

## UNITED NATIONS INTERNATIONAL MEETING ON THE QUESTION OF PALESTINE

United Nations Office at Geneva  
22 and 23 July 2009

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### I. Introduction

1. The United Nations International Meeting on the Question of Palestine on the theme "Responsibility of the international community to uphold international humanitarian law to ensure the protection of civilians in the Occupied Palestinian Territory in the wake of the war in Gaza" was convened by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, as mandated by General Assembly resolutions 63/26 and 63/27 of 26 November 2008. The Meeting was held at the United Nations Office at Geneva from 22 to 23 July 2009.

2. The Committee was represented by a delegation comprising Paul Badji (Senegal), Chairman; Zahir Tanin (Afghanistan), Vice-Chairman; Saviour F. Borg (Malta), Rapporteur; and Riyad Mansour (Palestine).

3. The Meeting consisted of an opening session, three plenary sessions and a closing session. The themes of the plenary sessions were "The results of investigations of Israeli conduct during the war in Gaza", "The responsibility of Governments and organizations in upholding international law" and "The role of parliamentarians and civil society in advocating adherence to international humanitarian and human rights law".

4. Presentations were made by 20 experts, including from Palestine and Israel. Representatives of 66 Governments, the Holy See, Palestine, 7 intergovernmental organizations, the International Committee of the Red Cross (ICRC), 8 United Nations bodies, representatives of 36 civil society organizations, as well as representatives of the media, attended the Meeting.

5. At the closing of the Meeting, the participants took note of the concluding statement of the organizers (see annex I).

## II. Opening session

6. At the opening session, a statement was delivered on behalf of **Ban Ki-moon**, the Secretary-General of the United Nations, by his representative Sergei Ordzhonikidze, Director-General of the United Nations Office at Geneva.
7. In his message, the Secretary-General noted that intensive diplomatic efforts were under way to create the conditions for the prompt resumption and early conclusion of Israeli-Palestinian negotiations. Israel should commit fully to its obligations, including freezing settlement activity and natural growth, which would facilitate a new environment of cooperation and common purpose from the countries in the region. Israel should also cease unilateral actions in Jerusalem such as house demolitions, and heed the Advisory Opinion of the International Court of Justice on the wall.
8. The Secretary-General remained deeply concerned about conditions of the civilian population in Gaza, the unsustainable political situation there and the potential for renewed conflict and instability. All sides had to commit to a complete cessation of violence. More also had to be done to ensure that illicit weapons did not enter Gaza, and to implement the other key elements of Security Council resolution 1860 (2009).
9. Most urgently, Israel should allow basic supplies, goods and reconstruction materials into Gaza through a sustained reopening of crossing points. The Palestinian Authority had also to intensify its efforts on the ground. In particular, it was regrettable that Hamas had not renounced violence and committed clearly to the existing agreements and a two-State solution with Israel.
10. Following the hostilities in Gaza and southern Israel, the Secretary-General had established a Board of Inquiry into incidents that had affected United Nations premises and personnel. The Secretary-General also supported and followed with interest the work of the Human Rights Council fact-finding mission, led by Justice Richard Goldstone, and urged all parties to respect the provisions of international humanitarian law related to the treatment of detainees.
11. The Secretary-General concluded by stressing that the international community had a crucial role to play in the search for peace in the Middle East, and called upon its members to rise to its responsibilities.
12. **Paul Badji**, Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, said in his statement that the Meeting was taking place at a time when there was little reason for optimism with regard to a possible prompt solution to the Israeli-Palestinian conflict. The peace negotiations were stalled; there had not been an end to violence on either side; and the significant increase of settler violence against Palestinians, often aided and abetted by the Israeli army, was worrying. The situation on the ground remained volatile and potentially explosive.
13. The Committee was especially concerned about the continued expansion and establishment of settlements by Israel, its building of the wall in the West Bank, and its policies and practices in and around East Jerusalem. The continued occupation of the Palestinian territory by Israel was a violation of international humanitarian law, and Israel as the occupying Power remained responsible for the welfare of the persons protected under the Fourth Geneva Convention throughout the Occupied Palestinian Territory.
14. The Israeli onslaught against Gaza during Operation Cast Lead in December 2008 and January 2009, which had caused the death of more than 1,400 civilians, including women, elderly and children, and had resulted in the extensive and deliberate destruction of property and infrastructure, represented a violation of international humanitarian law, as confirmed by several international inquiries into the events and the reports by the civil society. Israel had rejected all allegations of serious violations of international human rights and humanitarian law. However, recent testimony by some 30 soldiers who had served in the Operation had lent further credibility to those allegations, with the soldiers stating that they had been urged by the commanders to shoot first and worry later about distinguishing between the civilians and the combatants.
15. The international community could not show complacency in the face of such allegations. It had to mobilize, at the national, regional and international levels, to uphold international humanitarian and human rights law and hold those committing the crimes accountable for their actions. A negotiated solution to the Israeli-Palestinian conflict had to be grounded in the principles of international law.
16. **Rudy Salles**, President of the Parliamentary Assembly of the Mediterranean (PAM), said that the Assembly, established in 2006 in Jordan, aimed at bringing together on equal footing all the parliaments of the Mediterranean region, with the goal of contributing to the well-being of their peoples through the action of parliamentarians.
17. The activities of PAM were numerous and diverse. In May 2009, a delegation of the PAM Bureau had carried out a visit to the Occupied Palestinian Territory, Israel, Egypt and Jordan, in the course of which it had met with principal actors in the region and looked into how parliamentarians could contribute to the advancement of the Middle East peace process.
18. Mr. Salles informed the Meeting that PAM intended to organize, in cooperation with the United Nations and with the support of the Government of Malta, a parliamentary symposium on the status of the city of Jerusalem. The aim of the symposium would be to form concrete and bold proposals on the subject, to be then submitted to the main stakeholders in the peace process. The symposium should be open to all the members of the region, and especially to the members of the Quartet and the European Union (EU).
19. In a message delivered by Mr. Badji, **Miguel D'Escoto Brockmann**, President of the United Nations General Assembly, observed that, for the 1.5 million Palestinian civilians who lived there, the Gaza war had not ended, as the blockade continued and the United Nations obligations under the Charter and United Nations resolutions, as well as under international humanitarian law, remained unfulfilled. He pointed out that the international civil society had taken the lead to bring relief and solidarity to the people of Gaza, and appealed to the members of the United Nations to follow suit and put pressure on Israel to abide by the requirements of international law.
20. **Ibrahim Khraishi**, Permanent Representative of Palestine to the United Nations in Geneva, conveyed the message of Palestinian Authority President Mahmoud Abbas, expressing deep appreciation to the Committee for convening the Meeting and commending its tireless work towards the fulfilment of the rights of the Palestinian people and in support of the peace process.
21. Mr. Khraishi stressed the urgency of ending the tragedy and injustice of the Palestinian people, after more than 60 years of statelessness. He lamented their deteriorating situation, caused by Israeli aggression on Gaza, and called for an immediate end to the continued illegal Israeli blockade of the latter. Israel had to cease the construction of settlements in the Occupied Palestinian Territory, including in East Jerusalem; cease seizing Palestinian land; comply with the Advisory Opinion of the International Court of Justice on the construction of the wall; and dismantle illegal checkpoints. These Israeli measures were altering the demographic composition of the Occupied Territory and destroying the integrity and contiguity of the future Palestinian State. Colonization and peace process could not coexist and the international community, including the United Nations Security Council, had to uphold its responsibility and put pressure on Israel to comply with

international law.

22. Statements by Morocco and Namibia were circulated at the Meeting. **Morocco** called upon the international community to exert all the efforts to expedite the peace process and reach a resolution of the Israeli-Palestinian conflict, which would allow the Palestinian people to build their State and live side by side with Israel. It underlined the importance of paying particular attention to the city of Jerusalem, stressing the need to protect the historic, cultural and religious nature of the City. **Namibia** reaffirmed its solidarity with the Palestinian people and its support in their fight for freedom, independence and social justice; urged the United Nations to act decisively in implementing its own resolutions in order to bring a lasting and comprehensive resolution to the Question of Palestine; and expressed its concern over Israeli policies and measures inconsistent with its obligation under international law, urging Israel to abandon its illegal activities. **The Economic and Social Commission for Western Asia** circulated a "Briefing on the note of the Secretary-General on the economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including Jerusalem, and of the Arab population in the occupied Syrian Golan." The briefing depicted the economic and social hardships of the Palestinian residents of the Occupied Palestinian Territory, due to the Israeli policies and practices.

