



DIVISION FOR
PALESTINIAN RIGHTS

Bulletin

on action by the United Nations system and
intergovernmental organizations
relevant to the question of Palestine

March 2016
Volume XXXIX, Bulletin No. 3

Contents

	<i>Page</i>
I. UN High Commissioner for Human Rights submits report on situation in Palestine and other occupied Arab territories	1
II. UN Special Coordinator condemns attacks in Israel and Jerusalem	25
III. UN Palestinian Rights Committee Chair's summary on a roundtable on Legal Aspects of the Question of Palestine	26
IV. UN Coordinator for Humanitarian Assistance and Development Aid for the Occupied Palestinian Territory condemns arson attack in the occupied West Bank	28
V. UN Human Rights Council adopts four resolutions on the Human Rights Situation in Palestine and Other Occupied Territories	29

Contents (cont'd)

VI.	UN Special Coordinator briefs the Security Council on the situation in the Middle East, including the Palestinian Question	35
VII.	UN Special Coordinator condemns extra-judicial execution of a Palestinian	38
VIII.	UN Secretary-General meets with the President of the State of Palestine	38
IX.	UN Coordinator for Humanitarian and Development Activities for the Occupied Palestinian Territory visits Palestinian community of Khirbet	39
X.	UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions expresses outrage at the killing of a Palestinian man by an Israeli soldier	40
XI.	Quartet envoys meet in Jerusalem	41
XII.	World Bank issues report on the Palestinian mobile sector	41

*The Bulletin can be found in the United Nations Information System
on the Question of Palestine (UNISPAL) on the Internet at:
<http://unispal.un.org>*

Disclaimer:

The texts cited in this Monthly Bulletin have been reproduced in their original form. The Division for Palestinian Rights is consequently not responsible for the views, positions or discrepancies contained in these texts.

I. UN HIGH COMMISSIONER FOR HUMAN RIGHTS SUBMITS REPORT ON SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES

On 7 March 2016, at the thirty-first session of the Human Rights Council, under agenda item “Human rights situation in Palestine and other occupied Arab territories”, the United Nations High Commissioner for Human Rights submitted to the General Assembly his report on the implementation of Human Rights Council resolutions S-9/1 and S-12/1. The text of the report is reproduced below ([A/HRC/31/40/Add.1](#)):

I. Introduction

1. In its resolution [29/25](#), the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to present at its thirty-first session, as part of the reporting requested by the Human Rights Council in its resolutions [S-9/1](#) and [S-12/1](#), a report on the implementation of the resolution in question and of the recommendations contained in the reports of the independent commission of inquiry on the Gaza conflict 2014 (Commission) ([A/HRC/28/79](#)) and of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict (Mission) ([A/HRC/12/48](#)).

2. The present report reflects information which OHCHR requested and received from States, organizations and other entities to which the Mission and the Commission addressed recommendations, as well as information gathered by the United Nations. The report should be read in conjunction with previous reports of the High Commissioner for Human Rights and the Secretary-General on the implementation of the Mission’s recommendations, including [A/HRC/13/55](#), [A/HRC/15/51](#), [A/HRC/15/52](#), [A/HRC/18/49](#), [A/HRC/21/33](#), [A/HRC/22/35](#) and [A/64/890](#). Some of the issues raised by the Mission and the Commission have been reported in more recent United Nations reports including [A/HRC/28/45](#), [A/HRC/28/80](#), [A/HRC/28/80/Add.1](#), [A/70/354-5/2015/677](#), [A/70/133](#), [A/70/406](#), [A/70/421](#), [S/2015/286](#) and

[A/70/392](#). The report should also be read in conjunction with relevant reports presented at the thirty-first session of the Human Rights Council, including [A/HRC/31/44](#) and [A/HRC/31/40](#).

II. Progress in the implementation of the recommendations of the United Nations Fact-Finding Mission on the 2009 Gaza Conflict and the independent commission of inquiry on the 2014 Gaza conflict

3. On 12 October 2015, OHCHR sent a note verbale to all Permanent Missions of the United Nations in Geneva seeking inputs to the report. It also sent notes verbales to the International Committee of the Red Cross (ICRC), the United Nations Country Team in the Occupied Palestinian Territory (UNCT), the United Nations Environment Programme (UNEP), the United Nations Special Coordinator Office for the Middle East Peace Process (UNSCO), and the United Nations Relief Works Agency for Palestinian Refugees in the Near East (UNRWA). Inputs were also sought from civil society organisations. OHCHR received inputs from UNCT, UNEP, UNRWA, the State of Palestine and some Palestinian and Israeli civil society organizations. No response was received from the Government of Israel.

4. The High Commissioner highlights that recommendations 1968 (c), 1970, 1972 (h) and 1973 (b) of the Mission’s report have either been fully implemented, as

reflected in [A/HRC/21/33](#), has no further updates or are not relevant anymore.

A. Human Rights Council

5. Paragraph 1968 (a) of the Mission's report ([A/HRC/12/48](#)) recommended that the Council endorse its recommendations, take appropriate action to implement them, and continue to review their implementation. In paragraph 3 of resolution [S-12/1](#), the Human Rights Council endorsed the Mission's recommendations and called upon all concerned parties, including United Nations bodies, to ensure their implementation in accordance with their respective mandates. This call was reiterated in resolutions [13/9](#), [15/6](#), [16/32](#), [19/18](#), [22/25](#)¹ and [25/30](#).

6. Through resolution [13/9](#), the Human Rights Council established a committee of independent experts in international humanitarian and human rights laws to monitor and assess domestic legal or other proceedings undertaken by the Government of Israel and the Palestinian side. The assessment was to take into account the independence, effectiveness and genuineness of domestic investigations and proceedings, and their conformity with international standards. The experts presented their reports ([A/HRC/15/50](#) and [A/HRC/16/24](#)) to the Human Rights Council, which called for the implementation of their conclusions in resolution [16/32](#). In its resolution [15/6](#), the Council welcomed that report and renewed and resumed the mandate of the committee. The committee presented its second report to the Council at its sixteenth session

¹ In this resolution, the Human Rights Council did not renew its call to continue specific reporting on the implementation of the recommendations of the Mission. In paragraph 1, it reiterated its recommendation that the General Assembly remain apprised with the matter until satisfied that the recommendations of the Mission's report were implemented.

([A/HRC/16/24](#)). In its resolution [16/32](#), the Council took note of the two reports submitted by the committee and called for the implementation of its conclusions.

7. Paragraph 1968 (b) of the Mission's report ([A/HRC/12/48](#)) recommended that, in view of the gravity of the violations of international human rights and international humanitarian law and possible war crimes and crimes against humanity that it had reported, the Human Rights Council request the Secretary-General to bring the report to the attention of the Security Council under Article 99 of the Charter of the United Nations for the Security Council to consider possible action, according to the Mission's relevant recommendations. At the time of drafting this report, the Human Rights Council had not addressed any request to the Secretary-General to bring the Mission's report to the attention of the Security Council under Article 99 of the Charter.

8. In line with the Mission's recommendation that the Human Rights Council submit the Mission's report to the General Assembly with a request that it should be considered ([A/HRC/12/48](#), paragraph 1968 (d)), as mentioned in the report of the Secretary-General ([A/HRC/18/49](#), paragraph 10) the Council recommended that the General Assembly consider the Mission's report and implement actions referred to in resolution [S-12/1 B](#), [15/6](#) and [16/32](#).² In resolutions [19/18](#), [22/25](#), [25/30](#) and [29/25](#), the Council reiterated its recommendation that the General Assembly remain apprised of the matter. The High Commissioner notes that the Council remains seized of the matter.

² In paragraph 8 of resolution [16/32](#), the Human Rights Council recommended that the General Assembly should submit the report to the Security Council for its consideration and appropriate action, including consideration of referral of the situation in the Occupied Palestinian Territory to the Prosecutor of the International Criminal Court.

9. Paragraph 1968 (e) of the Mission's report ([A/HRC/12/48](#)) recommended that the Council should bring its recommendations to the attention of relevant human rights treaty bodies for them to include, when possible, review of progress in their implementation in accordance with their mandate and procedures. The Mission also called upon the Council to review such progress in the context of the Universal Periodic Review (UPR). As stated in the Secretary-General's report ([A/HRC/13/55](#) para. 14), on 10 December 2009, the Mission's report was transmitted to relevant United Nations treaty bodies. In addition, the recommendations made by states participating in the interactive dialogue during the review of Israel in the Working Group on the Universal Periodic Review in 2013 ([A/HRC/25/15](#)) substantively overlap with the recommendations of the Mission's report. Finally, the information compiled by OHCHR for the second cycle of Israel's UPR referred to the Mission's report ([A/HRC/WG.6/15/ISR/2](#)).

10. Following the presentation of the report of the Commission of Inquiry on Gaza ([A/HRC/29/CRP.4](#)), the Council passed resolution [29/25](#), recalling the report of the Fact-Finding Mission on the Gaza conflict of 2009, and recommending that the General Assembly remain apprised of the matter until it is satisfied that appropriate implementation of the Mission's recommendations had been undertaken at the domestic and international levels.

11. With regard to the Commission's recommendation that the Council ask for a comprehensive review of the implementation of the numerous recommendations addressed to the parties by its own mechanisms, in particular relevant commissions of inquiry and fact-finding missions, and explore mechanisms to ensure their implementation ([A/HRC/29/CRP.4](#)

para 685), the High Commissioner notes that this has only been partly implemented. Instead, the Council requested OHCHR to present a report on the implementation of resolution [29/25](#) and of the recommendations of the Mission and the Commission.

B. Security Council

12. Paragraph 1969 (a) of the Mission's report ([A/HRC/12/48](#)) recommended that the Security Council require the Government of Israel, under Article 40 of the Charter, (i) to take all appropriate steps, within a period of three months, to launch appropriate investigations that are independent and in conformity with international standards, into the serious violations of international humanitarian and international human rights law reported by the Mission and any other serious allegations that might come to its attention; and (ii) to inform the Security Council, within a further period of three months, of actions taken, or in process of being taken, by the Government to inquire into, investigate and prosecute such serious violations.

13. To date, the Security Council has not required that the Government take all appropriate steps to launch appropriate investigations into the serious violations of international humanitarian and international human rights law reported by the Mission. The Security Council has not established a committee such as that detailed by the Mission (see [A/HRC/12/48](#), para. 1969, subparas. (b) — (e)).

C. General Assembly

14. Paragraph 1971 (a) of the Mission's report ([A/HRC/12/48](#)) recommended that the General Assembly request the Security Council to report to it on measures taken to

ensure accountability for serious violations of international humanitarian and international human rights law in relation to the facts in its report and any other relevant facts in the context of the military operations in Gaza, including the implementation of the recommendations. To date, the General Assembly has not made such request to the Security Council. With regard to the adequate and effective implementation of the recommendation, the High Commissioner refers to paragraph 12.

15. The General Assembly has not established an escrow fund as recommended by the Mission ([A/HRC/12/48](#), paragraph 1971 (b)) to pay adequate compensation to Palestinians who have suffered loss and damage as a result of unlawful acts attributable to Israel during the December 2008 — January 2009 military operation and related actions.³ As the right of victims to reparations, including compensation, is crucial to achieve justice and build peace, the High Commissioner recalls the importance of reparations and refers to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

16. Paragraph 1971 (c) of the Mission's report ([A/HRC/12/48](#)) recommended that the General Assembly request the Government of Switzerland to convene a conference of the High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory and to ensure its respect in accordance with its article 1. The steps taken by the Assembly, and subsequently by Switzerland, to implement the recommendation were outlined in a previous progress report of the Secretary-

General ([A/HRC/21/33](#) para. 13). As noted by the Secretary-General ([A/70/133](#), paragraph 25), on 22 July 2014, the Government of Switzerland notified the High Contracting Parties that consultations for a conference would resume. Between 28 July and 3 December 2014, a cross-regional critical mass of High Contracting Parties requested the reconvening of a Conference, which was held in Geneva on 17 December 2014, gathering 128 representatives of High Contracting Parties. The conference was concluded with the adoption by consensus of a ten-point-declaration.⁴

17. Paragraph 1971 (d) of the Mission's report [A/HRC/12/48](#) recommends that the General Assembly promote an urgent discussion on the legality of the use of certain munitions referred to in its report, particularly white phosphorous, flechettes and heavy metal, such as tungsten, and that in such a discussion, the Assembly should draw on, *inter alia*, the expertise of the International Committee of the Red Cross (ICRC). The High Commissioner notes that the issue is currently included in the mandate of the First Committee of the General Assembly related to the "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects", and that this discussion is ongoing.

18. The recommendation also called on the Government of Israel to undertake a moratorium on the use of such weapons in the light of the human suffering and damage they had caused in the Gaza Strip. The Government of Israel has not adopted a moratorium on the use of the weapons listed by the Mission. However, in a report entitled

³ See [A/HRC/21/33](#) para. 12 for more information.

⁴ Conference of the High Contracting Parties, Declaration, 17 December 2014.

“State of Israel, Gaza Operation Investigations: Second Update”, which it published in July 2010, the Government of Israel announced that its policies related to the use of white phosphorous had been reviewed.⁵

D. Government of Israel

19. Paragraph 1972 (a) of the Mission’s report ([A/HRC/12/48](#)) recommended that Israeli authorities should immediately cease the border closures and restrictions on passage through border crossings with the Gaza Strip and allow the passage of goods necessary and sufficient to meet the needs of the population, for the recovery and reconstruction of housing and essential services, and the resumption of meaningful economic activity in the Gaza Strip. The High Commissioner reports that the Government of Israel has continued to impose the blockade of Gaza, preventing the full recovery and enjoyment of human rights, including economic, social and cultural rights of Palestinians in Gaza. The Commission also called for the lift of the blockade on Gaza (paragraph 681 (d) of its report), “immediately and unconditionally”.

20. The High Commissioner notes some improvement regarding movement of Palestinians in and out of Gaza, although the criteria for exit from Gaza through Erez remain very narrow and restricted to specific categories. The monthly average of crossings through Erez Crossing in 2015 doubled compared to 2014.⁶ On 16 February 2015, Israel increased the quotas for permits to exit through Erez for patients requiring medical treatment in Israel — but not deemed a medical emergency — from 80 to 120 per day, and for traders from 400 to 800 per day ([A/70/421](#), para 25). According to

data published by OCHA, the weekly average of truckloads in and out of Gaza in 2015 increased compared to 2014.⁷ However these numbers are still substantially lower than those registered prior to the imposition of the blockade.⁸ The High Commissioner notes that the restrictions placed on entry and exit of people and goods have been eased and strengthened over time, depending on the situation.

21. According to UNRWA, on 11 October 2015, the Israeli Coordination of Government Activities in the Territories unit (COGAT) implemented the decision to remove, for the first time since the imposition of the blockade, aggregate, such as sand, gravel, crushed stone and crushed slag, from the “dual use” list of item banned from entry into Gaza.⁹ The Gaza Reconstruction Mechanism¹⁰ (GRM) has increased entry of construction material, but the pace of reconstruction remains inadequate ([A/70/421](#), para 20). The reconstruction of the first totally destroyed home funded by UNRWA was completed in October 2015.¹¹ Progress in repairing damaged homes has been more significant, including the completion of nearly 12 per cent of severely damaged homes, allowing an estimated 5,000 displaced people to return home.¹² However, approximately 95,000 people whose homes were destroyed or severely damaged are still currently accommodated with host families, in rented apartments, prefabricated units, tents and

⁵ Para to be read in conjunction with section D.

⁶ UN Country Team inputs to OHCHR.

⁷ See OCHA’s Gaza Crossing Activities Database.

⁸ UN OCHA, Protection of Civilians, 3-9 November 2015.

⁹ UNRWA, Gaza Situation Report 115, 22 October 2015.

