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REPORT SUBMITTED TO THE SECURITY COUNCIL BY THE SECRETARY-GENERAL IN ACCORDANCE WITH RESOLUTION 672 (1990)

1. On 12 October 1990, the Security Council adopted resolution 672 (1990), which reads as follows:

"The Security Council,

"Recalling its resolutions 476 (1980) and 478 (1980),

"Reaffirming that a just and lasting solution to the Arab-Israeli conflict must be based on its resolutions 242 (1967) and 338 (1973) through an active negotiating process which takes into account the right to security for all States in the region, including Israel, as well as the legitimate political rights of the Palestinian people,

"Taking into consideration the statement of the Secretary-General relative to the purpose of the mission he is sending to the region and conveyed to the Council by the President on 12 October 1990,

"1. Expresses alarm at the violence which took place on 8 October at the Al-Haram al-Shareef and other Holy Places of Jerusalem resulting in over twenty Palestinian deaths and to the injury of more than one hundred and fifty people, including Palestinian civilians and innocent worshippers;

"2. Condemns especially the acts of violence committed by the Israeli security forces resulting in injuries and loss of human life;

"3. Calls upon Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention, which is applicable to all the territories occupied by Israel since 1967;

"4. Requests, in connection with the decision of the Secretary-General to send a mission to the region, which the Council welcomes, that he submit a report to it before the end of October 1990 containing his findings and conclusions and that he use as appropriate all of the resources of the United Nations in the region in carrying out the mission."

2. Prior to the adoption of the resolution and, as noted in the resolution's third preambular paragraph, the Secretary-General informed the Security Council of his decision to send a mission to the area. This decision was announced in a statement by the President at the Security Council's 2948th meeting, in which he said:

"In the informal consultations of members of the Council which led up to the consideration of this draft resolution, the Secretary-General explained that the purpose of the mission which he would be sending to the region would be to look into the circumstances surrounding the recent tragic events in Jerusalem and other similar developments in the occupied territories, and to submit by 24 October 1990 a report containing findings and recommendations to the Council on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation. He recalled, however, that under the Fourth Geneva Convention the principal responsibility for ensuring the protection of the Palestinians rested with the occupying Power, namely Israel."

3. Immediately following the adoption of resolution 672 (1990), the Secretary-General met with the Acting Permanent Representative of Israel to the United Nations in order to inform him that, in the light of the resolution and of the statement by the President of the Security Council, it was his intention to send a mission to the area as quickly as possible. In that connection, the Secretary-General inquired as to the facilities that would be extended by the Government of Israel to his delegation. The Acting Permanent Representative replied that Israel regretted the adoption of resolution 672 (1990), as was clear from the statement he had just made in the Security Council. He nevertheless undertook to convey the message of the Secretary-General to his Government. At a further meeting, on 15 October 1990, the Acting Permanent Representative of Israel handed to the

Secretary-General a copy of the statement that had been adopted by the Israeli Cabinet on 14 October 1990, the text of which reads:

"The following is the announcement which the Cabinet has authorized the Deputy Prime Minister and Foreign Minister to communicate to the United Nations Secretary-General:

"1. We have read the text of Security Council resolution 672 (1990) and the statement of the President of the Security Council that was communicated in connection thereto. They are totally unacceptable to us.

"2. A. The Security Council decision completely disregards the attack against Jewish worshippers on the holiday of Succot at the Western Wall, which is on the Temple Mount, the holiest site of the Jewish people, and does not condemn those who attacked the worshippers; this is a political decision with no connection to reality.

"B. The State of Israel expressed its regret over the loss of life that occurred as a result of events on the Temple Mount, at a time when security forces were responsible for fulfilling their duties. Israel has also appointed an independent commission of inquiry into the chain of events, their causes and the actions of the security forces. The commission will present its conclusions and recommendations at the earliest possible date. As is known, the State of Israel ensures complete freedom of religion in the holy sites of all religions, in accordance with the law. Never, in all the history of Jerusalem, has freedom of religion for all been guaranteed as it has been since the city was unified under Israeli sovereignty in 1967, and never has the city been more open to all.

