



# Press Release

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International Conference  
in Support of the Palestinian People  
AM & PM Meetings

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## **WITHOUT ISRAELI-PALESTINIAN PEACE SETTLEMENT, BOTH SIDES FACE CONTINUED VIOLENCE, STALEMATE, UN CIVIL SOCIETY CONFERENCE TOLD**

Unless a peace settlement between the Israelis and the Palestinians was reached – and that could only be achieved through official political negotiations resulting in an agreement between the parties – both sides would face the grim reality of a never-ending stalemate and continued violence, Secretary-General Kofi Annan said today at the opening of a two-day United Nations International Conference of Civil Society in Support of the Palestinian People.

In a statement read on his behalf by Under-Secretary-General for Political Affairs, Kieran Prendergast, the Secretary-General stressed that the United Nations would remain deeply committed to alleviating the humanitarian situation in the Palestinian Territory. Also important was the role of non-governmental organizations, which brought unique dimensions to the task of peaceful transition in conflict-affected parts of the world through important grass-roots initiatives and campaigns. Those endeavours offered fresh ideas for “give-and-take” that could be considered by official negotiators. More importantly, they energized the discouraged and the weary by proving that there were Israelis and Palestinians who were ready to make compromises and who believed that the peace and security of generations to come were well worth the price of compromise.

The Conference brings together all players involved in the search for a peaceful solution to the Israeli-Palestinian question, including representatives of governments, the donor community and non-governmental organizations. The aim of the Conference, with a theme “Ending the occupation – a key requisite for achieving peace in the Middle East”, is to provide civil society organizations from all regions of the world with an opportunity to discuss the situation in the occupied Palestinian territory, including East Jerusalem; coordinate their activities; and develop action-oriented proposals in support of the Palestinian people.

The Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, Paul Badji, said that a final and sustainable solution to the conflict required a complete end of the occupation, the creation of an independent, sovereign and viable Palestinian State, and the achievement by the Palestinian people of their inalienable rights, including the right of refugees to return. The realities on the ground, however, pointed to the opposite. Contrary to its declarations of “disengagement”, Israel continued to tighten its grip on the Gaza Strip and the West Bank, including East Jerusalem. The Israeli practice of extrajudicial killings had claimed many lives, and the Committee strongly condemned those acts. At the same time, it also unreservedly condemned suicide bombings against Israelis. Those acts harmed efforts at reconciliation and pushed the goal of peaceful coexistence even farther away.

Regarding the advisory opinion of the International Court of Justice on the construction of the barrier, which was rendered on 9 July, he said that it provided all actors of the international community, including civil society, with a powerful tool to pursue their peace efforts. There was a need for information, explanation and raising the level of understanding by the public at large. The ruling could also encourage the members of the Quartet to expedite the formulation of the action plan aimed at implementing the “[Road Map](#)”.

The Permanent Observer for Palestine, Nasser Al-Kidwa, identified the need to demand the cessation of the building of the Wall and settlements as the main priorities, saying that with the continuation of those activities, there could be no Road Map and no solution to the conflict. At this stage, the international community needed to display greater resolve by taking some bold steps forward to genuinely make a difference. Working towards a peaceful settlement of the question of Palestine was a right and a duty of all Member States, civil society organizations and, indeed, the international community collectively. The central task at the current critical juncture was the follow-up to the advisory opinion of the ICJ.

Phyllis Bennis, Co-Chair of the International Coordinating Network for Palestine, said that, with the situation on the ground now “worse than ever”, there had never been a greater responsibility for the international community to solve the crisis. The road map to the solution existed in the resolutions of the United Nations and the Geneva Conventions. The Quartet was in many ways a fake, however. It was a “solo act with some back-up singers to provide for political cover”, because one Power had too much power. The real challenge to that Power had to start with civil society, which had to broaden its ranks and pressure governments.

In a panel discussion that followed the opening statements, entitled “The Current Situation: Facts on the Ground”, the speakers focused on the latest developments in the occupied territories, the economic and humanitarian crisis there and the human cost of violence. It was pointed out that the death toll in the occupied Palestinian territory since the start of the intifada had now risen to over 4,000, most of them Palestinians. More than 670 children had been killed, of which over 570 were Palestinian. Positive developments were also highlighted, including the ICJ ruling and rulings of the High Court of Justice in Israel.

Presentations were made by Gabi Baramki, President, Palestinian Council for Justice and Peace; Rachel Greenspahn, Director for Development and International Outreach, B’Tselem; Jad Isaac, Director General, Applied Research Institute, Jerusalem; Adah Kay, Professor at City University and Co-Author, Stolen Youth: Israel’s Detention of Palestinian Children; and Praful Bidwai, Journalist, New Delhi.

The afternoon plenary session was devoted to the subject of “Occupation and International Law”, focusing on the implications of the ICJ’s advisory opinion, the analogies between the legal developments in the Israeli-Palestinian conflict and international courts’ rulings on other disputes, the obligations of States in enforcing international law and the role of civil society in that respect.

The panel of the second session consisted of Michael Sfard, Lawyer, representative of Ha'Moked: Centre for the Defence of the Individual, Tel Aviv; Susan Akram, Clinical Associate Professor, Boston University School of Law; Iain Scobbie, Professor of International Law, School of Oriental and African Studies, London; and Victor de Currea-Lugo, MD, expert in International Law, Lund, Sweden.

The next plenary of the Conference – “The Role of Civil Society: from Alleviating Human Suffering to Advocating the End of Occupation” – will be held at 10 a.m. tomorrow, 14 September.

