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### 2004/10. Question of the violation of human rights in the occupied Arab territories, including Palestine

*The Commission on Human Rights,*

*Guided* by the purposes and principles of the Charter of the United Nations and by the provisions of the Universal Declaration of Human Rights, *Recalling* Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002, 1402 (2002) of 30 March 2002 and 1403 (2002) of 4 April 2002 that called upon both parties to move immediately to a meaningful ceasefire, for withdrawal of Israeli troops and for an immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction,

*Guided* by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

*Taking into consideration* the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the provisions of Additional Protocol I thereto of 1977 and the Hague Convention of 18 October 1907, and Annexed Regulations concerning the Laws and Customs of War on Land, *Recalling* resolutions of the Security Council, the General Assembly and the Commission on Human Rights relating to the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory, including East Jerusalem, since the 5 June 1967 war,

*Reaffirming* the applicability of the Fourth Geneva Convention to the Palestinian territories occupied since the June 1967 war, including East Jerusalem,

*Recalling* General Assembly resolutions on Israeli violations of human rights in the Palestinian territories occupied since 1967, including East Jerusalem,

*Recalling* in particular General Assembly resolution 37/43 of 3 December 1982 reaffirming the legitimacy of the struggle of peoples for independence from foreign domination and foreign occupation and for self-determination, in conformity with international law,

*Recalling* the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights,

*Welcoming* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard (E/CN.4/2004/6 and Add.1), and the report of the Special Rapporteur on the right to food, Jean Ziegler (E/CN.4/2004/10/Add.2),

*Expressing its deep concern* at the failure of the Government of Israel to cooperate with the Human Rights Inquiry Commission established pursuant to Commission resolution S-5/1 of 19 October 2000 and its failure to cooperate with other relevant special rapporteurs, in particular Mr. Dugard,

*Gravely concerned* at the continued deterioration of the situation in the Occupied Palestinian Territory and at the gross violations of human rights and international humanitarian law, in particular acts of extrajudicial killing, closures, collective punishments, the persistence in establishing settlements, arbitrary detentions, siege of Palestinian towns and villages, the shelling of Palestinian residential neighbourhoods by warplanes, tanks and Israeli battleships, and incursions into towns, villages and camps to kill innocent men, women and children, as was the case in Jenin, Balata, Khan Younis, Rafah, Ramallah, Gaza, Nablus, Al-Birah, Al-Amari, Jabalia, Bethlehem and Dheisheh and in the Al-Daraj and Al-Zaitoun neighbourhoods in the city of Gaza, and also during recent months in the Rafah and in Al-Shajai'ia neighbourhood in Gaza, as well as during the last Israeli massacres in the Al-Nusseirat and Al-Burreij refugee camps in the centre of the Gaza Strip on 7 March 2004,

*Expressing its grave concern* at the continued Israeli aggression and the resulting deaths and injuries, mostly among Palestinians, the toll of casualties having increased to over 2,800 martyrs and over 25,000 wounded since 28 September 2000,

*Taking note* of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968, the last of which was A/58/311,

*Expressing its grave concern* at the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights calling upon Israel to put an end to the violations of human rights and affirming the applicability of the Fourth Geneva Convention to the Palestinian territories occupied by Israel since 1967, including East Jerusalem,

*Convinced* that the basis of negotiations and of achieving a just and lasting peace should be Security Council resolutions 242 (1967), 338 (1973) and other relevant United Nations resolutions, including the principle of the inadmissibility of acquisition of territory by war, the need for every State in the area to be able to live in security and the principle of land for peace,

*Recalling* all its previous resolutions in this respect, the latest of which is resolution 2003/6 of 15 April 2003,

*Recalling also* the inadmissibility of the acquisition of others' land by force, which constitutes a *ius cogens* in international law,

*Gravely concerned* at the construction of the Israeli wall inside the Occupied Palestinian Territory, aimed at expropriating further Palestinian lands by force, with all the drastic consequences that this wall will have on the Palestinian community, namely on its social, economic, educational, health and psychological aspects, and which is destroying any possibility of achieving a genuine peace based on the two-State solution, with an independent Palestinian State and an Israeli State,