¹⁰ A temporary agreement between the Government of Palestine and the Government of Israel brokered by the United Nations in September 2014 and launched on 20 October 2014, represents an attempt to ease the crisis and to begin reconstruction.

¹¹ UNRWA, After 70 Days, I Held The New Keys In My Hands, 21 October 2015.

¹² OCHA Humanitarian Bulletin, October 2015, page 5.

makeshift shelters, or in the rubble of their previous homes.¹³ Concerns regarding the lack of reconstruction and recovery in Gaza should be read against the backdrop of the findings of UNCTAD, which found that the military operations of summer 2014 resulted in the grave destruction of essential civilian infrastructure including of water and sewage network. This situation coupled with the high population density and overcrowding are among the factors led UNCTAD to conclude that Gaza will be unliveable by 2020.¹⁴

22. The High Commissioner notes that Israel, notwithstanding the above-mentioned positive steps, has yet to implement fully the recommendations of the Mission and the Commission. The most adequate and effective way to implement the recommendation would be to lift the blockade, in compliance with Security Council resolution [1860](#) (2009), and prioritize the unrestricted import of key building materials, particularly aggregate, iron bars and cement.

23. Paragraph 1972 (b) of the report ([A/HRC/12/48](#)) recommended that Israel cease the restrictions on access to the sea for fishing purposes imposed on the Gaza Strip, and allow such fishing activities within the 20 nautical miles — as provided for in the Oslo Accords — as well as the resumption of agricultural activity within the Gaza Strip, including within areas in the vicinity of the borders with Israel.

24. The High Commissioner notes that such restrictions continue to be imposed. As part of the ceasefire agreement of August

2014, Israel purportedly accepted to expand the fishing area from the previously existing limit of 3 NM to 6 NM from the shore in Gaza.¹⁵ However, according to the Palestinian Centre for Human Rights, in 2015, at least 111 shooting incidents and at least 40 arrests by Israeli naval forces took place against Palestinian fishing boats some of which occurred within the 3 NM limit.¹⁶

According to OCHA, farmers continue to indicate a high perceived risk from undertaking agricultural activities within several hundred metres of the fence separating Gaza and Israel since the hostilities in 2014. In 2015, Al Mezan documented 82 incidents in the access-restricted area along the border with Israel that resulted in the killing of one child and injury of 31 people, including nine children.¹⁷ OHCHR is concerned by means used by Israel to enforce the access-restricted areas at sea and on land in Gaza, which raise serious concerns with regard to its obligations under international human rights and international humanitarian law (see [GA/70/421](#) para 33-38). The High Commissioner notes that Israel has yet to implement fully the Mission's recommendations, and underscores that Israel should fulfil its commitments pursuant to the Oslo Accords and allow unimpeded resumption of fishing and agricultural activity inside the Gaza Strip, abiding with its international legal obligations and with due regard for its legitimate security concerns.

25. Paragraph 1972 (d) of the Mission's report ([A/HRC/12/48](#)) recommended that Israel should allow freedom of movement of

¹³ OCHA, Humanitarian Bulletin, Monthly Report, October 2015, page 6.

¹⁴ UNCTAD, Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory, TDB/62/3, 6 July 2015, paragraph 29.

¹⁵ Gisha, The Gaza Cheat Sheet, last update 18 October 2015.

¹⁶ Palestinian Centre for Human Rights, Israeli Attacks on Fishermen in the Gaza Sea, 8 October 2015.

¹⁷ Al Mezan, Press Release Al Mezan Condemns Israeli Killings and Injury of Palestinian Children in Gaza's Access Restricted Areas, 07 September 2015.

Palestinians within the Occupied Palestinian Territory — within the West Bank, including East Jerusalem, between the Gaza Strip and the West Bank, and between the Occupied Palestinian Territory and the outside world — in accordance with international human rights standards and international commitments of Israel and the representatives of the Palestinian people. The Mission also recommended that Israel should forthwith lift travel bans placed on Palestinians by reason of their human rights or political activities.

26. According to the non-governmental organization (NGO) B'Tselem, in April 2015, there were 96 Israeli permanent checkpoints in the West Bank over 60 km of roads forbidden to Palestinian use.¹⁸ On 14 October 2015, following a series of attacks and clashes, the Israeli authorities imposed further movement restrictions on neighbourhoods within East Jerusalem. According to OCHA, as of 5 November 2015, 30 new obstacles to freedom of movement were put in place in East Jerusalem alone.¹⁹ This is in retraction of steps taken earlier in 2015 whereby Israel eased movement in the West Bank, including by allowing entry into Israel of Palestinian men over 55 and women over 50.²⁰ However, by early December 2015, almost all these barriers were removed. With regard to movement between the West Bank and the Gaza Strip see para 20 to 24.²¹

27. Paragraph 1972 (c) of the Mission's report [A/HRC/12/48](#) recommended that Israel should initiate a review of the rules of

¹⁸ B'Tselem, Checkpoints, Physical Obstructions, and Forbidden Roads, 20 May 2015.

¹⁹ OCHA, New Movement Restrictions in East Jerusalem, 05 November 2015.

²⁰ Secretary-General, Report Peaceful Settlement of the question of Palestine, A/70/354-S/2015/677, 1 September 2015, paragraph 36.

²¹ See also A/HRC/28/27 paragraph 7; [A/70/392](#) paragraph 87 (a) and [A/70/406](#), paragraph 88 (d).

engagement, standard operating procedures, open fire regulations and other guidance for military and security personnel with the assistance of the expertise of ICRC, OHCHR and other relevant bodies, and Israeli experts, civil society organizations with the relevant expertise, in order to ensure compliance with international humanitarian law and international human rights law.

28. Similarly, the Commission in paragraphs 679 and 680 of its report ([A/HRC/29/CRP.4](#)) called upon the Government of Israel to conduct a thorough, transparent, objective and credible review of policies governing military operations and of law enforcement activities in the context of the occupation, as defined by political and military decision-makers, to ensure compliance with international humanitarian law and international human rights law, specifically with regard to: (a) the use of explosive weapons with wide-area effects in densely populated areas, including in the vicinity of specifically protected objects; (b) the definition of military objectives; (c) the tactics of targeting residential buildings; (d) the effectiveness of precautionary measures; (e) the protection of civilians in the context of the application of the Hannibal directive; (f) ensuring that the principle of distinction is respected when active neighbourhoods are declared “sterile combat zones”; (g) the use of live ammunition in crowd control situations. The Commission noted that such review should also examine mechanisms for continuous review of respect for international humanitarian law and international human rights law during military operations and in the course of law enforcement activities in the context of the occupation.

29. Certain actions taken by the Government Israel to implement the recommendations of the Mission have been

described in the report of the Committee of Independent Experts (A/HRC/15/50, paragraph 42). In adopting such actions, the Government of Israel has not sought, as suggested by the Mission, the technical assistance of OHCHR.²² The High Commissioner encourages the Government of Israel to avail itself of the expertise of ICRC, OHCHR and other relevant bodies so that it fully complies with international humanitarian law and international human rights law.

30. In September 2014, in response to the Turkel Commission's recommendations²³, the Israel Defense Forces Chief of Staff ordered that a General Staff Mechanism for Fact-Finding Assessments should examine "exceptional incidents" that occurred during the 2014 hostilities.²⁴

31. In May 2015, separately, the Government of Israel released a report entitled "The 2014 Gaza Conflict (7 July — 26 August 2014): Factual and Legal Aspects"²⁵, affirming that its armed forces "employed a multi-faceted system of advanced warning, employed additional precautions" to avoid civilian casualties.²⁶

²² ICRC reports that confidential dialogue with the Israeli and Palestinian authorities on their obligations under IHL and other applicable norms are held. <https://www.icrc.org/eng/assets/files/annual-report/current/icrc-annual-report-israel.pdf>

²³ The Turkel Commission, established to investigate the May 2010 Gaza flotilla raid, was mandated to review Israel's mechanisms for investigating alleged violations of the laws of armed conflict, and made specific recommendations to strengthen those mechanisms.

²⁴ IDF MAG Corps, "Operation Protective Edge: Examinations and Investigation", 10 September 2014. See para 38 for more information on Turkel Commission.

²⁵ The report is a joint product of the Ministry of Justice, the Ministry Foreign Affairs, the Israeli Army's Judge Advocate General and other state bodies including the National Security Council. <http://mfa.gov.il/MFA/PressRoom/2015/Pages/Cabinet-Secretary-Mandelblit-presents-PM-Netanyahu-with-Israel's-Position-on-Operation-Protective-Edge-14-Jun-2015.aspx>

²⁶ Government of Israel, *The 2014 Gaza Conflict (7 July — 26 August 2014): Factual and Legal Aspects*, May 2015,

The report mentioned that the Military Advocate General (MAG), while examining the information collected by the General Staff "mechanism for fact-finding assessments" on the "exceptional incidents" that occurred during the 2014 offensive, could make recommendations to review and improve operational procedures.²⁷

32. The investigations carried out by the Mechanism and reviewed by MAG are steps towards establishing accountability for alleged victims in Gaza. However, the High Commissioner has noted the limited scope of the "mechanism for fact-finding assessments" to "exceptional incidents", and the conflict of interest stemming from the dual role of the MAG office, in advising the military on planning and conducting military operations and investigating allegations of misconduct by Israeli soldiers.²⁸ He notes that international law requires investigations into alleged human rights violations to be carried out by authorities that are separate and in a separate chain of command than those involved in the original operations.

33. At the time of drafting of this report, no information was available on reviews of rules of engagement and operational policies stemming from MAG investigations into the 2014 incidents in Gaza or on the initiatives undertaken by MAG to regulate the use of live ammunition in law enforcement operations, as recommended by the Commission.

34. While the Israeli military's own regulations establish that live ammunition must be used "only under circumstances of real mortal danger", in September 2015 the Israeli Security Cabinet approved the

<http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf> The report was published by the MAG corps

²⁷ Military Advocate General's Corps, *Protective Edge*, available from http://www.law.idf.il/_007-en/Patzar.aspx

²⁸ See A/70/36136, para 52-58

decision that the police are allowed to use of lethal force “when they face danger to any lives²⁹, effectively loosening the rules of engagement for the law enforcement forces. A statement released by the Security-Cabinet said that ‘Until recently police would open fire only when their own lives were in danger. As of now, they will be permitted to open fire — and they will know that they have the right to open fire —when they face danger to any lives.³⁰’ Cases have been documented in which live fire was used by ISF against Palestinians when the lives of members of the Israeli security forces did not appear to be under threat, for instance in the enforcement of the access-restricted areas in Gaza (A/70/421, para. 32).³¹

35. The Commission, in paragraph 681 (a) of its report (A/HRC/29/CRP.4), called upon the Government of Israel to ensure that investigations comply with international human rights standards and that allegations of international crimes, where substantiated, lead to indictments, prosecutions and convictions, with sentences commensurate to the crime. It urged the authorities to take all measures necessary to ensure that such investigations are not confined to individual soldiers, but also encompass members of the political and military establishment, including at the senior level, where appropriate.

²⁹ Government of Israel, Security Cabinet Statement, 24 September 2015, available from <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeJerusalem240915.aspx>.

³⁰ See <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeJerusalem240915.aspx>

³¹ See also, Human Rights Watch, Human Rights Watch Investigator Shot, 11 October 2015, available from <https://www.hrw.org/news/2015/10/11/israel/palestine-human-rights-watch-investigator-shot>; and B’Tselem, Military steps up use of live 0.22 inch bullets against Palestinian stone-throwers, 18 January 2015, available from http://www.btselem.org/press_releases/20150118_use_of_live_ammunition_in_wb

36. In June 2010, the Government of Israel established the Turkel Commission, which was also mandated to assess the compliance of Israeli investigations with international legal standards³². In its report issued in February 2013, the Turkel Commission, among others, suggested the adoption of institutional changes and the appointment of an independent implementation team in charge of monitoring the operationalization of its recommendations. In January 2014, the Government of Israel established the Ciechanover Commission to review and implement the recommendations of the Turkel report. According to the Ministry of Foreign Affairs, several recommendations of the Turkel Commission, as reiterated in the final findings of the Ciechanover Commission, were in course of implementation as of September 2015.³³ As mentioned above, the “mechanism for fact-finding assessment”, established by the Chief of Staff in September 2014, is one of the measures adopted in response to the recommendations of the Turkel Commission (para 32-34).

37. In Paragraph 681 (b) of its report (A/HRC/29/CRP.4) the Commission recommended that the Government of Israel implement all the recommendations contained in the second Turkel report, which dealt with the assessment of the compliance of Israeli investigations with international legal standards, particularly recommendation 2, calling for the enactment of provisions that impose direct criminal

³² Turkel Commission was established in the context of another incident, not directly in response to the Mission’s recommendation, however, that its recommendations addressed issues covered by the Mission’s recommendations.

³³ Israeli Ministry of Foreign Affairs, PM Netanyahu receives second report of Turkel Commission, 21 September 2015, available from <http://mfa.gov.il/MFA/PressRoom/2015/Pages/PM-Netanyahu-receives-second-report-of-Turkel-Commission-21-Sep-2015.aspx>

liability on military commanders and civilian superiors for offenses committed by their subordinates, in line with the doctrine of command responsibility. The High Commissioner notes that no legislation has been adopted to that end. The Ciechanover Commission³⁴ did not issue instructions for the full implementation of the first two recommendations of the Turkel Commission with respect to legislation incorporating international norms and standards into domestic law, including regarding war crimes, and imposing responsibility on military commanders and civilian superiors for offenses committed by their subordinates.³⁵

38. According to Al Mezan, as of July 2015, jointly with the Palestinian Centre for Human Rights, 354 criminal complaints were submitted to MAG and the mechanism for fact-finding assessment. As of 15 November 2015, the two organizations had not received any communication regarding criminal indictments.³⁶ MAG has not published any updates regarding the status of investigations since 11 June 2015. The latest updates stated that MAG had independently opened 15 criminal investigations and other seven out of the 190 exceptional incidents compiled by MAG and submitted to the mechanism for fact-finding assessment. As detailed in the Secretary-

General report (A/70/421, paragraph 53), these investigations have resulted only in one criminal indictment issued for a case of looting. According to NGO Adalah, as of 15 November 2015, they had received no response from MAG regarding criminal indictments for any of the 22 cases they had submitted for independent criminal investigation. Similarly, no progress was recorded with regard to the 1,248 civil complaints submitted by Al Mezan and the Palestinian Centre for Human Rights to Compensation Officer at the Ministry of Defence.³⁷ During 2014, the Military Police Criminal Investigations Division opened 229 investigations of alleged criminal offenses committed by soldiers against Palestinians in the West Bank and the Gaza Strip, which resulted in only eight (3.5 per cent) indictments.³⁸

39. In light of this information, the High Commissioner reiterates serious concerns regarding the lack of accountability related to past cycles of violence and escalation in Gaza and to incidents in the West Bank, including East Jerusalem, and in the access-restricted areas of the Gaza Strip (see A/68/502, paras. 30-34, A/69/347, paras. 52-69, A/HRC/25/40, paras. 50-56 and A/70/36136), paras 60).

40. Paragraph 1972 (e) of the Mission's report (A/HRC/12/48) recommended that Israel release Palestinians detained in Israeli prisons in connection with the occupation; release children as an utmost priority; cease the discriminatory treatment of Palestinian detainees; allow the resumption of family visits for prisoners from Gaza.

³⁴ Yesh Din, The Ciechanover Report — dodging the criminalization of war crimes and practical steps towards implementation, 1 October 2015, <http://www.yesh-din.org/userfiles/Ciechanover%20Eng.pdf>

³⁵ Supra 31, paragraph 23. [Report of the Team for the Review and Implementation of the Second Report of the Public Commission for the Examination of the Maritime Incident of May 31st 2010 Regarding Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Law of Armed Conflict According to International Law, August 2015, available from <http://www.pmo.gov.il/Documents/ReportEng.pdf.1>

³⁶ Al Mezan, Israel's investigations on criminal complaints submitted by Palestinian NGOs in Gaza on behalf of victims of attacks on Gaza in July and August 2014, Briefing Update 15 November 2015, available from http://mezan.org/en/uploads/upload_center/kiWkMhPrYIZx.pdf

³⁷ Ibid.