"3. Jerusalem is not, in any part, 'occupied territory'; it is the sovereign capital of the State of Israel. Therefore, there is no room for any involvement on the part of the United Nations in any matter relating to Jerusalem, just as the United Nations does not intervene in events, some even more severe, that occur in other countries.

"4. Given the above, Israel will not receive the delegation of the Secretary-General of the United Nations.

"5. Israel will continue to assume responsibility, in accordance with its laws, for the safeguarding of holy places and for the security of all residents of Jerusalem, Jews and Arabs, as in all other areas it controls."

In connection with the statement of the Israeli Cabinet, the Secretary-General asked for the following clarification with respect to paragraph 4: Did the Cabinet decision imply that his delegation would not be received by the Government, or did it mean that it would be barred from entry? Stating that his instructions had been solely to hand over the text of the Cabinet decision, the Acting Permanent Representative indicated that he would convey to his Government the Secretary-General's request for clarification. At the same time, he drew attention to the fact that the Israeli Prime Minister had appointed a Commission of Investigation to look into the events that had taken place at Jerusalem on 8 October 1990. Immediately after the meeting, the Secretary-General sent a letter to the President of the Security Council to inform him of the discussion, and attached a copy of the Israeli Cabinet decision to his letter.

4. In the absence of a formal reaction from the Government of Israel, the Secretary-General invited the Acting Permanent Representative to meet with him again on 18 October 1990, in order to determine whether he had received instructions regarding his request for clarification. The latter replied that, in view of the Secretary-General's reporting obligation under resolution 672 (1990), his Government was prepared to provide him with a copy of the report of its Commission of Investigation. The Commission, he said, was expected to conclude its work in the coming days. The Acting Permanent Representative noted that, in the light of Israel's readiness to provide that information, a United Nations mission to look into the 8 October 1990 incident was unnecessary. He stressed the fact that resolution 672 (1990) had not specifically requested that a mission be undertaken. In reply, the Secretary-General stated that there should be no linkage between the dispatch of a mission by him and the work of the Israeli Commission. The primary purpose of a United Nations mission would be, said the Secretary-General, to gather first-hand information, on the spot, from Israeli, Palestinian and other sources. He then asked the Acting Permanent Representative whether his Government had responded to his request for clarification. The latter replied that the Israeli Cabinet decision remained unchanged and that his Government did not wish the mission to come.

5. In the light of the above, the Secretary-General informed the Security Council, in a statement, in informal consultations on 19 October 1990, that he was not in a position to dispatch a mission to area. he added that he remained ready to do so, should he receive word from the Israeli authorities that his delegation would not be barred from entry. Commenting on the Secretary-General's statement, members of the Council expressed the opinion that efforts should continue to be made to send a mission.

6. On 24 October 1990, the Security Council adopted resolution 673 (1990), which reads as follows:

"The Security Council,

"Reaffirming the obligations of Member States under the United Nations Charter,

"Reaffirming also its resolution 672 (1990),

"Having been briefed by the Secretary-General on 19 October 1990,

"Expressing alarm at the rejection of Security Council resolution 672 (1990) by the Israeli Government, and its refusal to accept the mission of the Secretary-General,

"Taking into consideration the statement of the Secretary-General relative to the purpose of the mission he is sending to the region and conveyed to the Council by the President on 12 October 1990,

"Gravely concerned at the continued deterioration of the situation in the occupied territories,

"1. Deplores the refusal of the Israeli Government to receive the mission of the Secretary-General to the region;

"2. Urges the Israeli Government to reconsider its decision and insists that it comply fully with resolution 672 (1990) and to permit the mission of the Secretary-General to proceed in keeping with its purpose;

"3. Requests the Secretary-General to submit to the Council the report requested in resolution 672 (1990);

"4. Affirms its determination to give full and expeditious consideration to the report."

