

## **A Crisis of Faith**

Second Submission of the Palestine Liberation Organization  
to the Sharm El Sheikh Fact-Finding Committee

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## Foreword

An open and honest acknowledgment of injustices has always been a necessary precursor to historic reconciliations or even to create the environment necessary for such reconciliations. While it is preferable that parties in conflict be able to face up to such truths on their own, they sometimes need the help of an objective and respected third party. Over the last three months, more than three hundred Palestinians have been murdered, many in outright assassinations, and some ten thousand injured in the Israeli Occupied Palestinian Territories. Despite the obviously one-sided nature of this conflict, Israel – even as it engages in peace talks – finds itself unable to face questions concerning the legality not only of its tactics, but also of its overall position in the Occupied Palestinian Territories.

Israel may not need to acknowledge its illegal acts in order to end the killing of Palestinian civilians - ongoing even today - but it will need to do so in order to prevent future recurrences. The current crisis is not a result of “misunderstandings” as much as of a failure to recognize the universal applicability of international law. Who today can contest that territory cannot be acquired by force, that belligerent occupation at a minimum requires the occupying power to abide by the Fourth Geneva Convention, that collective punishment violates international norms, and that political assassinations are a particularly heinous form of state-sponsored terrorism? To contest such commonly agreed upon principles and international norms only when they apply to Palestinians or only when they are transgressed by Israel is simply unacceptable.

In light of the ongoing conflict, the role of Sharm El-Sheikh Fact-Finding Committee headed by Senator George Mitchell is of tremendous importance. The diplomatic niceties and privileges shared by negotiators on both sides have frankly not been translated into tangible benefits for the Palestinian people. After so many deaths and after so many shattered lives, Palestinians yearn for an objective and thorough accounting of the last three months. Palestinians have no fear of an unflinching and hard look at the root causes of this conflict or of a fair analysis of what has transpired within the context of international law.

This Fact-Finding Committee is not charting new territory in providing such an investigation. In the last twenty years, the international community has cooperated on conflicts around the world to promote the individual and national rights of peoples long oppressed. Our generation has witnessed the end of apartheid in South Africa, an end to the civil wars in Guatemala and El Salvador, the halting and reversal of ethnic cleansing in Bosnia and Herzegovina and Kosovo, the implementation of self-determination in East Timor, and the beginning of true peace in Northern Ireland, all with various levels of involvement by the international community. The international recognition of an independent Palestinian state existing in equality and peace with Israel has waited for far too long not to be added to this list of successes.

An objective investigation into the crimes of the last three months is a necessary precursor for such a success. This Committee’s mandate is not only to investigate the

causes of the current crisis and violations that have taken place throughout, but also to consider ways to end the violence and to ensure that the continuing violations of human rights are not repeated. Yes, there must be an end to the killing of civilians and to other illegal uses of violence against Palestinians. Yes, Palestinians must be allowed freedom of movement. Yes, the illegal building and expansion of settlements, unprecedented under the current Israeli government, must be stopped. Yes, the wholesale onslaught on the Palestinian economy must be ended. But more will be needed to create a truly peaceful environment conducive to reconciliation.

In conflict zones such as Bosnia and Herzegovina, Kosovo and East Timor, the international community has had to augment various resolutions of the United Nations General Assembly, the Security Council, and even agreements between the parties with an international protection force composed of disinterested and neutral military and civilian personnel. Such forces have protected the lives and personal security of civilians, helped ensure their most basic human rights, and created the breathing room necessary for peace talks to be brought to fruition as well as to help create an atmosphere of trust in the period immediately following implementation of peace agreements.

We trust the Committee will take into consideration the lessons learned and the accomplishments of the international community in other parts of the world in addressing the current tragedy in the Palestinian Territories and consider the necessity of providing neutral parties to provide Palestinian civilians with the immediate protection they need, as well as to confirm the international community's commitment to supporting the individual and national equality of Palestinians and Israelis.

Each conflict that has occurred in this century has been unique, but they have also been the same. At their core, they arise from an unwillingness to accept the basic equality of all human beings and an unwillingness to reconcile the individual and national rights of peoples destined to live with and next to each other. When such ideological prejudices manifest themselves in occupation, displacement, collective punishment, discriminatory treatment, arbitrary imprisonment, and violence against civilians, an inevitable cycle of oppression and resistance is created.

This Committee's challenge will be to help end this cycle by bringing the weight of the international community's expertise and the strength of international law to the framing of the conflict and its resolution. We have reached a point where symbolic diplomatic efforts that only dash the hopes of long-suffering Palestinians become flashpoints for an intensification of the conflict. Under the leadership of Senator George Mitchell, I am confident that this Committee can recommend a path that will recognize and promote an end to the institutional injustices that have plagued Palestinians by providing a mechanism through which a fair, just, and moral peace in accordance with international law can be achieved.

I thank President William Jefferson Clinton and Secretary General Kofi Annan for their continued involvement in promoting Palestinian rights, and thus the peace process, and their support for this Fact-Finding Committee. With the best efforts of the international

community, I am sure we can stop the assault on the Palestinian population and promote a new era of beneficial and peaceful interaction between an independent Palestine and Israel based on mutual respect, equality, and international law.

Yasser Abed Rabbo  
Minister of Culture and Information  
Palestinian National Authority

## **Part I: Introduction and Executive Summary**

The Sharm El-Sheikh Fact-Finding Committee (“Committee”) is a direct result of both Security Council Resolution 1322 of October 7, 2000 (“SC Res. 1322”) and President Clinton’s statement at Sharm al-Sheikh on October 17, 2000. Since the first days of the current uprising, the Palestinian people have called on the international community to establish an international commission of inquiry. The United Nations Security Council endorsed this proposal in S.C. Res. 1322, “*stressing the importance of establishing a mechanism for a speedy and objective inquiry into the tragic events of the last few days with the aim of preventing their repetition, and welcome[d] any efforts in this regard.*” Ten days later, President Clinton reiterated the Security Council mandate, and stated that: “*the United States will develop with the Israelis and Palestinians, as well as in consultation with the United Nations Secretary General, a committee of fact-finding on the events of the past several weeks and how to prevent their recurrence.*” As contemplated by the two instruments, the Committee shall determine the causes of the current events, examine the development of events since the outbreak of violence, and formulate recommendations to prevent the recurrence of violence.

Upon the Committee’s first visit to the region, the Palestine Liberation Organization provided a Preliminary Submission to the Committee. Our second submission focuses on presenting factual data to assist the Committee in its investigation of the recent events and provides recommendations to prevent their recurrence in the future.

This Submission is divided into five thematic parts. Part One, the Introduction and Executive Summary, provides a summary of the issues addressed and discussed in this Submission. Part Two, The Roots of the Current Uprising, summarizes the historical events underlying the current violence, beginning with the circumstances that surrounded Security Council Resolution 181 and ending with the negotiations held at Camp David in July 2000. Part Three, The Current Uprising, consists of four chapters with each examining specific human rights practices, and in so doing revealing the extent of lawless conduct on the part of the Israeli authorities. Part Four, Recommendations, outlines concrete recommendations necessary to end the violence and to prevent it from recurring. Part Five, Conclusion, leaves the Commission with some final thoughts.

This Submission also includes an appendix of reports cited including those of non-governmental organizations, the United Nations, international organizations, press reports, and reports by various Palestinian Ministries. The report also includes two videos, one a compilation of wire service footage and the other composed of three BBC reports that highlight the substance of this report.

Israel’s lawless conduct in the Occupied Palestinian Territories throughout the past 33 years of occupation is evident on at least two levels. The first is Israel’s deliberate disregard of international legal standards through the use of illegal military orders and the sanctioning of unlawful policies. The second involves the routine flouting by Israeli military personnel of even these unacceptable standards, from soldiers in the street to

officials at the highest level. As a result, gross violations of human rights are a staple of daily life for the civilian residents of the Occupied Palestinian Territories.

No single policy provides more evidence of Israel's illegal activities and no policy has had graver repercussions for the Palestinian population than Israel's policy of importing Israeli Jewish citizens into the Occupied Palestinian Territories in violation of the Geneva Convention Relative to the Protection of Civilian Person in Time of War of August 12, 1949 ("the Fourth Geneva Convention") and setting up armed settlements and settlers in the midst of and surrounding Palestinian population centers.

These settlers have acted as an unofficial arm of the Israeli government and military, promoting the colonization of Palestinian territory and instigating acts of violence against Palestinian civilians with the intention of forcing them from their homes. These settlements are connected to each other and to Israel by Jewish-only roads euphemistically called "bypass roads." While Palestinian cities suffer from lack of adequate water and sanitation, many settlements exist as miniature Israeli suburbs complete with swimming pools and grass lawns. Whereas not one Israeli settler remains in prison for killing a Palestinian, thousands of Palestinians remain under detention or arrest for dubious charges without being provided internationally recognized standards of due process. This set of double standards has been condemned elsewhere in the world as a form of apartheid and has been condemned in the Occupied Palestinian Territories by almost every single nation in the world.

This situation of institutionalized oppression has remained unaltered, and in some respects has been accelerated, throughout the seven years following the signing of the Oslo Accords. In effect, a powder keg has been created despite the on-going peace talks that have continued almost uninterrupted since the Oslo Accords. All that remained was for a spark to set off a crisis.

That spark was provided by Ariel Sharon ("Sharon"), leader of the opposition Likud Party and one of the most controversial Israeli leaders, loathed by Arabs, and Palestinians in particular, for his repeated involvement in massacres of Arab civilians and for the ethnic cleansing of 160,000 Palestinians from Jerusalem in 1967. His visit to the Haram al-Sharif ("Haram") on September 28, 2000, approved personally by Israeli Prime Minister Ehud Barak ("Barak"), and accompanied by at least 2,000 armed Israelis infuriated Palestinians.

The events of the next day's Friday prayers made a crisis inevitable. The Israeli government decided to break with past practice and placed a large presence of Israeli armed forces on and just outside the Haram during the prayers. Outraged by the continued desecration of the Muslim holy site, some worshippers began throwing stones at the Israeli armed forces. Immediately, Israeli police responded with live fire that lasted for several hours against admittedly unarmed Palestinians. Four Palestinians were murdered that day finally setting off the current uprising.

During the current crisis, the oppression of Palestinians has become even worse, taking the form of a one-sided war. Since the outbreak of the current events, lethal and illegal force continue to be used by Israeli soldiers and settlers with increasing regularity, resulting in the killing of at least 319 Palestinians as of December 19, 2000 and the wounding of over 10,000 others, many of whom have become permanently disabled.

In a further violation of fundamental principles of international humanitarian law, medical care has been treated as a privilege, with ambulances, doctors, and patients alike routinely obstructed from either giving or receiving medical assistance. Reporters and other journalists covering Israeli violence have been shot at and beaten on a regular basis by Israeli military forces as well as settlers. In a grave breach of the Fourth Geneva Convention, the Israeli occupying forces continue to demolish and seal homes while the imposition of systematic curfews continue in violation of international bans on collective punishment. Even more restrictive forms of administrative control, such as travel restrictions throughout the Occupied Palestinian Territories, have been introduced, and economic rights, religious rights, the rights of women, and the rights of children continue to be systematically violated.

This submission recommends a series of steps be taken to bring the current crisis to an end. First and foremost, Israel must recognize the applicability of the Fourth Geneva Convention to its occupation of Palestinian Territories. Respect for the provisions of the Convention will go a long way to not only ending the current crisis but also making sure that it is not repeated.

As part of such respect for international law, Israel must also desist from its use of excessive force against the Palestinian civilian population. Outside of a few infamous examples, no other country in the world uses lethal military force against unarmed demonstrators. Crowd control techniques utilized by democracies around the world have succeeded in addressing demonstrations without violating the rights of the demonstrators. Such respect for the rule of law also requires Israel to take active measures to protect Palestinians from settler violence including placing restrictions on the carrying and use of firearms by Israeli settlers.

Israel must also end all forms of collective punishment against Palestinian civilians in violation of the Fourth Geneva Convention. Virtually all occupation armies have, at one time or another, fell under the mistaken impression that attacking the general civilian population would end all acts of resistance to the occupation. History has shown the fallacy of such a position, and the illegality of such acts has been enshrined after World War II in the Convention.

There must also be a freeze on settlement construction and expansion. Palestinian population centers have begun to resemble surrounded reservations cut off from one another by elaborate settlements and roads designated for Jews only. Rather than forcing Palestinians to flee to other countries, this constant encroachment has only promoted acts of resistance in the belief that the peace process has only bought time for Israel to expand its settlement policy.

Finally, Israel must start taking into account the damage it is doing to the Palestinian environment. The damage to the agriculture, soil fertility, and the underground water table will not be resolved for months or years to come. The damage to water distribution networks and solid waste management systems by Israeli military forces and settlers could well have grave health consequences if they are not immediately reversed.

These recommendations actually entail much of what was supposed to happen under the Oslo Accords and the subsequent peace process. They are not new ideas, but unfortunately, they have never been implemented. This indicates that Israel is so far unwilling to abide by either international law or its agreements with the Palestinians. The lack of good faith exhibited by the continued expansion of settlements and the illegal use of violence suggests that Palestinians require an international monitoring and implementation force. A robust peacekeeping or protection force could not only succeed in defusing tensions but could also create the environment necessary to promote negotiations leading to a comprehensive peace agreement.

Ultimately, of course, the occupation of Palestinian Territory must be brought to an end in line with the requirements of Security Council Resolutions 242 and 338. Once the Palestinian right to self-determination is recognized and respected, a Palestinian state and an Israeli state can establish normal state-to-state relations based on mutual respect and equality. Palestinians, like Israelis, desire normalcy, but this can only happen when the institutional oppression of Palestinians by Israelis comes to a complete end. Peace is always a result of justice – not of brute force. To the extent that this Committee can promote justice, it will be promoting peaceful relations between Palestinians and Israelis and creating an atmosphere in which negotiations can finally end the dispossession of the Palestinian people and the occupation of Palestinian territory.