### III. Plenary sessions

#### Plenary I

#### The results of investigations of Israeli conduct during the war in Gaza

23. Speakers in Plenary I addressed the following sub-themes: United Nations fact-finding missions; the mission of the League of Arab States; and the findings of missions by special rapporteurs, parliamentarians and other groups.

24. **John Dugard**, Head of the Independent Fact-Finding Committee on Gaza of the League of Arab States, summarizing the findings of the Independent Fact-Finding Committee, said that the past two decades had seen important developments in international accountability for international crimes: international crimes had been defined with more clarity by international treaties and judicial decisions; international tribunals had been established to try international criminals; and treaties had placed obligations upon States to either try international criminals themselves or to cooperate with other States or international tribunals in the prosecution of those suspected of international crimes. The result was that States and their political and military leaders were no longer beyond the reach of the law. Israel's offensive in Gaza, Operation Cast Lead, had to be seen in that context. Several reports of investigative bodies established by intergovernmental organizations had found that there had been very serious international crimes committed by Israel during the Gaza offensive. As a result, there was a need for prosecution.

25. The Independent Fact-Finding Committee on Gaza of the League of Arab States had visited Gaza from 22 to 27 February 2009. The members of the Committee had spoken to the victims and the members of Hamas, among others, and had visited the sites of destruction. Cooperation from Israel had not been granted. Israel had conducted its own inquiry into the events, but its conclusions were unsatisfactory and unconvincing.

26. Preliminary findings of the Committee included the conclusions that Gaza remained occupied territory and that Israel was obligated to comply with the Fourth Geneva Convention for its actions there; Israel's actions could not be justified as self-defence; the situation should be judged in terms of international humanitarian law rather than in the context of uncertain terms of "terrorism"; and principles of proportionality should be applied in assessing criminal responsibility.

27. The Committee had received evidence of great loss of life and injury in Gaza, with over 1,400 Palestinians killed, out of them at least 850 civilians, including 300 children; and over 5,000 wounded. The Committee believed that the Israeli Defence Forces (IDF) had committed war crimes, including crimes of killing, wounding and terrorizing civilians, and had also used white phosphorus which had caused unnecessary suffering. The IDF had not distinguished between the civilians and civilian objects, and military targets. Both the loss of life and the damage to property were disproportionate to the harm or any threatened harms suffered by Israel. Palestinian militants, who had fired rockets indiscriminately into Israel, killing four civilians and wounding 182, had committed the war crime of killing, wounding and terrorizing civilians. In the course of Operation Cast Lead, members of the IDF had also committed crimes against humanity, and possibly, genocide.

28. The international community had to make sure that Israel and its leaders were held accountable for those actions. Among the remedies available in criminal law were the prosecution for violation of the Fourth Geneva Convention in national courts; and a request by States to the United Nations Security Council to refer the situation to the International Criminal Court. States could also act through the General Assembly, requesting an advisory opinion of the International Court of Justice on the legal consequences of Operation Cast Lead for Israel and other States. The Fact-Finding Committee supported the request by the Palestinian Authority that the matter be considered by the International Criminal Court.

29. **George Vella**, Chairman of the PAM Ad Hoc Committee on the Middle East, said the war in Gaza had attracted the world's attention because of its intensity, the inequality of firing power of the two sides involved, the total disregard by the attacking forces to any distinction between civilian and military targets, and by their refusal to concede adequate access to vital humanitarian aid services. He reported on the visit to the Middle East by the Bureau of PAM in May 2009, which, he said, had also been a way of expressing solidarity with the aggrieved people of Gaza.

30. The main goal of the fact-finding mission had been to acquire knowledge on the consequences of the Israeli military operation in Gaza. The mission had had high-level discussions with Presidents of Parliaments in the region, Foreign Ministers of the countries involved, the Palestine National Council and the Palestinian Legislative Council. It had also visited the Zeituna area south of Gaza city that had been one of the worst attacked and was practically razed to the ground, and had met with the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) at the Jordanian Military Hospital in Gaza. The situation on the ground continued to be appalling due to restrictions imposed by the Israeli authorities on bringing in any types of construction material. There was a collapse of the private sector, fuel was in short supply, and unemployment had risen to 46 per cent. The funds raised at the donor conference were frozen in accounts abroad.

31. Serious crimes had been committed by Israel during Operation Cast Lead and the International Criminal Court should accept the declaration, lodged by the Palestinian Authority, to investigate the commission of these crimes. The international community had to ensure the respect of international humanitarian law.

32. PAM acknowledged the work done by Egypt in bringing together the rival Palestinian factions, encouraged the members of the Quartet to ensure that political commitments by the parties concerned were respected, and expressed the belief that civil society, academics and the media should play a more influential role. Mr. Vella announced that the Assembly had decided to award the PAM Prize to UNRWA for the commitment, dedication and efficiency with which it had been providing for the needs of the civilian Palestinian population.

33. Mr. Vella also said that PAM would organize, in early 2010, a symposium on the status of Jerusalem, in cooperation with the United Nations and with the support of the Government of Malta.

34. **David Hammerstein**, Former Member of the European Parliament for Spain, recounted that he had been in the United Nations shelter in Gaza during the

Israeli military offensive, together with other European politicians, and could observe the developments on the ground first hand. There had been no international journalists or other international witnesses present, which, according to Mr. Hammerstein, resulted in impunity.

35. Mr. Hammerstein said that the position of the European Parliament had been very clear over the past five years, supporting the lifting of the siege of Gaza and the end of collective punishment of its civilian population by Israel; the end to the use of disproportionate force and illegal weapons; the end to the firing of rockets by Palestinians from Gaza on the civilian population of Southern Israel; a unity agreement of Hamas and Fatah as a necessary step for international peacemaking measures in Gaza and the West Bank; a total suspension of the settlement building by Israel; free movement of people and goods both in Gaza and the West Bank; the conditioning of future EU policy to concrete progress on the ground; investigation of possible war crimes committed by Israel and by Hamas in the Gaza conflict; deployment of international forces in and around Gaza; and the building of a large solar plant for electricity and desalinization in or near Gaza for energy and water autonomy. The Parliament's position was also against the upgrading of EU's relations with Israel under the present circumstances. However, no consensus on the above existed in the European Council.

36. In order to break the political deadlock, the United Nations Security Council should set a deadline for the "two state solution" with the acceptance of Palestine in the United Nations, as recently proposed by Javier Solana, EU High Representative for the Common Foreign and Security Policy, Mr. Hammerstein said. He then posed a question as to whether the EU, an important provider of aid to the Palestinian Authority, was in fact financing an occupation, suggesting that this policy should be questioned. Stopping the aid could lead to destabilization in Gaza, but it would also put the brunt of the occupation on Israel, he concluded.

37. The presentation by **Ran Yaron**, Director of the Occupied Palestinian Territories Department of Physicians for Human Rights Israel, focused on the subject of the investigations by the Israeli Army into suspected human rights violations in the field of medicine and health. During the attacks, numerous testimonies had been collected from Palestinian civilians and others, raising suspicion that both sides had committed war crimes and grave human rights violations. Eleven human rights organizations active in Israel had contacted the Israeli Attorney-General and demanded that an independent and impartial body be established to investigate the behaviour of the Israeli Army in the Gaza Strip. The request had been rejected on the grounds that the Israeli Army had appropriate tools to examine the various suspected violations of international law.

38. The Israeli Army had established eight committees of investigation and had published the findings of five of them in April 2009. However, those findings raised various questions and doubts due to the fact that the investigative body formed part of the Army and could therefore not be considered as objective and independent.

