



## Economic and Social Council

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### 2004/9. Israeli settlements in the occupied Arab territories

*The Commission on Human Rights,*

*Reaffirming* that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

*Mindful* that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

*Recalling* its previous resolutions, most recently resolution 2003/7 of 15 April 2003, and taking note of General Assembly resolution 58/98 of 9 December 2003, in which, inter alia, the illegality of the Israeli settlements in the occupied territories was reaffirmed,

*Welcoming* the presentation by the Quartet to the parties of the road map to a permanent two-State solution to the Israeli-Palestinian conflict and noting the call for a freeze on settlement activity, and taking note of the proposals for an Israeli withdrawal from the Gaza Strip, which could represent a significant step towards the implementation of the road map, provided that it took place in the context of the road map; it was a step towards a two-State solution; it did not involve a transfer of settlement activity to the West Bank; there is an organized and negotiated handover of responsibility to the Palestinian Authority; and Israel facilitates the rehabilitation and reconstruction of Gaza,

*Gravely concerned* at the widespread violations of human rights and international humanitarian law which continue to result from the occupation of the Occupied Palestinian Territory,

*Concerned in particular* that the route marked out for the so-called security fence under construction by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, could prejudice future negotiations and make the two-State solution physically impossible to implement and would cause further humanitarian and economic hardship to the Palestinians,

*Expressing its concern* at the failure of the Government of Israel to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

*Also expressing its concern* that continuing Israeli settlement activity undermines the realization of a two-State solution to the conflict, and therefore threatens the long-term security of Palestinians as well as Israelis,

*Further expressing its concern* regarding the security threats related to the presence of the settlements in the occupied territories, as expressed in the report of the Sharm el-Sheikh Fact-Finding Committee (the Mitchell report),

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2004/6 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Expresses its grave concern at:*

(a) The continuation, at an escalated level, of the Israeli-Palestinian conflict, which has led to a seemingly endless spiral of hatred and violence and to increased suffering for both Israelis and Palestinians;

(b) The continuing illegal Israeli settlement activities in the occupied territories and related activities, such as the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949; settlements are a major obstacle to peace and to the creation of an independent, viable, sovereign and democratic Palestinian State in accordance with Security Council resolution 1397 (2002) of 12 March 2002;

(c) And strongly condemns all acts of violence, including indiscriminate terrorist attacks killing and injuring civilians, provocation, incitement and destruction and urges the Palestinian Authority to concretely demonstrate its determination in the fight against terrorism and extremist violence;

(d) The continuing high level of casualties on both sides, particularly civilians, and, while recognizing Israel's right to self-defence in the face of terrorist attacks against its citizens, urges the Government of Israel to exert maximum effort to avoid civilian casualties and to put a halt to extrajudicial killings, which are contrary to international law;

(e) The continued closures of and within the Palestinian territories and the restriction of the freedom of movement of the Palestinians, including the extensive curfews imposed on the West Bank cities for long periods of time, which contribute, together with other factors, to the intolerable level of violence that has prevailed in the zone for more than three years, have caused an extremely precarious humanitarian situation for the civilian population and have had a negative impact on the enjoyment of economic and social rights in the Palestinian territories, affecting in particular the most vulnerable groups of the population;

(f) The continued construction of the so-called security fence in the Palestinian territories, including in and around East Jerusalem;

(g) The route marked out for the so-called security fence in the occupied West Bank and the envisaged departure of the route from the Armistice Line of 1949 which could prejudice future negotiations and make the two-State solution physically impossible to implement, and the creation of a closed zone between the so-called security fence and the Armistice Line and the consequent humanitarian and economic hardship for the Palestinians, thousands of whom are being cut off from essential services, land and water resources;

3. *Urges* the Government of Israel:

(a) To comply fully with the previous Commission resolutions on the subject, most recently resolution 2003/7 of 15 April 2003;

(b) To reverse its settlement policy in the occupied territories, including East Jerusalem, and, as a first step towards their dismantlement, to stop immediately the expansion of existing settlements, including "natural growth" and related activities;

(c) To prevent any new installation of settlers in the occupied territories;

(d) To implement the recommendations regarding the settlements made by the former United Nations High Commissioner for Human Rights in her report to the

Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

(e) To take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing illegal acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians in the occupied territories;

4. *Demands* that Israel stop and reverse the construction of the so-called security fence in the Occupied Palestinian Territory, including in and around East Jerusalem, which is a departure from the Armistice Line of 1949 and is in contradiction to relevant provisions of international law;

5. *Urges* the parties to implement immediately and fully, without modifications, the road map endorsed by the Security Council with the aim of resuming negotiations on a political settlement which is in accordance with the resolutions of the Security Council and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security and play their full part in the region;

6. *Decides* to continue its consideration of this question at its sixty-first session.

*49th meeting*

*15 April 2004*

[Adopted by a recorded vote of 27 votes to 2,  
with 24 abstentions. See chap. VIII.]