7. On 25 October 1990, in follow-up to the transmittal of the text of the resolution the previous evening, a message was conveyed orally to the Government of Israel, through its Acting Permanent Representative to the United Nations, drawing to its attention paragraph 2 of resolution 673 (1990). On 31 October 1990, the Permanent Representative of Israel to the United Nations conveyed to the Secretary-General a letter, which reads as follows:

"As you recall, my predecessor, Ambassador Bein, conveyed to you the Government of Israel's decision, of 14 October 1990, not to receive the mission referred to in Security Council resolution 672 (1990). In its decision, my Government reiterated that Jerusalem 'is the sovereign capital of the State of Israel. Therefore, there is no room for any involvement on the part of the United Nations in any matter relating to Jerusalem, just as the United Nations does not intervene in events, some even more severe, that occur in other countries'.

"This decision was taken within the context of a longstanding policy of the Government of Israel. May I point out, for example, the exchange of letters of September-November 1971 between the Minister of Foreign Affairs of Israel at the time, Mr. Abba Eban, and the then Secretary-General of the United Nations, concerning Security Council resolution 298 (1971) on the situation in Jerusalem. In that instance, the Government of Israel declined to receive the envoys and the mission to Jerusalem mentioned in operative paragraph 5 of the resolution.

"The decision of my Government also referred to the appointment of an independent commission of inquiry concerning the events of 8 October 1990. That Commission has now finished its work and submitted its findings to the Government. These findings have been made public, and the Government of Israel has decided to convey them in full to friendly Governments and other appropriate and interested organizations.

"The full report of the Commission is currently being translated into English and will be forwarded to you immediately upon its completion. I therefore have the honour, at present, to convey to you the enclosed text of the full report in Hebrew and the summary of the report in English. I trust that you will find the contents of interest."

The summary of the report as received from the Permanent Representative of Israel is being issued separately as an addendum to the present report.

8. The Secretary-General has thus been unable to secure independent information on the spot, about the circumstances surrounding the recent events in Jerusalem and similar developments in the West Bank and Gaza Strip. Widespread coverage has, however, been given by the international press to the clashes that occurred at Al-Haram Al-Shareef and other Holy Places of Jerusalem on 8 October 1990. According to reports, which vary, some 17 to 21 Palestinians were killed and more than 150 wounded by Israeli security forces, and more than 20 Israeli civilians and police were wounded by Palestinians. While there are conflicting opinions as to what provoked the clashes, observers on the spot, including personnel of the International Committee of the Red Cross (ICRC), stated that live ammunition was used against Palestinian civilians. Attention is drawn, in this connection, to the fact that a number of inquiries have been conducted. Apart from the Commission of Investigation referred to in paragraphs 3, 4 and 7 above, several Israeli and Palestinian human rights organizations have conducted inquiries of their own. The findings of two of them, B'Tselem and Al-Haq, were communicated to the Secretary-General, on 14 October and 28 October 1990, respectively, and are being issued separately as addenda to the present report. Furthermore, a number of Israeli and Palestinian individuals and groups had expressed willingness to meet with and provide information to the mission of the Secretary-General, should it have been sent to the area for the purposes that he had outlined to the members of the Council.

9. It will be recalled that the Security Council, in its resolution 605 (1987) of 22 December 1987, addressed the question of the safety and protection of the Palestinian civilians in the occupied territories. In that resolution - which was adopted in the earliest days of the intifadah - the Council requested the Secretary-General to examine the situation in the occupied territories by all means available to him, and to submit a report no later than 20 January 1988 containing recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation. On the basis of that mandate, and with the concurrence of the Israeli authorities, the Secretary-General was able to send a mission to the occupied territories to prepare a detailed report, including a set of recommendations, which was circulated on 21 January 1988 (S/19443). However, a resolution could not be adopted owing to the negative vote by a permanent member of the Council.

10. Since then, the Security Council has, on a number of occasions, met to consider the situation in the occupied Arab territories and it has adopted four resolutions specifically on the question of deportations. In resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989 and 641 (1989) of 30 August 1989, inter alia, the Council called upon Israel to desist from deporting Palestinian civilians and to ensure the safe and immediate return to the occupied Palestinian territories of those already deported. Further, the resolutions reaffirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, was applicable to the Palestinian territories occupied by Israel since 1967, including Jerusalem, and to the other occupied Arab territories. In each resolution, the Council decided to keep the situation under review.