### Background

Drawing on the success of similar events in 2002 and 2003, the United Nations International Conference of Civil Society in Support of the Palestinian People opened at the United Nations Headquarters this morning. Its theme is “Ending the occupation – A key prerequisite for achieving peace in the Middle East”. Convened by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the Conference was mandated by General Assembly resolutions [58/18](#) and [58/19](#) of 3 December 2003.

### Opening Statements

Delivering a message from Secretary-General Kofi Annan, KIERAN PRENDERGAST, Under-Secretary-General for Political Affairs, welcomed the participants of the Conference and said that the international community had devoted energy resources and diplomatic effort in searching for a just and lasting settlement of the conflict between the Israelis and the Palestinians – a matter of utmost concern for several decades. The world community had also long recognized that peace between the two peoples was crucial for political and economic stability in the Middle East.

The scope of the humanitarian crisis in the occupied Palestinian territory was deeply disturbing, he continued. The number of Palestinians killed and wounded continued to escalate; the widespread destruction of Palestinian homes in the Gaza Strip and the number of Palestinians rendered homeless as a result was extremely troubling. Those measures, as well as closures, curfews and other severe restrictions of movement, had had a particularly devastating effect on the vulnerable members of the Palestinian population – women, children and the elderly. More than half the Palestinians now lived below the poverty line. Each day, more became dependent on international emergency assistance for their day-to-day existence.

At the same time, the international community could not ignore the fact that some Palestinian groups continued to carry out suicide bombings and other attacks that killed Israeli civilians, fuelled hatred and fear, and only served to interfere with the national aspirations of the Palestinian people. “We must all strongly and consistently condemn such terrorism, wherever and whenever it occurred. No cause can justify it”, he stressed.

The path to a solution was spelled out in the Quartet’s “Road Map”, he said. Its vision was clear – two States, Israel and Palestine, living side by side in peace and security. A final settlement that would end the occupation that had started in 1967 should be arrived at through negotiations between the two parties, on the basis of relevant Security Council resolutions and the principle of land for peace. Although the parties had agreed to undertake a series of parallel and reciprocal steps called for in the plan, efforts to implement those commitments so far had been disappointing. To further delay the implementation of the Road Map was unacceptable. Both parties should abide by their obligations under the plan.

He urged the Government of Israel to dismantle outposts established since March 2001, immediately freeze all settlement activity, including natural growth of settlements, and stop the construction of the barrier in the occupied Palestinian territory, of which the International Court of Justice had recently [ruled](#). He urged the Palestinian Authority to take the long-awaited steps aimed at restructuring and consolidating Palestinian security services in order to confront groups that engaged in terror, and to move forward along the road of reform. However difficult and complex the situation had become, the international community, including civil society, could not turn away from its obligation to do all it could to alleviate the plight of the Palestinian people, and to help cultivate a climate conducive to political negotiations and reconciliation between the two peoples.

Over the years, non-governmental organizations worldwide, through grass-roots initiatives and campaigns had shown the unique dimensions they brought to the task of peaceful transition in conflict-affected parts of the world. “Your field experience and first-hand knowledge of the communities where you carry out your work, as well as the diversity of your associations, allow you to explore new ways of working together to find common ground.” The Geneva and Nussiebeh-Ayalon initiatives were remarkable examples of civil society undertakings. Although unofficial, such endeavours offered fresh ideas for give-and-take that could be considered by official negotiators. More importantly, they energized the discouraged and the weary by proving that there were Israelis and Palestinians who were ready to make compromises and who believed that the peace and security of generations to come were well worth the price of compromise.

A peace settlement could only be reached through official political negotiation resulting in an agreement between the parties. Otherwise, both sides would face the grim reality of a never-ending stalemate and continued violence. Until a day came when a negotiated settlement was in place and reconstruction had begun, the United Nations would remain deeply committed to alleviating the humanitarian situation in the Palestinian territory. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), although beset by over-stretched resources and faced with increasing danger in its working conditions, continued to provide assistance and emergency services wherever needed and whenever possible. He reiterated an urgent appeal to the donor community to give generously to UNRWA and other United Nations agencies on the ground. He also called on the Government of Israel to facilitate safe passage for United Nations and other humanitarian workers in the region.

In conclusion, he said that he looked forward to continued partnership with civil society in working for the attainment of the shared goal of a comprehensive, just and lasting peace for Palestinians and Israelis and for the entire region of the Middle East. He also commended the Committee on the Exercise of the Inalienable Rights of the Palestinian People for continuing to work closely with civil society on that very important issue.

PAUL BADJI, Chairman, Committee on the Exercise of the Inalienable Rights of the Palestinian People, said the Committee’s longstanding position was that the root cause of the conflict in the Middle East was the unresolved question of Palestine. A final and sustainable solution to the conflict required a complete end of the occupation, the creation of an independent, sovereign and viable Palestinian State, and the achievement of the Palestinian people of its inalienable rights, including the right of refugees of return.

He said the realities on the ground pointed however, to the opposite. Contrary to its declarations of “disengagement”, Israel continued to tighten its grip on the Gaza Strip and the West Bank, including East Jerusalem. The Israeli practice of extrajudicial killings had claimed many lives, as troops had no qualms about striking at densely populated areas. The Committee strongly condemned those acts. At the same time, the Committee unreservedly condemned suicide bombings against Israelis. Those acts harmed efforts at reconciliation and pushed the goal of peaceful coexistence even farther away.