³⁸ Yesh Din, Law Enforcement on IDF Soldiers Suspected of Harming Palestinians, December 2015, available from http://www.yesh-din.org/userfiles/file/datasheets/Law%20enforcement_IDF_Decmber%202015_English.pdf

41. By the end of October 2015, 5,683 Palestinians were in Israeli prisons and detention centres, including 429 administrative detainees.³⁹ According to the NGO Palestinian Prisoners Club, in October 2015 alone, 1,500 Palestinians were arrested in the West Bank, including East Jerusalem. As of December 2015, 470 Palestinian children were held in Israeli prisons and detention centres.⁴⁰ The High Commissioner notes a number of concerns in relation to the arrest and detention of children, which include cases of night-time arrest; handcuffing; blindfolding; strip-searching; physical and verbal abuse; denial of access to a lawyer or to parents; solitary confinement and the fact that many children are forced to sign confession documents in Hebrew, a language they do not understand (A/HRC/27/78, paragraph 55).

42. Some legislative measures undertaken by the Government of Israel which contradict the Mission's recommendations are also concerning. For instance, on 30 July 2015, the Parliament adopted a law allowing for the force-feeding of prisoners and detainees on hunger strike (A/70/392, paragraph 70), which may amount to cruel, inhuman and degrading treatment.⁴¹ The amendment to the Israeli Penal Code, introduced on 20 July 2015, that increases the maximum sentence for individuals convicted of throwing stones or other objects at vehicles from 10 years to 20 years if the intent to harm the occupants of the vehicle is proven, and up to 10 years when intent to harm the occupants of the

vehicle cannot be established, is of deep concern, and punishments prescribed appear excessive or disproportionate to many instances of throwing stones. Of further concern is the approval, in November 2015, of a bill which, if passed by Knesset, would allow sentences to be imposed on Palestinian children as young as 12.⁴² Furthermore, despite the issuance in late 2014 of new regulations on the exit from Gaza for certain Palestinians,⁴³ including family members of prisoners held in Israeli prisons, the right to family visits remained severely restricted (A/HRC/28/80, para. 37).

43. Paragraph 1972 (f) of the Mission's report (A/HRC/12/48) recommended that Israel should forthwith cease interference with national political processes in the Occupied Palestinian Territory and, as a first step, release all members of the Palestinian Legislative Council in detention, and allow all members of the Council to move between Gaza and the West Bank so that it may resume functioning. This recommendation remains to be implemented. Between early June and mid-August 2014, at the height of the military offensive against Gaza, 27 members of the Palestinian Legislative Council were arrested (See A/HRC/28/80/Add.1, paragraph 14). At the end of October 2015, five Palestinian legislators were still detained in Israeli prisons.⁴⁴ Although movement of Council Members is restricted between the West Bank and Gaza, in some instances members of the Council have travelled into Gaza, for

³⁹ Addameer, Statistics, available from <http://www.addameer.org/statistics>

⁴⁰ Addameer, Special Edition Monthly Newsletter: Events of October 2015, available from http://www.addameer.org/sites/default/files/publications/october_2015_newsletter.pdf

⁴¹ UN experts urge Israel to halt legalization of force-feeding of hunger-strikers in detention, 28 July 2015, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16269&LangID=E#sthash.HQ1qUIpH.dpuf>

⁴² International Center for Transitional Justice, Israel draft law allows jail for Palestinians aged 12, 22 November 2015, available from <https://www.ictj.org/news/israel-draft-law-allows-jail-palestinians-aged-12>; Children below the age of 14 would serve first part of the sentence in youth centers before being sent to prison at age 14.

⁴³ Gisha, One step at a time: Israel revises criteria for exiting Gaza, 26 October 2014, available from <http://gisha.org/updates/3614>.

⁴⁴ Addameer, Special Edition Monthly Newsletter: Events of October 2015, and ICHR, Annual Report 2014, page 15

instance the recent visit of the Prime Minister of the Palestinian Authority⁴⁵.

44. The High Commissioner also notes that for the first quarter of 2015, in retaliation for the Palestinian accession to the International Criminal Court, Israel withheld Palestinian tax revenues,⁴⁶ which compounded already difficult economic conditions for Palestinian public employees caused by inter-factional divisions between Fatah and Hamas.⁴⁷ The action by Israel has been detrimental to delivery of public services and internal political stability.

45. Paragraph 1972 (g) of the Mission's report (A/HRC/12/48) recommended that the Government of Israel cease actions aimed at limiting the expression of criticism by civil society and members of the public concerning its policies and conduct during the military operations in the Gaza Strip, and that it set up an independent inquiry to assess whether the treatment by Israeli judicial authorities of Palestinian and Jewish Israelis expressing dissent in connection with the offensive was discriminatory. The Israeli authorities have not taken any steps to establish such independent inquiry.

46. Since 2009, the Government of Israel has proposed legislative measures to restrict the space for organisations to advocate against illegal policies and laws. In some instances, the Knesset has adopted such measures. In 2011, the Knesset passed the Prevention of Damage to the State of Israel through Boycott Law⁴⁸, which allows civil

claims for damages to call for a boycott against Israel and its products and those produced in the settlements in the West Bank. Parties filing lawsuits do not have to prove that a call to boycott has resulted in actual damages, as courts can order people or organizations calling for a boycott to pay compensation independently of the damages caused. In addition, the law allows the Minister of Finance to revoke the tax-exempt status of NGOs calling for a boycott. Furthermore, companies or organizations participating in a boycott may also be disqualified from applying for Government contracts. Another example of restrictive legislative measure is the "Foreign Government Funding Law" — Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity.⁴⁹ The law imposes discriminatory invasive reporting requirements on NGOs, requiring them to submit and publish quarterly reports on any funding received from foreign governments or publicly-funded foreign donors, but excludes Jewish and Zionist organisations.⁵⁰ In December 2015, the Israeli Government proposed an amendment to this legislation adding further restrictions on organizations receiving foreign funding, including having to wear special tags when addressing the parliament. However, after strong criticism from civil society organizations in Israel and European policy makers, this requirement was abandoned. The bill now includes excessive reporting obligations, raising concerns that the real motivation is to delegitimize and silence NGOs.⁵¹

⁴⁵ See Palestinian PM Hamadallah in Gaza for Talks to resolve Rift with Hamas, 25 March 2015, Haaretz.

⁴⁶ Humanitarian Bulletin Monthly REPORT, January 2015.

⁴⁷ Mohammed Omer, Protesters lock ministers in building as Gaza salaries remain unpaid, Middle East Eye, 14 January 2015; see also Michael Schaeffer Omer-Man, Sending the Palestinians to bed without dinner, +972 Magazine, 21 April 2015, and OCHA, Humanitarian Bulletin, Monthly Report January 2015.

⁴⁸ A/HRC/20/17/Add.2, paragraph 32.

⁴⁹ Adalah, "Foreign Government Funding Law" - Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity, available from <http://www.adalah.org/en/law/view/497>.

⁵⁰ Ibid.

⁵¹ European Lawmakers Urge Netanyahu to Rethink 'Transparency Bill', Haaretz, Wednesday, 17 February 2016

47. Four other draft bills, which were not approved, not further promoted or were frozen at different stages of adoption, could have restricted the space for civil society: The Universal Jurisdiction Bill; the Bill on Income of Public Institutions Receiving Donations from Foreign State Entity (Legislative Amendments); the Bill on Preserving the Values of the State of Israel (NGO Loyalty to a Jewish and Democratic State Bill); and the Bill on Exceptions to the Registration of an Association. Many Israeli organizations have denounced the Government's support to such measures.⁵² The High Commissioner reiterates concerns expressed by a group of Special Rapporteurs about continued reports of human rights defenders being subjected to physical attacks, harassment, arrest and detention, and death threats, particularly in Hebron in the Occupied Palestinian Territory.⁵³

48. Paragraph 1972 (i) of the Mission's report ([A/HRC/12/48](#)) called on the Israeli authorities to reiterate their commitment to respecting the inviolability of United Nations premises and personnel and to take all appropriate measures to ensure that violations are not repeated. It further recommends that reparation to the United Nations should be provided fully and without further delay by Israel, and that the General Assembly should consider this matter. The United Nations has still not received any communication from the Government of Israel reiterating such a commitment, however, Israel is a signatory to the 1946 Convention on Privileges and Immunities of the United Nations, and as such is bound to respect the inviolability of

United Nations premises and personnel. Information on reparations was included in the first progress report of the Secretary-General on the status of implementation of the Mission's recommendations ([A/HRC/13/55](#), para.49-53).⁵⁴ The High Commissioner is concerned that in 2014, during the escalations in Gaza, UN premises were again affected due to violations by Israel.

49. On 10 November 2014, the Secretary-General set up a Board of Inquiry involving United Nations premises⁵⁵ during the 2014 escalation in Gaza to review and investigate specific incidents in which death or injuries occurred at, and/or damage was done to United Nations premises. On 27 April 2015, he released a summary of the Board of Inquiry's confidential report ([S/2015/286](#)), which indicated Israel's responsibility in six out of the 10 incidents investigated.⁵⁶ The Government of Israel continued to engage closely with the United Nations' follow-up to the Board of Inquiry's recommendations. They investigated some of the incidents and have engaged with the United Nations on the ground with a view to improving systems of coordination and communication during hostilities.

50. Paragraph 681 (c) of the Commission's report ([A/HRC/29/CRP.4](#)) called upon the Government of Israel to grant access to Israel and the Occupied Palestinian Territory for, and to cooperate with, international human rights bodies and NGOs concerned with investigating alleged violations of international law by all duty-

⁵² Association for Civil Rights in Israel, What kind of democracy is this?, 20 December 2015; Ha'aretz, Be'er Sheva Court Bars Talk by Left-wing NGO Breaking The Silence, 24 November 2015.

⁵³ Stop unacceptable harassment of human rights defenders in Occupied Palestinian Territory — UN experts, 18 December 2015.

⁵⁴ Also see: [A/HRC/21733](#) para 23

⁵⁵ 118 UNRWA installations (83 schools and ten hospitals) were directly or indirectly damaged as a result of the Israeli military operations. In three incidents involving UNRWA schools, at least 44 persons were killed and some 222 injured.

⁵⁶ The Board of Inquiry confirmed the presence of weaponry belonging to Palestinian armed groups at vacant United Nations premises in three incidents.

bearers and any mechanisms established by the Human Rights Council to follow up on the Commission's report. The Secretary-General stated that Israel's lack of cooperation with the Commission and other United Nations mechanisms remained of serious concern (A/70/421, paragraph 4). However, Israel has cooperated with other United Nations mechanisms such as the treaty body and Universal Periodic Review process. The resignation of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories, in January 2016, highlighted the issue of non-cooperation by Israel with mechanisms established by Human Rights Council.⁵⁷ No mechanism has been established by the Human Rights Council as a follow-up to the Commission's report, but requested OHCHR to follow up on the implementation of recommendations of the Commission and Mission.

51. Paragraph 681 (d) of the Commission's report (A/HRC/29/CRP.4) called on the Government of Israel to address structural issues that fuel the conflict and have a negative impact on a wide range of human rights, including the right to self-determination, in particular: To lift, immediately and unconditionally, the blockade on Gaza; to cease all settlement-related activity, including the transfer of Israel's own population to the occupied territory; and to implement the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory.

52. The High Commissioner notes that this recommendation has not been implemented. In its latest report on Israeli settlements, the Secretary-General notes that

⁵⁷ OHCHR, Special Rapporteur on Occupied Palestinian Territory resigns due to continued lack of access to OPT, 4 January 2016.

Israeli settlement activities continued and remained at the core of many violations of human rights in the Occupied Palestinian Territory, representing also the most serious obstacle to a viable Palestinian state.⁵⁸ The Secretary-General also reported that the construction of the Wall in the West Bank, including East Jerusalem continued and that, despite pending legal proceedings, in August 2015, Israel's Ministry of Defense renewed construction work on the Wall near Beit Jala in the West Bank.⁵⁹ The status of the blockade is described in paragraph 12 of this report.

53. With regard to the Commission's call, under para 681 (e) of its report (A/HRC/29/CRP.4), upon the Government of Israel to accede to the Rome Statute, the High Commissioner notes that the Government of Israel has not acceded to the Statute of the International Criminal Court. However, on 9 July 2015, the Government of Israel announced that it had decided to open a dialogue with the Office of the Prosecutor over the preliminary examination.⁶⁰ This recommendation has not been implemented.

E. The Government of Israel, Palestinian Authorities and the authorities in Gaza

54. Paragraph 676 of the Commission's report called on all duty bearers for the implementation of the recommendations made by previous commission of inquiry, fact finding missions, United Nations treaty bodies, special procedures and other United Nations bodies. In essence this falls outside the scope of the current exercise of providing updates on the status of

⁵⁸ See A/HRC/31/43, para 65

⁵⁹ See A/HRC/31/42, para 16

⁶⁰ Office of the Prosecutor, International Criminal Court, Report on Preliminary Examination Activities (2015), 12 November 2015, paragraph 75, available from <https://www.icc-cpi.int/iccdocs/otp/OTP-PE-rep-2015-Eng.pdf>

implementation of recommendations of the Mission and the Commission. However, the High Commissioner notes that commitment and political will of parties to engage in good faith is key in ensuring the implementation of all recommendation of various mechanisms.

55. In paragraph 677 of its report, the Commission called upon all parties to fully respect international humanitarian law and human rights law; to ensure the right of all victims to an effective remedy, including full reparations, without further delay; and to cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened. In light of the current status of implementation of the recommendations of the Mission and the Commission as reflected in the report, and against the backdrop of violations of international human rights and international humanitarian law that continues to be committed by all parties, the High Commissioner expresses serious concerns about the lack of implementation of the recommendation. Furthermore, with reference to reparation, the limited progress in investigating alleged violations of international law by all parties and in the absence of establishing an escrow fund for victims, no progress has been made in establishing a reparation mechanism. However, Israel reportedly compensated its own citizens for damages caused directly or indirectly by military operations⁶¹. The High Commissioner calls on Israel, as the Occupying Power, to extend such compensation to Palestinian victims of Israeli attacks of the conflict as well.

⁶¹ See the Gaza 2014 Gaza Conflict, 7 July-26 August 2014, para 222. These compensations were paid out of the Tax Authority Compensation Fund, founded in accordance with the Israeli law, under which the Minister of Finance has the discretion to compensate civilians for indirect damages.

56. With regard to cooperation with the International Criminal Court, the High Commissioner notes that on 16 January 2015, the Prosecutor of the International Criminal Court opened a new preliminary examination into the situation in Palestine.⁶² At the time of writing, the preliminary examination was in phase two.⁶³ The State of Palestine has made three submissions to the Prosecutor. On 23 November 2015, four Palestinian organisations delivered a confidential communication to the Prosecutor of the International Criminal Court⁶⁴. The High Commissioner also notes that on 9 July 2015, the Government of Israel announced that it had decided to open a dialogue with the Office over the preliminary examination.⁶⁵

57. In paragraph 678 of its report ([A/HRC/29/CRP.4](#)), the Commission called upon Israelis and Palestinians to demonstrate political leadership by refraining from and taking active steps to prevent statements that dehumanize the other side, incite hatred, and only serve to perpetuate a culture of violence. In the last quarter of 2015, in the face of increased friction between Israeli and Palestinians, Israeli NGOs and media reported an alarming climate of incitement to violence against Palestinians and Israeli civil society organizations. According to Israeli organizations, politicians and senior police officers have failed to act to calm the public climate of incitement and openly called for

⁶² Report of the International Criminal Court on its activities in 2014/15, A/70/350 of 28 August 2015, paragraph 21

⁶³ International Criminal Court, Office of the Prosecutor, Report on Preliminary Examination Activities (2015), 12 November 2015

⁶⁴ Al-Haq, Palestinian Human Rights Organisations Deliver Submission to the International Criminal Court on Alleged Israeli War Crimes and Crimes against Humanity during 2014 Gaza offensive, 23 November 2015

⁶⁵ Office of the Prosecutor, International Criminal Court, Report on Preliminary Examination Activities (2015), 12 November 2015, paragraph 75

the extrajudicial killing of suspects.⁶⁶ The situation has been further aggravated by Israeli policies of punitive house demolitions and of withholding the dead bodies of alleged attackers.⁶⁷ On the other hand, according to reports, some Palestinians used social media to praise and encourage attacks against Israeli civilians.⁶⁸ The High Commissioner urges all parties to take effective measures to end all forms of incitement, including by proactively reacting to incitement to violence and inflammatory statements.