## **Part II: Roots of the Current Uprising**

It is widely believed that the September 28<sup>th</sup> visit of Likud party leader Sharon to the Haram, accompanied by more than one thousand Israeli soldiers, caused the current uprising. While his visit was certainly the triggering event, this particular insult may well have been dismissed as yet another cynical political maneuver by Sharon were it not for what preceded it: thirty-three years of belligerent occupation during which Palestinian interests were subordinated by military force to Israel's territorial ambitions, and seven years of peace negotiations that have delivered neither freedom nor opportunity to the Palestinian people.

Throughout this time, Israel has been presented with a central abiding choice: land or peace. At each juncture, however, it has demanded that it receive both. Throughout a peace process that Palestinians expected would bring about the historic compromise articulated in United Nations Security Council Resolution 242, Israel has taken concrete steps to consolidate its control over the territory, economy, and resources of the West Bank, including East Jerusalem, and the Gaza Strip. At the same time, under the banner of "separation," it has confined Palestinians to enclaves separated from one another and from Israel by settlements, military areas, and roads under Israel's exclusive control. These measures have left Palestinians vulnerable to onerous and often arbitrary restrictions on movement within and outside their country, encroachment and abuse by Jewish settlers, and the daily humiliation of dependence.

At any point in this process, and in scores of different ways, Israel could have demonstrated its willingness to move toward the principled compromise envisaged by Resolutions 242 and 338 and avoided the violence, loss of life, and destruction of the last three months. As described below, however, Israel has consistently chosen instead to rely on force as the primary reference point in all aspects of its relations with the Palestinian people, creating a crisis of faith that made the current uprising inevitable.

### ***Belligerent Occupation and Settlement Expansion***

During the June War of 1967, Israeli armed forces occupied the West Bank, including East Jerusalem, and the Gaza Strip (the "Occupied Palestinian Territories"), as well as the Golan Heights and Sinai Peninsula. The following October, in an effort to avert further hostilities, the United Nations Security Council adopted Resolution 242, which adopted "principles for a just and lasting peace in the Middle East." Emphasizing the inadmissibility of acquiring territory by war, the Security Council proposed a compromise: Israel's withdrawal from occupied territories in exchange for a termination of all states of belligerency and respect for the sovereignty, territorial integrity, and political independence of all States in the area.

In defiance of international law, Israel began to implement a systematic policy of transferring its own population into the occupied territories almost immediately after it conquered them. On June 28, 1967, Israel unilaterally expanded the municipal

boundaries of Jerusalem to include 70,000 dunums (approximately 17,500 acres) of West Bank land (illegally annexing the land in 1980), and proceeded to build Jewish-only settlements on expropriated Palestinian land in East Jerusalem and other parts of the West Bank and Gaza Strip. Both actions elicited the condemnation of the international community, and the Security Council unanimously adopted resolutions condemning both the measures taken by Israel to change the legal status of Jerusalem<sup>1</sup> and Israel's policy and practices of establishing settlements in the Palestinian and other Arab territories occupied since 1967.<sup>2</sup> The Security Council emphasized that Israeli settlements not only violated the Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 ("Fourth Geneva Convention"), but also constituted "a serious obstruction" to peace.<sup>3</sup> The Security Council also condemned and declared invalid Israel's annexation of East Jerusalem as a violation of international law.<sup>4</sup>

Israel has recklessly continued its settlement program notwithstanding repeated warnings that it would endanger a peaceful resolution of the Palestinian-Israeli conflict. As former United States President, Jimmy Carter, recalled in a recent editorial in *The Washington Post*,

It was clear that Israeli settlements in the occupied territories . . . were, according, to the long-stated American position, both "illegal and an obstacle to peace." Accordingly, [at the first Camp David summit in 1978], Prime Minister Begin pledged that there would be no establishment of new settlements until after the final peace negotiations were completed. But later, under Likud pressure, he declined to honor this commitment . . .<sup>5</sup>

United States Presidents Ronald Reagan and George Bush reiterated this position. President Reagan observed that "the immediate adoption of a settlement freeze by Israel, more than any other action could create the confidence for wider participation in [peace] talks"; and President Bush threatened to withhold U.S. financial aid to Israel if settlement activity continued.<sup>6</sup>

Throughout its years of occupation, Israel applied a dual system to Israeli settlers and Palestinian residents of the Occupied Palestinian Territories extending to virtually all areas of life, including legal and political rights, infrastructure and institutional development, and access to natural resources. To cite one example, Israel imposed daily water usage quotas that allocated to Israelis 300 liters per capita, compared to 80 liters per capita allocated to Palestinians.<sup>7</sup> Moreover, in order to build new settlements and expand upon old settlements, military orders have been the primary means used to

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<sup>1</sup> U.N.S.C. Res. 267 (1969).

<sup>2</sup> U.N.S.C. Res. 465 (1980); *see also* U.N.S.C. Res. 446 (1979) (condemning settlements); U.N.S.C. Res. 452 (1979) (same).

<sup>3</sup> *Id.*

<sup>4</sup> U.N.S.C. Res. 478 (1980).

<sup>5</sup> Jimmy Carter, *For Israel, Land or Peace*, *The Washington Post* (Nov. 26, 2000).

<sup>6</sup> *Id.*

<sup>7</sup> *See* Amira Hass, *Jenin Gets Big Water Donation*, *Ha'aretz* (Sept. 11, 1998).

expropriate Palestinian land. In so doing, homes have been demolished and Palestinian residents expelled, among them hundreds of children – all through military force.

This militarily-enforced dual system, and the persistent infringement upon Palestinian civil, political, and economic rights by Israeli occupation forces, spawned the first Palestinian uprising, which erupted in Gaza in December 1987 after an Israeli truck collided with two vans carrying Palestinian workers. Israel employed a number of brutal methods to quell the uprising, including assassination, torture, the “broken bones” policy of then-Defense Minister Yitzhak Rabin, and mass arrests. At least 1,100 Palestinians were killed by Israeli security forces (and at least 62 killed by Israeli civilians)<sup>8</sup>, over 100,000 were injured – at least 40% suffering permanent physical damage – and approximately 175,000 were arrested. The uprising nevertheless continued until 1994.

### **A. The Historic Compromise**

As a means of supporting the uprising, and in an effort to bring about a peaceful resolution of the Palestinian-Israeli conflict, the Palestine National Council (“PNC”), the legislative arm of the PLO, voted to adopt the Palestinian Declaration of Independence in November 1988. In the Declaration, the PNC accepted the principle of a two-state solution articulated in the 1947 United Nations Partition Plan and General Assembly Resolution 181 (1947).<sup>9</sup> At the same session, in a far-reaching compromise, the PNC voted to declare the borders of the State of Palestine to be the West Bank and Gaza Strip, with East Jerusalem as its capital.

The scale of this compromise is difficult to overstate: According to the United Nations partition plan of 1947, the total land area of Palestine (26,323,000 dunums) was to be divided into: (i) a Jewish state on 56.47% of Palestine (15,261,648 dunums) although Jewish land ownership in this territory did not exceed 9.38% (1,383,856 dunums); (ii) an Arab state on 42.88% (11,589,868 dunums); and (iii) an international Zone of Jerusalem on about 0.65% (175,504 dunums). Between 1948 and 1949 Israel captured an additional 21.47% of Palestine (5,264,352 dunums), leaving it in control of 77.94% of Palestine following the Armistice Agreements of 1949. Only 22.06% of Palestine was left outside Israeli control. The West Bank (20.74% of Palestine) fell under Jordanian control and the Gaza Strip (1.32% of Palestine) fell under Egyptian control until 1967, when Israel extended its occupation to these areas. Thus, the PLO accepted the establishment of a Palestinian state on less than one quarter of the territory of historic Palestine and slightly more than half of the territory allocated to the Arab State in the 1947 Partition Plan. For Palestinians, too, the choice presented was “land for peace”; and in 1988, at great cost, they chose peace.

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<sup>8</sup> B’Tselem, The Israeli Information Center for Human Rights in the Occupied Territories, *Total Casualties in the Occupied Territories (Including East Jerusalem), since the Beginning of the Intifada (Dec. 9, 1987) until November 30, 2000* (visited Dec. 30, 2000)

[http://www.btselem.org/files/site/english/data/Total\\_Casualties.as](http://www.btselem.org/files/site/english/data/Total_Casualties.as).

<sup>9</sup> Palestinian Declaration of Independence, 19th Sess., para. 10, U.N. Doc. A/43/827 (1988)

## ***Good Faith, Dashed Expectations***

Palestinian delegates attended the Peace Conference in Madrid in 1991 with the understanding that the Middle East Peace Process would proceed on the basis of Resolutions 242 and 338 – and the land for peace formula for which they stand. That understanding was also a central feature of the Declaration of Principles on Interim Self-Government Arrangements (“DOP”).

The DOP was formulated over the course of several months in 1993. While formal peace negotiations within the framework established by the Madrid Peace Conference proceeded separately, representatives of the Israeli government and the PLO engaged in at least fourteen rounds of secret meetings in Oslo, the process mediated by the late Johann Jorgen Holst, former foreign minister of Norway. This process led to the formal recognition of the PLO, as the sole representative of the Palestinian people by Israel, and to the reiteration of Palestinian recognition of Israel’s right to exist. It also led to the formulation of the DOP, which was signed on September 13, 1993 by Israeli Foreign Minister Shimon Peres and Mahmoud Abbas, head of the PLO's Political Department. The DOP created a framework for long-term negotiations regarding the final status of the Occupied Palestinian Territories and the establishment in the interim period of a Palestinian self-governing authority. Subsequent agreements concluded between the parties – in particular, the Palestinian-Israeli Interim Agreement on the West Bank and Gaza Strip (the “Interim Agreement”) – further defined the functions and jurisdiction of the Palestinian National Authority (“PNA”), which began to administer portions of the Occupied Palestinian Territories in May 1994.

The Interim Agreement provides for a phased transfer of territorial jurisdiction from the Israeli Civil Administration and Military Government to the PNA. Although it affirms that both sides regard the West Bank and Gaza Strip as "a single territorial unit, the integrity and status of which will be preserved during the interim period," it divides that "unit" into a patchwork of smaller enclaves, each classified as either Area "A" (full Palestinian control), Area "B" (Palestinian civil control, Israeli overriding security control) and both surrounded by Area "C" (full Israeli control).

Although both the Interim Agreement and the DOP, as their titles suggest, were conceived as self-consciously temporary arrangements, applicable only during a transitional period, neither document explains what the parties are making a transition from or what they are making it to. Drafted in accordance with the assumption that the parties would be better able to resolve differences as their more positive relations developed and confidence grew, the agreements left many questions unanswered – either deferring them for subsequent negotiations or relegating them to joint committees that lacked binding dispute resolution mechanisms. The Palestinians, to put it simply, went on faith.

More than seven years after the signing of the DOP, most Palestinians have come to the conclusion that that faith was misplaced. Israel’s attitude towards the implementation of

the signed agreement is perhaps best captured in late Prime Minister Rabin's assertion that "no dates are sacred". Citing the vagueness of its commitments, and later citing nothing at all, Israel has failed to implement a number of its obligations under the agreements. Labor and Likud leaders, alike in their claims for "peace", have made no secret of the fact that the Israeli interpretation of Oslo was designed to segregate the Palestinians in non-contiguous enclaves, surrounded by Israeli military-controlled borders, with settlements and settlement roads violating the territories' integrity. Throughout the interim period expropriations and house demolitions proceeded dutifully under the Rabin, Peres, Netanyahu and Barak administrations along with the expansion and multiplication of settlements (200,000 Israeli Jews added to Jerusalem, 200,000 more in Gaza and the West Bank), continued military occupation, and every step that would lead toward Palestinian sovereignty, including agreements to withdraw, either delayed or cancelled at Israel's will.

Examples of such non-compliance include:

**The third and final Israeli redeployment in the West Bank.** The Interim Agreement details the mechanisms for the withdrawal of Israeli troops from Palestinian territory which was to be carried out in three phases, beginning in October 1996 and ending within eighteen months of the election of the Palestinian Legislative Council, i.e. in September 1997. In completing the third further redeployment, Israel was to have withdrawn from all of the West Bank, with the exception of areas preserved for the permanent status negotiations (namely Jerusalem, settlements and "specified military locations"). Three years after it was due, the third further redeployment has yet to be implemented. To date, Israel remains in exclusive control of 61% of the West Bank (Area C) and retains overriding security control over an additional 21% (Areas B). As a result, the PNA presently has full control over non-contiguous islands covering only 18% of the West Bank (Areas A).

**Palestinian prisoners.** During Israel's occupation of the West Bank and the Gaza Strip, and especially during the first uprising, Israel has used imprisonment and detention, including long-term administrative detention as a punitive measure against the Palestinian people. The Interim Agreement, and subsequently the Sharm el-Sheikh Memorandum of September 4, 1999, provide for specific modalities and timelines for the release of Palestinian political prisoners as well as the release of political prisoners from Arab countries. Despite these agreements, more than 1,600 political prisoners remain in Israeli jails. Israel continues to insist on deciding unilaterally on any further prisoner releases.