39. The investigation had found that Hamas had systematically used medical facilities and ambulances as a cover for its military operations. However, one or two such examples could not justify either the damage caused by Israeli fire to 34 medical installations and 26 first aid clinics, or the attacks on 12 ambulances and 25 medical personnel, 16 of whom had been killed. The Army's conclusion on the abuse of rescue vehicles for combat needs had been phrased in a generalized manner on the basis of a single testimony, without any additional facts or examples. Furthermore, the claim that ambulances travelled on the roads without prior coordination with the Army ignored the situation on the ground and made ambulances a legitimate target, especially as the head of the team investigating the medical issues admitted that the procedures established by the Army did not enable rapid coordination between the Army and its soldiers in the field, and the medical teams.

40. Mr. Yaron concluded that the investigation undertaken by the Israeli Army was not exhaustive, and it was important that an objective and independent committee be established to investigate the incidents.

41. **Bill Van Esveld**, of Human Rights Watch, said that Israeli authorities continued to bar Human Rights Watch from accessing Gaza. However, Human Rights Watch had entered the territory twice for a period of two weeks – in January and April 2009 – and had released reports on IDF's use of white phosphorus and unmanned aerial vehicles, or drones. The reports on IDF's shooting of civilians who were holding white flags; IDF's wanton destruction of civilian property; and the findings on the conduct of hostilities by members of Palestinian armed groups were also to be released soon.

42. Human Rights Watch had documented that IDF had in Gaza most frequently used air-burst white phosphorus in 155mm artillery shells, and had investigated six cases in which the use of white phosphorus had killed 12 civilians and injured dozens. Israel's repeated illegal and indiscriminate use of air-burst white phosphorus in populated areas revealed a policy of conduct, rather than accidental usage, indicating the commission of war crimes. All of the white phosphorus shells that Human Rights Watch had found had been manufactured in the United States. Further transfers of white phosphorus munitions to Israel should be halted pending an American investigation to determine whether Israel had used it in violation of international humanitarian law.

43. During the Gaza conflict, Israel extensively used drones, or unmanned aerial vehicles, for surveillance and attack purposes. Despite their advanced capabilities, which allowed them to be diverted in cases of doubt about the nature of the target, Israel's targeting choices had led to the loss of many civilian lives. Israeli forces had either failed to take all feasible precautions to verify that the targets were combatants, or to distinguish between combatants and civilians. Israel should investigate every mission involving drone-launched missiles in which civilians had been wounded or killed, and publish the video footage of those attacks.

44. Human Rights Watch had also investigated seven cases where Israeli small arms fire had killed 11 civilians when victims had been with other unarmed civilians waving a white flag and posed no apparent security threat. It furthermore had investigated Israeli forces' widespread destruction of property by militarized bulldozers and anti-tank mines. In most of the cases it had documented, there was no evidence that Palestinian armed groups had been using the property IDF destroyed, or that there had been fighting going on nearby. According to the laws of war, the extensive destruction of property, if "carried out unlawfully and wantonly" and if not justified by military necessity, was a war crime.

## **Plenary II**

### **The responsibility of Governments and intergovernmental organisations in upholding international law**

45. The speakers in Plenary II addressed the following sub-themes: the obligation to ensure respect for international humanitarian law; options for individual and collective actions by Governments; the principle of universal jurisdiction; and the role of the United Nations.

46. **Vera Gowlland-Debbas**, Professor of Public International Law at the Graduate Institute of International Studies in Geneva, focused on the options for individual and collective actions from an international law perspective. She first addressed two preliminary issues: the status of the Occupied Palestinian Territory, from which flowed much of the applicable law; and the question of State responsibility in regard to the breaches of fundamental norms of international law.

47. The international status of the Palestinian territory as self-determination unit and occupied territory, regulated by international law, was underlined by the International Court of Justice in its advisory opinion rendered on 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. The right of the Palestinian people to self-determination, confirmed by the General Assembly, had several legal consequences, among them the right to representation; the right to use force in self-defence; the right to statehood; the right to respect the territorial integrity and unity of the whole Territory under occupation; and the right to permanent sovereignty over natural resources, including to claim reparation for any loss or depletion of such resources.

48. With regard to the use of force, the Security Council had determined the illegality under international law and United Nations resolutions of Israel's occupation of Palestinian territories since 1967, including Jerusalem. As for the *jus in bello*, the Security Council and the International Court of Justice had confirmed the applicability of the Geneva Conventions and the customary law under the Hague Regulations of 1907, including the law on occupation. Gaza, after the disengagement of Israel in September 2005, continued to be considered in international law as a territory under occupation.
49. There were several consequences of that internationally recognized status for other States. First, Palestine was under the permanent responsibility of the United Nations until the question was resolved in all its aspects, and was a matter of fundamental concern to the international community as a whole. Second, every State had the right to invoke breaches of these norms, and in certain circumstances had an obligation to do so. Once a determination of illegality was made, States were no longer free to act in disregard of such illegality or even to recognize violations of law resulting from it.
50. The blockade/siege of Gaza, which included depriving Gaza of basic needs, and a sanctions policy deliberately targeting civilians, was in violation of international law. Other States could incur responsibility under international law through complicity or through failure to react to the breaches. States also had the right to invoke remedies.
51. Among the measures which States could or should apply were sanctions against Israel, either unilateral or collective. A veto by a permanent member of the UN Security Council in contravention of peremptory norms of international law while effectively blocking the passage of a resolution could be seen as an abuse of rights. States could also call for the cessation of the internationally wrongful act and insist on reparations.
52. **Charles Shamas**, a Senior Partner with the MATTIN Group, said that the sources of law that were to be upheld were both customary and conventional: the Fourth Geneva Convention of 1949, the Hague Convention of 1907 on the Laws and Customs of War on Land, and the Charter of the United Nations, all of them ratified by Israel. However, Israel rejected its responsibility for complying with certain of the non-derogable obligations laid down in those laws, in spite of the fact that the overwhelming majority of the international community considered that the law and obligations in question were applicable and Israel was legally responsible for complying with them. Israel's systematic and persistent violation of those obligations resulted in unlawful factual situations.
53. He opined that the highly consensual foundation of international law was reflected in the persisting failure to establish the rule of law at the international level. States did not have to submit to the jurisdiction of the International Court of Justice or the International Criminal Court. The authority to coerce and to mandate an ad hoc judicial process without the consent of the affected State was held exclusively by the UN Security Council.
54. International law relied heavily on States' creation of municipal legislation that at least enabled, and ideally ensured implementation of their international responsibilities through judicial process. The upholding of international human rights law and international humanitarian law both depended upon the incorporation of their norms and rules in the ratifying States' own domestic legislation and military codes. The consensual character of international law manifested itself yet again in the fact that those obligations were interpreted and internally implemented by States politically, and thus, differently.
55. The core obligations comprising "third state responsibility" were: the customary obligation not to recognize as lawful the situation resulting from another State's serious breach of an obligation, or to aid or assist in maintaining it ("duty of non-recognition"); the customary obligation to cooperate to bring such serious breaches to an end; and the duty set out in article 1 common to the four Geneva Conventions of 1949 to "respect and ensure respect for [these] Conventions in all circumstances". Examples were then given from the EU-Israeli relationship, illustrating how the readiness of the EU's judicial authorities to uphold the proper implementation of its municipal legislation could give substance to the "duty of non-recognition".
56. **John B. Quigley**, Professor of International Law at Moritz College of Law, Ohio State University, said that the war in Gaza in late 2008 and early 2009 had brought into focus the importance of Palestinian statehood – States were in a stronger position than non-States in securing remedies when their civilians were subjected to atrocities in violation of international humanitarian law. Individual Governments and the United Nations could make a significant contribution to the protection of civilians in the Palestinian Territory by taking measures, individually and collectively, to make it clear that Palestine was a State. The International Criminal Court only had jurisdiction if a crime was committed within the territory of a State Party to the Rome Statute, which Palestine was not. While Palestine had sought to give the Court jurisdiction by declaring its acceptance of that jurisdiction, as a State Palestine would be entitled to do so.
57. However, although the international community could and should do more to solidify international acceptance of Palestine, it had already done more than enough to establish Palestine as a State. Indeed, Palestine had been a State continuously since 1924. Herbert Samuel, the first High Commissioner of Britain in Palestine, had said that Palestine was a State, as had Norman Bentwich, Palestine's then-Attorney General. Israel's occupation of Gaza and the West Bank beginning in 1967 had not extinguished Palestinian statehood. In addition, various United Nations bodies had granted Palestine membership, considering it a State. Palestine was a State even though it had not, to date, had its own administrative apparatus.
58. Mr. Quigley also said that much more could be done by the United Nations Secretariat to promote the acceptance of Palestine as a State. Palestine should be accepted as party to additional multilateral treaties, in particular to those that were of vital significance to it, like the Geneva Conventions and the human rights treaties. In that regard, the Government of Switzerland as depositary for the Geneva Conventions had declined Palestine's ratification in 1989 on the rationale that the status of Palestine was being resolved at the United Nations, and that the matter should not fall to a single State because it happened to be depositary on particular treaties. That application had never been withdrawn and could be acted upon by Switzerland at any time.
59. **Nathalie Tocci**, a Senior Fellow with the Institute of International Affairs in Rome, speaking on the EU policy during and in the aftermath of the war in Gaza, said that EU Member States had to show respect for international humanitarian law and ensure it was being respected by others. The EU could also resort to negative measures, such as sanctions, in cases of human rights violations. However, during the events in Gaza, the EU had failed to respect its obligations and had acquiesced in the events.
60. Ms. Tocci said that the EU had to rethink its policy objectives. First, the EU and its member States should promote and support both independent international and domestic criminal investigations into alleged violations committed during the conflict by all parties. Second, the EU had to give a longer-term orientation to its aid to the Occupied Palestinian Territory, while respecting the principles of neutrality, impartiality and independence of channelling humanitarian assistance. The aid should be provided in a manner to support the democratic process. Third, the EU should re-evaluate its border monitoring activities by ensuring that Member States' anti-arms smuggling efforts took place only following the regular opening of all crossings to Gaza. Finally, the EU had to seriously reassess its bilateral relations with Israel. It was time for the EU to stop its blind-eye approach to Israeli actions and introduce the logic of human rights and international humanitarian law as the cornerstone of its "political" approach towards the conflict.
61. Ms. Tocci then made available the Euro-Mediterranean Human Rights Network Report, which analyses the EU's policies towards Israel and the Palestinians and the manner in which the EU had applied these policies before and during the Operation Cast Lead.
62. **Moufed Mahmoud Shehab**, Minister for Legal and Parliamentary Affairs of Egypt, observed that States had an obligation to act both individually and collectively. The principle of collective responsibility was reflected in various contexts, most importantly in Chapters VI and VII of the Charter of the United Nations. The responsibility of the United Nations Security Council for the maintenance of peace and security was a very specific manifestation of the concept of