F. Palestinian armed groups

58. Paragraph 1973 (a) of the Mission's report [A/HRC/12/48](#) recommended that Palestinian armed groups undertake forthwith to respect international humanitarian law, in particular by renouncing attacks on Israeli civilians and civilian objects, and take all feasible precautionary measures to avoid harm to Palestinian civilians during hostilities. A similar recommendation was made by the Commission, in paragraph 683 (a) of its report, urging Palestinian armed groups to respect the principles of distinction, proportionality and precaution, including by ending all attacks on Israeli civilians and civilian objects, and stopping all rocket attacks and other actions that may spread

⁶⁶ B'Tselem, Human Rights Organizations in Israel: Politicians' calls to police and soldiers to shoot rather than arrest endorse the killing of Palestinians, 14 October 2015; see also, Yesh Din, Israeli NGOs: shocked by assault against Rabbi Arik Ascherman and authorities' tolerance of incitement directed against Palestinians and human rights advocates, available from <http://www.yesh-din.org/hotspotview.asp?postid=35>

⁶⁷ OHCHR, Press briefing note on Burundi, Israel / Occupied Palestinian Territory, Cuba and High Commissioner speeches, 16 December 2015

⁶⁸ New York Times, Palestinian Anger in Jerusalem and West Bank Gets a Violent Soundtrack, 22 October 2015, available from <http://www.nytimes.com/2015/10/23/world/middleeast/palestinians-israel-stabbings-shootings.html>

terror among the civilian population in Israel.

59. The High Commissioner notes with concern that rocket and mortar attacks against Israel continued to be launched by Palestinian armed groups from Gaza. According to the Israeli Ministry of Foreign Affairs, between September 2014 and 16 December 2015, 26 rockets had landed in Israel.⁶⁹ Rockets have been consistently fired and tested, with varying degree of intensity, since the Mission's recommendation.

60. With regard to measures intended to prevent harm to Palestinian civilians, during the summer of 2014, on three occasions, weapons components were placed in three vacant UNRWA schools in Gaza, in breach of the inviolability of United Nations premises.⁷⁰ Furthermore, some of these weapons used by Palestinian armed groups do not discriminate between civilian objects and military objectives and are therefore contrary to international humanitarian law.

61. The High Commissioner urges Palestinian armed groups to respect international humanitarian law obligations, including by renouncing attacks on Israeli civilians and civilian objects and take all feasible precautionary measures to avoid harm to civilians during hostilities, with a view to ensuring the most adequate and effective implementation of recommendations of the Mission and Commission.

G. The State of Palestine, Palestinian authorities and the authorities in Gaza

⁶⁹ Israeli Ministry of Foreign Affairs, Rocket fire from Gaza and Palestinian ceasefire violations after Operation Cast Lead (Jan 2009), 16 December 2015.

⁷⁰ Based on UNRWA's inputs.

62. Paragraph 1974 (a) of the Mission's report ([A/HRC/12/48](#)) recommended that the Palestinian Authority issue clear instructions to security forces under its command to abide by human rights norms as enshrined in the Palestinian Basic Law and international instruments, ensure prompt and independent investigations of all allegations of serious human rights violations by security forces under its control, and end the resort to military justice to deal with cases involving civilians.

63. The High Commissioner notes that in early 2010, the Palestinian Authority established a four-member Independent Investigation Commission by Presidential Decree to follow up on the implementation of the Mission's recommendations ([A/HRC/15/50](#), para. 65). The Independent Investigation Commission presented its report in August 2010.⁷¹ Subsequently, the Council of Ministers of the Palestinian Authority established a Ministerial Committee, which proposed short-term and long-term strategies, including regarding to the application of military jurisdiction to civilians⁷² and the adoption of the Palestinian criminal code.⁷³ However, the High Commissioner is concerned that some of the violations committed during the 2009 conflict were repeated during the 2014 conflict.

⁷¹ As reported by the Committee of Independent experts ([A/HRC/16/24](#), paragraph 49), the Palestinian Independent Investigation Commission could not effectively investigate rockets attacks from Gaza due to lack of access to evidence in Israel.

⁷² On 17 January 2011, the Palestinian Authority reportedly announced that military courts would no longer try civilians. See Al-Haq, "Palestinian General Intelligence: civilians will be no longer tried in military courts", 17 January 2011. Available from www.alhaq.org/etemplate.php?id=566

⁷³ For more information see, Report of the Committee of independent experts in international humanitarian and human rights law established pursuant to Council resolution 13/9, [A/HRC/16/24](#), paragraphs 51 and 52. The adoption of the Palestinian Criminal Code is still pending.

64. Paragraph 682 (a) of the Commission's report called upon the State of Palestine to ensure that investigations into violations of international humanitarian law and international human rights law, including international crimes, by the Palestinian Authority, the authorities in Gaza and Palestinian armed groups, where substantiated, comply with international human rights standards, and that full accountability is achieved, including through criminal proceedings.

65. On 25 August 2015, the Palestinian Council of Ministers adopted Decision No. 05/65/17/M.O/R.H establishing an Independent National Commission to monitor the implementation of the recommendations of the report of the UN Commission of Inquiry of 2014 addressed to Palestinian authorities. On 6 January 2016, the "investigation" committee sent a letter to OHCHR-OPT and many other Civil Society Organisations in West Bank and Gaza in order to brief them on its establishment and goals. According to the letter, the committee was formed to investigate alleged violations in both West Bank and Gaza strip. The Independent National Commission is required to present its report to the Palestinian President and Cabinet in due course. The High Commissioner calls on the Government of the State of Palestine to expedite the implementation of the recommendation of the UN Commission of Inquiry of 2014. The High Commissioner is concerned about the lack of progress in ensuring accountability.

66. In its report [A/70/421](#) (paragraph 62), the Secretary-General notes that the Gaza Ministry of Interior reportedly established an investigation into the circumstances of the summary executions of alleged collaborators in Gaza during the 2014 hostilities. In January 2015, a Ministry spokesperson said that the executions were

carried out by Palestinian resistance factions. With respect to the detainees, he denied official involvement in the executions claiming that they had escaped from prison and were captured and executed by armed groups close to the fence after they engaged in hostilities. A Hamas statement on 27 May 2015 similarly denied any role in the executions and claimed that the Attorney-General's Office and the Ministry of Interior were continuing with the investigation and would publish the findings upon completion. The High Commissioner has no further updates on this matter. The High Commissioner expresses concerns about the lack of information and at the failure to ensure accountability.

67. Palestinian human rights organizations have referred two cases to the Attorney-General in Gaza of attacks of civilians by armed groups during the summer 2014 hostilities. In one case, the alleged victim sustained serious injuries resulting in the amputation of his legs. The Attorney-General had not responded to the complaints by the end of the reporting period, but had reportedly referred them to the Internal Security Agency.

68. Paragraph 1874 (b) the Mission's report ([A/HRC/12/48](#)) recommended that the Palestinian Authority and the Gaza authorities release without delay all political detainees in their power and refrain from further arrests on political grounds and in violation of international human rights law.

69. The High Commissioner reports that arbitrary detention based on political grounds has continued in the Occupied Palestinian Territory. Palestinian detainees are held without formal charges and denied proper procedures for detention. Detainees are often deprived of visits by their families or lawyers. Such practice affects Hamas affiliates in the West Bank and Fatah

affiliates in the Gaza Strip.⁷⁴ A peak in arbitrary arrests by the Palestinian security forces in the West Bank, resulting in the detention of some 120 people, including some allegedly affiliated to Hamas, was registered by Al-Haq, in July 2015.⁷⁵ In September 2015, media reports stated that 40 people affiliated to Fatah had been arrested in Gaza.⁷⁶ The High Commissioner urges the Palestinian Authority and the authorities in Gaza to promptly release all political detainees and refrain from any such arrests.

70. Paragraph 1974 (c) of the Mission's report ([A/HRC/12/48](#)) recommended that the Palestinian Authority and the Gaza authorities continue to enable the free and independent operation of Palestinian NGOs, including human rights organizations, and of the Palestinian Independent Commission for Human Rights.

71. The High Commissioner notes that the repression of freedom of expression and attacks on civil society organizations have continued in the Occupied Palestinian Territory. In the first half of 2015, the Palestinian Centre for Development & Media Freedoms (MADA) recorded a 103 per cent increase in violations against journalists and media freedoms by Palestinian authorities. 65 incidents were reported in the West Bank and 45 in Gaza.⁷⁷ The High Commissioner also notes with concern the role of the NGO Affairs

⁷⁴ The Independent Commission for Human Rights, The Status of Human Rights in Palestine, Twentieth Annual Report, 14 May 2015, page 17.

⁷⁵ Al-Haq, Al-Haq Demands a Stop to the Campaign of Arrests and Warns Against a Continuing Deterioration of Rights and Freedoms, 06 July 2015; Al Jazeera, Hamas members arrested in West Bank crackdown, 04 July 2015.

⁷⁶ Middle East Monitor, Fatah accuses Hamas of arresting its members in Gaza, 9 September 2015.

⁷⁷ Palestinian Center for Development & Media Freedoms (MADA), Media freedoms Violations in Palestine Semi-annual report 2015;

Committee, established in December 2012 by Presidential decree, and of a special committee set up in August 2014, under the Palestinian Authority Financial and Administrative Control Administration, to monitor and regulate the activities of civil society organizations and the compliance of their internal by-laws with the Palestinian Law on Charitable Societies.⁷⁸

72. In paragraph 683 (b) of its report, the Commission also recommended that the authorities in Gaza and Palestinian armed groups take measures to prevent extrajudicial executions and eradicate torture, cruel, inhuman and degrading treatment; to cooperate with national investigations aimed to bring those responsible for violations of international law to justice; and to combat the stigma faced by families of alleged collaborators. The Palestinian Independent Commission for Human Rights, in its 2014 Annual Report, stated that it had received 1,274 complaints of alleged violations of the right to physical safety (287 complaints referred to cases in the West Bank and 996 to cases in the Gaza Strip)⁷⁹.

73. In paragraph 682 (b) of its report, the Commission called upon the State of Palestine to accelerate efforts to translate the declaration on Palestinian unity into tangible measures on grounds that would enable the Government of National Consensus to ensure the protection of human rights and achieve accountability for victims. The High Commissioner notes that the National Action Plan for Human Rights, drafted with

the assistance of OHCHR, was approved by the Minister of Justice and the Minister of Planning. Its recommendations were incorporated into the final version of the Palestinian national development plan for 2014-16 despite the lack of political progress in achieving full political reconciliation since the establishment of the Government of National Consensus in June 2014. The High Commissioner also notes the reported progress of the Government, working with technical assistance and advice from OHCHR and various United Nations entities, in implementing its obligations under the seven international human rights treaties to protect and promote human rights in Palestine, starting with the drafting of a set of baseline reports for submission to the treaty bodies.

H. International community

74. The Mission recommended that the States parties to the Geneva Conventions relating to the protection of victims of international armed conflicts start criminal investigations in national courts, using universal jurisdiction, where there is sufficient evidence of the commission of grave breaches of the Geneva Conventions of 1949, and where so warranted following investigations, alleged perpetrators should be arrested and prosecuted in accordance with internationally recognized standards of justice ([A/HRC/12/48](#), para 1975 (a)).

75. The High Commissioner notes that, in addition to cases mentioned in Secretary-General's report ([A/HRC/15/51](#), paragraph 62), two separate cases were filed in the United Kingdom against Tzipi Livni⁸⁰ and Ehud Barak in 2009.⁸¹ In October 2015, media reported on a case filed in the United

⁷⁸ High Representative of the European Union for Foreign Affairs and Security Policy, Implementation of the European Neighbourhood Policy in Palestine Progress in 2014 and recommendations for actions, 25 March 2015, page 5; Al-Haq, Unconstitutional Presidential Decrees Seek to Control Civil Society Organisations, 18 February 2013.

⁷⁹ The Independent Commission for Human Rights, The Status of Human Rights in Palestine, Twentieth Annual Report, 2014, page 17.

⁸⁰ BBC, Israel fury at UK attempt to arrest Tzipi Livni, 15 December 2009.

⁸¹ The Guardian, Israeli minister Ehud Barak faces war crimes arrest threat during UK visit, 29 September 2009.

States of America against Ehud Barak in relation to the incident of the Gaza Flotilla of 31 May 2010.⁸² In relation to the same incident, in November 2015 a Spanish judge asked to be notified of the presence within its jurisdiction of seven Israeli officials.⁸³

76. In paragraph 1975 (b) of its report (A/HRC/12/48), the Mission recommended that international aid providers should step up financial and technical assistance for organizations providing psychological support and mental health services to the Palestinian population. According to the report of the Secretary-General on assistance to the Palestinian people (A/70/76—E/2015/57, paragraph 70), between May 2014 and March 2015, UNRWA supported individual psychosocial counselling for 18,292 Palestinian refugees in Gaza and 10,806 group counselling sessions. The Gaza Child Protection Working Group provides that 194,736 children and 60,461 adults with psychosocial distress and mental disorders were reached through structured psychosocial group activities and 29,128 children and 2,362 adults reached through individual counseling.

77. In paragraph 1975 (c) of its report (A/HRC/12/48), the Mission recommended that donor countries and assistance providers continue to support the work of Palestinian and Israeli human rights organizations. According to its submission to OHCHR for the purpose of this report, the European Union continued to support the work of human rights organisations through the European Instrument for Democracy and

Human Rights. According to the NGO Development Centre, in 2014, their programmes on human rights and good governance funded by foreign donors provided Palestinian human rights organizations with over 760,000 USD.⁸⁴

78. In paragraph 1975 (d) of its report (A/HRC/12/48), the Mission recommended that States involved in peace negotiations between Israel and representatives of the Palestinian people, especially the Quartet, ensure that respect for the rule of law, international law and human rights assumes a central role in internationally sponsored peace initiatives. In its submission to OHCHR, the European Union reported that in its Foreign Affairs Council of July 2015, it reiterated that it considered compliance with international humanitarian and human rights law as a cornerstone for peace and security in the region. On 27 September 2013, the Quartet discussed the humanitarian needs of Gaza residents and emphasized the importance of increased access into Gaza through legal crossings. The High Commissioner encourages States to redouble their efforts to ensure that respect for the rule of law, international law and human rights are central in peace initiatives.