**Settlement Activities.** The Interim Agreement provides that, "[t]he two Parties view the West Bank and the Gaza Strip as a single territorial unit, the integrity and status of which will be preserved during the interim period."<sup>10</sup> Israel has violated this article as well as similar commitments in other agreements by

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<sup>10</sup> Palestinian-Israeli Interim Agreement on the West Bank and Gaza Strip (Isr.-PLO), art. 31(8) (Sept. 28, 1995).

continuing to build and expand settlements in the West Bank, including East Jerusalem, and in the Gaza Strip. Settlement construction and expansion alter the territorial integrity of the Occupied Palestinian Territories, disrupting the contiguity of Palestinian communities, and they constitute a blatant attempt to prejudice the status of parts of the Territories prior to its final resolution in negotiations. In the seven years since the DOP was signed, the settler population in the West Bank, excluding East Jerusalem, and the Gaza Strip has doubled to 200,000, and the settler population in East Jerusalem has risen to 170,000. Israel has constructed approximately 30 new settlements, and expanded a number of existing ones to house these new settlers. Moreover, the pace of settlement expansion has increased since the start of the permanent status negotiations, with 740 new building starts in the settlements in the second quarter of the year 2000, as compared with 490 settlement building starts for the same period last year. In total, settlement building starts in the first half of the year 2000 have increased 44% from last year.

In addition to non-compliance with signed agreements, Israel has taken a number of measures that violate the spirit of the Oslo process and call into question its commitment to peace. Since the Oslo Accords were signed, Israel has demolished approximately 1200 Palestinian homes, uprooted around 80,000 olive and fruit trees, begun construction on 480km of highways and “bypass” roads to serve the settlements, and has imposed a permanent “closure,” denying Palestinian laborers access to work.<sup>11</sup>

### ***Permanent Status Negotiations***

Permanent status negotiations officially commenced on May 6, 1996, at the Egyptian resort of Taba, but were suspended for more than three years when Benjamin Netanyahu (“Netanyahu”) was elected Prime Minister the same month. Negotiations resumed under Prime Minister Barak (“Barak”) in November 1999. The stated aim of the negotiations was to reach an agreement implementing United Nations Security Council Resolutions 242 and 338 and to put a final end to the Palestinian-Israeli conflict. According to the Sharm el-Sheikh Memorandum concluded between the parties in September 1999, the negotiations were to be conducted in two stages, the first resulting in a Framework Agreement by February 2000, and the second resulting in a Comprehensive Agreement by September 2000. Both deadlines were missed.

In the initial months of the negotiations, Israel presented positions that departed radically from the compromise envisioned in Resolution 242. Israel proposed that it annex or continue to control a third of the territory in the West Bank. It rejected any discussion of Palestinian sovereignty over parts of Jerusalem occupied in the June 1967 War, including the Haram. Israel demanded a continuation of its security control in the Jordan Valley, on all international crossing points, on Palestinian airspace, and on the electromagnetic sphere, in addition to a number of other highly intrusive arrangements. It asserted that it would permit the return of an extremely limited number of refugees and only on

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<sup>11</sup> Jeff Halper, *How to Start an Uprising*, 8 News from Within 6, 6-7 (Nov. 2000).

humanitarian basis. And it declined to apply the internationally-recognized norm of equitable and reasonable utilization in defining the water rights of each Party.

Such proposals created a generalized impression among the Palestinian people that Israel is not serious in the quest for reaching peace.

Parallel to negotiations, Israel continued to implement policies that signaled an unwillingness to move towards a peaceful resolution of the conflict. As mentioned above, Israel failed to implement obligations outstanding from the Interim Agreement such as the third further redeployment, prisoner release, and the readmission of Palestinian displaced persons. Furthermore, settlement activities continued at a heightened pace.

### ***Camp David II***

In an attempt to break the negotiation impasse, the President of the United States invited both Parties to a summit at the Presidential Retreat at Camp David. The Palestinian side expressed reservations regarding participation in the summit as it felt that not enough preparations had been undertaken to guarantee a positive outcome.

The summit failed due to the continued Israeli and US inability to respond to Palestinian needs, and to the prevailing sense amongst both the Israeli and American sides that a solution can be imposed on the Palestinian leadership.

The failure of the summit, and the attempts to allocate blame on the Palestinian side only added to the tension on the ground. After the failure of Camp David II, the negotiations between the two sides continued.

### ***Why did Barak instigate the crisis?***

The spark that set off the current crisis was precipitated by the deliberate provocation of the Israeli leader of the opposition Likud Party, Sharon on September 28, 2000. Sharon had made it known that he was planning to visit the Haram (known to the Israelis as the Temple Mount), the site of two of the most holy mosques for Muslims.<sup>12</sup> Sharon requested approval from then Prime Minister Barak's government for the visit. His apparent intention was to make clear to Palestinians that Israel would never end its occupation over any part of Jerusalem.

Palestinian leaders responded to the request with great alarm. Col. Jibril Rajoub, Head of Preventive Security in the West Bank for the Palestinian Authority, contacted the Israeli government to warn them that the visit would be viewed as a provocation and could lead to unrest.<sup>13</sup> Palestinian negotiator Sa'ab Erakat, in Washington, D.C. at the time for talks with U.S. Middle East envoy Dennis Ross ("Ross"), also conveyed to Ross and other

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<sup>12</sup> The Dome of the Rock from which the Prophet Muhammad is believed by Muslims to have ascended to heaven and the Al-Aqsa Mosque (Omar's Mosque).

<sup>13</sup> The Associated Press and the Jerusalem Post published these warnings on September 28, 2000.

American officials his fear that such a visit by Sharon could set off a disaster. Despite these warnings, Barak approved Sharon's visit.

Sharon was uniquely qualified to set off the latest crisis. Virtually all Palestinians, and Arabs in general, revile Sharon for his role in several massacres of Palestinian civilians<sup>14</sup> as well as the forced resettlement of 160,000 Palestinian refugees from Jerusalem immediately following Israel's occupation of the city in June 1967. Sharon's visit to the third most sacred spot in Islam was viewed as sacrilege on a religious level and a gross political statement in support of continued occupation on a secular level.

However, Sharon could not have set off the crisis without the cooperation of Barak who must have known the Palestinian response to such a visit. The presence of at least 2,000 armed Israelis accompanying Sharon on the Haram provided Palestinians with no way to interpret the visit but as a provocation.

Still, the matter might not have led to a new uprising had the Israeli occupation forces acted with restraint on the next day, September 29, 2000, during Friday prayers. Senior officers from the Israeli police entered the Haram during the prayers and placed a large police force just outside. Incensed by Sharon's visit the day before as well as the presence of senior occupation force officials, some younger Palestinians began throwing stones at the police despite the attempts by religious officials and others to prevent them. Immediately, Israeli police cleared Jewish worshipers at the Wailing Wall, moved in to the Haram area and began firing shock grenades and steel-covered rubber bullets at the Palestinian worshippers. Israeli officials have never suggested that any Palestinians were armed.

The shooting began at about 1:20 pm that day and continued until approximately 5:30 pm, despite attempts by Col. Rajoub and other Palestinians to calm the situation. The Israeli forces killed four Palestinians at the Haram that day and wounded more than 200 Palestinians. An Israeli account of the shooting states:

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<sup>14</sup> Sharon was a Colonel in the Israeli Army in 1953 and commanded a special force created to attack Arab villages in Israel. Sharon was responsible for killing fifty civilians in Qibya in a single day during that year. Sharon was also the architect of Israel's 1982 invasion of Lebanon in which an estimated 20,000 Lebanese and Palestinian civilians were killed. As Minister of Defense, Sharon also ordered the Palestinian refugee camps of Sabra and Shatila surrounded by Israeli forces in September 1982 in violation of a cease-fire agreement brokered by the United States. While Israeli soldiers refused to allow the women and children in the camp to leave, they shipped in a pro-Israel militia from the south of the country and allowed them into the de-militarized camps for more than 40 hours. During that time, at least three thousand Palestinians were raped, killed, and buried in mass graves under the watchful eye of the Israeli Army which provided flares at night so the militiamen could continue their rampage along with food, clothing, and armaments to the militiamen. [Israeli journalist Annon Kapeliouk, the first reporter to enter the camps after the massacre, counted over 3,000 corpses not including those in the mass graves. The International Committee of the Red Cross counted 2,750 Palestinian corpses. The mass graves have never been exhumed for a total count of the Palestinians killed by Sharon's forces at Sabra and Shatila.] An Israeli commission investigating the war crime indicted Sharon for being "indirectly responsible for the killing" because he did nothing to stop the militias from entering the camps or from conducting the massacre, but he remained a Minister in the Israeli government.

The firing was aimed indiscriminately at the crowd and not at individuals who endangered the lives of the policemen. As a result, some of the injured were worshipers who took no part in the events and were distant from the stone throwers...The massive and indiscriminate shooting caused a great number of casualties...[w]ithin fifteen minutes from the start of the firing, some fifty people, most wounded in the upper part of their bodies, reached the clinic [at the Haram]...In at least a few instances, police beat Palestinians, sometimes after the Palestinians had been wounded...At least three photo-journalists at the scene were injured by police gunfire, although it is clear that – as photographers on duty – they did not take part in the events.<sup>15</sup>

Israeli forces also shot at ambulance drivers and the wounded and beat reporters on the scene.<sup>16</sup> As word spread throughout Israel and the Occupied Palestinian Territories that an assault was under way at the Haram, demonstrations broke out throughout the region. Israeli police and occupation forces responded using similar techniques to those on the Haram. Altogether, seven Palestinian civilians were murdered that day setting off the cycle of demonstrations that continue to this day.

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<sup>15</sup> B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, *Events on the Temple Mount – September 29, 2000: Interim Report*, page 3-4.

<sup>16</sup> Id.

## Part III: The Current Uprising

### Section A: Violence Against Civilians

This part of the report describes the policies and practices of the Israeli occupation – practices which have constituted a one-sided war – imposed on three million Palestinians living in the Occupied Palestinian Territories during the past three months. Since the beginning of the current uprising, Israeli occupation forces have attacked Palestinian civilians from land, air and sea, using heavy weaponry including artillery. The attacks have resulted in the death of over 300 hundred Palestinians, with more than ten thousand injured, leaving many with permanent disabilities. Hundreds of houses have been demolished and seized, vast areas of agricultural lands bulldozed and thousands of olive and fruit trees uprooted.

Three million Palestinians are now living under siege, isolated from one another. This has prevented Palestinians from reaching their place of work, from receiving food, medical care and other basic needs. Border closures along with the closure of the Palestinian airport, have cut Palestinians off from the outside world. As a further result of the siege, unemployment and poverty rates are increasing dramatically in the Occupied Palestinian Territories. Moreover, Israel has delayed transferring taxation revenues to the PNA in violation of its agreements with the Palestinians. In sum, Israeli policies and actions are having tremendous negative effects on all aspects of Palestinian life.

These policies are the result of Israel's disrespect for international law, and in particular, international humanitarian law. Israel has flagrantly refused to accept the *de jure* applicability of the Fourth Geneva Convention, despite international calls for its application. Unfortunately, international support has stopped at mere protestations. The polite calls by the international community have been ineffective in stopping the drastic effects of the non-application of the Fourth Geneva Convention, effects that include death and torture, in violation of the articles of the Fourth Geneva Convention.<sup>17</sup> In failing to move beyond calls the international community has idly witnessed the killing of the Palestinian people at the hands of Israeli occupation forces. The failure of the international community to ensure Israel's respect for the Convention and its other treaty obligations has allowed Israel, as a belligerent Occupying Power, to determine and govern its own behaviour in the Occupied Palestinian Territories. Israel's failure to adhere to the Fourth Geneva Convention and the absence of effective means of redress available to Palestinians have allowed Israel to systematically violate, without restraint, Palestinian rights protected under international law. Consequently, a rule of law in the Occupied Palestinian Territories that would restrain Israel's behaviour and prevent is systematic violations has been markedly absent during the last 33 years of occupation.

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<sup>17</sup> Article 27 of the Convention states, "Protected persons are entitled to respect for their persons...shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof." Article 32 mandates that States are "prohibited from taking any measure of such character as to cause the physical suffering or extermination of protected persons in their hands...not only murder...but also to any other measures of brutality whether applied by civilian or military agents."

Most stark of these measures is Israel's use of lethal force designed to kill or inflict maximum harm on civilians, irrespective of their participation in demonstrations. International principles calling for necessity and proportionality have been summarily ignored by Israel, in favor of changes to their internal regulations that now allow soldiers to shoot at stone-throwers.<sup>18</sup> In the name of "security", Israel has also engaged in "surgical" air strikes against the Palestinian population which, apart from their illegality and the ironic analogies to medical surgery, have killed many. Finally, Israel has followed a policy of assassinations that has claimed at least 13 lives to date.<sup>19</sup>

Several human rights organizations have already investigated Israel's wrath. The events of the past three months have prompted many international and domestic human rights organizations to make their observations known. For example, in assessing the methods used to respond to demonstrations, B'Tselem, an Israeli human rights organization, notes that, "*In policing the recent demonstrations, the Israeli security forces have tended to use military methods rather than policing methods involving the protection of human lives.*"<sup>20</sup> Physicians for Human Rights (USA), in examining some of the wounds inflicted by Israeli soldiers, concluded that soldiers are operating under broad rules of engagements and specifically aiming at peoples' heads, as demonstrated by the high proportion of fatal head wounds and numerous eye injuries.<sup>21</sup> Amnesty International has also concluded that the IDF have used excessive force in responding to Palestinian demonstrations.<sup>22</sup>

It is important to note that what has occurred in the recent period is only an intensification of ongoing and systematic violations of Palestinian rights by Israeli occupation authorities. The events of the past three months are the result of both Israel's failure to abide by international human rights and humanitarian law and the international community's failure to insist that it do so. Israel's failure, the rising death toll, and the deteriorating situation all have shown that there is a crucial need for the international community to act immediately to protect Palestinians, coupled with the concurrent need for an end to the Israeli occupation.

## **A. Summary of Israel's Violence Against the Palestinian Civilian Population**

### **Deaths**

From 29 September 2000 to 19 December 2000, **319** Palestinians living in the Occupied Palestinian Territories have been killed.

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<sup>18</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, article 5. Conduct for Law Enforcement Officials, G.A. Res. 34/169 of 17 December 1979, article 3.