He said the death toll in the occupied Palestinian territory since the start of the intifada had now risen to over 4,000, most of them Palestinians. Tragically, the number of victims among Palestinian women and children was increasing. More than 670 children had been killed, of which over 570 were Palestinian. More than 7,000 Palestinians from the occupied territory were being held in detention by the Israeli army or police for political reason. The state of the Palestinian economy remained grim. A recent World Bank study found that the deep economic crisis in the West Bank and Gaza was one of the worst recessions in modern history. The primary cause of the crisis was the closure regime imposed by the Government of Israel.

He said the Committee was very concerned about the continuing expansion of settlements. News about the approval of 2,100 tenders for construction in those settlements was worrisome. Settlements in occupied territories were illegal under international law. What was required of Israel was an unconditional and complete freeze on settlement activities and the removal of outposts established since March 2001, as called for by the Road Map.

The colonization of Palestinian land had reached its climax with the construction of the wall in occupied West Bank. Last year's conference had put the issue of the wall at the centre of discussion. "Unquestionably, your activism contributed to the steps taken at the intergovernmental level, including by the United Nations", he said. After the Security Council had failed to adopt a resolution on the wall, the General Assembly requested an advisory opinion of the International Court of Justice (ICJ). The content of the advisory opinion was widely known, namely, that the construction of the wall was illegal and a breach of international law. The General Assembly had welcomed the opinion by an overwhelming majority of 150 votes.

He said the Committee was of the view that the opinion provided all actors of the international community, including civil society organization, with a powerful tool to pursue the various peace efforts. First and foremost, there was a need for information, explanation and raising the level of understanding by the public at large. Public opinion would understand that international agreements, conventions and covenants were the backbone of the international order.

In view of the immediate negative response by Israel to the advisory opinion, the international community would have to think of further steps to stop and reverse the construction of settlements and the wall. The Non-Aligned Movement had suggested that the Security Council adopt a clear resolution and that Member States undertake measures to prevent any products of the settlements from entering their markets and to impose sanctions against companies involved in the construction of the wall. The ruling of the ICJ should also encourage the members of the Quartet to expedite the formulation of the action plan towards the implementation of the Road Map. He was certain the civil society, for its part, would continue to work actively on mapping out steps and initiatives that would encourage governments to uphold international law and move forward to achieving a peaceful settlement of the conflict, he said.

NASSER AL-KIDWA, Permanent Observer for Palestine to the United Nations, said the Conference had become an important annual event in support of the Palestinian people. Reiterating his strong belief in the permanent responsibility of the United Nations in resolving the question of Palestine in all its aspects, he said that the Organization continued to be of central importance to the Palestinian people, despite the fact that, for 57 years, it had been unable to resolve the conflict, failed to impose the implementation of its resolutions and had watched helplessly as the Israeli occupying Power continued to colonize the land it had occupied in 1967, including East Jerusalem. Israel also continued to systematically violate the rights of the Palestinian people.

What was needed at this stage was an intensification of the will of the international community and a display of a greater resolve by taking some bold steps forward to genuinely make a difference, he continued. Working towards a peaceful settlement of the question of Palestine was a right and a duty of all Member States, civil society organizations and, indeed, the duty of the international community collectively. The central task at the current critical juncture was the follow-up to the advisory opinion of the International Court of Justice on the construction of the barrier that had been rendered on 9 July. That opinion was a watershed development, yet Israel had responded to the ruling with defiance, continuing its illegal measures against Palestine and its civilian population.

The international community had, however, taken a clear position in that regard, and a Council resolution adopted at the end of July certainly added to the importance of the Court's ruling, he said. It constituted a first response to the advisory opinion. Yet, the duty of the United Nations was not "a one-shot event", and serious follow-up was imperative. Measures must be taken to ensure that obligations of Israel as the occupying Power be met, and that Member States and the international organizations, including the General Assembly and the Security Council, as identified by the Court, be implemented. It was necessary to take measures to stop the construction of the barrier, including its dismantlement and payment of reparations.

The United Nations Secretariat also had important responsibilities, which included the establishment of a register of damages, he continued. The Non-Aligned Movement in Durban last month had taken the lead in that regard, and its declaration called for specific measures to be taken to prevent any products from illegal Israeli settlements to enter their markets and impose sanctions against companies involved in the construction of the wall and other illegal actions. The European Union's apparent agreement on the treatment of settlement products was an important step in the right direction.

On the overall situation on the ground, he said that the bloody Israeli military campaign against the Palestinian people continued, including military attacks, war crimes and State terrorism. Since the beginning of the second intifada, numerous letters had been sent to the President of the Security Council and the General Assembly, which constituted a record of that country's crimes. At some point, the perpetrators of those crimes would be brought to justice.

Politically, he wanted to convey to the meeting his deep concern regarding two recent developments: the so-called Disengagement Plan of Ariel Sharon and the recent exchange of letters between the United States and Israel, both of which violated international law and departed from the agreed framework for peace as embodied by the Road Map.

Regarding possible withdrawal from any part of the occupied territories, he stressed that the Palestinian position was governed by the consideration that the West Bank and the Gaza Strip constituted a single territorial unit, the unity of which must be preserved. Second, any withdrawal from the Gaza Strip should be accompanied by similar actions in the West Bank. Otherwise, the international community would be providing cover for Mr. Sharon's plan to create a process on Gaza, while consolidating Israeli colonization of the West Bank. Any withdrawal should be carried out in full coordination with the Palestinian Authority.

