requested the United Nations High Commissioner for Human Rights to report on the violations of human rights of the Palestinian people by the occupying Power, Israel, by taking the following measures: (a) strengthening the field presence of the Office of the High Commissioner in the Occupied Palestinian Territory, particularly in the occupied Gaza Strip, and deploying the necessary personnel and expertise to monitor and document Israeli violations of the human rights of Palestinians and the destruction of their properties; and (b) submitting periodic reports to the Council on the implementation of the resolution (para. 11).

7. In addition, the Council requested all relevant special procedures mandate holders, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, to urgently seek and gather information on violations of the human rights of the Palestinian people and submit their reports to the Council at its following session (para. 12).

8. Moreover, the Council decided to dispatch an urgent, independent international fact-finding mission, to be appointed by the President of the Council, to investigate all violations of international human rights law and international humanitarian law by the occupying Power, Israel, against the Palestinian people throughout the Occupied Palestinian Territory, particularly in the occupied Gaza Strip, owing to the military aggression (para. 14).

9. Furthermore, the Council requested the Secretary-General to investigate the targeting of facilities of the United Nations Relief and Works Agency for Palestine Refugees in the Near East in Gaza, including schools, which had resulted in the killing of tens of Palestinian civilians, including women and children, and to submit a report to the General Assembly thereon (para. 16).

10. At its tenth session, held from 2 to 27 March 2009, the Council considered the follow-up to its resolutions 7/30, 9/18 and S-9/1 during the examination of the question of the human rights situation in Palestine and other occupied Arab territories under its agenda item 7. On 23 March 2009, the Deputy High Commissioner for Human Rights introduced the reports of the High Commissioner for Human Rights, the Office of the High Commissioner for Human Rights and the Secretary-General under the above-mentioned agenda item, as requested by the Council in its resolutions 7/30¹ and 9/18² the report mandated by Commission on Human Rights resolution 2005/7³ and the follow-up to Council resolution S-9/1.⁴

11. Subsequently, the Special Rapporteur on the right to food, Olivier De Schutter, introduced a combined report on behalf of nine special procedures mandate holders, as requested by Council resolution S-9/1 ([A/HRC/10/22](#)). Mr. De Schutter noted that, although the report focused on the effects of the large-scale Israeli military operation on the human rights of Palestinians, the general situation of human rights in Gaza had been serious for some 20 months prior to the escalation of the violence, in large part owing to the blockade imposed on Gaza. The combined report covered a range of recommendations including, inter alia, that all parties to the conflict cease all actions violating international human rights and humanitarian law. The report recommended, in particular, that the occupying Power should end the blockade on Gaza that had a negative impact on civilians. It also recommended that all parties establish accountability mechanisms providing for law-based, independent, impartial, transparent and accessible investigations of alleged breaches of international human rights and humanitarian law, including the violations of the principles of distinction, proportionality and precaution, and considered that a significant number of incidents had occurred in which the circumstances and the large number of civilians killed in a single attack raised *prima facie* concerns that the attacks had been carried out without respect for those principles.

12. Following the ensuing debates, the Council adopted resolution 10/21, entitled “Follow-up to Council resolution S-9/1 on the grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip”, in which it requested the President of the Council to continue his tireless efforts to appoint the independent international fact-finding mission and demanded that the occupying Power, Israel, facilitate and provide unhindered access to the members of the independent international fact-finding mission.

13. With respect to the question of the realization of the right of the Palestinian people to self-determination, the Council adopted resolution 10/20, in which it reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and to establish their sovereign, independent, democratic and viable contiguous State (para. 1). It urged all Member States and relevant bodies of the United Nations system to support and assist the Palestinian people in the early realization of their right to self-determination and decided to continue the consideration of this question at its thirteenth session, in March 2010.

14. During the same session, under agenda item 3, the Council considered the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination (A/HRC/10/14) and adopted resolution 10/11 on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

15. On 3 April 2009, the President of the Human Rights Council appointed Justice Richard Goldstone of South Africa, Christine Chinkin of the United Kingdom of Great Britain and Northern Ireland, Hina Jilani, Advocate of the Supreme Court of Pakistan, and Desmond Travers, a retired Colonel of the Irish Army, as members of the independent international fact-finding mission⁵ that was mandated “to investigate all violations of international human rights law and international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period of 27 December 2008 to 18 January 2009, whether before, during or after the operations”. The mission started its work on 4 May 2009 and was still pursuing its mandate at the time of submission of the present report. It conducted on-site missions to gather first-hand information on matters relating to its mandate and held two sessions of public hearings in the Gaza Strip and another two sessions in Geneva with officials, experts, victims and witnesses. The mission will submit its report to the Council at its twelfth session, in September 2009.

16. On 16 June 2009, during its eleventh session (2-19 June 2009), the Human Rights Council held a general debate on agenda item 7, preceded by a statement by the President of the Council in relation to the fact-finding mission established in accordance with Council resolution S-9/1. The High Commissioner made a statement in which she appraised the human rights situation in Gaza and provided an update on the status of the periodic reports required by Council resolution S-9/1.

17. Within the context of its consideration of the question of the promotion of the right of peoples to peace (resolution 11/4), the Council once again reaffirmed the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

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