<sup>19</sup> Health Development and Information Policy Institute, *Martyr Statistics*, visited December 21, 2000 [http://www.hdip.org/reports/Martyrs\\_statistics.htm](http://www.hdip.org/reports/Martyrs_statistics.htm)

<sup>20</sup> B'Tselem, *The Israeli Information Center for Human Rights in the Occupied Territories, Illusions of Restraint* 15 (2000).

<sup>21</sup> Physicians for Human Rights (USA), *Evaluation of the Use of Force in Israel, the West Bank and the Gaza Strip* 1 (2000).

<sup>22</sup> Amnesty International, *Excessive Use of Lethal Force* (2000).

- **121 (38%)** of those killed were **children** under the age of 18;
- **261 (82.1%)** were killed by live ammunition; **28** Palestinians were killed by shelling;
- The vast majority of those killed, **79.8%**, were shot in the head, neck and chest, with **15** Palestinians killed from shots that entered from their backs;
- Israeli soldiers were directly responsible for **88.7%** of the deaths; Israeli settlers were responsible for **5.6%** of the deaths;
- Of those killed, **197 (61.7%)** were killed during clashes with Israeli soldiers, **56.7%** were killed during civilian demonstrations in which only stone-throwing was involved;
- **23** Palestinians (**7.2%**) were killed by Israeli settlers;
- **23 (7.2%)** were killed at point-blank range;
- **13 (4.1%)** were assassinated and at least **4** Palestinians (**1.3%**) died from being denied medical treatment due to Israeli internal closure policies imposed on Palestinian areas.<sup>23</sup>

An additional **13** Palestinians living inside Israel and possessing Israeli citizenship have been killed under strikingly similar circumstances.

## Injuries

According to the Palestine Red Crescent Society, for the period of 29 September 2000 to 28 December 2000, **10,523** Palestinians from the West Bank, including East Jerusalem, and the Gaza Strip were treated for injuries:

- Of them, **2,146** were injured by live ammunition with **80%** of bullet injuries to the upper body;<sup>24</sup>
- **4,054** were wounded by rubber-coated steel bullets;
- **3,291** were treated for inhalation of tear gas; and
- **1,500** Palestinians are estimated to be permanently disabled.

## B. International Basic Principles on the Use of Force by Law Enforcement Officials and IDF Regulations

In addition to international human rights instruments which mandate the protection of life, two international instruments embody the principles to be followed when firearms are used: the *Code of Conduct for Law Enforcement Officials* and the *Basic Principles on the Use of Force and Firearms by Law*. Both codes emphasize that the principles of

<sup>23</sup>“ Fact Sheet: Palestinian Intifada, September 28-December 19 2000”, Health Development Information and Policy Institute.

<sup>24</sup> “Total Daily Numbers of Deaths and Injuries – West Bank & Gaza, September 29- December 28 inclusive”, Palestine Red Crescent Society, <http://www.palestinercs.org/>.

necessity and proportionality must be strictly applied, without exception.<sup>25</sup> The Basic Principles further delineate how force may be employed in situations involving demonstrations.<sup>26</sup>

The Israel Defence Force must also abide by a set of regulations that are based on the Israeli penal code. These regulations, entitled the Open-Fire Regulations, govern the use of live ammunition and set out the means to respond to demonstrations.

The past three months have witnessed a breach in both international codes and in the Open-Fire Regulations, leading to the conclusion that the Israeli methods are designed to achieve a high number of deaths and injuries: the types of weaponry used to respond to violence does not reflect “crowd control” means but rather reflects military techniques; weapons have been misused so as to cause severe and often permanent damage; Israeli forces have engaged in firing live ammunition upon civilians, irrespective of the type of demonstrations, and Israeli forces have engaged in indiscriminate shootings. Each of these issues will be addressed in turn.

## 1. Methods Used to Kill and Injure Palestinians

### a. Weaponry

According to Physicians for Human Rights, USA (PHR), Israeli Defence Forces have used a number of weapons to kill and inflict serious harm on Palestinians:

**5.56-mm (.223 caliber):** A U.S. and NATO round fired by (an) M-16 weapon, it is widely used by the IDF. It has a muzzle velocity of 975 to 1,00 meters/sec. This round fired from an M-16 weapon has a tendency to break open on impact causing a "lead storm" in the tissue (visible by X-ray), even without impacting a bone, thereby releasing all the kinetic energy possessed by the bullet and causing large temporary cavities and extensive damage to muscle, nerves and blood vessels, as well as fractures. The entrance wounds produced on the skin surface are generally small, no greater than 1/8 inch in diameter and typically depict radial "micro-tears". An exit wound, when present, is very large.

**7.62-mm:** This round can be fired from an AK-47 and is also used by NATO. It has a muzzle velocity of 715 meters/sec but because of its greater mass, it has

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<sup>25</sup> Article 8, Basic Principles.

<sup>26</sup> Basic Principles:

Article 13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

Article 14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9. *Basic Principles*

more muzzle energy than M-16 ammunition. It is, however, stable and generally tends to go directly through a body without breaking up unless bony tissue is encountered. It produces a small entrance defect slightly larger than 1/8 inch with large exit defects.

**9-mm:** Introduced in 1902, the 9-mm Luger is the most widely used military handgun cartridge in the world. All modern submachine guns, including the Uzi, are chambered for this cartridge. The muzzle velocity ranges from 370 to 390 meters/sec. A 9-mm round is generally stable and does not break-up on striking the tissue. The loss of kinetic energy is much less than those encountered in high velocity rounds including the 5.56-mm and 7.62-mm, and hence the temporary cavities and the severity of injuries are less intense.

**50 caliber:** This is a military round generally fired from a mounted gun, either on a helicopter or tank. The large size of the bullet and high velocity (exceeding 1,000 meters/sec) cause tremendous damage to the human body on impact. Entrance defects produced by this bullet approach 1/2-inch in diameter with extremely large blow-out exit defects. Many of such rounds are re-enforced as "armor piercing". The PHR team examined a Red Crescent Ambulance in Gaza which was damaged by a helicopter gunship which strafed the ambulance with five 50 caliber shells that passed right through the ambulance, including a metal Gurney parked in the ambulance.

**Rubber and rubber-coated steel bullets:** These are intended, if correctly used, to incapacitate by inflicting painful and superficial injuries without killing or causing serious injury. They are intended to be fired at a range no less than 30 to 70 meters, with fire generally directed at the lower extremities. Although originally designated as "non-lethal", they are now generally called "less lethal". The bullets used by the IDF against Jewish citizens within the State of Israel or against the Jewish settlers in the West Bank and Gaza for riot control are exclusively rubber. There have been no reported deaths resulting from these pure rubber bullets.

Those used against the Palestinians by the IDF and examined by the PHR team are rubber coated steel bullets. The PHR team reviewed several patient records including postmortem findings of a 12 year old Palestinian boy, Wael M Emad, who was fatally shot in the forehead at Erez crossing on October 21, 2000 by a rubber coated steel bullet. The rubber coated steel bullets are of two types: (a) Spherical 1.83 cm steel with approximately 2 mm outer rubber shell; (b) Cylindrical 1.83 cm in diameter with a length of 1.83 cm steel with approximately 2 mm outer rubber shell. Each of these has a muzzle velocity of 100 meters/sec. They may be fired from a metallic canister that is mounted on the muzzle of either an M-16 or Galeil rifle. The canister can hold up to 15 rubber bullets. There have been reports of steel rubber coated bullets fired singly in the recent conflict.

**Plastic Bullets:** The PHR Team also noted the use of plastic (poly-vinyl chloride) bullets with metallic fragments (and hence visible on X-Rays). This is a bullet-shaped missile having a 5.56-mm caliber that is loaded on a regular 5.56-mm cartridge. It has a muzzle velocity of 375 meters/sec. Plastic bullets with metallic fragments can easily penetrate the cranium and cause death.

**Table – Cause of Death**

Immediate Cause of Death	%
Live ammunition*	82.1
Shelling**	8.8
Rubber-coated metal bullets	0.6
Prevention of medical treatment	1.3
Tear gas	1.9
Other	5.3

\*Includes 5.56 mm (223 caliber) bullets, 7.02 mm bullets, 9 mm bullets, 50 caliber bullets, 500 mm bullets, 800 mm bullets.

\*\* Includes missiles and tank fire

#### b. Misuse of Weaponry

Physicians for Human Rights (USA) recently examined several Palestinians who were killed or injured during the crisis. Their investigation, which was conducted from October 20 to 27, 2000, involved an inquiry into allegations of excessive use of force between Israeli forces and Palestinian demonstrators. The results of their examination follow:

PHR's analysis of fatal gun shot wounds in Gaza reveals that approximately 50% were to the head. **This high proportion of fatal head wounds suggests that given broad rules of engagement, soldiers are specifically aiming at peoples' heads.** Since the beginning of the conflict, of the first 1,134 casualties reported in West Bank and Gaza Hospitals, 26% were to the head and neck. Of 339 patients who presented to the emergency room through October 22 in Makassed Hospital, East Jerusalem, there were 25 confirmed bullet wounds to the head and neck of admissions. Four of these injuries were from live ammunition (ammunition fired from handguns, rifles, and machine guns).

#### THIGH INJURIES

In its visits to hospitals, the PHR team observed a repetitive pattern of high velocity gunshot wounds to the leg, particularly to the thigh. These wounds cause extreme injury, usually producing complex fractures and extensive muscle, nerve, and vascular injury. The majority of victims of these injuries, according to PHR, will have permanent disability in the affected leg. Witness reports, statements

from an IDF spokesman to a member of the PHR team, and information from other human rights organizations, indicate that, while in some instances the IDF was subject to Palestinian fire, many of those injured in this manner were at most throwing stones, and were not carrying firearms. **The numerous high velocity wounds to the thigh are highly unlikely to be random events, but rather suggest a policy on the part of the IDF that allows individual soldiers to shoot under very broad circumstances.** Of the 12 patients that PHR interviewed and examined at Makassed and Shifa hospitals, 10 had gunshot wounds to the thigh or lower leg. All ten of these were either diagnosed as or consistent with high velocity ammunition. PHR has concluded, that a response to throwing stones that results in permanent disability, constitutes a gross violation of human rights.

#### RUBBER AND RUBBER COATED STEEL BULLETS

**The numerous head and eye injuries related to rubber and rubber coated steel projectiles must be considered to reflect frequent misuse of these weapons, such as firing at a range of less than 40 meters and firing at the upper part of the body.** Of 2,299 emergency ward visits recorded for the West Bank and East Jerusalem hospitals from September 29 to October 17, rubber bullets accounted for 40% of the injuries. Twenty-one of 25 gunshot wounds to the head reported through October 22 at Makassed Hospital in East Jerusalem were rubber bullet injuries. Of the 21 rubber bullet injuries to the head, 16 were penetrating.

#### HIGH VELOCITY CASUALTIES

After reviewing post-mortem photographs, post-mortem and anti-mortem X-rays and CT scans, operating room records and medical records of the thirty-one Palestinians killed in Gaza between September 30 and October 24, the PHR team found that in 53% of the cases the victims were shot by high velocity weapons. Live ammunition was responsible for 30% of injuries among the 2,299 casualties previously cited.<sup>27</sup>

Physicians for Human Rights (USA) concluded that:

...events on the ground suggest that the IDF are not following their regulations. Instead they are allowing soldiers to fire under more lenient circumstances. This extends to both non-lethal and lethal weapons.

The numerous head and eye injuries, the high proportion of thigh wounds and fatal head wounds, and the fact that similar patterns of such shootings occurred over a period of weeks demonstrate two disturbing patterns: 1) IDF soldiers are not firing only in life threatening situations and 2) they are firing at heads and thighs to injure and kill, not to avoid loss of life and injury.

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<sup>27</sup>Physicians for Human Rights (USA), *supra* note 21.

Such patterns of excessive force violate the IDF regulations and the UN Law Enforcement Principles calling for soldiers not to cause injuries and fatalities except in extraordinary life threatening situations. These patterns also violate the Geneva Conventions prohibitions against murder, torture, cruel and degrading treatment and other targeting of civilians, and the Conventions' proportionality protection mandating that officials minimize civilian casualties.<sup>28</sup>

**Table – Site of Body Injury<sup>29</sup>**

<i>Site of Body Injury*</i>	%
Head and neck (Including 6 from back)	45.6
Chest (Including 9 from back)	34.2
Abdomen	8.7
All over body	10.1
Lower limb	1.3

\* Includes deaths due to shelling, live ammunition, and rubber-coated bullets.

## **2. Use of Firearms in Response to Demonstrations**

According to the IDF Regulations<sup>30</sup>, the Basic Principles<sup>31</sup> and the Code of Conduct,<sup>32</sup> the use of live ammunition is only allowed when there is an *immediate* threat to life and only in proportion to the seriousness of the offence. Israeli security forces have violated each of these provisions: recent changes to the Open-Fire Regulations have amended the principle of *immediate threat* so as to permit the firing of live ammunition even in cases where only stone-throwing is used during demonstrations, and Israeli soldiers have engaged in indiscriminate shootings, killing and injuring many who were not involved in demonstrations.

### **a. Changes in Open-Fire Regulations Permitting the Use of Live Ammunition in Response to Stone-Throwing**

<sup>28</sup> *Id.*

<sup>29</sup> All tables provided in the Health Development and Information Policy Institute, *supra* note 19.

<sup>30</sup> Article 3, Code of Conduct

<sup>31</sup> Article 5, Basic Principles

<sup>32</sup> *A soldier will use a weapon in the event of immediate threat to life, his own or that of others, and when it is impossible to effectively defend himself from the assailant other than by the use of a weapon. The firing is intended to hit the assailant alone, in the measure necessary for preventing the threat. No shooting should be done except while the danger still exists.* IDF Regulations.