The main issue was the need to demand the cessation of the building of the wall and settlement activities, he stressed. With the continuation of the settlements and the wall, there could be no Road Map and no solution to the conflict. The agenda before the international community was achievable, especially if all players agreed on detailed daily tactics and "stuck together" in their implementation. "Together, we can make a difference", he stressed.

PHYLLIS BENNIS, Co-Chair, International Coordinating Network for Palestine, United States, said things were worse than ever, as every year had been the case. She longed for the day that a meeting as today's was no longer necessary. However, that point had not been reached. Conditions in Palestine were worse than ever. That crisis was grounded in massive violations of international law. It was not only a crisis for the victims in Palestine and Israel, but it was a global crisis in which all were victims. The crisis was the result of the failure of international law and international institutions.

She said there had never been a greater responsibility for the international community to solve the crisis. The road map to the solution existed in the resolutions of the United Nations and the Geneva Conventions. The Quartet was in many ways a fake, it was a "solo act with some back-up singers to provide for political cover", because one Power had too much power. The real challenge to that power had to start with civil society. One could not expect the United Nations to be the lead challenge to that super-Power. The war in Iraq had not been prevented, but civil society had shown the world that another set of alliances was possible.

Now there was a scenario of continuing settlements, checkpoints, normalization of assassinations, she said. The construction of the wall continued as a separation of peoples, an apartheid, but the ICJ had found the wall was illegal. That meant that the process of settlements was, in itself, a violation of international law. However, annexation had been officially accepted by the White House. A plan to keep Gaza isolated was seen as disengagement. Those were very dangerous precedents, she said. The United States occupation in Iraq had been added to the Israeli occupation. Now, there were two illegal occupations in the region. One should, therefore, not be surprised that Israel had been training United States military and intelligence officials on how to occupy an Arab country.

"There has never been a greater need for implementing international law", she continued. The ICJ had provided the tool, but that could only happen when civil society demanded it and mobilized for it. Civil society had to broaden its ranks and to pressure governments. Governments must accept the necessity of the United Nations playing the lead role in ending the conflict. That role did not belong to the United States.

"We claim the United Nations as our own, to stand with us in the struggle against the Israeli occupation of Palestine", she said. The United Nations had never been more relevant than at those times when it said no to war. Those were the moments of greatest relevance of "our" United Nations. Civil society had a special role to play, as it must stand behind the United Nations and be a strategic backer of United Nations centrality. Palestinians should not be forced to choose between the right to peace and the national right to sovereignty, for instance. "Our fight is to make the implementation of those rights a reality", she said. The goal was to build a movement of non-governmental organizations that would create international pressure campaigns that focused on international law and human rights. The wall must be torn down, as a consequence of international law. "We have the obligation to stand for international law, to stand for the United Nations", she said.

#### Panel Discussion: Facts on the Ground

The first plenary was devoted to the latest developments on the ground, the human cost of violence and the economic and humanitarian crisis in the occupied territories.

Members of the panel included: Gabi Baramki, President, Palestinian Council for Justice and Peace; Rachel Greenspahn, Director for Development and International Outreach, B'Tselem; Jad Isaac, Director-General, Applied Research Institute, Jerusalem; Adah Kay, Professor at City University and Co-Author, Stolen Youth: Israel's Detention of Palestinian Children; and Praful Bidwai, Journalist, New Delhi.

GABI BARAMKI said that seemingly, there was no limit to the degree of Israeli ingenuity in making the situation under their military occupation worse. Having started with terms like "benign occupation" and "improvement of the quality of life", over the years, the international community had moved to "targeted assassination" and "collateral damage". The decision of the ICJ, which had summarized all Israeli violations from the settlements to the wall, should be seen as a very important landmark, which put Israel as a State acting above the law and should help the international community in the direction it should be taking in dealing with that "rogue State".

Among the facts that everyone was familiar with, he listed the situation of the 7,500 prisoners who had to go through hunger strikes "to get some of their basic rights, which they were entitled to"; continued expansion of settlements; demolition of homes and property; targeted assassinations; uprooting of trees, which constituted the main livelihood of people; and the building of the wall. "What is really amazing is that in spite of all that is happening..., the Palestinians continue to live their own lives and to maintain some kind of normalcy under these abnormal conditions", he said. He did not want to dwell on the latest turn-around of the United States policy regarding the issue of settlements and the wall. What was especially worrying was the situation of Jerusalem and the settlements around it.

Giving as an example "the metamorphosis" of the movement of Palestinians on the Jerusalem-Ramallah road, the busiest in the West Bank, he said that the checkpoint that had been set up as a temporary measure had become a permanent fixture. The lines required several hours of waiting to cross. The humiliation of getting to the Israeli Liaison office in Beitin was enough to prevent most of the people from even trying to get there, knowing fully well that applying for a permit in most cases was denied. "The whole idea is to gradually increase the suffocation so that people start getting used to it and not get it as a shock", he said.

Unfortunately, what happened often was that the vicious nature of occupation was forgotten, and both the Palestinians and the international community got embroiled in fighting such symptoms as checkpoints, the wall and the settlements, rather than focusing on the cause itself, which was the occupation and creeping annexation. Those matters needed to be addressed immediately, as they reflected directly and daily on the Palestinian lives.