79. Paragraph 1975 (b) of the Mission's report (A/HRC/12/48) recommended that, in view of the allegations and reports about long-term environmental damage that may have been created by certain munitions or debris from munitions, a programme of environmental monitoring be implemented under the auspices of the United Nations, for as long as deemed necessary, and that the environmental monitoring programme should be in accordance with the recommendations of an independent body,

⁸² The Guardian, Former Israeli prime minister sued in US for raid on Gaza flotilla, 21 October 2015, available from <http://www.theguardian.com/world/2015/oct/21/former-israeli-prime-minister-sued-in-us-for-raid-on-gaza-flotilla>

⁸³ The Independent, Spain 'issues arrest warrant' for Israeli PM Benjamin Netanyahu over 2010 Gaza flotilla attack, 18 November 2015, available from <http://www.independent.co.uk/news/world/europe/spain-issues-arrest-warrant-for-israeli-prime-minister-benjamin-netanyahu-over-2010-gaza-flotilla-a6736436.html>

⁸⁴ NGO Development Center, Annual Report 2014, page 29, available from <http://www.ndc.ps/sites/default/files/NDC-AR2014-web-English.pdf>

and samples and analyses should be analyzed by one or more independent expert institutions.

80. The High Commissioner notes that in follow-up to the its study “*Environmental Assessment of the Gaza Strip following the escalation of hostilities in December 2008 —January 2009*”, UNEP highlighted the grave conditions of the sewage system and the need for desalination plants. According to information submitted to OHCHR by the UNCT, a programme of environmental monitoring has not taken place due to Israel’s denying access to UNEP experts who were to investigate the pollution and other environmental aspects in Gaza. Moreover, the entry of metal detection machines purchased by UNDP to ensure the quality of the rubble before crushing it for reuse was delayed for nearly a year. UNEP confirmed⁸⁵ that the ongoing North Gaza Emergency Sewage Treatment Project funded by the World Bank was addressing the dire water and sanitation conditions in Gaza.⁸⁶ UNDP has also been involved in environmental activities in Gaza, including on debris and UXOs removal, and in a heavy metal survey for the coastal aquifer in cooperation with the Palestinian Water Authority and Coastal Municipal Water Unit.⁸⁷

81. The High Commissioner urges Israel to fully cooperate with UNEP experts, including by providing them full access to assess environmental damage and removing all obstacles in transporting required machines into Gaza.

82. In paragraph 684 of its report, the Commission called upon the international community (a) to promote compliance with human rights obligations, and to respect and ensure respect for, international humanitarian law in the Occupied Palestinian Territory and Israel, in accordance with Article 1 common to the Geneva Conventions; (b) to use its influence to prevent and end violations, and to refrain from encouraging violations by other parties. As mentioned above the European Union Council of Foreign Ministers has taken some initiative in this regard.⁸⁸ States have made statements with regard to specific incidents, for example, in October 2015 the United States publicly expressed their concerns about the excessive use of force by Israel in response to Palestinian attacks against civilians.⁸⁹

83. In paragraph 684 (c) of its report, the Commission called upon the international community to accelerate and intensify efforts to develop legal and policy standards that would limit the use of explosive weapons with wide-range effects in populated areas with a view to strengthening the protection of civilians during hostilities.

84. The issue has been discussed in a number of international expert level meetings. In September 2015, Austria and OCHA hosted a meeting in Vienna to highlight the humanitarian impact of the use of explosive weapons in populated areas and to begin discussions on political approaches to the matter⁹⁰. The participating

⁸⁵ UNEP communication to OHCHR.

⁸⁶ World Bank, Northern Gaza Emergency Sewage Treatment (NGEST) Project (P074595), Implementation Status & Results Report, available from http://www-wds.worldbank.org/external/default/WDSCContentServer/WDSP/MNA/2015/06/22/090224b082f772c/d/1_0/Rendered/PDF/West0BankOandOORReport000Sequence024.pdf

⁸⁷ UNCT inputs to OHCHR.

⁸⁸ Supra, paragraph 78-79.

⁸⁹ The Washington Post, Obama administration accuses Israel of terrorism, ‘excessive force’, 15 October 2015, available from <http://www.washingtontimes.com/news/2015/oct/15/obama-admin-accuses-israel-terrorism-excessive-for/>

⁹⁰ International Network on Explosive Weapons, States support the development of a political commitment on explosive weapons, 28 September 2015; see also Reaching Critical Will (RCW), Ending the use of explosive weapons in populated areas, available from

governments indicated support for developing a political commitment on this issue. Some 50 States and intergovernmental institutions⁹¹ publicly acknowledged the harm caused by explosive weapons in populated areas in public statements, including during Security Council and General Assembly sessions.⁹² As reported in the submission presented by the European Union to OHCHR, the European Union Action Plan on Enhancing the Security of Explosives contains prevention, detection and response measures, as well as the development of information-sharing and research mechanisms. The European Union has also adopted extensive legislation regarding the civil use of explosives.

85. In paragraph 684 (d) of its report, the Commission called upon the international community to actively support the work of the International Criminal Court in relation to the Occupied Palestinian Territory; to exercise universal jurisdiction to try international crimes in national courts; and to comply with the extradition requests pertaining to suspects of such crimes to countries where they would face a trial. The High Commissioner notes that while it is early stages of the proceeding before the International Criminal Court and information on prosecutions by national courts under the principle of universal jurisdiction are scarce, the international community should do everything possible to implement the recommendation fully.

I. International community and responsible Palestinian authorities.

<http://www.reachingcriticalwill.org/news/latest-news/10180-ending-the-use-of-explosive-weapons-in-populated-areas>

⁹¹ International Network on Explosive Weapons, Acknowledging the Harm, available from <http://www.inew.org/acknowledgements>

⁹² International Network on Explosive Weapons, News, available from <http://www.inew.org/news>

86. In paragraph 1976 (a) of its report (A/HRC/29/CRP.4), the Mission recommended that the international community and responsible Palestinian authorities establish appropriate mechanisms to ensure that the funds pledged by international donors for reconstruction activities in the Gaza Strip were smoothly and effectively disbursed, and urgently put to use for the benefit of the population of Gaza.

87. The UN Country Team reported that in September 2015, it established the UN Gaza Reconstruction and Recovery Coordination Group⁹³, tasked with (a) the coordinating and tracking the progress of the Gaza reconstruction and recovery effort and (b) supporting the Prime Minister's Office and the Government-led National Office for Gaza Reconstruction (NORG) in its recovery and reconstruction coordination function. The Secretary-General regretted that the disbursement of funds pledged at the donor conference in Cairo in 2014 has been low (A/70/76, paragraph 16). In January 2015, the Government of Spain disbursed 1 million Euros to UNRWA to support the reconstruction and provision of essential services. According to the World Bank, as of 31 August 2015, only 35 per cent of the support pledged at the Cairo conference has been disbursed.⁹⁴ The High Commissioner reiterates the considerations expressed by the UN Secretary-General at the donor conference of 2014 where he expressed concerns at the regrettable cycle of building and destroying in Gaza, and stated that the successful reconstruction requires not only

⁹³ The UN Recovery and Reconstruction Group is led by UNRWA, with UNDP as Vice-Chair.

⁹⁴ The World Bank, Reconstructing Gaza - Donor Pledges, 29 September 2015, <http://www.worldbank.org/en/programs/rebuilding-gaza-donor-pledges>

financial support but a strong political foundation.⁹⁵

88. In paragraph 1976 (b) of its report (A/HRC/29/CRP.4), the Mission recommended that in view of the consequences of the military operations, responsible Palestinian authorities and international aid providers should pay special attention to the needs of people with disabilities and patients who had suffered amputations or been otherwise injured by munitions. The Mission also recommended that financial and technical assistance should be provided to ensure adequate medical follow-up to Palestinian patients.

89. On 3 May 2014, the State of Palestine became a State Party to the Convention on the Rights of Persons with Disabilities and, with support from OHCHR and other United Nations agencies, the Government is undertaking its baseline needs assessment for implementation in the form of its initial report for submission to the treaty body in Geneva. The Secretary-General (A/70/76, paragraph 54) noted that five United Nations agencies continued to implement a joint programme to strengthen respect for the human rights of people with disabilities and mainstream such rights in schools and employment services. However, the situation of the health sector remains one of grave concern. According to its input to OHCHR, the Government of Bahrain, in cooperation with Islamic Relief Worldwide, supported projects to build and fit prosthetics for 1,200 disabled people in the Gaza Strip, who were also rehabilitated and trained to work and ensure an income to their families. In April 2015, the Palestinian Ministry of Health faced a debt of over 250 million USD, which has prevented the purchased of essential equipment that is not

available in Gaza, such as orthopaedic and plastics equipment to conduct secondary reconstructive surgery.

J. International community, Israel and Palestinian authorities

90. In paragraph 1977 (a) of its report (A/HRC/12/48), the Mission recommended that Israel and representatives of the Palestinian people, and international actors involved in the peace process, engage Israeli and Palestinian civil society in devising sustainable peace agreements based on respect for international law. It noted that the participation of women should be ensured, in accordance with Security Council resolution 1325 (2000). On 18 June 2015, as part of its work on enhancing Palestinian women's leadership and participation in decision-making processes, the Central Election Commission and UN Women signed an agreement for a two-year joint project to empower women in local communities.⁹⁶ UN-Women also continued to support the Palestinian Independent Commission for Human Rights in monitoring women's access to justice in the Occupied Palestinian Territory (A/70/76, paragraph 89). The High Commissioner notes that in December 2015, a conference that offers a platform for civil society engagement with regards to the peace process was organised by the Geneva Initiative at the Israeli Knesset. On 14 December 2014, the Israeli Government announced the establishment of an inter-ministerial team to form and consolidate a national action plan for implementing Security-Council resolution 1325.⁹⁷

⁹⁵ Secretary-General, Statements, 14 October 2014, <http://www.un.org/sg/statements/index.asp?nid=8099>

⁹⁶ UN Women, the Central Election Commission and UN Women sign an agreement to enhance women's political participation, 18 June 2015, available from <http://palestine.unwomen.org/en/news-and-events/stories/2015/06/cec-agreement#sthash.j7uMILgS.dpuf>

⁹⁷

91. In Paragraph 1977 (b), the Mission recommended that attention be given to the position of women and steps be taken to ensure their access to compensation, legal assistance and economic security. The State of Palestine acceded to the Convention on the Elimination of All Forms of Discrimination against Women on 3 May 2014, and is currently undertaking, with support of OHCHR, UN Women and other United Nations agencies, its baseline needs assessment for implementation in the form of its initial report to the CEDAW Committee in Geneva. UN Women is implementing a range of programmes aimed at improving Palestinian women's social and economic situation.⁹⁸ As reported by the Secretary-General, UN Women continued to support the Palestinian Independent Commission for Human Rights in monitoring women's access to justice in the Occupied Palestinian Territory (A/70/76, paragraph 89).

K. Secretary-General

92. Paragraph 1978 of the Mission's report (A/HRC/12/48) recommended that "the Secretary General develop a policy to integrate human rights into peace initiatives in which the United Nations is involved, especially the Quartet (paragraph 1978). It also requested the United Nations High Commissioner for Human Rights to provide expertise required to implement this recommendation".

93. This recommendation has been implemented in an ongoing manner as the Secretary-General consistently endeavours to integrate human rights into peace initiatives involving the United Nations,

<http://www.pmo.gov.il/secretary/GovDecisions/2014/Pages/des2331.aspx>

⁹⁸ UN Women, Programmes, <http://palestine.unwomen.org/en/what-we-do/economic-empowerment/programmes>.

including the Quartet⁹⁹. However, at the time of drafting of this report, peace negotiations between Israel and the State of Palestine were stalled.

L. Office of the United Nations High Commissioner for Human Rights

94. Paragraph 1979 (a) of the Mission's report (A/HRC/12/48) recommended that OHCHR monitor the situation of people who have cooperated with the United Nations Fact-Finding Mission on the Gaza Conflict and periodically update the Human Rights Council through its public reports and in other ways as it may deem appropriate". This recommendation has been implemented through OHCHR presence in OPT and its staff's regular interaction with individuals who cooperated with the Mission. As part of its monitoring mandate, OHCHR continues to document human rights violations in the OPT, including reprisals against human rights defenders.

95. The Mission also recommended that OHCHR give attention to its recommendations in its periodic reporting on the Occupied Palestinian Territory to the Human Rights Council (paragraph 1979(B)). The most recent OHCHR report on the matter was presented at the twenty-eighth session of the Council (A/HRC/28/80 and A/HRC/28/80.Add.1) and does reflect the situation in relation to some of the recommendations made by the Mission.

M. Conclusion

96. The High Commissioner notes that while progress has been made on implementing some recommendations, a number of recommendations are yet to be fully implemented. On a range of issues,

⁹⁹ For an assessment by the Secretary-General of the importance of human rights in the peace process, see A/HRC/28/45.

the situation continues to deteriorate and certain measures adopted only increase violations of human rights and humanitarian law. Piecemeal measures adopted on paper are not sufficient, but a holistic approach in implementing recommendations should be taken, bearing in mind that the effects of such changes should be reflected in improvements on the human rights situation of the people.

97. In light of the above, the High Commissioner urges all parties concerned to urgently implement all recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict and of the United Nations Fact-Finding Mission on the Gaza Conflict.

98. The High Commissioner stresses the urgency of implementation of recommendations, particularly on accountability and the review of policies governing military operations, law enforcement activities in the context of occupation and respect international humanitarian and human rights laws in general, by all parties to the conflict. The High Commissioner underscores that the international community should continue to focus on issues related to the Occupied Palestinian Territory, and implement recommendations addressed to it.

99. The High Commissioner believes that such implementation would significantly improve the human rights situation in the Occupied Palestinian Territory and Israel.

II. UN SPECIAL COORDINATOR CONDEMNS ATTACKS IN ISRAEL AND JERUSALEM

On 9 March 2016, the United Nations Special Coordinator for the Middle East Peace Process Nickolay Mladenov issued the following [statement](#) on attacks in Israel and Jerusalem:

I condemn the multiple attacks today in Tel Aviv/Jaffa, Petah Tiqva and Jerusalem in which at least one person was killed and some 14 others injured. There is and can never be any justification for terror. It is deplorable that some choose to glorify such acts that undermine the future of both Palestinians and Israelis.

My thoughts are with the families and friends of all victims and I hope for a full and speedy recovery of the wounded.

Political, religious and community leaders on all sides must live up to their responsibility to stand firmly against violence and incitement. They must urgently take the necessary steps to rebuild hope and show that a political horizon for a negotiated two-state solution is still possible.

III. UN PALESTINIAN RIGHTS COMMITTEE CHAIR'S SUMMARY ON A ROUNDTABLE ON LEGAL ASPECTS OF THE QUESTION OF PALESTINE

From 15 to 17 March 2016, the Committee on the Exercise of the Inalienable Rights of the Palestinian People held the United Nations Roundtable on Legal Aspects of the Question of Palestine in Amman, Jordan, under the theme “Instruments and institutions of international treaty law – theory and practice”. The following is the [Chair’s Summary](#) issued after the event:

The United Nations Roundtable on Legal Aspects of the Question of Palestine was organized under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP). As a capacity-building initiative by the Committee, the event aimed at developing the expertise of Palestinian Government staff in the field of international treaty law including provisions, mechanisms for implementation, reporting obligations and other practices.

During sessions facilitated by leading international scholars as well as experienced UN human rights practitioners, and conducted in the form of interactive discussions, 25 participants representing various Ministries and entities of the State of Palestine and the Independent Commission on Human Rights reviewed the fundamentals of international treaty law theory and its institutional framework. They also discussed the current status of the State of Palestine in relation to international legal instruments particularly in light of the recent accession of the State of Palestine to a number of such instruments.

In his opening remarks, the **Chair of the Committee**, who moderated the Roundtable, referred to previous Legal Roundtables organized and held under the auspices of CEIRPP in Geneva in 2014, and in The Hague in 2015; the Amman meeting represented an additional step in the Committee’s contribution to the building of vital capacities within the State of Palestine.

The **Permanent Observer of the State of Palestine** welcomed the Committee’s efforts to help young Palestinian lawyers and practitioners acquire a deeper understanding of the reporting obligations and the practical tools to fulfil these obligations effectively, meeting high international standards.