B'Tselem, in its report entitled *Illusions of Restraint*, highlights that since the crisis began, Israel's Open-Fire Regulations have been changed so as to allow soldiers to fire live ammunition in response to stone throwing:

[A]ccording to the IDF Spokesperson, there was a "certain flexibility" in the Regulations. According to the new directive, "At friction points and disturbances, when a life-threatening situation exists - means for dispersing demonstrations should be fired (rubber bullets and tear gas), followed by firing in the air, and then (if the previous measures are ineffective), by live ammunition aimed at the legs, at the order of the commander in the field." Several days later, this directive was cancelled and the Regulations returned to their original form. On 31 October, it was reported that, "A week ago, the IDF made the open-fire directives in the West Bank flexible. The new directives enable firing, in life-threatening situations, at the legs of stone-throwers. The firing focuses on large demonstrations and on stone-throwers who ambush vehicles. It is mostly performed by small-diameter snipers' rifles.

B'Tselem comments that:

This expansion of the definition of "life-threatening" is problematic, primarily in light of the requirement that the commander's authorization be obtained in such situations, as stated in the letter of the IDF Spokesperson. Clearly, when the threat is immediate, the soldier will not have time to request authorization. In B'Tselem's meeting with Col. Reisner, he stated that the definition of life-threatening "is purely subjective." If so, it is unclear why it is necessary to instruct the soldiers that stone-throwing is life threatening. Because firing in life-threatening cases is always allowed, the change indicates that soldiers are now also allowed to fire when the threat to life is not clear and immediate, or even in cases in which there is no threat to life at all. In practice, the army is allowing the firing of live ammunition in cases of stone throwing, and no change of definition is involved.

In an interview conducted by Amira Hass of *Ha'aretz*, the comments of an Israeli sniper raise the concern that the soldiers' response to demonstrations and the changes in the Regulations were not affected by the reality in the field or by the danger to security forces, but by political considerations. In an interview conducted by Amira Hass, of *Ha'aretz*, an Israeli sniper stated:

Every day, sometimes a few times a day, the Open-Fire Regulations change. Every day before going out, they stated the principles for opening fire. It also changes from place to place. In some places, the Regulations are more lenient than in other places. The directives provide that we be very selective, very precise, and by the time we fire, we're worn out. It also depends on the day. After the lynching, for example, the Open-Fire Regulations were much more lenient than on the preceding day.<sup>33</sup>

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<sup>33</sup> "Within Ten Seconds it is Necessary to Estimate How Old He Is," *Ha'aretz*, 20 October 2000.

The changes in the Open-Fire Regulations are evident: there has been a drastic increase in the use of live ammunition during the past three months. According to the Palestine Red Crescent Society, from 29 September to 19 December, **82.1%** of deaths and **19.8%** of injuries were caused by live ammunition. These figures must be examined in light of the fact that the majority of those killed **56.7%** were involved in civilian demonstrations where only stones were used;<sup>34</sup> and only **5%** of those killed were involved in armed clashes.<sup>35</sup>

b. Indiscriminate Shootings

- A number of human rights organization, including B'Tselem and Amnesty International have witnessed the indiscriminate shooting of Palestinians, in violation of Articles 9 and 10 of the Basic Principles, and in violation of the IDF Regulations. These observations are consistent with data obtained from the Palestine Red Crescent Society: **29.1%** of the Palestinians killed by Israeli security forces (**93 people**) were not involved in clashes.<sup>36</sup>

c. Failure to Use Alternative Means to Disperse Demonstrations

The IDF Regulations set out the means to be used to disperse demonstrations – tear gas, water jets, blasting caps and stun grenades – and the precise method in which these means are to be used. Specifically, the Regulations state that to disperse a riot there must first be a call to the rioters to disperse. If the riot does not end within a reasonable period of time it is permissible to employ other means for dispersing demonstrations, in the following stages: (1) Tear gas, water jets, blasting caps and stun grenades, followed by (2) firing warning shots in the air. It is only after these two stages fail to disperse the riot that the firing of rubber ammunition is permissible: “there must be an attempt to end the riot or the stone-throwing, by other means for dispersing demonstrations.”<sup>37</sup> The means are to be employed in a gradual manner, with the stated purpose being “to disperse the violent riot without causing loss of life and serious bodily injury.”<sup>38</sup> Nowhere in the Regulations is mention made of the use of live ammunition as a means to quell demonstrations. Rather, the Regulations specify that the use of live ammunition is restricted to situations where there is an immediate threat to life.

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<sup>34</sup> As the Amnesty Report notes, “the majority of people killed were taking part in demonstrations where stones were the only weapon used.”

<sup>35</sup> As B'Tselem comments on its observations of various demonstrations: “No meaningful attempt was made to prevent loss of life or serious bodily injury, and the same methods were used in all the demonstrations, without regard to their severity, in breach of the requirement that use be in accordance with the circumstances.”

<sup>36</sup> Health Develop and Information Policy Institute, *supra* note 19.

<sup>37</sup> AMNESTY INTERNATIONAL, *supra* note, at 4.

<sup>38</sup> The passage from one stage to the next will be done, only if the previous stage did not lead to the ending of the violent riot. A stage may be skipped, if certain means are not at the disposal of the force, or if they are not applicable in the circumstances of the event. The use of means for dispersing the riot, and the passage from one stage to the next, will be done according to the orders of the commander. *Id.*

Throughout the past three months, Israeli security forces have failed to use non-lethal weapons to respond to demonstrations. In particular, Israeli soldiers have not used water jets once since the start of the crisis and the use of tear gas has dropped in favor of plastic-coated metal bullets. As Dr. Stephen Males of Amnesty International concludes:

Crowd control weaponry is different from that required by the army in combat situations. The use of automatic fire, rifle and other highly penetrative rounds, or bullets which travel and kill over long distances are less appropriate in public disorder situations. Sometimes the use of such weapons leads to an unintended person being killed. This may be the result of inaccurately or poorly targeted fire, use of highly penetrative or high velocity rounds killing people at a distance beyond those targeted or indeed in their homes beyond the disturbance. The delegation found ample evidence of the impact of rounds, upon dwelling houses and other unconnected buildings, and of penetration of those buildings causing damage, injury and trauma to the occupants.<sup>39</sup>

#### d. Failure to Use Gradual Means

As the IDF Regulations state, the use of force must be done gradually, and only if less restrictive means fail to disperse demonstrations. Israeli security forces have failed to carry out this provision, using lethal force before assessing whether other, less violent means have achieved the desired effects:

For example, B'Tselem's report states that:

In all of the demonstrations, the IDF used shock grenades, tear gas and "rubber" bullets. In four of the ten demonstrations, it also used live ammunition. **The transition from one means to another was done quickly, without waiting and examining if the preceding means attained its objective. In some cases, several means were used simultaneously.**<sup>40</sup>

This observation is consistent with that of Amnesty International's: "Nevertheless though the security forces may have begun by throwing CS gas (teargas) a very rapid escalation took place and within minutes security forces were shooting lethal weaponry – rubber or plastic-coated metal bullets and live ammunition."<sup>41</sup>

### 3. Assassinations

- Israel's policy of assassinations has directly claimed the lives of **13 Palestinians**. In early November, Israel assassinated a Palestinian in Beit Sahur, near Bethlehem. During peak daylight, Israeli helicopter gunships fired missiles on his car as he left a site from which Palestinian gunmen

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<sup>39</sup> *Id.* at 7.

<sup>40</sup> B'TSELEM, *supra* note 22, at 15.

<sup>41</sup> Amnesty International, *supra* note 15.

often fired on an Israeli Army post. The missiles killed Hussein Obaiyat, and two women passing by.

#### 4. Attacks on Children

Tragically, as of December 19, 2000, Israeli forces have killed **121** Palestinian children during the past three months representing **38%** of the victims of this crisis.<sup>42</sup> An additional **1,455** children have been injured as a direct result of ongoing Israeli military and settler presence in the Occupied Palestinian Territories. Moreover, thousands of Palestinian children have been traumatized and are currently living in an environment of intense terror.

##### Age Distribution of those Killed

Age Distribution of Palestinians Killed	%
15 years old or younger	16.0
16-18 years	20.1
19-29 years	44.8
30-39 years	12.2
40-49 years	3.1
50+ years	3.8

One particularly disturbing aspect of the recent crisis has been the attempt to place the blame for the deaths of Palestinian children onto Palestinian adults. Such theories assert that Palestinian children are used as “human shields,” providing protection for armed militias. Such attempts at “blaming the victim” constitute a blatant attempt to dehumanize the Palestinian people by implying that Palestinian parents value the lives of their children less than other parents. Particularly problematic is that the focus on Palestinian adults diverts attention away from the actual perpetrators of the crime: Israeli soldiers who fire the bullets and the Israeli government that sanctions such actions.

The 1989 UN Convention on the Rights of the Child, the most widely ratified human rights treaty in history, entered into force in Israel on November 2, 1991. As a party to the Convention, Israel is obliged under Article 4 to ensure that the rights contained in the Convention are implemented in the territory under its control. To date, Israel has failed to implement the Convention in the Occupied Palestinian Territories. The result has been widespread violations in the right to life<sup>43</sup>, the right to health<sup>44</sup>, and the right to

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<sup>42</sup> One of the most graphic examples of the violations of children’s rights is prolonged agony ending in the killing of Muhammad al-Durra, a 12-year old boy shot at Netzarim Junction in Gaza while his father tried to protect him.

<sup>43</sup> As of December 19, 121 Palestinian children have been killed by Israeli occupation forces.

education.<sup>45</sup> Moreover, Palestinian children have been excessively exposed to both physical and psychological violence, and, as a result, appear to exhibit stress-related symptoms.<sup>46</sup>

In addition to the direct, visible impact of the violence, serious long-term effects can also be expected. The cost of physical disability, whether in terms of treatment or lost opportunities is difficult to quantify – but will undoubtedly be very high. Even less visible, and also long-term, are the serious effects on mental health of being directly or indirectly exposed to the current violence, and of living in an atmosphere of chronic fear, stress and helplessness. In these conditions, children are particularly effected. Palestinian society is still having to cope with the prevalent psychological consequences of living under prolonged occupation, and of the first Intifada, including extremely high incidences of depression and post-traumatic stress disorder. The current violence has both set back the condition of former sufferers, and produced a new wave of trauma and stress, the effects of which cannot yet be measured. Previous experience dictates that these effects will be widespread and devastating amongst the Palestinian population.<sup>47</sup>

The following section will outline the economic effects of the current uprising on the Palestinian population.

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<sup>44</sup> Thousands of Palestinian children have been denied their right to health and medical care since the beginning of the confrontations. The use of lethal weapons has been a major factor leading to the deteriorating health status of Palestinian children. According to Defence for Children International, hundreds of children have been rendered disabled in the recent crisis. DCI also notes that Israeli authorities often impede medical aid to wounded Palestinians.

<sup>45</sup> According to DCI, the imposition of closures in the West Bank and Gaza Strip has resulted in an inability of many students to reach their schools. More than 30 schools in the Old City of Hebron were closed and three (3) have been taken over by the Israeli army and transformed into military installations. As a result, around 12,000 students are deprived their right to education. In addition to violating the Convention on the Rights of the Child, Israel's actions also violate Article 50 of the Fourth Geneva Convention that provides that "The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children".

<sup>46</sup> Approximately 225 social workers and psychologists working with DCI/PS's Crisis Intervention Project throughout the West Bank and Gaza Strip report that the following symptoms can be found in children as a result of the recent crisis: extreme fear, sleep disturbances, hyperactivity; impulsiveness, aggressive behavior, isolation, insecurity and lack of concentration.

<sup>47</sup> *Id.*

## **Section B: Palestinian Economic Losses Due to Israeli Aggression**

As a result of more than 30 years of occupation, the Palestinian economy has become fully dependent on the Israeli economy. This dependence has affected a number of spheres, including production, services, export and marketing processes, as well as the basic procurement of production necessities. Even before the recent crisis and accompanying siege, the dependency of the Palestinian economy on the Israeli economy in trade and infrastructure constituted a major constraint on the strategic viability of the Palestinian national economy.

Empirical studies have demonstrated that the weight of colonial institutions and practices continues to influence economic and social trends in a country well after it gains political independence. If left unaltered, production and trade patterns and power relations tend to shape future economic trends, creating an adverse path of dependence. In the Palestinian context, the only means of correcting that path and offering the Palestinian people the prospect of a viable economic future is for a Palestinian state to have at its disposal the full range of policy instruments and the necessary degree of economic and political sovereignty required to enable the Palestinian economy to develop in sustainable directions.

The siege imposed by Israel in recent months has made an already bad economic stage much worse. As detailed in the previous section of this report, since 29 September 2000, Israeli occupation forces have killed hundreds of Palestinians and injured thousands, as well as damaged infrastructure, buildings, agricultural property and vehicles. Moreover, Israeli forces have imposed a total closure on Palestinian population centers in the Occupied Palestinian Territories for most of this time. The measures employed by Israel to strangle the Palestinian economy, and the immediate and long term effects of these measures, are described in brief below. The report, *The Economic Impact of the Israeli Siege Imposed on Palestinian Territories (Areas Occupied by Israel in 1967)*, prepared by the Ministry of Economy and Trade of the PNA provides a fuller description of the measures and their consequences.<sup>48</sup>

### ***Closure and Siege***

- Israel severely impeded personal mobility between the West Bank and Gaza Strip by blocking travel via the safe passage since October 6, 2000.
- Israel severely impeded personal mobility between the West Bank/Gaza Strip and Israel.
- Israel severely impeded personal mobility between the West Bank/Gaza Strip and the world by closing the Gaza International Airport and the border crossings at Rafah and

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<sup>48</sup> The report is included as an appendix to this submission.

the Allenby/ Karamah Bridge for extended periods, as well as restricting access to Tel Aviv Ben Gurion Airport.<sup>49</sup>

- Israel blocked the movement of goods between the West Bank and Gaza Strip.
- Israel blocked the movement of goods between Israel and the West Bank/Gaza Strip.
- Israel blocked the movement of goods between the West Bank/Gaza Strip and the world by closing the commercial crossings at Rafah and the Allenby/Karamah Bridge that have been closed for approximately 70 percent and 12 percent, respectively, of the days of the reporting period.<sup>50</sup>
- Furthermore, there have been varying levels of restrictions on mobility between cities, towns and villages in both the West Bank and Gaza due to reduced levels of security for Palestinians on roads (owing, for instance, to settler violence) and the imposition of internal closures by the Israeli authorities. Such measures have routinely included the placement of physical barriers between Palestinian villages and cities and the deployment of military checkpoints on main roads.<sup>51</sup> In addition, the Israeli authorities have imposed curfews on several areas in the West Bank, most notably in the city of Hebron, and on numerous villages in the Nablus area.