collective responsibility. Its second manifestation was in the concept of “common but differentiated responsibility”, applied in international trade and environmental law. The third example was international human rights law; in particular, the interest by the public in human rights situations all over the world showed that human rights were no longer considered as an internal matter. However, these three manifestations and applications of the principle of collective responsibility also demonstrated the limits of the principle, which was best judged by its follow-up mechanisms.

63. The Middle East was a model of the failure of international collective responsibility in the area of application of international humanitarian law. The High Contracting Parties of the Geneva Convention were responsible for ensuring that international humanitarian law was respected by everyone. The excesses by the Israeli side were obvious, as various reports had shown, including the one of the Special Rapporteur of the Human Rights Council. The fact that there was no follow-up by the international community to the breaches of international humanitarian law demonstrated the extent of the failure.

64. Mr. Shehab saw four possible options for action. First, international mechanisms for the protection of human rights should be strengthened to include the respect of the rights of civilians in times of armed conflicts. Second, human rights mechanisms available in the United Nations system should be free of politicization which is inherent in all intergovernmental actions. Third, lessons should be drawn from the practice of the Human Rights Council during its first years. Finally, if the international community was at present not able to assume its judicial responsibilities, be it collective or individual, it should at least establish a register of damages caused by the violations of international humanitarian law, giving the chance for justice to be achieved in the future.

65. In conclusion, Mr. Shehab said that reforms necessary to strengthen international mechanisms in the area of humanitarian and human rights law would improve the application of the principle of collective responsibility of States. Similarly, any progress in the more global and strategic reform of the United Nations in general, and of the Security Council in particular, would also go a long way towards the achievement of that goal.

66. **Mark Brailsford**, Senior Protection Coordinator at UNRWA, focused on the mandate and role of UNRWA in the protection of the rights of Palestine refugees. He said that the upcoming 60th anniversary of UNRWA’s existence was not a cause for celebration but rather a testimony to the elusiveness of a just and lasting solution to the question of Palestine refugees and the situation of the Palestinian people as a whole.

67. UNRWA’s mandate for protection of the rights of Palestine refugees derived from General Assembly resolutions. The first component of protection concerned the rights of Palestinians to a just and durable solution to their plight. UNRWA’s role was to highlight the urgent need for such a solution and to help ensure that in its elaboration, the rights, views and interests of the refugees were safeguarded. The second component, international protection, covered protection for which the primary responsibility lay with the host Government, the Occupying Power. In this regard, UNRWA worked to promote respect for the rights of Palestine refugees through monitoring, reporting and intervening, while the international community also bore the duty to defend and enforce international law. The third component involved the delivery of UNRWA services in a manner that promoted the rights of beneficiaries and ensured their security and safety as well as that of UNRWA staff, while the fourth component referred to UNRWA’s analysis and incorporation of protection needs in all stages of its programme management cycle. Mr. Brailsford pointed out that UNRWA was a direct provider of essential public services and required the support of donors to carry out its work.

68. Turning to the situation in Gaza, Mr. Brailsford said that Gazans continued to suffer the consequences of Israeli military operation, and added that questions on accountability for violations of international humanitarian law, committed during the conflict, continued to be raised. An estimated 1,400 Palestinians had been killed, including more than 300 children. Thirteen Israelis had been killed in combat or as a result of rocket and mortar fire. During the conflict, UNRWA had staff worked around the clock to provide direct protection to civilians. One person working for UNRWA had been killed while on duty, while 15 other had been injured. The main UNRWA warehouse had been destroyed by fire after being hit by munitions, including white phosphorus.

69. UNRWA had repeatedly called for a lifting of the blockade on Gaza, which remained the main impediment to restoring a semblance of normal life. However, Mr. Brailsford said that even with a complete lifting of the blockade, it would take Gaza’s economy years to recover.

70. In the ensuing discussion, a participant said the international law should be the driving force in the resolution of the Israeli-Palestinian conflict. He asked the panellists what recourse the Palestinian people had if the international community was unable or unwilling to stop the atrocities; whether the need for protection of the Palestinian people was, in their view, detracting the attention of the international community from a perhaps more important issue, which was the right of the Palestinian people to an end of the occupation; and finally, whether the concept of “responsibility to protect” could gain any credibility at all as long as there was such a huge gap in relation to the protection of the Palestinian people. Another participant thought it was disheartening to see that, after so many years, the question of Palestine had not been resolved and was still on the agenda of the United Nations, and asked whether the experts saw a certain trend to turn the issue into a mere humanitarian problem. A representative of a non-governmental organization asked the experts for their views on the use of certain types of non-conventional weapons, and whether universal jurisdiction could be reversed by a country once it had been introduced.

71. On the question of universal jurisdiction, **Mr. Dugard** responded that the Geneva Convention obliged States to prosecute anyone that had committed a war crime. However, this was never implemented, although it was part of the law of most countries. Mr. Dugard also said that the international community lacked the will to enforce international law. The United Nations Secretary-General had mandated an inquiry on the damage to the United Nations compound during the Gaza conflict; however, the report had been only partially released, which showed that the international community lacked the will to do something about it. **Mr. Hammerstein** said one could not celebrate 60 years of UNRWA; only its hard work could be celebrated. The fact that UNRWA still existed was a sign of the world’s failure. He said that the brunt of the occupation should be on Israel and the international community should change its strategy and stop subsidizing the occupation. **Mr. Shamas** said that the absence of political will existed because the world relied on a system of international law, designed to accommodate the will of the strong against that of the weak. Powerful actors would have to re-evaluate their interests and the law should be used in such a way as to impose costs on the Governments when they were not doing enough to implement it. In **Ms. Tocci’s** view, the international community had given priority to the peace process that should lead to the establishment of the Palestinian State, at the expense of international law, a tendency that should be reversed. On the question of the use of illegal weapons, **Mr. Brailsford** said that UNRWA had drawn attention to it and there were a number of investigative missions, which would hopefully receive follow-up.