Palestinians of all ages needed to travel, he continued. Travelling abroad until three years ago had not been a problem, as Palestinians could reach Ben Gurion airport, be they from Gaza or the West Bank. Now people needed to cross to a third country in order to travel. Gradually, the Palestinians had become accustomed to that kind of suffocation and begun to take it for granted, so when they wanted to travel abroad, they started from Cairo or Amman airports. "It did not even occur to us to protest and hence, the international community has not been alerted to this act of violence that is now becoming an ongoing process", he said.

The danger of such acts was that they appeared benign and were just a slight modification of a normal mode of movement, with only incremental steps, which passed more or less unnoticed, he said. Israel was getting away with such acts. He hoped that issue could be pursued legally, in the same manner the matter of the wall had been pursued. Israel should be obliged to allow people wishing to travel abroad to use the Gaza airport once again.

RACHEL GREENSPAHN, Director of Development and International Advocacy, B'Tselem: the Israeli Information Center for Human Rights in the Occupied Territories, said that, despite the fact that since last year, little had changed in the West Bank and the Gaza Strip, there had been a number of substantive, positive changes which had taken place. The first major development was the Disengagement Plan, she said. Although the Plan was highly problematic, it had tremendous rhetorical significance. Were Sharon's Government to remove even a few settlements, it would constitute an earthquake in the Israeli political map. The fact that the vast majority of the Israeli public supports the idea represented a real shift in public opinion.

She said the second development related to the separation barrier. Despite the advancement of work on the barrier, with all its consequences, there had been some positive developments. There had been a number of "corrections" to the route, after the disastrous humanitarian impact of the route, in locations where it was within the West Bank, had become clear. Several weeks ago, a tunnel had been opened, connecting Haba to Qalqilya giving residents access to the city, as well as to land they own. The ICJ had ruled that building the barrier within the West Bank was in violation of international law. The Israeli High Court of Justice had voided 30 kilometres of the route of the barrier.

There were also developments within the legal sphere, she said. The Israeli Attorney-General had recently refused to legally sanction widespread demolitions along the border between Gaza and Egypt. The High Court of Justice had ruled that the Israeli Defence Force must not only refrain from harming the local population when conducting operations, but also had the obligation to take an active role in ensuring that their humanitarian needs were met. Most recently, according to news reports, a legal team appointed by the Attorney-General had recommended that Israel formally apply the Fourth Geneva convention and, thus, acknowledge the situation in the West Bank and the Gaza Strip as one of occupation.

Clearly, those developments should not be overstated, she said. Yet, those developments demonstrated that there was genuine public debate within Israeli society on difficult and controversial issues which were previously considered taboo. However, Israelis continued to accept the notion that security justified everything, and Palestinians believed that all means were legitimate in the struggle to end the occupation. The role of international civil society was to ruffle those notions. Innovative ways must be found to draw attention to the "same old boring" human rights violations and challenge the view that the protection of basic rights was incompatible with today's reality.

The relations between human rights advocates and Israeli society need not and should not be adversarial. International civil society could play a crucial role in strengthening the positive forces within Israeli society. It must speak out against human rights violations by both Israelis and Palestinians when they occurred, and provide support and encouragement to strengthen the positive forces within both of those societies. "Together – Israelis, Palestinians and internationals – we must continue to strive for the uniform enjoyment of human rights for all residents of the region", she said.

ADAH KAY, Professor at City University, London, United Kingdom, and co-author of Stolen Youth, focused on the situation of children in Palestine, highlighting the issues of detention, education, health and social well-being. At 1.8 million, children made up 53 per cent of the Palestinian population. They were particularly

vulnerable to the increasingly violent Israeli occupation policies.

She said the occupation was a highly complex system of control and was more extensive than the use of military force. It was supported by a range of legal, political and economic structures. The legal framework consisted of thousands of military orders and was, in essence, one of institutionalized discrimination. That system allowed Israel to ignore the overriding principle of children's rights as contained in the Convention on Children's Rights.

The use of prison was a central plan of the occupation, she said. Since 1967, Israel had detained more than 600,000 Palestinians. Since the intifada until 30 June, 2,650 children had been arrested. The military order system treated children of 16 and 17 as adults, contrary to the Convention on the Rights of the Child. Those children suffered systematic psychological and physical abuse, including beatings, exposure to extreme temperatures, positional abuse and blindfolding. It was systematic and amounted to torture. Conditions in prisons were overcrowded and unsanitary. Children had no access to formal education. It was difficult for families to visit children, because they were held in Israel. The children were isolated from anything or anyone familiar and were exposed to abuse.

She said education was important to the Palestinians. However, Palestinian education was under attack because of restrictions on movement. Children and teachers were often harassed. Between 2000 and February 2003, 132 students had been killed on their way to and from school. Schools and universities were not immune from military attack. Military orders had been used to close down schools and universities. Under those conditions, it was extremely difficult to maintain standards.

Palestinian children's health was also deteriorating. Already in 2002, 22 per cent of Palestinian children under five suffered from malnutrition. In Gaza, severe malnutrition now equalled that in poor sub-Saharan countries. Vitamin A deficiency was also on the rise. Sieges, closure and movement restrictions had placed the immunization programme, one of the most successful of Palestinian health interventions, at risk. Siege and military incursions had led to a serious decline in preventive health care for mothers and new born babies. Lack of access to safe water also increased health risks for children suffering from malnutrition. Water costs had risen by 80 per cent since 2000.

The psychological and social impact on children's lives was perhaps one of the most serious impacts of the occupation. Children were displaying increasingly violent behaviour towards each other and a stubborn attitude towards their parents. They were beginning to play funeral games. There was a diminished ability to concentrate, and parents had a diminished capacity to care for their children. There was less opportunity to socialize.