*Affirming* that the construction of this wall on the Palestinian territories constitutes a violation of the right of the Palestinian people to self-determination and hinders the exercise by the Palestinian people of this right,

*Recalling* in this respect General Assembly resolution ES-10/13 of 21 October 2003,

*Recalling also* the report of the Secretary-General (A/ES-10/248), which concluded that Israel is not in compliance with the Assembly's demand that "it stop and reverse the construction of the wall in the Occupied Palestinian Territory",

1. *Reaffirms* the legitimate right of the Palestinian people to resist the Israeli occupation in order to free its land and be able to exercise its right to self-determination, in conformity with the goals and purposes stipulated by the Charter of the United Nations;
2. *Strongly condemns* once more the human rights violations of the Israeli occupation authorities in the Occupied Palestinian Territory, including East Jerusalem, since 1967;
3. *Also strongly condemns* the Israeli occupation of the Palestinian territories as being an aggression and an offence against humanity and a flagrant violation of human rights;
4. *Further strongly condemns* the war launched by the Israeli army, particularly since October 2000, against Palestinian towns and camps, which has resulted so far in the death of hundreds of Palestinian civilians, including women and children;

5. *Strongly condemns* anew the practice of “liquidation” or “extrajudicial executions” carried out by the Israeli army against Palestinians, a practice which not only constitutes a violation of human rights norms, a flagrant violation of article 3 of the Universal Declaration of Human Rights and of the rule of law, but which is also damaging for the relationship between the parties and therefore constitutes an obstacle to peace, and urges the Government of Israel to respect international law and immediately to put an end to such practices;
6. *Strongly condemns once again* the establishment of Israeli settlements and other related activities in the Occupied Palestinian Territory, including East Jerusalem, such as the construction of new settlements and the expansion of the existing ones, land confiscation, biased administration of water resources and the construction of bypass roads, which not only constitute grave violations of human rights and international humanitarian law, especially article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (the Fourth Geneva Convention) and Additional Protocol I thereto of 1977, according to which such violations are categorized as war crimes, but are also major obstacles to peace, urges the Government of Israel to implement the relevant United Nations resolutions as well as the resolutions of the Commission on Human Rights relative to the Israeli settlements, and affirms that the dismantling of Israeli settlements constitutes an essential factor for achieving a just, comprehensive and lasting peace in the region;
7. *Condemns once again* the expropriation of Palestinian homes in Jerusalem, Hebron and the rest of the Occupied Palestinian Territory, the revocation of the identity cards of the residents of East Jerusalem and the policy of imposing fabricated and exorbitant taxes with the aim of forcing Palestinians living in Jerusalem, who cannot afford to pay these high taxes, out of their homes and out of their city, with the aim of Judaizing Jerusalem, and calls upon the Government of Israel to put an end immediately to these practices;
8. *Also condemns once again* the use of torture against Palestinians during interrogation, as it constitutes a grave violation of the principles of international humanitarian law, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and also of article 5 of the Universal Declaration of Human Rights, and calls upon the Government of Israel to immediately put an end to such practices and to bring the perpetrators of these violations to justice;
9. *Strongly condemns once more* the offensives of the Israeli army of occupation against hospitals and sick persons and the use of Palestinian citizens as human shields during Israeli incursions into Palestinian areas;
10. *Also strongly condemns once more* the Israeli army of occupation’s practices of opening fire on ambulances and paramedical personnel and preventing ambulances and vehicles of the International Committee of the Red Cross from reaching the wounded and the dead in order to transport them to hospital, thus leaving the wounded bleeding to death in the streets;
11. *Strongly condemns* acts of mass killing of Palestinians at the hands of the Israeli occupation authorities, including the killing of children, such as recently took place in Nablus, Gaza, Rafah, Al-Nusseirat and Al-Burreij and which persist to this day;