72. In the second round of questions, a participant asked about the follow-up to the report by the Independent Fact-Finding Committee on Gaza of the League of Arab States. He noted that Malta, as well as numerous other countries, had recognized Palestine as a State, and asked whether PAM had done the same. A representative of a small coalition of non-governmental organizations wondered why “balanced evidence” had to appear in UN documents, despite the reality of the one-sided facts on the ground. **Ms. Bennis** commented on the fact that the report of the Board of Inquiry on attacks on United Nations compounds, mandated by the UN Secretary-General, had not been released in its entirety, and observed that the General Assembly should have the legal power to request the release of the report.

73. In the second round of answers, **Mr. Dugard** said that international humanitarian law applied to both State and non-State actors. Thus, Palestinian fighters firing rockets into Israel were also committing crimes. On the same issue, **Mr. Quigley** added that the right to resistance had to be exercised within the confines of international humanitarian law. **Mr. Galand** noted that since the conflict, there had been a number of reports all of which were reaching the same kind of conclusions. It would be a disaster if nobody would act on them. He hoped that the League of Arab States would raise the issue at the forthcoming General Assembly. **Ms. Gowlan-Debbas** noted that there were many ways of making Israel abide by international law, including by insisting on reparations; invoking the Convention on Privileges and Immunities, etc.

## **The role of parliaments and civil society in advocating adherence to international humanitarian and human rights law**

74. The speakers in Plenary III addressed the following sub-themes: parliaments and international law; responsibility of the media; and civil society organizations – making a difference through monitoring, witnessing, reporting.

75. **Phyllis Starkey**, Labour Member of the British Parliament, said that her interest in the question of Palestine had started soon after her election, when she had travelled to the region as part of a parliamentary delegation. It was important for parliamentarians to visit the region, as it allowed them to get a real impression of the situation on the ground.

76. Ms. Starkey then looked at ways in which a British Member of Parliament could influence the Government's policies. She noted that foreign policy issues did not necessarily have a high profile in the Parliament, as there were many competing international issues, and domestic issues dominated. However, by questioning the Foreign Secretary in oral questions, provoking debates on specific issues and pushing for urgent statements in response to events on the ground, Members of Parliament could keep the issue at the top of the agenda. More informally, there were multiple opportunities for Members of Parliament to lobby and influence ministers, which could then lead to a change of policy. The very different response of the British Government to the Israeli invasion of Gaza, compared with the response to the earlier invasion of Lebanon, was an example of that.

77. Another tool was to scrutinize Government actions through, for example, the control of sales of arms from Britain to other countries; the arrest of individuals suspected of war crimes; and the clear labelling of goods imported from Israeli settlements. Settlement properties were offered for sale in Britain and the pressure by Members of Parliament had resulted in the potential buyers now being warned that those properties had doubtful legal title. Also highlighted was the fact that the EU-Israel Trade Agreement included a human rights clause. Members of Parliament had repeatedly pointed to the human rights abuses and called for a more effective action. Most recently, there had been calls for the agreement to be suspended until Israel cooperated with the United Nations Human Rights Council investigation, led by Judge Goldstone.

78. **Yizhar Be'er**, Executive Director of Keshev, The Center for the Protection of Democracy in Israel, spoke about Keshev's analysis of the media coverage during the Gaza conflict by Israel's three highest circulation newspapers and three most popular nightly news broadcasts. The analysis showed that the media overly relied on Government reports of military actions, lacking healthy scepticism and failing to independently verify IDF accounts. Additionally, examination of the gap between the reporting and editorial phases of the news-making process demonstrated that the editorial stage systematically misrepresented the work of reporters. This negligent journalism provided media consumers with a distorted understanding of the suffering endured by Palestinian civilians.

79. The shortcomings of the media were manifested in the inferior coverage of harm to Palestinians, as illustrated in two case-studies: the reporting on the IDF's bombing of a truck supposedly transporting Hamas missiles; and IDF air strikes on the UNRWA school allegedly in retaliation for shots on IDF soldiers from the school. On the whole, the media hewed to the IDF's official line that both strikes had been on Hamas targets. However, it later surfaced that both attacks, which had resulted in dozens of deaths, had been carried out on entirely civilian populations, a fact little noted by the media after the truth was revealed.

80. Mr. Be'er summed up that overall, the Israeli TV and print media had abandoned its responsibility to investigate and accurately convey the events during the war and their ramifications to the public. The Center for the Protection of Democracy in Israel was trying to demonstrate to the Israeli media how less biased reporting was possible.

81. **Phyllis Bennis**, Co-Chair of the International Coordinating Network for Palestine and Director of the New Internationalism Project at the Institute for Policy Studies in Washington, D.C., said that the long-standing tension between the Charter of the United Nations, privileging national sovereignty, and the Universal Declaration of Human Rights, prioritizing human lives and dignity, was now expressed in the concept of the widely debated "responsibility to protect". As opposed to those discarding the concept for its double standards and its application as a tool of the powerful against the weak, Ms. Bennis argued for an approach that would challenge the hypocrisy of the powerful and demand the full implementation of the "responsibility to protect". A case in point that fulfilled all the requirements for this concept to be applied was the long-standing Israeli occupation of the Palestinian land.

82. Ms. Bennis then proposed a ten-step process of such application, which would start with a political agreement by a group of countries in the Security Council on the necessity of a new United Nations-centred diplomatic framework for ending Israel's occupation and providing protection for the occupied population in the meantime. That group would introduce a resolution in the Security Council, calling for international protection of the Palestinian population, which would result in a veto or a threat to veto by the United States. As a result of Security Council's deadlock, the lead country would bring the issue to the General Assembly, which would, in spite of United States and Israeli opposition, pass the resolution calling for an international protection force to be sent to the Occupied Palestinian Territory with a mandate to protect civilians under the occupation. Although Israel would reject the resolution and refuse to allow the protection force to enter the Occupied Palestinian Territory, the force would nevertheless deploy and remain on the borders, requesting that Israel cooperate with the United Nations. The goal of this process would be to launch a new, United Nations-based diplomatic process, which would bring together all the parties to the conflict and would be based on existing international law, including all relevant United Nations resolutions, the Geneva Convention and human rights covenants.

83. **Nasser Al Laham**, Editor at the Ma'an News Agency Bethlehem, said that the aggression on Gaza was fundamentally different from a classical war. It was characterized by the use of "blind" weapons, namely, artillery, rockets and random bombardment of densely populated residential quarters; unrelenting bombardment with no quiet periods that would allow the civilians to take refuge; the blockade of Gaza from all sides; the intensity of the bombardment and type of weapons used, including booby-trapped toys and dolls and white phosphorus; the Israeli media blackout with respect to news of the war; and the violation of immunity of places such as embassies, United Nations compounds, places of worship and schools. For those participating, the situation was like a computer war game. He added that many Israelis did not trust the United Nations and had only contempt for its efforts.

84. **Gideon Levy**, Columnist for *Ha'aretz* Tel Aviv, said there would be no change in Israeli policies until it began to experience the consequences of the occupation, which could be either in the form of complete bloodshed; strong international pressure; or more modestly, through actions that would start to make Israel feel uncomfortable about the occupation.

85. The Israelis felt very good about themselves, which was a result of the messages diffused through the media and the education system. They were told the Israeli Army was the most moral army in the world, and that the present situation was not the fault of Israel but of the outside world. In response to criticism they would quote anti-Semitism and victimization.