During the Roundtable sessions, participants reviewed the opportunities and strategies for the State of Palestine to engage with various international legal instruments on the international arena, learning from relevant best practices in the application of these instruments and the fulfilment of related reporting obligations. To complement the material presented, at the end of each thematic session, participants undertook practical exercises through group work moderated by the experts.

In the sessions on “International treaty law and institutions – challenges for emerging States”, and “Obligations of the State of Palestine after its accession to international legal instruments”, the discussion revolved around the relation of treaties and customary law, dispute resolution, arbitration, promotion and protection of human rights in acute crises, as well as procedures to lodge and respond to human rights complaints. Participants were particularly keen on understanding the technical aspects of the issues at hand, as well as learning about relevant international precedents.

Looking further into the implementation of human rights treaties by the State of Palestine, participants were invited to consider long-term national institutional architecture for sustained implementation of human rights treaties based on provisions of GA Resolution 68/268 “Strengthening and enhancing the effective functioning of the human rights treaty body system”, and to juxtapose relevant international standards and norms to the provisions of the national legislation in Palestine.

Having received a broad overview on the set of human rights treaties such as, *inter alia*, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Elimination of All Forms of Discrimination against Women, participants spent a separate session discussing the Convention on the Elimination of All Forms of Racial Discrimination in the context of the State of Palestine.

While reviewing the role of the national and international institutions in the implementation of- and in fulfilling the reporting obligations under the human rights treaties, participants discussed the role of nascent human rights reporting mechanisms created in Palestine at national level, the work of the protection cluster of the UN Country Team, as well as the function and achievements of the Palestinian Independent Commission on Human Rights and civil society.

Reflecting on the complexity and diversity of the issues covered by international treaty law a session on environmental law, its enforceability and

related remedial actions, as well as a session on the United Nations Convention on the Law of the Sea (UNCLOS) gave participants a structural overview of recent developments in both fields. In those sessions, experts outlined and discussed key principles, legal provisions, existing mechanisms for imposing liability and their potency. Of particular interest for participants were themes such as the rights and obligations of State Parties under UNCLOS, on the nature of maritime zones and their delimitation, and existing dispute resolution mechanisms; these themes were also reviewed in connection to the examples of some of the most relevant precedents in the history of international environmental and maritime regulation.

To further promote the efforts of the State of Palestine in protecting and promoting the role of women in society, a special session of the Roundtable was dedicated to incorporating gender perspectives in treaty implementation and reporting. An interactive discussion and a practical exercise drew participants’ attention to the importance of data disaggregation and of collecting and reporting complete and comprehensive quality information during their daily work. The need for data triangulation and the necessity for collaboration among various national Ministries and entities possessing thematic data were repeatedly mentioned, and the complementarity of reporting by international and national NGOs underscored.

The substantive programme of the Roundtable concluded with an introduction to the web-based United Nations Audio-visual Library of International Law of the Office of Legal Affairs, and a hand over to the Ministry of Foreign Affairs of a DVD compilation with the library’s most relevant

lectures related to the topics addressed during the Roundtable.

In the feedback regarding the Roundtable's programme that participants could give through anonymous surveys at the end of the Roundtable, many participants said the Programme covered a wide range of relevant issues relating to Palestine's obligations under international treaty law, stressing the timeliness of the subject for the State of Palestine.

Participants believed the material was relevant, informative and therefore useful for the implementation of their current professional duties, for proactively ensuring respect for human rights under national law, and for better fulfilling Palestine's international human rights obligations. Participants said that following the training they would put more emphasis on the study of the legal structure of the State of Palestine and on how treaties are reflected in domestic law, while also looking for relevant international precedents. Finally, participants underscored how the interaction and discussions with the experts at the Roundtable shed light on the importance of the data collected by various national Ministries and entities, and how crucial data

exchange and complementarity is for a good quality reporting and planning.

In the closing session, the **Permanent Observer of the State of Palestine to the United Nations** expressed his hope that enhancing the capacity of the Palestinian Government through this kind of semi-academic capacity-building events would enable the nascent State of Palestine to take up its rightful place among the nations of the world, and participate in the international arena as an equal and sovereign nation fully capable of fulfilling its obligations under international treaties and conventions to which it is a party.

The **Chair of the Committee** highlighted the invaluable hands-on expertise shared by the distinguished experts, as well as a rich set of educational and information materials prepared for participants to take home. He encouraged participants to share these materials with colleagues and counterparts in Palestine through placing them in the libraries and resource centres of the relevant Ministries and entities of the State of Palestine. The Committee, he concluded, would continue to assist the legal endeavours of the State of Palestine, and support the follow-up to this Roundtable.

IV. UN COORDINATOR FOR HUMANITARIAN ASSISTANCE AND DEVELOPMENT AID FOR THE OCCUPIED PALESTINIAN TERRITORY CONDEMNS ARSON ATTACK IN THE OCCUPIED WEST BANK

On 20 March 2016 in Jerusalem, the UN Coordinator for Humanitarian Assistance and Development Aid Robert Piper issued the following [statement](#):

I strongly condemn today's arson attack by suspected Jewish extremists on the home of Palestinian Ibrahim Dawabsheh in the occupied West Bank village of Duma. Mr. Dawabsheh and his wife were at home during the attack and sustained light injuries

as a result of smoke inhalation. I wish them both a full and speedy recovery.

This violent act could easily have resulted in a more tragic outcome, as did the heinous terrorist attack last July on the home of Mr. Dawabsheh's relatives in the same

village. Mr. Dawabsheh is the sole witness to that deadly arson attack which resulted in the death of 18-month-old Ali and his parents, and injuries to his 5-year-old brother Ahmad.

I call upon Israel, as the occupying power, to investigate this incident promptly and fully, to bring the perpetrators to justice and to take all possible steps to ensure that vulnerable Palestinian communities in the

West Bank, including East Jerusalem, are protected.

We must not permit such acts to foster hatred and escalate violence – this will only bring more personal tragedies and bury any prospect of peace. Today's attack highlights the urgent need to work together to bring an immediate resolution of the conflict and an end to the occupation.

V. UN HUMAN RIGHTS COUNCIL ADOPTS FOUR RESOLUTIONS ON HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES

On 24 March 2016 in Geneva, the UN Human Rights Council adopted four resolutions under the agenda item entitled “Human rights situation in Palestine and other occupied Arab territories”. The following are excerpts from the [press-release](#):

Action on Resolutions under the Agenda Item on the Human Rights Situation in Palestine and Other Occupied Arab Territories

Action on Resolution on the Right of the Palestinian People to Self- determination

In a resolution ([A/HRC/31/L.36](#)) on the **right of the Palestinian people to self-determination**, adopted without a vote, the Council reaffirms the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and the right to their independent State of Palestine; calls upon Israel, the occupying power, to end its occupation of the Occupied Palestinian Territory, including East Jerusalem, reaffirms its support for the solution of two States, Palestine and Israel, living side by side in peace and security; and urges all States to adopt measures as required to promote the realization of the right to self-determination of the Palestinian people.

Pakistan, on behalf of the Organization of Islamic Cooperation and other countries, introduced draft proposal L.36 on the right of the Palestinian people to self-determination and said the realisation of self-determination was an essential condition for the promotion and protection of human rights and fundamental freedoms. The draft proposal focused on the inalienable right to self-determination of the Palestinian people, granted through the United Nations Charter, international law, international human rights covenants and relevant United Nations resolutions. The preambular part sought thematic guidance from the United Nations Charter and other relevant international instruments and United Nations resolutions. In the operative part, the draft resolution reaffirmed the inalienable, permanent and unqualified right of the Palestinian people to self-determination, including their right to live in freedom, justice and dignity and the right to their independent State of Palestine. It also reaffirmed its support for the solution of two

States, Palestine and Israel, living side by side in peace and security.

Due to the universal character of this right and its continued applicability to the Palestinian people, Pakistan trusted the resolution would be adopted by consensus.

State of Palestine, speaking as a concerned country, thanked all the groups and States which supported four draft resolutions on Palestine, and their work in order to strike consensus. Speaking about the first draft resolution on the right to self-determination (L.36), it noted that the right to self-determination was enshrined in the United Nations Universal Declaration of Human Rights. As for the draft resolution on the human rights in the Occupied Palestine territories (L.37), the most flagrant violations of human rights had been taking place there. That was not an internal conflict, but the occupation of one country by another. Israel repeated its egregious abuses on a daily basis. Israeli soldiers and settlers killed Palestinian children. The Israeli army prevented the provision of medical care to Palestinians. There were some 300 children in administrative prisons. The continued blockade of the Gaza Strip had exacerbated the suffering of the Palestinian people.

Turning to the draft resolution on ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem (L.38), the State of Palestine tried to prevent any incitement to provocation of Israel, and it condemned the inflammatory discourses by some Israeli politicians, including the Prime Minister. The State of Palestine was ready to assume its legal responsibilities to ensure accountability through investigation of human rights violations. Nevertheless, it was Israel that prevented the access of the

Commission of Inquiry to the Palestinian territories. With respect to the draft resolution on Israeli settlements (L.39), the international community condemned the Israeli settlements claiming that they were an obstacle to peace and the two-State solution. If the land grab by Israel continued, its credibility would certainly be undermined. The State of Palestine asked the Member States of the Council to adopt the draft resolutions with consensus.

Action on Resolution on the Human Rights Situation in the Occupied Palestinian Territory, including East Jerusalem

In a resolution ([A/HRC/31/L.37](#)) on the **human rights situation in the Occupied Palestinian Territory, including East Jerusalem**, adopted by a vote of 42 in favour, none against and five abstentions, the Council demands that Israel, the Occupying Power, comply fully with the provisions of the Fourth Geneva Convention of 1949 and cease immediately all measures and actions taken in violation and in breach of the Convention; calls for urgent measures to ensure the safety and protection of the Palestinian civilian population in the Occupied Palestinian Territory, including East Jerusalem; and demands that Israel, the Occupying Power, cease all practices and actions that violate the human rights of the Palestinian people. The Council also calls for urgent attention to the plight and the rights, in accordance with international law, of Palestinian prisoners and detainees in Israeli jails; demands that Israel, the Occupying Power, cease all of its settlement activities, the construction of the wall and any other measures aimed at altering the character, status and demographic composition of the Occupied Palestinian Territory; and requests the Secretary-General to place the presence of the Office of the High Commissioner in the Occupied

Palestinian Territory on a firmer basis under the regular budget.

The result of the vote was as follows:

In favour (42): Albania, Algeria, Bangladesh, Belgium, Bolivia, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, El Salvador, Ethiopia, France, Georgia, Germany, India, Indonesia, Kenya, Kyrgyzstan, Latvia, Maldives, Mexico, Mongolia, Morocco, Namibia, Netherlands, Nigeria, Panama, Philippines, Portugal, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, Slovenia, South Africa, Switzerland, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Venezuela, and Viet Nam.

Abstentions (5): Botswana, Ghana, Paraguay, The former Yugoslav Republic of Macedonia, and Togo.

Against (0):

Pakistan, introducing draft resolution L.37 on behalf of the Organization for Islamic Cooperation, said the text addressed conditions in the Occupied Palestinian Territory, including East Jerusalem. The resolution was described; in its operative paragraphs it would, among other measures, urge Member States to continue to provide emergency assistance to the Palestinian people. Hopes were expressed that the resolution could be adopted by consensus.

Paraguay, in a general comment on draft proposal L.37 on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, said Paraguay had suffered the terrible consequences of war. After 120 years of a fratricidal war, Paraguay had developed a relationship of trust and mutual support with the peoples of its region. It was based on its own personal experience, thus, that Paraguay was convinced that Palestine and Israel had the

right to live by each other in peace and in respect of their full rights. Paraguay had always been consistent in recognizing a two State solution. Palestine and Israel were sovereign States and Paraguay had diplomatic relations with both of them. It called on both parties to respect human rights and international law, and to respect the basic principles and the need for dialogue. Therefore Paraguay supported the draft resolution.

Saudi Arabia, in a general comment on draft proposal L.37, said six decades and more had passed and the world was still witnessing the shedding of blood by Palestinians at the hands of Israel, which was in unprecedented defiance of all international resolutions. The continuation of this would only have negative implications for the promotion and protection of human rights. Israel had blood on its hands and the Human Rights Council should not remain passive. Saudi Arabia could not understand the words that could be put forward to find a justification to not vote in favour of the draft proposal. It called upon all countries to vote in favour of the draft proposal.

United Arab Emirates, in a general comment on draft proposal L.37, said the occupation by Israel of Palestine was illegal. The Human Rights Council needed to continue to address the violations of human rights until the occupation of Israel came to an end.

Cuba, in a general comment on draft resolution L.37, said the situation of the occupied territories needed maximum attention from the Human Rights Council, as Israel continued to violate international humanitarian law and human rights in the Occupied Palestinian Territory, including East Jerusalem. Cuba called for a sustainable fair solution to the conflict, and

this was not possible if violations continued and if there was impunity.

Action on Resolution on Ensuring Accountability and Justice for All Violations of International Law in the Occupied Palestinian Territory, Including East Jerusalem

In a resolution ([A/HRC/31/L.38](#)) on **ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem**, adopted by a vote of in 32 favour, none against with 15 abstentions, the Council calls upon all duty bearers and United Nations bodies to pursue the implementation of the recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict; calls upon the parties concerned to cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened; and also calls upon all States to promote compliance with international law, and all High Contracting Parties to the Fourth Geneva Convention to respect, and to ensure respect for, international humanitarian law in the Occupied Palestinian Territory, including East Jerusalem. The Council requests the High Commissioner to conduct a comprehensive review detailing the status of implementation of the recommendations addressed to all parties since 2009 by the relevant Human Rights Council mechanisms, and to present a report to the Council at its thirty-fifth session.

The result of the vote was as follows:

In favour (32): Algeria, Bangladesh, Belgium, Bolivia, Burundi, China, Cuba, Ecuador, El Salvador, France, Indonesia, Kenya, Kyrgyzstan, Maldives, Mexico, Mongolia, Morocco, Namibia, Nigeria,

Panama, Philippines, Portugal, Qatar, Russian Federation, Saudi Arabia, Slovenia, South Africa, Switzerland, The former Yugoslav Republic of Macedonia, United Arab Emirates, Venezuela, and Viet Nam.

Abstentions (15): Albania, Botswana, Congo, Côte d'Ivoire, Ethiopia, Georgia, Germany, Ghana, India, Latvia, Netherlands, Paraguay, Republic of Korea, Togo, and United Kingdom of Great Britain and Northern Ireland.

Against (0):

Pakistan, introducing draft resolution L.38 on behalf of the Organization of Islamic Cooperation, stated that it was imperative to end violations of international law in the occupied State of Palestine. The draft text emphasized the importance of safety of all civilians and it deplored civilian deaths from the 2014 Gaza conflict. The operative part welcomed the work of the United Nations Independent Commission of Inquiry into the conflict and called upon all duty-bearers to implement its recommendations. Member States were urged to adopt the draft resolution by consensus.

Saudi Arabia, in a general comment, said that Palestinians were suffering from systematic violations of their human rights. Impunity and the potential impunity in such systematic, long-term fashion had allowed for the persistence of long-lasting repression without any repercussions. Palestinian victims had been deprived of their right of effective compensation. All responsible Israeli officials ought to be held accountable for the violations of the international law and the international humanitarian law.

United Arab Emirates, in a general comment, deeply regretted that some delegations were against accountability

when it came to the rights of the Palestinian population. However, in the end, accountability should prevail.

Action on Resolution on Israeli Settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the Occupied Syrian Golan

In a resolution ([A/HRC/31/L.39](#)) on **Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan**, adopted by a vote of 32 in favour, none against with 15 abstentions, the Council demands that Israel, the Occupying Power, immediately cease all settlement activities in all the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan; also demands that Israel, the Occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice; and calls upon Israel, the Occupying Power, to reverse the settlement policy in the occupied territories, including East Jerusalem and the Syrian Golan, and, as a first step towards the dismantlement of the settlement enterprise. The Council also urges all States to ensure that they are not taking actions that either recognize or assist the expansion of settlements or construction of the wall in the Occupied Palestinian Territory, including East Jerusalem, including with regard to the issue of trading with settlements; and requests the United Nations High Commissioner for Human Rights to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem.