"How much longer will the world stand by and allow Israel to continue its punitive policies aimed at destroying a society and its future?" she asked in conclusion.

PRAFUL BIDWAI said that India had moved from being a strong early supporter of the Palestinian nation in the fifties to a State that was now actively collaborating with Israel. It had bought up to \$3 billion of armaments from Israel, with the approval of the United States. As recently as September last year, Ariel Sharon had been invited to New Delhi and given the red-carpet treatment. It was not just an isolated instance of Israel's success in gaining support. In the clash between Islam and the Judeo-Christian civilization, the latter was gaining increasing support. Many believed that Israel was a fundamentally important strategic ally, particularly in the fight against terrorism.

On his visits to Israel and Palestine, he had been struck by similarities with apartheid in South Africa, he continued. Laws "of the most obnoxious variety" prevented people's movement and activities. Closures, annexation and blockades had been put in place. Israel's conduct in the daytime was macho and rude, but Israel at night was like a refugee camp. Such a state of affairs had to be ended.

Israel had now proven to be a rogue State – a nation living apart from others, a nation "of savage disposition", he said. Israel's reaction to the ICJ's judgement proved that point – a considered judgement of the highest forum of international law was called an absurd decision by Israel. Now, the international community needed to put the same pressure on Israel as it had placed on South Africa in the past. That should involve isolation and international boycotts. It was important to develop a strong civil society awareness in that respect, for it was impossible to achieve results through Government action alone. The Palestinian people needed international solidarity, for it could not end the occupation alone.

#### Occupation and International Law

The afternoon's panel discussion was dedicated to the theme "Occupation and international law". Panellists were: Michael Sfard, Lawyer, representative of Ha'Moked: Center for the Defence of the Individual; Susan Akram, Clinical associate professor, Boston University School of Law; Iain Scoobie, Professor of International Law, School of Oriental and African Studies in London; and Victor de Currea-Lugo, medical doctor, expert in International Law. The Moderator was Nadia Hijab, Executive Director, The Palestine Center, Washington.

SUSAN AKRAM, assisted by Jeff Handmaker, The Hague Development Collective, said the International Court of Justice had provided for a new opening that had to be maximized. In her presentation, she focused on strategies for civil society to hold Israel accountable for its wrongs, proceeding from the premise that it is only through application of international law that a solution to the conflict could be found. Military power could not provide a solution.

Turning to direct claims regarding the right of return of refugees and restitution of property, she said diplomatic efforts had not been successful. However, direct claims could be made through international bodies such as the United Nations. The European Court of Human Rights was relatively unused for Palestinian issues, but could provide opportunities.

She said the right of return for Palestinian refugees had fallen into a "protection gap". There was no international body mandated to assist refugees on their return. However, much work had been done in the last four years to educate relevant bodies in order to address the protection gap. Israeli courts had excluded the vast majority of Palestinians, affirming the right of return as an exclusive religious law. Direct claims for restitution of property could only be obtained through access to the State having jurisdiction over the property itself. Such mechanisms were not really available for Palestinians. Regional courts might also be able to pronounce on such claims, but Israel was not a member of any regional human rights regime.

In European Courts, Palestinian could claim restitutions based on similar rulings regarding Jewish property seized in the Second World War, she said. Restitution claims might also be possible through mechanisms established by the United Nations. The ICJ advisory opinion provided a strong argument that the Palestine Liberation Organization (PLO) might be authorized to file claims before the ICJ on behalf of Palestinians. There was also a body of General Assembly resolutions affirming Palestinian rights to compensation. They were not clear on restitution, however. Regarding indirect claims, she pointed to United States tort legislations, including the Aliens Tort Claims Act (ATCA) and the Torture Victims Protection Act (TVPA). Another way was to use manufacturers Liability cases.

Mr. HANDMAKER spoke about universal jurisdiction, through which individuals such as soldiers and politicians could be held responsible for human rights violations. The International Criminal Court came into force in 2002. Israel ultimately decided not to sign the Convention, even though it had participated in the preparatory process. However, Israel had provided useful precedents in international jurisdiction. It had prosecuted Adolf Eichman through a law enabling Israeli courts to judge perpetrators of any crime committed against Jews anywhere in the world. That principle had been used in the indictment of the former President of Chile, Augusto Pinochet. The Belgium Universal Jurisdiction Law had been used against Ariel Sharon. He could be sued for alleged war crimes after he finished his term as Prime Minister of Israel. Other venues to be used could be the European Court of Human Rights and the Office of the United Nations High Commissioner for Refugees.

The role of non-governmental organizations as political advocates should be taken seriously, he continued, pointing to the role they had played in the anti-

apartheid movement in South Africa.

Ms. AKRAM emphasized that many of the conclusions of the ICJ opinion had come out as a result of the work of many non-governmental organizations. The opinion had settled a number of contentious issues, reaffirming the applicability of international human rights and humanitarian law in the Palestinian question. Now, civil society members should step up efforts to pressure their Governments for boycotts and other actions. She concluded that international law provided a framework for a just and durable solution. Civil society must insist on the application of international law for a solution to the Palestinian conflict.