86. Without the collaboration of the Israeli media, the occupation could not have lasted for so long. The media was responsible for demonizing and dehumanizing the Palestinians. There was virtually no State censorship; it was the Israeli media - a free liberal commercial media with almost no pressure from the Government or the Army - that decided on the kind of messages they delivered to the population. The Palestinians and the Israelis did not meet each other any more, and the only Palestinians that young Israelis knew were the suicide bombers they saw on the television. The media was systematically ignoring the events in Gaza and the occupation; glorifying the Israeli Army; and talking about a "war" which in reality was far too disproportionate to be called a war.

87. During the discussion, participants raised questions on the exact outlines of the "responsibility to protect" versus the obligation of States to protect their citizens; the lack of efficacy of the United Nations in dealing with the plight of the Palestinians; and the bias in the Israeli media. A participant noted the lack of a

strong United Nations resolution following the invasion in Gaza, adding that the current balance of power in the United Nations had to change in order to address hypocrisy and make the Organization into a forum to protect the safety of all civilians, not just of some of them. A panellist raised the question of how to make Israel pay the price for the occupation, rather than using the taxpayers' money for the aid to the Palestinians.

88. Responding to questions and comments, **Ms. Starkey** said that the European taxpayer should be made aware that he/she was paying for the occupation and the money was just being poured into a black hole, without moving things forward. However, Europe could not simply cut off the aid and let the Israelis sort out the situation in the Occupied Palestinian Territory: first of all, Israel would not pick up the cost, and second, Europe would just not do so. **Mr. Be'er** said that the media was not biased only in Israel, but also elsewhere, especially in times of crisis. One way of dealing with that was to educate the media consumer to read between the lines. On the "responsibility to protect", **Ms. Bennis** said that the notion that Israelis and Palestinians should negotiate the end of the conflict was a dangerous one; the discourse at the United Nations should rather focus on the fact that this was a fight against the occupation where human rights were being violated. She thought that pressure should be put on Israel in a different way, for instance, through economic, academic and cultural boycott of the Israeli institutions, rather than by denying aid to the Palestinians. She also noted that the discourse was slowly changing and there was reason for optimism. Action was not coming from the United Nations but from the people, from the outside, so that it became necessary for the Governments to do the right thing. **Mr. Levy** said that the only constructive way to help Israel was to criticize it, to help make it change.

89. The Plenary continued with four more speakers presenting on the topic. **Ms. Daphna Golan-Agnon**, Senior Researcher at the Minerva Center for Human Rights, Hebrew University, Jerusalem, said that she had been born in Israel, was raising her children there and had lived through several of the past conflicts. She said it was necessary to rethink the situation in terms of "space" and "time". International law, after more than four decades, had not given much hope that the situation would be resolved. According to international law, there were two sets of rights in the region: one for the Israelis and one for the Palestinians. The Israelis were enjoying their full rights, while the Palestinians were only entitled to very minimal rights provided by international humanitarian law in times of war. She wondered how, after so many decades, one could still talk about a temporary situation. The insistence on the legal language allowed Israel to continue the occupation; Israel had managed to normalize a state of discrimination in the Occupied Palestinian Territory where hundreds of laws were applied to justify the wrong side of things.

90. Turning to the status of the Gaza Strip, Ms. Golan-Agnon said that one should reconsider its status in order to resolve the problem. Gaza was an artificial zone, an embodiment of a prison that was still being controlled by Israel. The international community had to rethink this zone as an open space. Israel could not call itself a democracy as long as Gaza was not a democracy. The second concept that needed rethinking was "time". In particular, it was necessary to talk about the past, to hear the stories of the victims in public forums. Past agreements had not reached any solution, as they were using legal language that people did not understand; and as such, there was a need to rethink the concepts of the "space" and "time", she concluded.

91. **Fatmeh El-Ajou**, Advocate, Adalah – The Legal Centre for Arab Minority Rights in Israel, said that the Israeli media had exercised self-censorship during the military operation in Gaza. Human rights organizations had created a blog in order to provide the Israeli public with the information on the results of the IDF's actions in Gaza, which was not available to the Israeli public through the regular media.

92. During the war in Gaza, petitions had been put forward to the Israeli Supreme Court on the attack on the medical staff in Gaza; and on the damage that had been caused – probably intentionally – to the civilian infrastructure in Gaza. However, the Israeli Supreme Court, which otherwise had a good reputation, due to its involvement in the developments in the Occupied Palestinian Territory, had dismissed all cases brought before it during the military operation in 2009, including the two petitions.

93. The Court was using several legal techniques to dismiss any possibility for accountability of the army, and Gazans were not able to travel to Israel to testify before it. Ms. El-Ajou provided several examples of general and individual cases submitted to the Court over the past years and later dismissed by the Court for various reasons. She noted that even though criminal investigations had been opened when someone was killed, the probes often found that the killing had not been "intentional".

94. **Pierre Galand**, Chairman of the European Coordination of Committees and Associations for Palestine (ECCP), said that Israel was a colonial State with the same colonial contempt for the people it occupied and the neglect of their fundamental rights; a reflection of the French and British imperial vision. Israel was committing only those crimes that the international community was allowing it to commit, which pointed to the active complicity and cowardice of the international community.

95. It was therefore necessary to strengthen the action towards mobilizing public opinion in the Western countries, to put pressure on parliaments and Governments in order to force States and the United Nations to impose sanctions on Israel and recognize Palestine as a sovereign State, based on the 1967 borders, with East Jerusalem as its capital.

96. ECCP's goal was to pursue and strengthen the campaign of active solidarity aiming at the realization of the aspirations of the Palestinian people. This involved, on the one hand, expanding and intensifying its participation in the global campaign for Boycott, Divestment and Sanctions against Israel. On the other hand, ECCP would support, through the work of its national committees, the initiative of the "Russel Tribunal on Palestine", launched in March 2009 in Brussels and aiming to end international complacency, which had allowed Israel to pursue the occupation.

97. **Rania Al-Madi**, Consultant at BADIL Resource Center for Palestinian Residency and Refugee Rights, said that Israel should be held accountable for the crimes it was committing, should accept its responsibilities and fulfill its legal obligations. Palestinians living in Israel were becoming increasingly marginalized and many civil society organizations had funded programmes in the Occupied Palestinian Territory to help them survive under the Occupation. The strong solidarity of the West had, however, weakened since the Oslo Peace Agreement. That movement had to be strengthened and revitalized again.

98. Noting that civil society was playing an important role in achieving justice in the Middle East, Ms. Al-Madi offered some policy recommendations to be implemented until Israel complied with its obligations under international law, such as a general boycott of Israeli services; boycott of Israeli cultural and academic institutions; implementation of an embargo on arms being shipped to Israel; and a suspension of the EU-Israel Association Agreement, among others.

99. In the ensuing discussion, Government and civil society representatives raised a number of issues, including whether the EU had really made a decisive move to end colonialism; whether Hamas had been validly elected and how should the organization be treated; what was being done to increase the voice of dissent inside Israel; and whether Europe was not guilty of encouraging Israel to see itself as part of the EU, instead of making it understand that its future lay in the Middle East. On the issue of the nature and limitations of international law raised in the presentation by Ms. Golan-Agnon, a speaker said that the challenge was in effect to make international law more accessible and more usable, to make it become a political necessity.

100. In responses to the questions, **Mr. Galand** said that the Hamas elections had been legal and conducted in conformity with international rules and that thus, Hamas were fully entitled to govern. It was unacceptable that the EU had told the Palestinians that they had voted for the wrong party. On the usefulness of international law, **Ms. Golan-Agnon** explained that she was questioning the existence of two different systems of rights – one set of rights for the Palestinians and another one for the Israelis – for such a long period of time. On the question of the voices of dissent within Israel, she said that such voices did exist; in particular, there was a growing number of Israelis refusing to serve in the army, and more soldiers committed suicide than were killed in action.

#### IV. Closing session

101. In the closing session, **Saviour Borg**, Rapporteur of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, introduced the concluding statement of the organizers (see annex I), which was taken note of by the Meeting.