11. In a presidential statement dated 26 August 1988 (S/20156), the members of the Security Council said that they were gravely concerned by the continued deterioration of the situation in the Palestinian territories occupied by Israel since 1967, including Jerusalem, and especially by the grave and serious situation resulting from the closing-off of areas, the imposition of curfews and the consequent increase in the numbers of injuries and deaths that had occurred. They said that they were profoundly concerned by the persistence of Israel, the occupying Power, in continuing its policy of deporting Palestinian civilians in contravention of Security Council resolutions and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, as demonstrated on 17 August 1988 by its expulsion of four Palestinian civilians to Lebanon and its decision to expel 40 more. The members requested Israel immediately to desist from deporting any Palestinian civilians and immediately to ensure the safe return of those already deported. The members of the Security Council considered that the situation in the occupied territories had grave consequences for

endeavours to achieve a comprehensive, just and lasting peace in the Middle East. They reaffirmed that the Geneva Convention was applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and requested the high contracting parties to ensure respect for the Convention. Recalling Security Council resolutions, the members of the Council said that they would keep the situation in the occupied Palestinian territories, including Jerusalem, under review.

12. More recently, the issue of protection was addressed at length by the Security Council following an incident on 20 May 1990 in which an Israeli gunman killed 7 Palestinian workers and wounded 11 others at Rishon Lezion in Israel. In the ensuing demonstrations, which erupted throughout the occupied territories in protest against that incident, 17 Palestinians were killed and more than 1,000 wounded by Israeli security forces. During the Security Council debate that was held in Geneva on 25 and 26 May 1990, and in New York on 31 May 1990, nearly every delegation that spoke, including members of the Council, emphasized the urgent need of the Palestinians for protection. However, a resolution that, inter alia, would have established a commission consisting of three members of the Security Council to examine the situation in the occupied territories and recommend ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation was not adopted owing to the negative vote of a permanent member of the Council.

13. In a presidential statement dated 19 June 1990 (S/21363), the members of the Security Council strongly deplored the incident which had occurred on 12 June 1990 in a clinic belong to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and located near to Shati camp in Gaza, in which several innocent Palestinian women and children were wounded by a tear-gas grenade thrown by an Israeli officer. Expressing dismay that the penalty imposed on that officer had been commuted, the members reaffirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, was applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and requested the high contracting parties to ensure respect for the Convention. They called upon Israel to abide by its obligations under that Convention.

14. It should be noted that each of the above-mentioned resolutions and presidential statements, such as resolutions 672 (1990) and 673 (1990), reaffirm the applicability to the occupied territories of the Fourth Geneva Convention. In them, Israel is repeatedly called upon to abide by its obligations under the Convention. In this connection, it is useful to cite the articles of the Convention that underline the right to protection of the civilian population and that ascribe to the occupying Power certain responsibilities in this regard. Under the Convention, the civilian population in the occupied territories is entitled to safety and protection, as clearly stated in its article 27, the first paragraph of which reads:

"Protected persons are entitled, in all circumstances [emphasis added], to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times [emphasis added] be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity."

The responsibility of the occupying Power is underlined in article 29, which reads:

"The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred."

An important responsibility is entrusted to the high contracting parties in the Convention's article 1, which states:

"The High Contracting Parties undertake to respect and to ensure respect for the present convention in all circumstances."

15. For its part, Israel, itself a high contracting party, has consistently taken the position that it does not accept formally the de jure applicability of the Fourth Geneva Convention, but states that it has since 1967 decided to act inde facto accordance with the Convention's "humanitarian provisions". The Israeli position is not accepted by ICRC, which is the guardian of the Geneva Conventions of 1949, nor has it been endorsed by the other high contracting parties to the Fourth Geneva Convention. The position of the Security Council has, in this connection, repeatedly been made clear.