The result of the vote was as follows:

In favour (32): Algeria, Bangladesh, Bolivia, Botswana, Burundi, China, Congo, Côte d'Ivoire, Cuba, Ecuador, El Salvador, Ethiopia, India, Indonesia, Kenya, Kyrgyzstan, Maldives, Mexico, Mongolia, Morocco, Namibia, Nigeria, Panama, Philippines, Qatar, Russian Federation, Saudi Arabia, South Africa, Switzerland, United Arab Emirates, Venezuela, and Viet Nam.

Abstentions (15): Albania, Belgium, France, Georgia, Germany, Ghana, Latvia, Netherlands, Paraguay, Portugal, Republic of Korea, Slovenia, The former Yugoslav Republic of Macedonia, Togo, and United Kingdom of Great Britain and Northern Ireland.

Against (0):

Pakistan, introducing on behalf of the Organization of Islamic Cooperation and other co-sponsors draft resolution L.39 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, said the construction of settlements was in continuing violation of international humanitarian law and human rights. The draft sought to counter the settlement policy and establish a legal framework against it, based on the Advisory Opinion of the International Court of Justice on this matter, as well as many other human rights instruments, including the Fourth Geneva Convention, customary international law, and Protocol 1 of the Four Geneva Conventions. The settlements were illegal and an obstacle to peace and economic and social development. The resolution condemned the settlement activities and demanded that all settlements in all occupied territories immediately cease. It called for an end to violations of all human rights, especially the right to self-determination, and to provide for reparations. The

Organization of Islamic Cooperation hoped that the Human Rights Council would abide by international humanitarian law and human rights and adopt the resolution by consensus.

Saudi Arabia, in a general comment on resolution L.39, condemned the occupation by Israel of Palestinian territories for decades, and the expansion of the settlements in flagrant violation of international law and in contradiction of Article 49, paragraph 6 of the Fourth Geneva Convention and the Advisory Opinion of the International Court of Justice that stated that it was illegal to establish such settlements. Saudi Arabia called upon peace-loving nations to vote in favour of this draft resolution.

Qatar, in a general comment on resolution L.39, said it was extremely important that the Human Rights Council adopt this resolution, as Israel was in flagrant violation of international humanitarian law and human rights, including the Advisory Opinion of the International Court of Justice. Not adopting it would encourage Israelis to continue the settlements.

Israel, in general comment on resolution L.39, said the Human Rights Council had just witnessed another absurd performance. Today it was considering five resolutions mandating six reports overburdening the Office of the High Commissioner for Human Rights and the time of the Human Rights Council for future sessions. Israel rejected these resolutions in their entirety. By now Israel realised the politicization of the Human Rights Council. Where was its sense of purpose? The Human Rights Council had become an inflammatory environment. Instead of contributing to a more peaceful environment, it contributed to deepened the conflict between Israelis and

Palestinians. Was this a farce or a tragedy? Israel would achieve peace despite the difficulties posed by the Human Rights Council. Later today, Stanley Michael Lynk would be appointed of Special Rapporteur. Again the fox would be given the job to guard the hen house. Again another absurd performance. While this theatre continued, Israelis would work hard to live in peace and security.

Netherlands, in an explanation of the vote before the vote on behalf of the European Union, said settlements were illegal and jeopardized the two-State solution. Comments were made regarding the listing of companies' alleged activities. While recognising the need for informing consumers, Member States had the primary role. Disappointment was expressed that operative paragraph 17 on looking further regarding best practices was not taken into account. Due to that, the European Union had been unable to support L.39, and European Union Member States would abstain. It was noted that in making its statement, the European Union had not expressed itself on the use of certain legal terms, which were listed.

Switzerland, in an explanation of the vote before the vote, said Switzerland deplored the existence of settlements which undermined the rights of the Palestinian people. Switzerland regretted that the text in operative paragraph 17 provided for the establishment of a database of private businesses alleged to be involved in settlements. There were more appropriate means of ensuring compliance. That was why Switzerland refrained from co-sponsoring the resolution as had been done in previous years.

Ecuador, in an explanation of the vote after the vote, said that the Council had considered several resolutions on Palestine,

with the view of improving the livelihoods of Palestinians. All resolutions pointed to the need to recognize and apply many recommendations of international bodies. Ecuador believed that compiling a database of companies working in the Occupied Territories was a significant proposal, and such a list should be made public. The request for a database was a viable initiative.

Germany, speaking on behalf of a group of countries in an explanation of the vote after the vote, said that their position regarding the Israeli-Palestinian conflict was clear. The continuing violence had led to the loss of numerous lives in both Israel and Palestine. All acts of terror were

unacceptable and could not be justified; the perpetrators, no matter from which side, ought to be brought to justice. The group of countries urged both sides to act in a manner which was proportionate. They believed that the situation in Palestine should be addressed under agenda item 4, as all other country situations.

United Kingdom, in an explanation of the vote after the vote, believed that calling upon the High Commissioner to establish a database was inappropriate and the United Kingdom would not cooperate in the process.

...

VI. UN SPECIAL COORDINATOR BRIEFS THE SECURITY COUNCIL ON THE SITUATION IN THE MIDDLE EAST, INCLUDING THE PALESTINIAN QUESTION

On 24 March 2016, United Nations Special Coordinator for the Middle East Peace Process Nickolay Mladenov briefed the Security Council on the situation in the Middle East, including the Palestinian Question. The following are excerpts from the briefing ([S/PV.7657](#)):

The past month has been marked by some of the bloodiest incidents in the current wave of violence throughout Israel and the occupied West Bank, including East Jerusalem. On 8 March, a 28-year-old American graduate student, Taylor Force, was killed in Jaffa during a vicious stabbing spree by a Palestinian that left a dozen Israelis and several tourists wounded. Less than an hour before that, two Israeli police officers were seriously wounded in a shooting attack near Jerusalem's Old City, while at almost the same time an Israeli man was stabbed in an attack outside Tel Aviv. Thankfully he survived. Israeli security forces killed the Palestinian perpetrators in the first two incidents, while in the third the attacker was reportedly killed by his own knife in a struggle with his intended victim.

Six months into this latest round of violence, which has killed 30 Israelis and 198 Palestinians, with most of the Palestinians killed while reportedly carrying out knife, gun or car-ramming attacks, it is time that the international community move beyond mere condemnations of such acts of terror and violence. It is time to send a clear message to both parties. To the Palestinian people we need to say clearly: stabbing someone in the street will not bring about a Palestinian State, and neither will praising and glorifying violence in the media. Those radicals determined to poison the minds of Palestinian youth must recognize their central role in the slow evisceration of the dream of Palestinian statehood. By the same token, we must also be very clear, and Israel should understand that building more walls and increasing administrative detentions, punitive demolitions and movement

restrictions are all actions that breed anger among people who feel that they are being collectively humiliated, punished and discriminated against.

Heavy-handed responses play into the hands of extremists, undermine moderate voices and further deepen the gulf between the two sides. Six months after the initial upsurge of violence, it remains blatantly clear that security measures alone will not contain the forces that are perpetuating the violence. Israelis and Palestinians must at long last face the stark realities that continue to drive the violence and hold the two-State solution hostage. First and foremost, that means both sides actively taking steps that demonstrate their commitment to, and create the conditions for, an eventual return to negotiations to achieve a viable Palestinian State and ensure Israel's long-term security.

We in the international community must also be clear both in our understanding of the conflict and our role in how to help resolve it. Our immediate priority must be ending the violence that is tearing Israelis and Palestinians apart when both face the rise of radicals among their own constituents. We only need to look at the rest of the region to see the dangers of religious extremism, sectarianism and terrorism. But let us also be abundantly clear that the current security challenges cannot be addressed if we lose sight of the fundamental problems that have led us here, namely, the persistent inability to achieve a just and lasting solution that meets the national aspirations of the Palestinians and Israelis and allows them to live in two States, side-by-side and in peace, security and mutual recognition. That is why today we must once again play an important role by saying that the prospect of a two-State solution is not dead and that it remains the best pathway for peace.

The time has come however to sound the alarm that the two-State solution is slipping from our fingers and that it is disappearing as the realities on the ground — driven by ongoing settlement activities and confiscation of Palestinian land, as well as the ongoing lack of genuine Palestinian unity — make the prospect of a viable and independent Palestinian State less possible and less likely. The time has come for us to speak clearly with regard to the risks that undermine the two-State solution, but also point to the way to a return to meaningful negotiations. That is why the Secretary-General, the European Union, the Russian Federation and the United States of America, all of whom are members of the Middle East Quartet, have stepped up their efforts to break the political impasse.

The Quartet envoys have started their work on a report that will review the situation on the ground, identify the dangers facing a two-State solution and provide recommendations on the way forward. We remain seriously concerned that current trends — including continued acts of violence against civilians, incitement, ongoing settlement activity and the high rate of demolitions of Palestinian structures — are dangerously imperilling the viability of a two-State solution.

And yet while the international community explores avenues for constructive engagement, there are trends that raise questions about the commitment of the parties to seriously address the main challenges blocking progress towards peace. Israel's settlement enterprise continues, despite broad international condemnation. In a particularly troubling development, on 10 March, Israel classified 580 acres south of the city of Jericho, in the West Bank, as so called State land. The area includes the reported approval of 378 acres, which was widely condemned in January. That is

evidence of an ongoing Israeli policy of systematic consolidation of its control of the occupied West Bank in direct contravention of international law. Since the early 1980s, Israeli authorities in the West Bank have adopted — based on a controversial interpretation of the Ottoman Land Code — a policy of declaring land that is not otherwise registered as private as State land. That has resulted in the State seizing control over certain areas where Palestinians claim ownership and has proved to be a precursor for settlement construction. Any such declaration, particularly of a large scale, raises justified concerns over further settlement expansion. Settlements are illegal under international law, and I urge Israel to halt and reverse such decisions.

The demolition and confiscation of Palestinian structures across the West Bank has also surged in 2016, with 468 houses and other structures demolished since the beginning of the year. On 23 March, Israeli authorities demolished 53 structures in Khirbet Tana, including 22 homes, the third demolition this year in that community because Israel has declared the area a firing zone. The total number of structures demolished or confiscated in the first 12 weeks of 2016 has now reached 85 per cent of the total number demolished or confiscated for all of 2015. As Palestinians are consistently denied permits to build legally, residents in the affected areas are left with few options but to build without permits, leaving them in constant fear of their homes and livelihoods being destroyed. I urge Israel to respect international humanitarian law and cease such unfair and unjust planning processes in the West Bank.

Allow me to turn briefly to political developments on the Palestinian front. Achieving genuine Palestinian unity on the basis of non-violence, democracy and the Palestine Liberation Organization (PLO)

principles would constitute a crucial building block for the foundation of a Palestinian State. The formation of a national unity Government that abides by the PLO programme and the holding of long-overdue elections are important elements of that process. Sadly, we are nowhere near that goal, since recent discussions between Palestinian factions in Qatar have yet to yield any agreement. I strongly encourage the factions not to squander this important opportunity to reach a consensus that can enable the advancement of long-term Palestinian national goals as well as near-term fiscal and development goals for the Palestinian people.

I take this opportunity to welcome the suspension, on 12 March, of the month-long Palestinian teachers' strike, following President Abbas's commitment to fully implementing a 2013 trade union deal that gives them a 10 per cent salary increase. I also note that, on 10 March, a Fatah member of the Palestine Legislative Committee ended her 18-day sit-in at the Parliament building after the Attorney General cancelled an arrest order against her that had been issued after she had raised allegations of corruption. Such allegations must be duly investigated.

Turning to Gaza, the security situation remains volatile, as a number of factors continue to produce a highly combustible environment. Despite a relative pause over the past month, the past weeks saw five rockets fired from Gaza to Israel. In response, on 12 March, Israel conducted four air strikes, in which two Palestinian children, Israa and Yassin Abu Khusa, were tragically killed. Such incidents point to the fragile nature of the current ceasefire. I call on all the Palestinian factions in Gaza to uphold the current ceasefire, which is vital to the Strip's recovery.

The Reconstruction Mechanism continues to enable the purchase of materials for rebuilding and doing critical repairs to homes in Gaza that were damaged or destroyed in 2014. Unfortunately, the reconstruction of homes that were completely destroyed continues to be painfully slow, largely due to the slow

disbursement of donor pledges. I strongly encourage all Member States that have not done so to make their disbursements without delay. Failure to comprehensively address the chronic problems affecting Gaza risks another escalation in the future.

...

VII. UN SPECIAL COORDINATOR CONDEMNS EXTRA-JUDICIAL EXECUTION OF A PALESTINIAN ASSAILANT

On 25 March 2016 in Jerusalem, the United Nations Special Coordinator for the Middle East Peace Process Nickolay Mladenov issued the following [statement](#) on the apparent extra-judicial execution of a Palestinian assailant in Hebron in the occupied West Bank:

I strongly condemn yesterday's apparent extra-judicial execution of a Palestinian assailant in Hebron in the occupied West Bank. This was a gruesome, immoral and unjust act that can only fuel more violence and escalate an already volatile situation.

I welcome the condemnation by the Israeli Minister of Defence and call on the

authorities to swiftly bring to justice the perpetrator who has already been detained.

It is time to stop the negative spiral of violence and to begin positive steps towards ending the occupation and bringing long overdue peace and security to the people of Israel and Palestine.

VIII. UN SECRETARY-GENERAL MEETS WITH THE PRESIDENT OF THE STATE OF PALESTINE

On 27 March 2016, in Amman, Jordan, Secretary-General Ban Ki-moon met with the President of the State of Palestine, Mr. Mahmoud Abbas. The following is the text of the [readout](#) by the Spokesperson of the Secretary-General:

The Secretary-General met today with H.E. Mr. Mahmoud Abbas, President of the State of Palestine. The Secretary-General reiterated his deep concern over the ongoing violence and the need for both sides to diffuse tensions.

The Secretary-General further underscored the need for making progress

on Palestinian unity and for greater leadership on the Gaza reconstruction. They also discussed the Middle East Peace Process, including the role of the Quartet.

The Secretary-General reiterated that a political horizon must be restored without further delay for a resumption of peace negotiations towards a two-state solution.

IX. UN COORDINATOR FOR HUMANITARIAN AND DEVELOPMENT ACTIVITIES FOR THE OCCUPIED PALESTINIAN TERRITORY ON FORCIBLE TRANSFERS

On 28 March 2016, the UN Coordinator for Humanitarian and Development Activities for the occupied Palestinian territory (oPt), Robert Piper, visited the Palestinian community of Khirbet Tana in the occupied West Bank, and warned of the risk of forcible transfer. The [press release](#) issued on the visit is reproduced below

The UN Coordinator for Humanitarian and Development Activities for the occupied Palestinian territory (oPt), Robert Piper, visited the Palestinian community of Khirbet Tana in the occupied West Bank today.

On 23 March, the Israeli authorities demolished 53 structures in the community, including 22 homes, leaving 87 Palestinians homeless, nearly half of them children. Many of the demolished structures had been provided by donors as relief after earlier demolitions. This is the third demolition recorded this year in the community, which is located in an Israeli-declared military training area, or “firing zone.” Some 18 per cent of the West Bank has been closed for military purposes since the 1970’s although recent research indicates that nearly 80 per cent of such areas are not used for training. The mosque at Khirbet Tana dates from the Ottoman period suggesting that it has been a center for herding communities for many generations.

“Palestinian communities like Khirbet Tana are amongst the most vulnerable in the

West Bank,” said Mr. Piper. “Communities that find themselves declared a “firing zone” face a high risk of losing their livelihoods, homes and schools. The destruction of the relief provided to these households in these harsh winter conditions adds insult to injury.”