MICHAEL SFARD, Lawyer, representative of Ha'Moked: Centre for the Defence of the Individual, Tel Aviv, outlined the legal challenges to the construction of the separation wall presented in the Israeli justice system by Palestinian and Israeli non-governmental organizations and citizens. He also examined the influence the ICJ's recent decision was likely to have on the wall-related cases. He made it clear, however, that there were limits to the power of lawyers and courts, and campaigns needed to be fought on different levels, with participation of the civil society.

He said that initial legal challenges to the seizure orders had been made in the context of the land planning and construction law. They did not raise the question of the administration's power to seize land for the purpose of erecting the wall. None of those appeals had been successful. Only in the middle of 2003 had Israeli Human Rights non-governmental organizations begun to appreciate the far-reaching threats the wall project posed to all aspects of Palestinians' lives. At the end of 2003, a new wave of petitions to the Israeli High Court of Justice challenged the legality of the wall's construction. Those petitions were of a general nature, which contained arguments against the project as a whole; specific segment petitions filed by Palestinian residents of villages affected by the wall; and petitions that dealt with the operation of the gates along the wall.

The only all-encompassing petition challenging the legality of the wall was the one filed by Ha'Moked, he said. It argued that the colossal construction project violated the principles of international law and was categorically prohibited by the laws of belligerent occupation, insofar as its route ran inside the occupied territory and materially modified the fabric of civilian life. A hearing on the Ha'Moked petition was held a few days before the hearing at The Hague, but no decision was rendered. In the meanwhile, the Israeli High Court had given its decision on one of the "specific segment" petitions, finding – for the first time – a section of an intended wall to be illegal. The Beit-Surik case, though dismissing the lack of authority argument, limited considerably the degree of freedom of military and governmental administrations in choosing the barrier's route. As a consequence, about 20 segment cases were now under examination of the Court according to the principles laid down in the Beit-Surik decision.

Regarding the ICJ's ruling, he said that the ICJ had accepted the argument that the construction of the wall along the route that invaded the occupied territories amounted to a de facto annexation. The Court had also made it clear that the will to include many illegal Jewish settlements on the west side of the barrier could not be considered a legitimate military necessity argument. It also ruled that the construction of the wall violated inherent rights of the civilian population, thus breaching international law.

The advisory opinion had far-reaching consequences that went well beyond the separation wall, he continued. Among the ICJ's "incidental" rulings, he listed the pronouncement that the territories were governed by the laws of belligerent occupation; the pronouncement that the Fourth Geneva Convention applied to the Israeli occupation; the ruling that the Jewish settlements in the occupied territories were illegal; and the determination that Article 51 of the United Nations Charter (self-defence of States) was irrelevant to the current conflict.

Turning to the post-ICJ ruling jurisprudence, he said that following the advisory opinion, it was difficult to assess at this stage how deep the change in the Israeli perception of the legality of the wall would be. A few days after the ICJ opinion was made public, Ha'Moked had filed a request to reconsider the Beit-Surik judgement and to review the question of authority. A new line of argument had been introduced in at least two "specific segment" petitions on the basis of the ICJ ruling.

The Israeli Attorney-General had submitted a harsh report to Prime Minister Sharon, explaining the dangers Israel would face if it chose to completely ignore the ICJ opinion. The Attorney-General recommended changing the Israeli law by incorporating the Geneva Convention as applying to the occupied territories. On 19 August, the High Court of Justice had directed the Ministry of Justice to submit within 30 days a written brief presenting the State of Israel's formal position with regard to the implications of the ICJ decision on the question of authority.

IAIN SCOBIE, Professor of International Law, School of Oriental and African Studies, London, focused on the role and responsibilities of third parties in the advisory opinion of the ICJ. He said the opinion relocated the peace process within a legal framework. For some time, politics had been emphasized over the role of legal requirements. The Court had been told, for instance, to decline giving an opinion, as it could interfere with the peace process. That argument implied that law had no place in the peace process. That view had been decisively rejected by the Court. It had said expressly that law was essential to the question and had identified the legal obligation for all States that any impediment to the Palestinian right to self-determination be removed.

He said there were three fundamental statements in the opinion, which were accepted unanimously by the Court, even by the dissenting judge: international humanitarian law, including Geneva Convention VI, as well as international human rights law were applicable in the territories; the Palestinian people had a right to self-determination that must be protected; and the Israeli settlements were unlawful as they breached Geneva Convention VI.

He said the Court had given general principles for the consequences for third States: all States were obliged not to recognize the situation resulting from the erection of the wall. States Parties to Geneva Convention VI, nearly all States, were under a duty to ensure that Israel complied with its obligations under that Convention. The question then was how third States could comply with their duties under the opinion. That depended on conditions of practicality and political situation. The International Law commission had said that where a State was not directly affected by a violation of another State, that State was limited to lawful measures, measures already within the law. Counter-measures, where a State breached international law in reaction to a breach of international law by another State, were not authorized. That limitation only applied to States acting individually. When acting collectively – for instance, through the United Nations – such actions could be authorized.

Lawful measures of individual States could take two forms, he continued. States could take unfriendly but lawful action, such as the termination of diplomatic relations and sports or cultural boycotts. Another measure States could use, was to play the game strictly by the rules, rather than giving Israel some slack. Third States had a duty not to recognize and not give any legal privileges to settlements within the occupied territories. States could do that, for instance, in relation to preferential trade-agreements with Israel. Those agreements usually use the mechanism of cutting down import taxes. To decide which goods would be covered by such an agreement, the area in which they were produced could be identified.