### ***Forms of Israeli Aggression***

- As noted elsewhere, from September 29 until December 19, 2000, Israelis killed 319 Palestinians, including 90 children, and injured over 10,000.
- Israel destroyed private and public assets—buildings, infrastructure, and vehicles—through the IDF’s use of heavy weapons, including rockets, tank shells and high-caliber automatic weapons.
- Israel bulldozed hundreds of dunums<sup>52</sup> of Palestinian fruit orchards and agricultural land and infrastructure located near Israeli settlements and by-pass roads.

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<sup>49</sup> See United Nations Special Coordinator for the Occupied Territories, *The Impact on the Palestinian Economy of Confrontations, Mobility Restrictions and Border Closure, 28 September- 26 November 2000* (hereinafter *UNSCO Report*). The Gaza Airport has been closed for 65 percent of the reporting period, the Rafah passenger terminal for 42 percent, and the Allenby/Karamah bridge passenger terminal for about 8 percent. UNSCO estimates are based on data and information from Palestinian border authorities.

<sup>50</sup> *ibid.*

<sup>51</sup> In a recent opinion poll, 74 percent of respondents reported that internal closures had prevented them from visiting relatives in the Occupied Palestinian Territories while 77 percent indicated that such closures had prevented them from reaching their places of work. See Bir Zeit University Development Studies Programme, *The Palestinian Intifada and the Peace Process, 6-8 November 2000 Public Opinion Poll 2* (Nov. 13 2000). The poll results were based on interviews with a representative sample of 1,234 Palestinians in 75 locations in the West Bank and Gaza Strip.

<sup>52</sup> A dunum is one fourth of an acre.

- Israeli settlers destroyed Palestinian private property. Such destruction was particularly pronounced in Rafah, Khan Yunis, Beit Jala, Beit Sahour, Hebron, Tulkarem and Qalqilia.

### ***Retention of Palestinian Revenues***

- At the beginning of the uprising, Israel failed to transfer revenues, through the clearance of revenues mechanism agreed to in the Paris Protocol, to the PNA, thereby straining its financial position.

### ***Immediate Economic Impact of Israeli Measures***

The measures imposed by Israel have resulted in enormous losses to the Palestinian economy. They have also created an economic environment lacking stability and in which political risk is tremendous. According to the United Nations Special Coordinator's Office (UNSCO), in the aggregate, and excluding material damage to property and other losses, Palestinians are estimated to have lost USD 505 million during the 60-day reporting period from 28 September to 26 November 2000.<sup>53</sup> If these losses are distributed over normal working days in the Occupied Palestinian Territories—of which there were 51 during this period—the average daily loss is estimated at about USD 10 million. The economic impact—i.e. lost income-earning opportunities—amounts to approximately 10 percent of the estimated value of the GDP for the year 2000.<sup>54</sup>

- The magnitude of the **Gross Domestic Product (GDP)**—i.e. the value of goods and services produced in the Palestinian economy—was expected to reach around USD 5 billion in the year 2000. Assuming output is distributed evenly over the work year—which consists of an average of 312 days in the Occupied Palestinian Territories—the estimated GDP is approximately USD 16 million for each normal working day.<sup>55</sup> Based on reports and anecdotal information from various sources, it is estimated that the crisis has resulted in a 50 percent reduction in domestic productive activity during this period.<sup>56</sup> As compared to the expected level of production in the absence of the

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<sup>53</sup> UNSCO Report.

<sup>54</sup> *Id.* It is important to note that these losses are calculated in relation to the level of economic activity prevailing prior to the crisis, rather than in comparison to the maximum income-generating potential of the Palestinian economy. While lost labor income is irretrievable, some portion of the domestic output/income losses may be recuperated once mobility restrictions are reduced.

<sup>55</sup> The GDP estimate is based on Palestinian Central Bureau of Statistics (PCBS), National Accounts in Current Prices 1998 (December 1999) (in Arabic) using 1999-2000 real growth estimates from the PNA Ministry of Finance and the International Monetary Fund. Estimates include East Jerusalem and are expressed in 1998 prices. The normal work year in the Palestinian Territory excludes Fridays (the weekend) and the two key Muslim holidays—Eid Al Fitr and Eid Al Adha.

<sup>56</sup> This estimate assumes a gradual decline in output during the first days of the crisis reaching 50 percent by the end of the first week and thereafter. It is assumed that public and private services, internal and external trade and construction activity, which collectively account for more than 75 percent of the GDP, have been severely affected by work interruptions. The relative weights for various economic branches are taken from PCBS National Accounts 1998. It is noteworthy that the Ramallah and Bethlehem Chambers of Commerce, based on field surveys, report reductions of 40 and 80 percent in business and commercial

crisis, the internal losses are therefore estimated at about USD 8 million for each normal working day during the reporting period. Below is a breakdown of the losses:

- In the first half of 2000, there were on average 125,000 Palestinians employed in Israeli-controlled areas on a daily basis. The average worker earned a daily wage of about NIS 110 or about USD 27.50. Recent mobility restrictions have caused estimated daily labor income losses of USD 1.8 to USD 3 million.
- The disruption in normal internal economic activity due to mobility restrictions and border closures have raised unemployment in the Occupied Palestinian Territories from 11 percent in the first half of the year 2000 to at least 40 percent following the start of the crisis. Prior to the crisis, there were approximately 70,000 unemployed Palestinians. It is estimated that another 190,000 Palestinians lost their jobs following the onset of the current events. Thus, at present, it is estimated that there are more than 260,000 unemployed persons in the Occupied Palestinian Territories. Evidence suggests that the average employed Palestinian supports himself/herself plus four other people, a rather high dependency ratio.<sup>57</sup> Therefore, in addition to the negative impact on the livelihoods of 190,000 workers, the crisis has directly reduced the income of 760,000 other Palestinians. In total 1,000,000 persons—or about one-third of the population in the Occupied Palestinian Territories—have been immediately and negatively affected by mobility restrictions. If previously unemployed persons and their dependents are included—some 350,000 persons—the number of Palestinians enduring some amount of economic distress rises to 1,370,000 or 45.5 percent of the population.
- All exports from Gaza were effectively blocked from 30 September until agricultural exports resumed during the week of 22 October.<sup>58</sup> Exports from the West Bank were severely constrained during the reporting period. The total registered Palestinian non-agricultural exports to Israel (the main market for Palestinian exporters) averaged about USD 45.1 million per month during the first half of 2000. These figures have been reduced by as much as 85% during the closure period.
- Palestinian imports from Israel were directly affected by the border closures and mobility restrictions. The Karni/Muntar crossing, the only commercial crossing in Gaza functioning during the UNSCO reporting period, was closed entirely or partially for 43 percent of the days of the reporting period, resulting in a significant reduction in goods imports.<sup>59</sup> Trade between Israel and the West Bank has also been reduced

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activity in their respective governorates, while the Ministry of Industry estimates an 80 percent reduction in manufacturing output. See Ramallah Chamber of Commerce, 1 November 2000 (in Arabic); Bethlehem Chamber of Commerce, 6 November 2000; PNA Ministry of Industry, 18 October 2000 (in Arabic).

<sup>57</sup> Based on data from PCBS, in the first half of 2000, there were approximately 580,000 employed persons in a total population of about 3 million. This yields a ratio of about 4 non-working persons for each working person.

<sup>58</sup> Israel reimposed a total blockade on the Occupied Territories on December 29, 2000.

<sup>59</sup> Truckload volume through the Karni/Muntar crossing in October was only 54 percent that of September. Import volume was 58 percent of September's volume while export volume was only 41 percent of

due to the internal and border restrictions. Registered non-agricultural imports from Israel averaged USD 135.9 million per month in the first half of 2000 or about USD 5.9 million each working day.

- Direct Palestinian imports from abroad averaged approximately USD 3.1 million per day in the first half of the year.<sup>60</sup>
- There were significant losses to the public sector in the form of lost revenues. Domestic income and Value Added Tax (VAT) revenues were reduced due to the lower levels of domestic income caused by disruptions in production and reduced labor flows to Israel.
- External revenues, mainly customs and VAT revenues associated with imports from Israel and abroad, were reduced by lower commodity flows caused by movement restrictions and by reduced consumer demand.
- While the value of infrastructure losses is difficult to calculate, it is at least in the tens of millions of USD.<sup>61</sup> One report, covering the period 28 September—9 November, documents partial and total destruction by Israeli heavy weaponry of 431 private homes, 13 public buildings, 10 factories, 14 religious buildings with 67 incidents of firing on ambulances and/or medical personnel. In addition the report documents 69 cases of bulldozed orchards and agricultural structures.<sup>62</sup>
- The closure and aggression led to the freezing of many important development projects in the Occupied Palestinian Territories including the construction of the Gaza port and the high-tech park in Tulkarem, due to the lack of security, the evacuation of project personnel, reduced operating hours of public agencies and to the lack of some materials required for such projects.<sup>63</sup>

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September's volume. Estimates based on data and assistance provided by the Palestinian Border Forces, Muntar Crossing, November 2000.

<sup>60</sup> Estimates of the value of external trade are based on data from the Palestinian Ministry of Finance, September 2000.

<sup>61</sup> As of early November, the PNA Ministry of Finance estimated the value of destroyed property—both public and private—in the tens of millions of USD. See Minister's statement to the Local Aid Coordination Committee, Gaza, 3 November 2000, p. 2. Since then further destruction has taken place.

<sup>62</sup> Al Mizan Center for Human Rights, *The Destruction of Civilian Properties and the Comprehensive Closure of the Occupied Palestinian Territory* (Nov. 9, 2000). Documentation of bulldozed agricultural land and property in the report includes Gaza only. Data on damage to factories is from Ministry of Industry "Report on Economic Losses to the Manufacturing Sector," (in Arabic), Gaza, 21 November 2000. This report covers the period before the intensive Israeli air bombardment of Gaza on 20 November in which at least 13 other public buildings were struck.

<sup>63</sup> Based on information from various donors and the World Bank, October-November 2000. Press reports suggest that the Israeli authorities have ordered a halt to cement and construction material shipments related to the Gaza port and Gaza power station projects. See Ze'ev Schiff "Moderate Policies Could Be Tested by Extreme Acts," Ha'aretz (website), 11 October 2000.

- Among the tourism projects severely affected are the Bethlehem 2000 project (which anticipated visits by 1.5 million Christian pilgrims this year), Jericho (where seven luxury hotels were built), and vacation facilities in the northern Gaza Strip.
- Many investors in the Occupied Palestinian Territories found it more feasible to stop their investments and leave the country rather than deal with impediments to internal and external trade and impediments to the movement of their employees and service providers.
- On the social expenditure side, the Ministry of Health and the Ministry of Social Affairs had to increase the level of spending to cope with the large number of killed and wounded Palestinians, the destruction of homes, and the increasing needs generated by rising unemployment and hardship. The Ministry of Finance warns that the combined effect of reduced revenues may raise the fiscal deficit to USD 100 million in the year 2000—about four times its anticipated level before the onset of the crisis. In 1999, approximately 55 percent of PNA expenditures went to public employee salaries.<sup>64</sup> Reduced revenue transfers would make it more difficult for the PNA to provide timely salary payments for approximately of 115,000 public sector employees in November.
- Most PNA agencies have been operating at reduced levels for the entire period of the crisis due to the inability of many employees to reach their jobs because of closures imposed by the Israeli authorities. As a result, the volume of public services has been reduced.

### ***Longer Term Impact of Israeli Strangulation***

The longer Israel persists in imposing the measures described above, the more serious the social and economic consequences will be.

- As household consumption is further reduced, the secondary effects will be to further dampen domestic output, income and employment (a reverse multiplier effect). This process has already begun. Unless relief to Palestinian households is provided in the coming months, the extent of the humanitarian crisis will likely worsen.
- With the prolonged absence of Palestinian laborers from job sites in Israel, Israeli employers will seek to find alternative sources of labor supply, particularly in construction activities. This may result in an expansion of the foreign labor policy that began some 10 years ago. Under this policy, tens of thousands of Southeast Asian and South-Eastern European workers have been brought to Israel to provide labor to Israeli employers who previously relied on Palestinian workers. Over the longer term, this would limit further the extent of Palestinian employment across the Green Line.

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<sup>64</sup> See PNA and IMF, “West Bank and Gaza; Economic Policy Framework.”

- Palestinian exporters may be permanently affected as customers in Israel and abroad find alternatives to Palestinian suppliers who cannot reliably deliver their goods due to movement restrictions imposed by the Israeli authorities.
- Another effect of the strife is the increased perception of political risk on the part of domestic and foreign investors—both current and potential. As a result of the current situation, the Occupied Palestinian Territories will be seen as a riskier place for long-term investment.
- Under the presence of movement restrictions and border closures, it is estimated that by end-December, the poverty rate will rise to 31.8 percent.<sup>65</sup> This constitutes a 50 percent relative increase in poverty rates within a three-month period. Moreover, even with a partial relaxation in restrictions on mobility, the report estimates that the poverty rate will rise to about 43.8 percent by end-2001.