Observations

16. In the light of my reporting obligations under resolution 672 (1990) and 673 (1990), I have given careful thought as to how I should do so, since it has not been possible to send a mission to the area subsequent to the adoption of these two resolutions. I have been guided by two principal considerations. First, that the tragic events of 8 October 1990 are only the most recent of many grave incidents in the occupied territories that have resulted in the deaths and wounding of a large number of civilians; these have once again caused the Security Council to discuss the question of the safety and protection of Palestinians. The second consideration has been that the responsibilities entrusted to me under resolutions 672 (1990) and 673 (1990) should be viewed in the context of earlier efforts that I have made in this connection.

17. It will be recalled that the principal recommendation of my 21 January 1988 report (S/19443) with respect to ensuring the safety and protection of the Palestinian civilian population was that the international community should make a concerted effort to persuade Israel to accept the de jure applicability of the Fourth Geneva Convention to the occupied territories and to correct its practices in order to comply fully with that Convention. My report also described certain steps that I intended to take, within existing arrangements, to improve the safety and protection accorded to the population by the international community. Foremost among the latter was my suggestion that the Commissioner-General of UNRWA should examine the addition to UNRWA's establishment in the occupied territories of extra international staff to improve the general assistance they provide. Since then, the number of international staff serving with UNRWA in the occupied territories has increased from 15 to 51. These additional staff members have helped to defuse tense situations, avert maltreatment of vulnerable groups, reduce interference with the movement of ambulances, and facilitate the provision of food and medical aid during curfews. In this connection, it should also be noted that the size of the international delegation of ICRC - which, under the Fourth Geneva Convention, has a definite role with regard to protection in the occupied territories - has increased from 15, in December 1987, to 45 today.

18. The additional presence in the occupied territories of international staff of these organizations has been welcomed by the Palestinians, but they add that, given the exceptional circumstances in which they are living, it has not had the necessary impact on the behaviour of the Israeli authorities. If anything, the message that is repeatedly conveyed to me by the Palestinians - whether in meetings with the leadership of the Palestine

Liberation Organization (PLO) or personalities from the occupied territories, in numerous communications and appeals sent to me from groups and individuals in the area, or in conversations that members of my staff have had with individuals from all walks of life in the territories - is that far more is required on the part of the international community to ensure the safety and protection of the Palestinian civilian population in the occupied territories.

19. While it would not be possible for me to summarize in a few paragraphs the intensity of the feeling that has consistently been conveyed to me both in conversations with and in appeals by Palestinians, I would like to comment on several recurring themes that emerge from them. Palestinians have expressed a profound feeling of vulnerability at all times, whether in the workplace, at school, in places of worship or simply walking down the street. This fear was compounded by their view that there was no recourse to any authority, other than the security forces who were so often responsible for the measures inflicted upon them. They have stated that they felt unsafe even inside their homes, which were frequently subjected to midnight searches, and during which entire households, including children, were beaten. It was said that arrests during such operations were common. A wide range of collective punishments had, they said, become routine during the past three years, such as curfews, the demolition of homes, administrative detention and the uprooting of trees. A system of arbitrary and heavy taxation had been imposed, which, if not complied with, might lead to the confiscation of personal property and even arrest. Furthermore, the Palestinians have complained bitterly about a number of longstanding Israeli practices: the taking of land, especially for Israeli settlements and the privileged access that these settlements were given to water supplies; the closure for prolonged periods of the universities, and the periodic closure of elementary and high schools, which, in the Palestinian view, amounted to a denial of their right to education; and the overall economic exploitation of the territories.

20. Palestinians emphasized that their distrust of the Israeli occupation authorities - be they the security forces charged with maintaining law and order or officials of the Civil Administration whose role affected most aspects of their daily lives - had grown so deep that they felt that only an impartial presence, properly mandated by the United Nations, would be able to provide them with a credible sense of protection. In this connection, many of them drew attention to the military observers stationed in Jerusalem at the headquarters of the United Nations Truce Supervision Organization (UNTSO), and inquired why they could not be assigned to monitor the situation in the occupied territories. While they expressed appreciation for the humanitarian efforts carried out by representatives of international agencies and voluntary agencies, they were nevertheless deeply frustrated that those organizations were prevented from intervening or unable to intervene more effectively on their behalf.