102. **Riyad Mansour**, Permanent Observer of Palestine to the United Nations in New York, said that all present at the Meeting were fighting on different fronts to reach the same goal: to end the Israeli occupation and create a sovereign Palestinian State. The Meeting debated very complicated issues where legal and political aspects were intertwined. As a realistic political practitioner, he was trying to make sense out of them to draft a programme that would bring the cause of the Palestinians forward. Business as usual was not acceptable any more after what had happened in Gaza earlier in the year. The issue had to be addressed in a different way and various platforms had to be used to make Israel end the occupation. The election of the new United States President, Barack Obama, was a historic moment which had generated a lot of hope, and this opportunity had to be seized.

103. Mr. Mansour said that the international conference in Annapolis had not succeeded due to the obstacles put in place by Israel, in particular its refusal to abide by the Road Map. Following the conference, Israel had even increased the settlement activity and the number of checkpoints, which indicated a lack of interest in peace with the Palestinians. Those obstacles had to be overcome. There was no such thing as natural growth, Mr. Mansour pointed out; there was only an illegal resettlement of people from Israel to the Occupied Palestinian Territory.

104. On the lifting of the blockade of Gaza and the beginning of the reconstruction, Mr. Mansour had not seen any progress since the end of the military operation seven months earlier. All should support the suggestion of the United Nations Secretary-General that projects from before the blockade – for which the funding had been available for some time – had to begin.

105. Mr. Mansour noted that, for the first time in the history of Israel, investigations into its actions were carried out and it became obvious that Israel had to be held accountable for its violations of human rights and humanitarian law. Pressure should continue to be put on Israel to comply with its obligations. In that connection, Mr. Mansour said that the Committee had met with representatives of the Foreign Ministry of Switzerland the previous day to discuss the possibility of convening a conference of the High Contracting Parties of the Fourth Geneva Convention. The Palestinians, the EU and other countries had many tools at their disposal to hold Israel accountable and the practical process of ending the occupation had to begin. Mr. Mansour also said that Israeli settlers should be considered as individuals breaking international humanitarian law, and proposed the imposition of travel sanctions on them.

106. **Paul Badji**, Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, offered some concluding observations. He said that the speakers during the two-day Meeting had shared legal analysis of the situation in the Occupied Palestinian Territory, particularly with regard to Gaza during Operation Cast Lead, and examined what was required as a response by the international community at the national, regional and global levels. The speakers had reaffirmed the primacy of international law, as they mapped out viable options for individual and collective actions by Governments, parliamentarians, intergovernmental organizations, the United Nations, civil society as well as the media in order to uphold international humanitarian law, and explored the opportunities to strengthen adherence to international humanitarian law and strategies for mobilizing and uniting forces to ensure its respect and implementation in the Occupied Palestinian Territory.

107. The picture of what had transpired in Gaza was grimmer than expected, and the brutality of the Gaza offensive and its cost in human lives and other types of destruction was unprecedented. The perpetrators of grave violations of international humanitarian law and international crimes should be held accountable for their actions. One of the most important challenges was the complete denial by the Israeli authorities that any wrongdoing had been committed, and its intransigence as regards cooperation with investigations.

108. The focus on Gaza, however, should not divert the attention from the serious situation in the West Bank, including East Jerusalem, with regard to respect for international humanitarian law. It was furthermore important not to lose sight of the historic ruling by the International Court of Justice on the building of the wall in Occupied Palestinian Territory, as well as its pronouncement on the illegality of building settlements on the occupied land, which had so far remained a dead letter.

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#### Annex I

##### Concluding statement of the organizers

1. The United Nations International Meeting on the Question of Palestine was held on 22 and 23 July 2009, at the United Nations Office at Geneva, under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The theme of the Meeting was “Responsibility of the international community to uphold international humanitarian law to ensure the protection of civilians in the Occupied Palestinian Territory in the wake of the war in Gaza”. Participants in the Meeting included internationally renowned legal and other experts, including Israelis and Palestinians, representatives of the United Nations, Members and Observers, parliamentarians and representatives of parliamentary organizations, representatives of the United Nations system and other intergovernmental organizations, the academic community, representatives of civil society organizations, as well as the media.

2. The Meeting was held against the backdrop of a series of disturbing developments, principal among which was the military offensive of the Israel Defense Forces in the Gaza Strip in December 2008 and January 2009, which gave rise to serious allegations of violations of international humanitarian law. It also took place subsequent to the Sharm el-Sheikh Summit held in March 2009 in order to raise funds for the reconstruction of Gaza after Operation Cast Lead, the election of Mr. Benjamin Netanyahu as Prime Minister of Israel in February 2009, a complete standstill in the peace negotiations, as well as continued internal Palestinian divisions blocking reconciliation and restoration of national unity in the Occupied Palestinian Territory, including East Jerusalem.

3. The participants urged all actors in the international community to renew their commitment and resolve to uphold international law. They welcomed the firm stance adopted by United States President Barack Obama regarding the need for a complete halt to Israeli settlement activity in the West Bank. Despite the fact that Prime Minister Netanyahu had mentioned the two-State solution for the first time on 14 June 2009, with so many unacceptable conditions attached, the participants found that his statements and those of members of his Cabinet were disquieting in view of the conditions to be met by the Palestinians before the Israeli Government would consider resuming final status negotiations. The participants welcomed the commitment reaffirmed by the leaders of the Non-Aligned Movement at their recent summit in Sharm el-Sheikh expressing strong backing for the achievement by the Palestinian people of their just rights, including an independent State and emphatic solidarity with the Palestinian people’s inalienable rights of self-determination, return of refugees and a viable state with East Jerusalem as its capital.