This assault on the Palestinian economic infrastructure is in clear violation of Palestinian – Israeli agreements and international law. Specifically, Israeli actions violate the text and spirit of Annex V of the Interim Agreement. They are also in violation of Article 5 of the Sharm El-Sheikh Agreement, as well as Article VIII, Annex I of the Protocol Concerning Redeployment and Security Arrangements, which facilitates the entry and exit of people and goods, including, but not exclusive to, the border points with Jordan and Egypt.

In addition, Israel’s economic strangulation measures against Palestinian civilians have been applied as a form of collective punishment, in direct violation of Article 33 of the Fourth Geneva Convention. Article 33 states that “[n]o protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.”

The economic consequences of Israeli actions during this crisis will have ramifications well into the future for Palestinians and ultimately for Israelis and the region. The “punishment” of the Palestinian civilian population is an irrational and illegal policy that threatens the long-term possibility for a comprehensive peace between an independent Palestine and Israel.

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<sup>65</sup> See “The Impact of Prolonged Closure on Palestinian Poverty”, World Bank Group, November 2000.

## Section C: Collective Punishment Measures in Violation of Article 33 of the Fourth Geneva Convention

One of the most draconian measures utilized by Israel in its various conflicts with Arabs, and Palestinians in particular, has been the use of collective punishment. Collective punishment must be understood to not only include legal sentences but to also include all forms of punitive sanctions and harassment that are imposed on families or other targeted groups for actions that they themselves did not personally commit.<sup>66</sup> Israel, despite the administrative authority of the Palestinian Authority in some areas of the Occupied Palestinian Territories, remains the occupying force responsible for abiding by the Fourth Geneva Convention. Although Article 33 of the Fourth Geneva Convention prohibits collective punishment,<sup>67</sup> Israel has regularly and systematically used such illegal measures against Lebanese<sup>68</sup> and Palestinian civilians and it has been the central characteristic of Israeli policy during the current crisis in the Occupied Palestinian Territories as well as in Israel itself.<sup>69</sup>

The Israeli official attitude has been based in large part on ethnic and racial presumptions that “Arabs only understand force” and that the Arab civilian population must be taught to fear Israelis. For example, attacks on Israeli Occupation Forces in Lebanon led to numerous and devastating attacks by the Israeli military on civilian sites including the murder of over 100 Lebanese civilians at a United Nations base in the Lebanese city of Qana in 1996.<sup>70</sup> This policy of targeting the general civilian population in response to any form of resistance to Israel’s illegal occupations continues to be used today by the Israeli armed forces against Palestinians.

The Israeli policy of collective punishment is always defended by Israel and its supporters as measures necessary to protect the “security” of Israeli occupation forces. Yet, it is obvious from the very nature of Israeli transgressions that they are intended to directly affect the general civilian population. Personal mobility between the different parts of the Occupied Palestinian Territories has been made impossible for most of the population.<sup>71</sup> Border crossings between Occupied Palestinian Territories and Egypt and

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<sup>66</sup> International Committee of the Red Cross, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva, Martinus Nijhoff Publishers, 1987), p. 874.

<sup>67</sup> Part III, Section B. Article 33, Fourth Geneva Conventions of 12 August 1949 states “[n]o protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.”

<sup>68</sup> See Human Rights Watch, *Israel/Lebanon, Persona Non Grata: The Expulsion of Civilians from Israeli-Occupied Lebanon*, July 1999, ISBN 1-56432-237-8, Part IV: Collective Punishment.

<sup>69</sup> See Amnesty International, *Israel and the Occupied Territories: Mass Arrests and Police Brutality*, 10 November 2000; Physicians for Human Rights, *Evaluation of the Use of Force in Israel, Gaza and the West Bank – Medical and Forensic Investigation*, 3 November 2000; and Economic and Social Council, *Report of the High Commissioner on her Visit to the Occupied Palestinian Territories, Israel, Egypt and Jordan (8-16 November 2000)*, E/CN.4/2001/114, 29 November 2000.

<sup>70</sup> *Report dated 1 May 1996 of the [United Nations] Secretary-General’s Military Adviser Concerning the Shelling of the United Nations Compound at Qana on 18 April 1996*, S/1996/337, 7 May 1996.

<sup>71</sup> See Part III, Section B.

Jordan have been closed by Israel for extended periods.<sup>72</sup> Furthermore, Israel has placed travel bans and restrictions on Palestinian travel through the Ben Gurion airport as well as the Gaza International Airport. Commercial crossings have been closed and curfews placed on many Palestinian cities and villages.<sup>73</sup> Olive tree orchards have been bulldozed and honey bee farms tear-gassed.<sup>74</sup> Homes have been bulldozed and families dispossessed. Palestinian worshippers have been prevented from exercising their fundamental right to worship at Muslim and Christian shrines.<sup>75</sup> Responding to alleged sniper fire in the direction of Israeli settlements, Israeli military forces have indiscriminately opened fire on Palestinian cities and villages with artillery, cannon fire, and heavy machine gun fire.<sup>76</sup>

These Israeli policies have only affected the civilian population and are in no way responsive to alleged attacks on Israeli occupation forces including settlers. In fact, such indiscriminate attacks specifically further the sense of resentment and resistance felt by the overwhelming majority of Palestinians to the Israeli Occupation.

Following are specific examples of illegal acts of collective punishment practiced by the Israeli authorities and military during the current crisis in the Occupied Palestinian Territories.

### ***Economic closure***

- See Part III, Section B

### ***Demolition of homes and other property***

- Israeli military forces are regularly destroying private homes, apartments, water wells, greenhouses, olive trees, and other private property.<sup>77</sup>
- As of November 21, 2000, Israeli military forces had destroyed more than 2,800 dunums of agricultural and wooded land belong to Palestinian civilians.<sup>78</sup>
- As of November 21, 2000, Israeli military forces had destroyed civilian and agricultural facilities and uprooted thousands of fruit-bearing trees.<sup>79</sup>
- On December 6, 2000, Israeli forces including armored machines and tanks, uprooted orange and olive orchards belonging to the residents of El-Kararah

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<sup>72</sup> See Part III, Section B.

<sup>73</sup> See Part III, Section B.

<sup>74</sup> Palestinian National Authority Ministry of Environmental Affairs, Report on the Israeli Aggression Against Palestinian Environment During Al-Aqsa Intifada (2000) 8

<sup>75</sup> As many as 600,000 worshippers generally congregate on the Haram in Jerusalem for the last Friday of Ramadan. On December 22, 2000, Israel allowed only 18,000 worshippers on the site. The municipality of Bethlehem has been forced to cancel Christmas celebrations this year as a result of the on-going curfews.

<sup>76</sup> See Part III, Section A.

<sup>77</sup> Economic and Social Council, *Report of the High Commissioner on her Visit to the Occupied Palestinian Territories, Israel, Egypt and Jordan (8-16 November 2000)*, E/CN.4/2001/114, 29 November 2000, paragraph 39.

<sup>78</sup> Palestinian Centre for Human Rights, *Uprooting Palestinian Trees and Leveling Agricultural Land: The Second Report on Israeli Land Sweeping and Demolition of Palestinian Buildings and Facilities in the Gaza Strip*, 4 December 2000, page 3.

<sup>79</sup> *Id.*

### **Laying siege to Palestinian population centers**

- Israeli forces have closed off Palestinian towns and villages including all roads leading in and out of them while maintaining “Jewish only” roads, known as by-pass roads, for the exclusive use of Jewish settlers and military forces.<sup>80</sup>
- Israel’s siege continues to deny 128,000 Palestinians from the Occupied Palestinian Territories access to their jobs in Israel or occupied Jerusalem.<sup>81</sup>
- Israel’s siege continues to deny the import into Palestinian population centers in the Occupied Palestinian Territories of all raw materials, including cement, thereby bringing construction (the single largest industry in the Occupied Palestinian Territories) to a standstill.<sup>82</sup>
- Israel’s siege continues to deny the import of humanitarian goods and equipment from abroad to Palestinian population centers in the Occupied Palestinian Territories including medical supplies sent by UNRWA.<sup>83</sup>
- Israel’s siege has hampered the evacuation of seriously injured civilians shot by Israeli soldiers and settlers to medical treatment abroad.<sup>84</sup>
- Israel’s siege has been particularly harsh in the town of Hebron where 400 Israeli settlers occupying the center of the city are guaranteed full freedom of movement by the Israeli army in sharp contrast to 35,000 Palestinians who have been placed under strict curfew.<sup>85</sup>
- Israel has cut off electricity and water to a number of Palestinian towns at various intervals including Bethlehem, Tulkarem, and Seilat.<sup>86</sup>

### **Indiscriminate shooting**

- Israeli forces have used live ammunition against unarmed or stone-throwing demonstrators as well as civilians in the area.<sup>87</sup> This ammunition has also included 5.56 mm (223 caliber) bullets, 7.02 mm bullets, 9mm bullets, 50 caliber bullets, 500 mm bullets, 800 mm bullets, rubber and plastic coated steel bullets, plastic bullets, dum-dum bullets, missiles, and tank fire.<sup>88</sup> As of December 25, 2000, 321 Palestinians have been killed by Israeli forces (not including Palestinians who are citizens of Israel).<sup>89</sup>
- Israeli ammunition used against Palestinian civilians during the current crisis includes a variety of missile, energy shells and 500 and 800 mm bullets.<sup>90</sup>
- Thirty-eight percent of all shooting injuries have been to Palestinians under the age of 18.<sup>91</sup>

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<sup>80</sup> Economic and Social Council, *supra* note 77, at para 49.

<sup>81</sup> *Id.* at para 55.

<sup>82</sup> *Id.* at para 57.

<sup>83</sup> *Id.* at para 62, 64.

<sup>84</sup> *Id.* at para 62.

<sup>85</sup> Network of Palestinian NGOs, *Special Report on the Israeli Violations of Palestinians’ Civil, Political, Economic and Social Rights in the Occupied Palestinian Territories*, 13 November 2000, page 12.

<sup>86</sup> *Id.* at 17.

<sup>87</sup> Economic and Social Council, *supra* note 77, para 28,31.

<sup>88</sup> Network of Palestinian NGOs, *supra* note 85, at 9.

<sup>89</sup> Palestine Red Crescent Society, [www.palestinercs.org](http://www.palestinercs.org), December 25, 2000.

<sup>90</sup> Network of Palestinian NGOs, *supra* note 85, at 11.

- Rubber-coated steel bullets have injured 38 percent of all injured Palestinians out of a total of 10,523 Palestinians injured as of December 19, 2000.<sup>92</sup>
- Twenty percent of all Palestinians injured have been injured by live bullets not including rubber coated steel bullets.<sup>93</sup>
- Thirty-one percent of all Palestinians injured have been injured by a highly potent form of tear gas employed by the Israeli military.<sup>94</sup>

### **Shelling**

- Israeli forces have used rockets from infantry and from helicopters and armored vehicles against Palestinian civilian areas in response to alleged shootings in the direction of Israeli settlements, as well as to “punish” the general population for successful attacks on Israeli security personnel.<sup>95</sup> Between September 2 and September 30, Israeli forces shelled Palestinian areas 41 times.<sup>96</sup>
- Up to eleven percent of all Palestinians injured have been injured by rocket attacks.<sup>97</sup>
- On October 12, Israeli forces expanded their bombing campaign to include “strategic targets” within areas under Palestinian Authority’s control.<sup>98</sup>
- Since the beginning of the crisis, virtually every major Palestinian city has been bombed.<sup>99</sup>
- The town of Beit Jala, near Bethlehem, has come under the most intensive attacks, with numerous homes and businesses destroyed by helicopter gun ships and heavy machine gun fire from Israeli forces.<sup>100</sup>
- Israeli helicopter gunships bombed Hebron’s main hospital on November 8.<sup>101</sup>

### **Mass arrests**

- Israeli authorities have arrested more than 450 Palestinians from occupied Jerusalem and inside Israel.<sup>102</sup>
- Israel refuses to release exact numbers of how many Palestinians it has detained in the Occupied Palestinian Territories outside of Jerusalem, but it is estimated that at least 700 have been arrested.<sup>103</sup>
- Many of those arrested are children, often arrested in their homes in the middle of the night.<sup>104</sup>

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<sup>91</sup> Economic and Social Council, *supra* note 77, at para 32.

<sup>92</sup> *Id.*; See also B’Tselem, *Persons Injured in Recent Events in the Territories*, 18 December 2000, page 2.

<sup>93</sup> Economic and Social Council, *supra* note 77, at para 32.; B’tselem, *supra* note 92, at 2.

<sup>94</sup> Economic and Social Council, *supra* note 77, at 32; B’tselem, *supra* note 92, at 2.

<sup>95</sup> Economic and Social Council, *supra* note 77, at para 28.

<sup>96</sup> Network of Palestinian NGOs, *supra* note 85, at 10.

<sup>97</sup> Economic and Social Council, *supra* note 77, at para 32.

<sup>98</sup> Network of Palestinian NGOs, *supra* note 85, at 11.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.* at 10.

<sup>102</sup> *Id.* at 14.

<sup>103</sup> *Id.*

<sup>104</sup> Amnesty International, *Mass Arrests in Jerusalem and Northern Israel Often Followed by Police Beating*, 10 November 2000, page 1.