The ICJ had said that States should not aid and abet illegal Israeli activities. Both the wall and the settlements were unlawful. Third States could therefore become liable if those States assisted in the construction of either the wall or a settlement, for instance by granting loans or loan guarantees to Israel for the creation of the wall or settlements. Participation of State companies in such construction was also unlawful.

He concluded that, with the ICJ saying that third States had a duty to cooperate in order to reach a settlement of the conflict, the role of civil society was to ensure that States would do it and make it difficult for States not to do it.

VICTOR DE CURREA-LUGO, expert in international law, Lund, Sweden, spoke about the obligations of governments under international law. His presentation was entitled "Palestine: One Step Forward in the Law, Two Steps Back in the Field".

He said that, while the Palestinian side had celebrated the advisory opinion, the Israeli Government had quickly refused to apply those recommendations. The ICJ, however, had gone beyond the discussion of the wall: it had ratified the applicability of the Geneva Conventions and the human rights law in Palestine; cautioned against the attempts to annex Jerusalem; underlined the Palestinians' right of access to holy places; quoted the right to self-determination of the Palestinian people; and reaffirmed the illegality of the Israeli settlements. It made absolutely clear not only the illegality of the core of the occupation – the wall, settlements, expropriation and deportation, but also the duties of the members of the United Nations to stop that illegality.

The legal and political advocacy in Palestine had to aim at connecting the legal world with the reality on the ground, he said. It had to focus on the political sector and the media, in particular, in the United States and the European Union, to show them that the advisory opinion was not just "an opinion", but a legal statement by the highest tribunal of the United Nations. It was necessary to denounce the current situation and contradict the lies about the conflict. As for the international non-governmental organizations, they should not focus on just delivering food. The donors should convert their humanitarian food policy into a real debate about the occupation. As Doctors without Borders had said, "it is not possible to stop massacres with antibiotics". The advocacy agenda had to be defined with and for the victims, not for the donors.

One clear possibility was to demand the implementation of the advisory opinion, he said. It was clear that Members of the Organization had the legal foundation to declare an international boycott campaign against Israel, but the problem was that there were two different ways of applying international law. One level was applied to non-powerful countries and the other to the powerful ones, as in Guantanamo, Afghanistan and Iraq. An effective advocacy campaign had to include the recovery of the international order according to the Charter of the United Nations and the acceptance of international law. The advocacy problem was that the Palestinians asked for justice and received papers in response; they asked for freedom and got rice; the Palestinians asked for a voice of support, and there was silence.

Justice, freedom and support should be the advocacy agenda, he stressed. Today, with the advisory opinion and international law on one hand and the reality on the other, the international community had to make an important choice between the principles of which it presumed and the risk of ignoring or abandoning the Palestinian people again.

### Discussion

Participants in the debate that followed the panel presentations focused on the violations of human rights and international law in the occupied territories, the implications of the ICJ's advisory opinion, the analogies between the legal developments in the Israeli-Palestinian conflict and international courts' rulings on other disputes, the obligations of States in enforcing international law and the role of civil society in that respect.

Several speakers addressed the role of the United States in the Middle East, with one of them saying that the United States was an equal partner with Israel in all its crimes, aiding and abetting the building of the wall and construction of settlements. Giving a criminal a gun, one became equally guilty of his crimes.

Another participant in the debate agreed that United States' policy towards Israel seemed to be a major obstacle to progress in the Middle East, wondering what could be done to promote a more balanced approach on behalf of the United Nations. In answer to that question, a speaker explained that permanent members of the Security Council had a right to veto decisions of that body. One of the challenges before the United Nations was the protection of its own Charter, preventing one nation against imposing its will upon the world.

Some speakers asked for a bigger role to be played by the European Union in countering the super-Power status of the United States. However, one speaker said that the problem with Europe was a historic guilt with the Holocaust. It was unlikely that the European Union would take a leadership role. Another speaker drew attention to the fact that The Netherlands, which currently held the European Union presidency, had invited Prime Minister Sharon, who 22 years ago had overseen the barbaric attack on Sabra and Shatila where there had been 3,500 Palestinian victims, for an official visit.

A speaker objected to the message contained in the Secretary-General's statement to the Conference, saying that requesting the Palestinian Authority "to take the long-awaited steps aimed at restructuring and consolidating Palestinian security services in order to confront groups that engaged in terror" meant insisting that the Palestinian Authority should commit political suicide and engage in civil war. The United Nations should stand for sovereignty and respect for internal affairs of Palestine, he said. Asked if Hamas and Jihad were bona fide liberation movements, one speaker declared that those members of Hamas and Jihad who participated in suicide attacks and attacks against Israeli civilians committed crimes against humanity according to international law.

One should not completely dismiss the role of Israel's legal system, another speaker said, for judges cared about the opinion of their colleagues in other countries and were interested in promoting the principles of international law. Regarding extrajudicial killings, one speaker said that it seemed as if Israel was seeking an exemption to the Sixth Commandment: "Thou shall not kill".

In the last year, the situation had seriously deteriorated, an Orthodox Rabbi said. It was important to look at the root causes of the situation, remembering that had the issue been addressed properly before the creation of the State of Israel, the problems would not be so serious today. According to the Jewish law, Jews should accept, in faith, their exile and should not seek to reclaim the land by military means. Initially, the Jewish community had lived in harmony with indigenous populations. Orthodox Jews were forbidden to create their own entity. The real cause of all the strife was transformation of the Jewish religion into a State entity with the creation of the Zionist State.

Also raised in the discussion were questions about legal remedies available for the civil society to counter individual governments' policies.

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