4. The participants expressed serious concern at the continued settlement activities in the West Bank including in and around East Jerusalem, in contravention of Israeli obligations under the Road Map. They were disturbed in particular about the recent developments in East Jerusalem, including the increase in the number of house demolitions. The participants recalled that five years had elapsed since the International Court of Justice had issued its landmark advisory opinion on 9 July 2004 confirming the illegality of building the wall in the West Bank and the illegality of building settlements in the Occupied Territory. They deplored the fact that this historic ruling by the international community's highest judicial organ had largely remained a dead letter and that the Israeli Government has continued the construction of the wall in defiance of the advisory opinion and in violation of the Fourth Geneva Convention and United Nations resolutions. The International Court of Justice ruling implies that the wall cannot be viewed by Israel as a permanent political boundary, thus predetermining final status negotiations.
5. The participants concluded that the resolution of the conflict through direct negotiations should be firmly based on the principles of international law and would result in the goal of two States – an independent, viable, democratic and territorially contiguous Palestine, living side by side in peace and security with Israel. They were all the more disturbed by accounts of serious violations of international humanitarian law, including possible international crimes and war crimes, committed by Israeli troops during Operation Cast Lead in the Gaza Strip. Equally disquieting was the virtually complete denial by Israel of breaking the rules governing the conduct of war, including the use of illegal weapons and excessive force disproportionate to any threat that may have been faced by the army in densely populated areas. The participants deplored the lack of cooperation by Israel with many of the investigations into its conduct of hostilities in the wake of the Gaza offensive.
6. The participants were particularly dismayed by the fact that Israel had maintained a tight blockade of the Gaza Strip after Operation Cast Lead and the massive destruction of property and infrastructure which had taken place. This had resulted in all but a trickle of the most indispensable humanitarian relief aid which had exacerbated the already dire socio-economic situation and kept the population barely one step ahead of starvation. Virtually no material for rehabilitation and reconstruction had been permitted to enter thus far. Patients affected by serious illnesses or needing urgent medical interventions outside the Gaza Strip had continued to suffer and die for lack of permits to leave Gaza. In the West Bank, the closure regime associated with the construction of the wall, the permit system as well as checkpoints had all continued unabated and had severely restricted freedom of movement in the territory. The participants stressed that urgent attention by the international community was needed to redress this dismal and unacceptable situation.
7. The participants expressed serious concern that Israel was not abiding by its obligations under the Fourth Geneva Convention to provide protection to the civilian population under its occupation. The applicability of the Convention to the Occupied Palestinian Territory, including East Jerusalem, had been repeatedly confirmed by the Conference of the High Contracting Parties, as well as by the United Nations General Assembly, the United Nations Security Council and the International Court of Justice. The participants recalled that the Fourth Geneva Convention, as an instrument of international humanitarian law, was applicable, regardless of the national legislation of Israel, which was a High Contracting Party to the Convention. They encouraged principled action by the international community to ensure respect of and adherence to norms of international humanitarian law. In particular, they appealed to all the High Contracting Parties to the Fourth Geneva Convention to fulfil their obligations in accordance with common article 1, which requires the High Contracting Parties to respect and to ensure respect for the Convention in all circumstances. They expressed their hope that the High Contracting Parties would take, individually or collectively, the measures they deemed appropriate to ensure respect of the Convention, including the convening of a High Contracting Parties conference to address the subject of respect and ensuring respect for the Conventions in all circumstances.
8. In view of the gravity of these developments, the participants reaffirmed that the principal tool to redress the situation and uphold justice was respect for international law as embodied in international legal instruments such as the Fourth Geneva Convention, the International Court of Justice advisory opinion and relevant United Nations resolutions. It was only by respecting and ensuring respect for international law, including international humanitarian and human rights law, that the international legal system could fulfil its purpose. International justice could only be restored through the commitment of all actors in the international community to ensure accountability for breaches of international humanitarian and human rights law and put an end to impunity. Perpetrators of serious crimes had to be brought to justice and held accountable for their actions. In that connection, the participants called for the implementation of the recommendations of all UN investigations conducted by different commissions. One way to support that was to ensure the understanding of the public at large through information and explanation. Participants agreed that no State should be allowed to deem itself above the law. Only respect for international law would allow for the resumption of a genuine dialogue with a view to resolving the Israeli-Palestinian conflict.
9. The participants called upon all Governments to live up to their legal commitments entered into by ratifying the Geneva Conventions and other legal instruments and to apply them to the realization of their political goals, namely, the implementation of the international consensus on the two-State solution. They urged regional organizations to respect their own guidelines on promoting compliance with international humanitarian law and the human rights clauses of the agreements that they had concluded. The participants called upon parliamentarians to incorporate into their national legislation laws allowing for the prosecution of serious violations of international humanitarian law and encouraged their umbrella organizations to promote the acceptance of universal standards. Civil society organizations should enhance their advocacy of adherence to international law in relation to the Occupied Palestinian Territory. They called upon the media to inform the public about the situation and heighten their awareness of issues relating to international law.
10. The participants reaffirmed the permanent responsibility of the United Nations with respect to all the aspects of the question of Palestine, until it was resolved in conformity with relevant United Nations resolutions and norms of international law, and until the inalienable rights of the Palestinian people were fully realized. The participants expressed their appreciation to the Committee for convening the timely Meeting. They expressed the hope that the unprecedented level of mobilization and the results of the investigations into the events in Gaza would result in bringing to justice alleged perpetrators of war crimes on either side.
11. The participants welcomed the announcement that the Committee and the Parliamentary Assembly of the Mediterranean would jointly convene, in early 2010 in Malta, a meeting on the status of Jerusalem.
12. The participants also expressed gratitude to the United Nations Secretary-General for his continued commitment to and support for the work of the Committee, and to the Director-General of the United Nations Office at Geneva for hosting the Meeting and for the assistance and support extended to the Committee and the United Nations Secretariat in its preparation.

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## Speakers

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Phyllis Starkey  
Labour Member of the British Parliament for Milton Keynes  
South West, London

Nathalie Tocci  
Senior Fellow, Istituto Affari Internazionali  
Rome

Bill Van Esveld  
Researcher, Middle East and North Africa Division  
Human Rights Watch  
Tel Aviv

George Vella  
Chairman of the Ad Hoc Committee on the Middle East  
Parliamentary Assembly of the Mediterranean  
Valetta, Malta  
Ran Yaron  
Director, Occupied Palestinian Territories Department  
Physicians for Human Rights – Israel  
Tel Aviv

**Delegation of the Committee on the Exercise of the  
Inalienable Rights of the Palestinian People**

Paul Badji  
Permanent Representative of Senegal to the United Nations  
Chairman of the Committee

Zahir Tanin  
Permanent Representative of Afghanistan to the United Nations  
Vice-Chairman of the Committee

Saviour F. Borg  
Permanent Representative of Malta to the United Nations  
Rapporteur of the Committee

Riyad Mansour  
Permanent Observer of Palestine to the United Nations

**Representative of the Secretary-General of the United Nations**

Sergei Ordzhonikidze  
Under-Secretary-General, Director-General of the  
United Nations Office at Geneva

**Governments**

Afghanistan, Algeria, Angola, Argentina, Azerbaijan, Belarus, Belgium, Bolivia, Bosnia-Herzegovina, Brazil, Burkina Faso, Burundi, Cambodia, Chad, China, Congo, Cyprus, Czech Republic, Ecuador, Egypt, France, Guatemala, Haiti, Iceland, Indonesia, Iraq, Italy, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Malaysia, Malta, Mexico, Monaco, Morocco, Namibia, Netherlands, Oman, Pakistan, Panama, Peru, Qatar, Romania, Russian Federation, Saudi Arabia, Senegal, Serbia, Singapore, Slovenia, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Viet Nam, Yemen

**Non-member State having received a standing invitation to participate as observer  
in the sessions and the work of the General Assembly and maintaining  
permanent observer mission at Headquarters**

Holy See

**Entities having received a standing invitation to participate as observers in the sessions  
and the work of the General Assembly and maintaining  
permanent observer missions at Headquarters**

Palestine

**Intergovernmental organizations**

African Union  
Arab Parliament  
European Commission  
International Humanitarian Fact-Finding Commission  
League of Arab States  
Organization of the Islamic Conference  
Parliamentary Assembly of the Mediterranean

**Other entities having received a standing invitation to participate as observers  
in the sessions and the work of the General Assembly and maintaining  
permanent offices at Headquarters**

International Committee of the Red Cross

**United Nations organs, agencies and bodies**

Office of the High Commissioner for Human Rights  
United Nations Conference on Trade and Development  
United Nations Educational, Scientific and Cultural Organization  
United Nations Environment Programme  
United Nations Population Fund  
United Nations Human Settlements Programme  
United Nations Relief and Works Agency for Palestine Refugees in the Near East  
World Food Programme

**Civil society organizations**

Action for Peace Italy, Milan  
Association France Palestine Solidarité, Paris  
Adalah – The League Centre for Arab Minority Rights in Israel, Haifa  
Alternative Tourism Group, Beit Sahour  
Arab Commission for Human Rights, Geneva  
BADIL Resource Center for Palestinian Residency and Refugee Rights, Geneva  
Centre Europe-Tiers Monde, Geneva  
Collectif Urgence Palestine UD, Lausanne  
Comité pour une Paix Juste au Proche-Orient, Luxembourg  
Early Childhood Resource Center, Jerusalem  
European Coordination of Committees and Associations for Palestine, Brussels  
Fédération Internationale des Ligues des Droits de l'Homme, Geneva  
Forum Nord Sud, Brussels  
Fundació Internacional Olof Palme, Barcelona  
German Palestinian Association, Berlin  
Greek Committee for International Democratic Solidarity, Athens  
Groupe pour une Suisse sans Armée, Geneva  
Human Rights Watch, Tel Aviv  
International Coordinating Network for Palestine, Washington, D.C.  
Ireland Palestine Solidarity Campaign, Dublin  
Ittijah – Union of Arab Community-based Associations, Haifa  
Keshev – The Center for the Protection of Democracy in Israel, Haifa  
MATTIN Group, Ramallah  
Neda Institute for Scientific Political Research, Tehran  
NGO Development Center, Jerusalem  
Palestinian Return Centre, London  
Palestine Solidarity Campaign, London  
Palestinians Without Frontiers, Gaza  
Palestinian Youth Network, Gaza  
Physicians for Human Rights – Israel, Tel Aviv  
Solidarités, Geneva  
The All-Ukrainian Party of Peace and Unity, Kyiv  
Union of Arab Jurists, Geneva  
United Nations Watch, Geneva  
Women's International League for Peace and Freedom, Geneva  
World Council of Churches, Geneva

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