International humanitarian law prohibits Israel, as an occupying power, from destroying Palestinian private property, unless strictly required for security purposes, which is not evident in this case. Destroying homes and livelihoods in order to place pressure on households to move places communities at risk of ‘forcible transfer’, a grave breach of the laws of occupation.

“It’s hard to see how demolitions like the ones in Khirbet Tana are about anything other than pushing vulnerable Palestinians out of certain parts of the West Bank” said Mr. Piper. “We cannot watch silently as such fundamental humanitarian principles are violated,” he added.

X. UN SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS EXPRESSES OUTRAGE AT THE KILLING OF A PALESTINIAN MAN BY AN ISRAELI SOLDIER

On 30 March 2016 in Geneva, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns expressed his outrage at the killing of a Palestinian man by an Israeli soldier on 24 March in Hebron, West Bank, as he laid incapacitated on the ground following his alleged role in a knife attack. The text of the [press release](#) is reproduced below:

The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns today expressed his outrage at the killing of a Palestinian man by an Israeli soldier on 24 March in Hebron, West Bank, as he laid incapacitated on the ground following his alleged role in a knife attack.

Footage of the shooting of Abed al-Fatah al-Sharif was released by the Israeli human rights organization B'Tselem, and others have subsequently also posted similar videos on the Internet.

“The images shown carry all the signs of a clear case of an extrajudicial execution,” the human rights expert stressed. “There does not appear to be any provocation on the side of the gravely wounded man.”

“Whatever legal regime one applies to the case, shooting someone who is no longer a threat is murder. It is furthermore troublesome that this was done to no apparent alarm to the other soldiers who were nearby,” Mr. Heyns said.

The Special Rapporteur expressed further concern at the decision of the medical personnel on the scene to ignore Mr. Abed al-Fatah al-Sharif and attend only to the injured Israeli soldier, who had sustained light injuries.

“Part of protecting the right to life is accountability where it has been violated,” Mr. Heyns said welcoming the news that the soldier has been arrested by the Israeli authorities and is facing trial. “Ensuring a proper trial and if appropriate, punishment, will be of great importance, to stop what appears to be a pattern of unpunished cases where excessive force is used,” he underscored.

A total of 133 Palestinians and 30 Israelis (including 2 Arab Israelis) have been killed since the recent outbreak of hostilities in October last year.

“The current cycle of provocation and retaliation has to stop. Political leaders on both sides have an obligation to condemn the killings and to ensure accountability,” the human rights expert stated.

XI. QUARTET ENVOYS MEET IN JERUSALEM

On 30 March 2016, the Quartet issued the following [press statement](#) after its meeting in Jerusalem on 28 March 2016:

On 28 March, Envoys of the Middle East Quartet met in Jerusalem and held discussions with Israeli and Palestinian counterparts.

The Envoys from the Russian Federation, the United States, the European Union and the United Nations met to discuss

preparations for the Middle East Quartet's forthcoming report. During their visit they also took the opportunity to meet officials from the Israeli Prime Minister's Office and Ministry of Foreign Affairs as well as officials from the Palestine Liberation Organization and Palestinian Authority.

XII. WORLD BANK ISSUES REPORT ON PALESTINIAN MOBILE SECTOR

On 31 March 2016, the World Bank issued a report titled "Missed Opportunity for Economic Development," which highlights how the Palestinian telecom sector was hindered by years of delay in mobile broadband, presence of unauthorized Israeli operators in the Palestinian market, restrictions on importing equipment, and absence of an independent regulator. The following is the [executive summary](#) and the recommendations of the report:

Executive summary

The Telecommunications Sector Assessment Note in the Palestinian territories is a knowledge product prepared by the World Bank in response to a specific request from the Palestinian Ministry of Telecommunications and Information Technology (MTIT) to assess the performance of the telecommunications sector, identify specific issues and make recommendations for further development and reform.

Main Findings

The Oslo framework, the reference agreement between the Israeli and Palestinian counterparts to support economic development and stability in key economic sectors, has failed to deliver its promise of an independent telecommunications sector in the Palestinian territories. According to the principles of the Oslo Agreement, ***"Israel recognizes that the Palestinian side***

has the right to build and operate separate and independent communication systems and infrastructures including telecommunication networks, a television network and a radio network." Several resolutions of the International Telecommunications Union¹ confirm the right of the Palestinian people to have access to an independent telecommunications network.

The principles of the Oslo agreement with respect to the telecom sector remain valid. However, its provisions are not applied. This is presenting enormous challenges for Palestinian telecom operators, a clear detriment to the Palestinian consumer, a fiscal loss for the Palestinian Authority, and an overall delay for sector development. The Joint Technical

¹ Cf. the following ITU resolutions: Resolutions 99 and 125 from the Plenipotentiary Conference PP-14, Resolution 18 from the World Telecommunication Development Conference WTDC-14, Resolution 12 from the World Radio Communication Conference WRC-12.

Committee (JTC) under Oslo, intended to be a regular, technical (non-political) platform to address bilateral issues, has shown inadequate and ineffective performance, and progress since 2008 on bilateral issues has been limited:

- The lack of spectrum is a significant constraint to the development of the industry; in late November 2015, an agreement for a limited release of frequencies to Palestinian operators to launch 3G services has been signed. If implemented, the agreement would finally allow Palestinian operators to introduce mobile broadband using 3G, about eight years after their initial request. The agreement would still place the Palestinian operators at a competitive disadvantage, as Israeli operators have 3G and 4G capabilities and are able to attract higher value customers. As the MENA region is moving towards 4G, the recent agreement on the release of frequencies can hardly be celebrated as a success— although it does represent a first step forward. Combined with other restrictions, the delay in mobile broadband negatively affects Internet development.

- The second mobile operator (Wataniya) cannot fully play its competitive role for the mobile market. Its operations in the West Bank suffered a two-year delay due to Israeli restrictions on releasing the spectrum. The situation for Gaza consumers is worse as Wataniya still cannot start its operations due to restrictions on accessing spectrum and importing civil material².

- The presence of widespread, unauthorized activity by Israeli operators in

the West Bank with mobile broadband capabilities (Israeli operators have 3G capabilities since 2004 and 4G since 2015) has the effect of creating unfair competition at the expense of Palestinian operators which cannot even deliver 3G services. Depending on sources, Israeli operators may currently capture up to 30% of the West Bank market in volume — i.e. number of subscribers. The Israeli market share in value — i.e. measured by the total sales — is even higher as Israeli operators capture high value-added Palestinian customers by providing 3G and 4G.

Other constraints have a negative impact on sector performance, including (i) restrictions on the import of equipment for telecom and ICT companies, (ii) restriction of movement of goods and people within Area C that impedes the deployment and maintenance of infrastructure, and (iii) the requirement by Israel that Palestinian operators go through an Israeli-registered company to access international links.

Some domestic regulatory and competition issues persist, chief among them the strengthening of the regulatory framework with — ideally —the creation of an independent regulatory agency. They still present an important reason in addition to unilateral and bilateral issues for inadequate sector performance. However, some achievements are substantial when compared with other countries in MENA that have yet to introduce similar reforms, and compared to the situation in 2008.

- With the issue of a second mobile license (to operator Wataniya) the authorities have introduced a mobile-focused competitor enjoying *de jure* rights on equal footing with incumbent operator Paltel. Paltel and Wataniya are robust companies, with deep know-how in the sector, technology proficiency, excellent

² This has also impacted Wataniya's business plan which has an open claim against the Palestinian Authority, asking for part of its license proceeds to be waived given the limited deployment of its operations compared to the rights under its license.

commercial skills and solid investors. These companies are essential assets for the economic development of the Palestinian territories. If unilateral and bilateral constraints are alleviated, chief among them the release by Israeli operators of spectrum for 3G and 4G and the lifting of Israeli restrictions on the import of equipment for Wataniya in Gaza, they could make a substantial contribution to the development of the Palestinian Territories.

- The Palestinian authorities allow facilities-based ISPs, wherein a local ISP can acquire a broadband license and become a broadband operator. As a result, local entrepreneurs can acquire rights and directly invest in the development of broadband infrastructure at access level. This has been a factor of success for the development of broadband in other emerging regions, especially in Eastern Europe. Few countries in MENA have adopted this liberal approach, which is the norm in Europe and other regions. This achievement is noteworthy.

- Palestinian ISPs with a broadband license can use alternative infrastructure built by non-telecommunications operators, in accordance to the law and relevant regulations. For example, the fiber optics infrastructure of JDECO, a Jerusalem utility company, is used by at least one ISP. JDECO may be willing to lease infrastructure to other operators.

- MTIT has also introduced competition in the VoIP and WiFi markets by introducing new licenses.

For the introduction of competition through the award of mobile and broadband licenses to be successful for the Palestinian territories, the overall domestic regulatory framework needs to be strengthened. Despite the achievements mentioned above,

there is still the critical need to issue regulations to tackle the dominant position of Paltel in selected segments, and of unauthorized Israeli operators. There is an active and pressing debate on the need of a new law, and on the introduction of an independent regulator. The introduction of an independent regulatory authority reflects good international practice and should be considered as a priority.

Regardless of the timing of the creation of an independent regulator, however, the regulatory framework is lacking a minimum regulatory package of key regulations that support competition in advanced markets. For example, the regulatory framework should be strengthened through a package of regulations to address dominance and potential anti-competitive risks such as (i) limited access to essential infrastructures in the fixed broadband market, (ii) on-net / off-net price differentiation in the mobile market, and (iii) fixed and mobile cross-subsidizing.

There are specific, additional issues of regulatory and institutional uncertainty in Gaza, preventing the development of the telecom sector:

- Any company applying for a telecom license in the West Bank must go again through a whole new licensing process in Gaza. This generates inefficiencies and costs.

- Several counterparts mentioned that Gaza authorities are levying tax on telecom companies. While the principle of taxing telecom companies can be legitimate, any fiscal revenues should be managed directly by the PA or by a dedicated fund such as a Universal Service Access fund.

- MTIT does not have control over the Palestinian National Internet Naming

Authority (PNINA) —and more specifically over the PNINA servers — which is located in Gaza is the official domain registry for the Palestinian country code Top-Level-Domain (“.ps”). While the absence of MTIT control over PNINA does not currently prevent Palestinian companies to register and operate a website, MTIT should have control over this Authority.

The impact of unilateral and bilateral issues as well as domestic issues on the performance of the telecommunications sector is compelling:

- The price of fixed and mobile services is still high, and mobile data is particularly expensive, especially compared with the offers of unauthorized Israeli operators.

- A high-level, possibly conservative estimation of the foregone value due to lasting effects of unilateral and bilateral issues as well as domestic issues is provided based on a benchmarking with peer markets. **The total revenue loss for the Palestinian mobile sector during the last three years (2013-2015) ranges from US\$ 436 to 1,150 million.** The revenue loss directly attributable to the absence of 3G is between US\$ 339 and 742 million and the total 2013-2015 Value Added Tax fiscal loss for the Palestinian Authority is between US\$ 70 and US\$ 184 million³. The direct impact represents up to 3.0% of the GDP over the last three years.

In short, compared to the 2008 situation assessed in the World Bank Telecommunications Sector Note (World Bank, 2008), there has been very limited progress on the bilateral side and noticeable progress on the domestic side. On the bilateral side, spectrum issues emerged as

the most important bottleneck for the sector, in the context of an industry that has strongly evolved towards the use of radio resources for data communications. The creation of an independent regulator remains the most important domestic priority, but in some areas (sector liberalization, liberal licensing regime), the authorities have taken positive steps that most countries in the region have still to embrace.

...

Recommendations on Bilateral Issues

Revive the JTC platform to address bilateral issues. Specific areas of focus include a **comprehensive and long-term agreement on spectrum**, beyond the current agreement on 3G, and including 4G spectrum as well as spectrum for network backhauling and other wireless broadband access technologies, ensuring the Palestinian operators the right to develop independent, facilities-based, networks, and, if they wish, accessing shared passive infrastructure facilities.

Review the mechanisms for the functioning of the JTC to ensure greater trust, efficiency and openness. Some suggestions to explore include:

- A commitment to meet on a scheduled and regular basis whatever the political context on both sides;

- The inclusion of a trusted and independent third party with legal and technical expertise to review requests and proposals from both side and provide suggestions where relevant;

- The commitment to i) not disclose sensitive or preliminary proposal and information; ii) and conversely to publish public reports and updates on the work and progress of the JTC.

³ Additional fiscal revenues are not estimated in this Note such as corporate taxes.

Release 3G and 4G spectrum.

Competition in the mobile market has been the driver of mobile market growth and innovation in all markets, including in distressed, post conflict environments, and releasing additional spectrum would provide benefits to Palestinian residential and corporate end-users. Leaving a mobile-monopoly market structure in Gaza is unhealthy for competition and Gaza consumers. The absence of 3G/4G spectrum assigned to Palestinian operators is also hurting Palestinian consumers. The Israeli authorities have provided a proposal to allocate dedicated spectrum to the Palestinian operators, as well as spectrum on a shared principle on the 2100MHz band. A full allocation of spectrum resources, beyond the 3G spectrum, should be negotiated.

Lift Israeli constraints on the layout of microwave links and the import of civil and telecom material — particularly in Gaza. Some options include:

- Streamlining the administrative procedure for security clearance with stable, objective, transparent and non-discriminatory criteria to be fulfilled;
- Palestinian telecom and ICT companies providing all the needed clearance forms and proofs;
- Israeli authorities monitoring the use of civil and telecom material— particularly in Gaza — with the possible involvement of a trusted third-party performing a detailed audit on a regular basis to ensure all security concerns are dealt with.

Mitigate the effect of unauthorized telecom activity. The issue of unauthorized Israeli telecom activity in the West Bank has been present through the implementation of

the Oslo agreement. Two measures can address this issue:

- Palestinian operators should be able to access similar resources as Israeli operators, in order to be on the same competition ground. This includes accessing sufficient spectrum to deploy independent 3G and 4G/LTE systems (which can be shared with Israeli operators on a voluntary basis); this is a top priority for action;
- An ideal cooperation between Israeli and Palestinian authorities would limit the coverage of Israeli operators in the West Bank. This includes the review of telecom equipment deployed (e.g. micro-cells with a smaller coverage radius can limit the coverage compared to macro-cells)⁴. However, the track record (especially of the JTC) suggests skepticism as to the reach of a solution to limit coverage.

Recommendations on Domestic Regulatory and Competition Issues

Create an independent regulator. The creation of an independent regulator (PTRA) is the top domestic priority, with the setting up of a regulatory framework in line with international best practices. The regulatory framework shall ensure an objective, transparent and non-discriminatory approach with the industry, supported by openness and public consultations.

Implement the telecom law. The Note also urges that Palestinian counterparts to implement the existing law without delay, or introduce amendments to ensure it is consistent with global best practices.

⁴ Although the economic impact is marginal, Palestinian operators should also limit their signal reach within Israeli territory.

Resolve several legal and institutional issues affecting the sector with a minimum regulatory package, including:

- The monitoring of the market with the institution of an ICT observatory.
- The introduction and enhancement of regulatory tools such as market observatory, market definition, identification of Significant Market Power (SMP), remedies definition and enforcements, monitoring and sanctions;
- The enforcement of Reference Interconnection Offers (RIOs) to provide a more dynamic, transparent non-discriminatory and cost oriented wholesale market;

- The assistance in the setting-up of an *ex post* competition department or authority (to complement the *ex ante* regulatory approach) to monitor and approve potential mergers and prevent potential anti-competitive behaviours.

Enhance capacity and skills. The legitimacy and efficiency of MTIT and the to-be-created PTRAs must be supported by the continuing recruitment of skilled workers to keep up with market developments and complex regulatory tools. This remains a challenge as the labour market is small and the salaries in the public sector are lower than in the private sector.