12. *Also strongly condemns* acts that consist of imposing collective punishments, military siege of Palestinian territories, isolating Palestinian towns and villages from each other by military roadblocks used as a trap to kill Palestinians, demolishing houses and levelling agricultural lands, as these practices contribute, together with other factors, to the acts of violence that have prevailed in the region for over three and a half years, and calls upon the Government of Israel immediately to put an end to these practices and to lift its military siege of Palestinian towns and villages and its military roadblocks, and affirms anew that such collective punishments are prohibited under international law, as they constitute grave violations of the provisions of the Fourth Geneva Convention and Additional Protocol I thereto, and also are war crimes;
13. *Expresses its grave concern once again* at the restriction of the freedom of movement imposed by the Israeli occupation authorities on Yasser Arafat, the democratically elected Palestinian President, in violation of articles 9 and 13 of the Universal Declaration of Human Rights;
14. *Strongly condemns* campaigns of massive arrests conducted by the Israeli occupation authorities to detain thousands of Palestinians without trial and without any criminal charges having been brought against them, in violation of article 9 of the Universal Declaration of Human Rights and of the provisions of the Fourth Geneva Convention in this respect;
15. *Affirms anew* that the demolitions carried out by the Israeli occupying forces of at least thirty thousand Palestinian houses, facilities and property constitute grave violations of articles 33 and 53 of the Fourth Geneva Convention and that acts of levelling farmlands, uprooting trees and destroying what is left of the Palestinian infrastructure constitute a form of collective punishment to which Palestinians are subjected, grave violations of the provisions of international humanitarian law and war crimes according to international law;
16. *Affirms anew* that the Fourth Geneva Convention is applicable to the Palestinian territories occupied by Israel since 1967, including East Jerusalem, and considers any change in the geographical, demographic and institutional status of the city of East Jerusalem from its status prior to the June 1967 war to be illegal and void;
17. *Calls once again upon* Israel, the occupying Power, to desist from all forms of human rights violations in the Occupied Palestinian Territory, including East Jerusalem, and other occupied Arab territories, and to respect the principles of international law, international humanitarian law, the Universal Declaration of Human Rights, its international commitments and its signed agreements with the Palestine Liberation Organization;
18. *Also calls once again upon* Israel to withdraw from the Palestinian territories occupied since 1967, including East Jerusalem, in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights, as a basic condition for achieving a just, lasting and comprehensive peace in the Middle East;
19. *Strongly condemns* the construction of the Israeli wall inside the Occupied Palestinian Territory, in the West Bank, as it constitutes a new Israeli pretext for the forcible confiscation of further Palestinian lands, it endangers the social, economic, cultural, educational, health and psychological aspects of the lives of hundreds of thousands of Palestinians as well as their familial unity, it prevents Palestinians from having access to their natural resources and it constitutes a major obstacle to achieving a just and lasting peace on the basis of the two-State solution, with an independent Palestinian State and Israeli State, the only solution which guarantees peace and stability in the region, and it also prevents Palestinians from exercising their right to self-determination; and calls on Israel immediately to stop the construction of the said wall and to erase what it has already built of this wall inside the Palestinian territories occupied since 1967;
20. *Requests* the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 to investigate Israel’s violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and, in his capacity as a monitoring mechanism, to follow up on the implementation of these recommendations and to report thereon to the General Assembly at its fifty-ninth session and to the Commission on Human Rights at its sixty-first session, until the end of the mandate of the Special Rapporteur, as established in Commission resolution 1993/2 A of 1993;
21. *Calls upon* the relevant United Nations organs urgently to consider the best ways to provide the necessary international protection for the Palestinian people until the end of the Israeli occupation of the Palestinian territories;
22. *Requests* the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on the widest possible scale and to report on its implementation by the Government of Israel to the Commission on Human Rights at its sixty-first session;
23. *Also requests* the Secretary-General to provide the Commission with all United Nations reports issued between the sessions of the Commission that deal with the conditions in which the populations of the Palestinian and other occupied Arab territories are living under the Israeli occupation;
24. *Decides* to consider this question at its sixty-first session under the same agenda item, as a matter of high priority.

*49th meeting  
15 April 2004*

[Adopted by a recorded vote of 31 votes to 7,  
with 15 abstentions. See chap. VIII.]