21. During the past three years, I have had occasion to meet with a number of senior Israeli officials in New York, and have frequently voiced to them my concern about the situation in the occupied territories. In discussions with me, and with members of my staff in the area, the Israeli authorities have maintained that measures such as administrative detentions, curfews and the closure of schools and universities have been carried out in order to restore calm in the territories. Israel's position has been, and continues to be, that it retains exclusive control over the territories it administers. Furthermore, the Israeli authorities point out that even under the Fourth Geneva Convention it would be for them to maintain law and order in the territories. According to them, their policy during the past three years has been to put an end to the unrest in the territories which, in their view, is fomented by elements from outside. They note that the security forces are adhering to strict regulations determined by the Minister for Defence and that violations of those regulations are punishable. In response to expressions of concern regarding the need for the safety and protection of the Palestinians, the Israeli authorities point out that the many Palestinians who have been killed by other Palestinians should be a matter of equal concern to the international community.

22. The Security Council will recall that towards the end of June 1990 I sent a Personal Representative to the area to look into the question of protection in the occupied territories and to report back to me personally. On 13 July 1990, in a statement to the Council in informal consultations, I said that I intended to pursue my initiative with the Israeli authorities in an effort to persuade them to comply fully with their obligations under the Fourth Geneva Convention. At the same time, I stressed that if the high contracting parties felt that further measures - such as the designation of a Protecting Power - were required, then it was up to them to take such a decision under procedures that were carefully spelled out in the Fourth Geneva Convention.

23. Had it been possible for me to send a mission to the area at the present time, it would have followed up on the discussions begun last summer with the Israeli authorities and the Palestinian leadership. The Israeli authorities indicated at that time that they would be implementing new measures in the territories. It should be noted that, in the subsequent months, there was a decreased military presence in the occupied territories and a decline in casualties resulting from actions involving the Israeli security forces there. Further, there has also been a reopening of certain academic institutions. Nevertheless, the essential facts of the occupation have not changed and the potential for friction and confrontation between Israelis and Palestinians has remained very high, as evidenced by the tragic events of 8 October 1990. The spate of violent attacks that have occurred since then, with more bloodshed on both sides, has generated further mistrust and bitterness.

24. The issue before us today is what practical steps can, in fact, be taken by the international community to ensure the safety and protection of the Palestinian civilians living under Israeli occupation. Clearly, the numerous appeals - whether by the Security Council, by myself as Secretary-General, by individual Member States or by ICRC, which is the custodian of the Geneva Conventions - to the Israeli authorities to abide by their obligations under the Fourth Geneva Convention have been ineffective. It is evident that for any measure of protection to be ensured, the co-operation of the Israeli authorities is, under the present circumstances, absolutely essential. Nevertheless, given the special responsibility of the high contracting parties for ensuring respect for the Convention, the Security Council might wish to call for a meeting of the high contracting parties to discuss possible measures that might be taken by them under the Convention. As regards the Palestinian appeals, referred to in paragraph 20, for an impartial presence, properly mandated by the United Nations, this is a matter on which the Security Council would have to decide: the mandates for the United Nations personnel in the area, whether civilian or military, derive from the competent United Nations bodies and the Secretary-General does not have the competence to act on his own.

25. It would be misleading to conclude this report - which has focused essentially on the need to ensure the safety and protection of the Palestinian civilians living under Israeli occupation - without underlining that it is a political conflict that lies at the heart of the tragic events that led to the adoption of Security Council resolution 672 (1990) and 673 (1990). The determination of the Palestinians to persevere with the intifadah, is evidence of their rejection of the occupation and their commitment to exercise their legitimate political rights, including self-determination.

26. It is essential, in these circumstances, that progress be made, and soon, to ensure an effective negotiating process, acceptable to all, that can secure the interest of both Israelis and Palestinians, and enable them to live in peace with each other. For my part, I will do whatever I can to be of help.