- Israeli Prosecutors for the Office of the State Attorney have requested that courts order that defendants, including children, be detained in custody until the end of criminal proceedings rather than being released on bail.<sup>105</sup>
- During interrogation of children, many were reportedly subjected to psychological pressure by being spat at, insulted, threatened, and sometimes beaten.<sup>106</sup>

### **Attacks on media outlets**

- Israeli occupation forces have beaten and/or shot at correspondents for France 2, the New York Times, NBC, Palestinian Broadcasting Station, Palestinian Political Steering Bureau, Palestine Today, Canadian Broadcasting Corporation, Associated Press, Reuters, Zoom 77, Newsweek, France Press, Al-Ayyam, the Voice of Right and Freedom, Paris Match, French Liberation, German Stern, Watan TV, Al-Hayat al-Jadida, CNN, Israeli TV 2, Palestine TV, Arab News Network, and Palestine Today.<sup>107</sup>
- The Committee to Protect Journalists has confirmed at least 13 cases in which journalists have been hit by bullets, verifying with certainty that ten of them were by Israeli occupation forces, including CNN reporter, Ben Wedeman.<sup>108</sup>
- Palestinian journalists are not allowed by Israeli occupation forces to enter Israel to do their work.<sup>109</sup>
- On October 13, 2000 Israeli Apache helicopter gunships attacked several Palestinian media installations intending to stop coverage of the current crisis.<sup>110</sup>

### **Closure of schools**

- Since the beginning of October 2000, more than forty schools have been closed or are unable to operate due to curfews or closures.<sup>111</sup>
- In the center of Hebron, controlled by Israeli settlers, 34 schools have been closed.<sup>112</sup> This has caused unemployment for more than 460 teachers and 13,000 students are currently without educational facilities.<sup>113</sup>
- Three of the Palestinian schools in Hebron that have been closed by the Israeli forces have been taken over by the IDF and turned into military bases: the Ma'aref school, Usama bin Munkez, and the Johar school.<sup>114</sup>

<sup>105</sup> *Id.* at 3.

<sup>106</sup> *Id.* at 1.

<sup>107</sup> Palestinian Centre for Human Rights, *Silencing the Press, A Report on Israeli Aggression Against Journalists*, 2 December 2000.

<sup>108</sup> Committee to Protect Journalists, *Peril in the Territories*, November 2000, page 1.

<sup>109</sup> B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, *Illusions of Restraint: Human Rights Violations During the Events in the Occupied Territories, September 29-December 2, 2000*, December 2000, page 39.

<sup>110</sup> Amos Harel, *Israel Bombs Key Targets in "Limited" Retaliation*, HA'ARETZ October 13, 2000.

<sup>111</sup> Economic and Social Council, *supra* note 77, at para 35.

<sup>112</sup> B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, *Lift the Prolonged Curfew on Hebron and Hawara*, 26 October 2000.

<sup>113</sup> Network of Palestinian NGOs, *supra* note 85, at 18.

<sup>114</sup> B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, *Lift the Prolonged Curfew on Hebron and Hawara*, 26 October 2000.

- Several thousand children have had to be permanently moved from their school premises as a result of damage to the school structure resulting from Israeli Army gunfire.<sup>115</sup> For example, on October 24, Israel fired a missile at the al-Mazera Elementary School in the town of Deir al-Ballah.<sup>116</sup>
- Although, according to UNICEF, only one percent of adolescents in Gaza have been involved in demonstrations or attacks against Israeli military positions, the other ninety-nine percent are suffering from mental distraction and other emotional problems at school.<sup>117</sup>

### ***Denial of medical treatment***

- Palestinian ambulances and medical personnel have been routinely denied access to those wounded by Israeli authorities.<sup>118</sup>
- Israeli military forces attack medical personnel and ambulances as they attempt to provide medical assistance to Palestinian civilians wounded by Israeli attacks.<sup>119</sup> Between November 1 and November 13, Israeli military forces, including armed settlers, used armor piercing bullets, rubber bullets and stones in almost 70 attacks against 35 Palestinian Red Crescent Society ambulances resulting in the complete destruction of 17 ambulances.<sup>120</sup>
- From the start of the crisis in late September until November 9, 51 paramedics and volunteers have been injured and one, Bassam al-Bilbaysi, was killed by Israeli military fire as he attempted to provide medical assistance to Mohammad al-Dura and his father Jamal al-Dura.<sup>121</sup>
- As Israel has never allowed the development of normal medical facilities in Palestinian areas it has occupied, access to medical services often requires those in rural areas to travel to larger towns. Currently, Israel is denying tens of thousands of rural Palestinians access to medical services.<sup>122</sup>
- Israel has blockaded the entrance to the Augusta Victoria and Makassed Hospitals in Jerusalem, denying entry to hundreds of Palestinians.<sup>123</sup>

### ***Denial of freedom of worship***

- Palestinians, whether Muslim or Christian, have been denied full access to holy sites, including the Al-Aqsa Mosque, the Dome of the Rock, and the Church of the Holy Sepulchre.<sup>124</sup>
- Since the day after the provocation by Sharon on the Haram, the Israeli government has not allowed Muslims under the age of 45 to pray at Al-Aqsa, denying ninety percent of regular worshippers access.<sup>125</sup>

<sup>115</sup> Economic and Social Council, *supra* note 77, at para 35.

<sup>116</sup> Network of Palestinian NGOs, *supra* note 85, at 11.

<sup>117</sup> Economic and Social Council, *supra* note 77, at para 36.

<sup>118</sup> *Id.* at para 37.

<sup>119</sup> *Id.* at para 38.

<sup>120</sup> Network of Palestinian NGOs, *supra* note 85, at 10.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at 9.

<sup>123</sup> *Id.* at 10.

<sup>124</sup> Economic and Social Council, *supra* note 77, at para 51.

<sup>125</sup> *Id.* at 52.

- Armed Israeli settlers set fire to a mosque in the village of Huwwarah while its Palestinian inhabitants were under a total house curfew.

## **Section D: The Role of Settlements and Settlers in Recent Violence**

The last three months of violence have highlighted the dangers of Israel's policy of settling its citizens on land confiscated from Palestinians in the West Bank and Gaza Strip and the discriminatory legal system instituted to serve that policy. In plain contravention of international humanitarian law and United Nations Security Council resolutions, Israel has continued to develop and move forward with plans to build or expand settlements, even in the midst of the violence and instability that its settlement program has helped to foment. In addition, Israel security personnel have permitted – and, at times, assisted in – acts of violence and wanton destruction by radical Israeli settlers against the Palestinian civilian population. This combination of factors has made Israeli settlements a focal point for violence during the last several months.

### ***Continued Settlement Construction and Expansion***

Throughout the permanent status negotiations, the Government of Israel has continued to build and expand settlements on occupied Palestinian land, despite repeated verbal assurances that it would halt such activities:

- According to Peace Now, since Prime Minister Barak took office in July 1999, tenders for the construction of at least 3,575 settlement-housing units have been issued, and construction has begun on at least 2,270 housing units.<sup>126</sup>
- Prime Minister Barak's pledge to freeze tenders has revealed itself to be an empty promise: at least 379 new tenders have been issued since Barak pledged a freeze last December – for housing units in Maaleh Adumim, Har Adar, Efrat, Rachelim, and Elkana.<sup>127</sup>
- In addition, new structures – some permanent – have been erected at a number of “frozen” settlement outposts, including Gvaot Olamn, Sneh Ya'akov, Amona, and Ahiya.<sup>128</sup>

Israeli governmental institutions have proceeded with settlement expansion efforts throughout the recent uprising, undeterred by the resentment and violence caused by the settlement policies and settler attacks on Palestinians:

- On November 20, 2000, the Israel Land Administration issued a tender for 76 new housing units in the settlement of Elkana, in the north-western West Bank, bringing the total number of settlement housing units tendered by the Barak government to 3,575.<sup>129</sup>

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<sup>126</sup> See Peace Now, *81% Increase in Building Starts in the Settlements* (Aug 22, 2000); Peace Now, *ILA Issues Tender for 76 New Housing Units in the Settlement of Elkana* (Nov. 20, 2000).

<sup>127</sup> Peace Now, *ILA Issues Tender for 76 New Housing Units in the Settlement of Elkana* (Nov. 20, 2000).

<sup>128</sup> Peace Now, *Construction Continues in the “Frozen” Outposts* (Aug. 21, 2000)

<sup>129</sup> Peace Now, *ILA Issues Tender for 76 New Housing Units in the Settlement of Elkana* (Nov. 20, 2000).

- The Jerusalem municipal authority has announced that it is considering plans for the construction of an additional 4,000 residential units in Har Homa, a Jewish settlement on Abu Ghneim Mountain near Bethlehem that is currently under construction.<sup>130</sup> According to Ha'aretz, the settlement would be built on land confiscated from Palestinians.<sup>131</sup>
- The Jerusalem municipality is also considering the construction of a new Jewish settlement between the settlements of Gilo, which has been a site of considerable violence in recent months, and Har Homa. The new settlement would include 400 residential units.<sup>132</sup>

The illegality of Israel's construction and expansion of settlements in the Occupied Palestinian Territories cannot reasonably be challenged. Settlement activity violates Article 49 of the Fourth Geneva Convention, which provides that the "Occupying Power shall not deport or transfer parts of its own population into the territories it occupies." Because, in most cases, the establishment of settlements has required the expropriation or destruction of private property, it also violates Article 53 of the Convention and Article 46 of the Hague Regulations. The United Nations Security Council has repeatedly affirmed both that the Fourth Geneva Convention is applicable to the West Bank, including Jerusalem, and the Gaza Strip, and that Israel's settlement policy and practices contravene it.<sup>133</sup>

Israel's ongoing settlement activity – particularly its construction and expansion projects since the start of the recent uprising – also violates Israel's legal obligation to refrain from actions that would render the peaceful settlement of a dispute more difficult. This obligation is expressed in the 1970 Declaration on Friendly Relations, which codified norms of customary international law. The Declaration provides:

States parties to an international dispute, as well as other states, shall refrain from any action which may aggravate the situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.<sup>134</sup>

As the United Nations Security Council and a number of other intergovernmental bodies have observed, Israel's settlement activity presents a clear "obstacle to peace."<sup>135</sup>

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<sup>130</sup> Akiva Eldar, *4000 additional units planned for Har Homa*, Ha'aretz (Oct. 30, 2000).

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> See U.N.S.C. Res. 904 (1994); U.N.S.C. Res. 471 (1980); U.N.S.C. Res. 465 (1980); U.N.S.C. Res. 452 (1979); U.N.S.C. Res. 446 (1979).

<sup>134</sup> Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, U.N.G.A. Res. Res. 2625 (XXV) (1970). This principle is repeated almost word for word in paragraph 8 of the Manila Declaration on the Peaceful Settlement of International Disputes which was adopted by the General Assembly by consensus on 15 November 1982. See U.N.G.A. Res. 37/10 (1982).

<sup>135</sup> See, e.g., U.N.S.C. Res. 465 (1980).

## ***Settler violence against Palestinian civilians***

Israeli settler violence against Palestinian civilians over the last three months has taken a variety of forms, affecting all aspects of Palestinian life. According to reports by Israeli, Palestinian, and international monitoring organizations,<sup>136</sup> between October 7 and December 10, 2000:

- **Israeli settlers killed at least ten Palestinians, ranging in age from 1½ to 50 years old, and they have directly injured at least 250 Palestinians – at least 13 of them seriously.** Settler attacks have involved beatings, shootings, the use of Molotov cocktails and tear gas, and, in several cases, intentionally running over Palestinians with cars. Palestinians have been made victims of this violence in their homes, businesses, and schools, while working their land, and while traveling within and between their villages and towns. Palestinians residing near settler-only “bypass roads” have been particularly vulnerable.
- **Israeli settlers have attempted to seize Palestinian homes.** These attempts have involved protracted attacks on Palestinian neighborhoods and actual occupation of Palestinian homes, notwithstanding the IDF’s presence at the scene.
- **Israeli settlers attacked Palestinian cars, ambulances and buses.** These attacks have occurred on virtually a daily basis and have involved stones and live ammunition. A number of Palestinian cars have been entirely burned, and countless windows have been smashed. These attacks have injured dozens of Palestinians.
- **Israeli settlers blocked Palestinian access to roads.** They have done so by digging trenches in the roads, obstructing passage with large rocks or cars, and lighting bonfires. Settlers have also “arrested” Palestinians traveling on these routes and subjected them to physical abuse.
- **Israeli settlers prevented ambulances from reaching wounded Palestinians or transporting them to hospitals.** Settlers have blocked roads used by ambulances and even attacked the ambulances directly.
- **Israeli settlers prevented access to and destroyed Palestinian agricultural land.** Settlers have used intimidation and violence to prevent Palestinian farmers from harvesting their fields during olive-picking season. They have uprooted hundreds of trees, particularly in agricultural areas adjacent to settlements or settler “bypass” roads. They have destroyed Palestinian agricultural equipment. And they have burned, bulldozed, and leveled Palestinian land.

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<sup>136</sup> More detailed chronological descriptions of specific events are presented in the reports compiled by the Alternative Information Center, an Israeli human rights organization, and LAW - Palestinian Society for the Protection of Human Rights. These reports will be supplied to the Committee as appendices to this submission.

Detailed chronological descriptions of these events are presented in the reports, attached hereto as Appendix 1, compiled by the Alternative Information Center, an Israeli monitoring organization, and LAW -- Palestinian Society for the Protection of Human Rights.

Almost all of these attacks were initiated by Israelis from settlements associated with “Gush Emunim” (“Bloc of the Faithful”), an ideological movement committed to “Judaizing” all of “Eretz Yisrael” (“Greater Israel”), which includes the West Bank and Gaza Strip.<sup>137</sup> As the Alternative Information Center, an Israeli monitoring organization, explained in a recent report on settler violence:

The settlers, seeking to expand their presence throughout the Occupied Palestinian Territories and to frustrate any attempt to remove them, have adopted violent tactics against Palestinians in order to show who is in control, to drive them out of territory coveted by the expanding settlements and to create a political climate that would prevent the reaching of a peace agreement. The army and the police are thus used as a tool of both the government and the settlers. Their role, as defined by the government, is to protect Israeli interests on the ground including settler presence, and to contain Palestinian resistance and construction. Since the settlers are considered Israeli citizens in every respect their activities—including violent acts against Palestinians—are defended by the security services as “defense” of the settler presence. Thus, although settlers may initiate acts of violence, they can rely on the army and police to take their side, prevent prosecution of their criminal acts and even to complete their violent activities. Settler violence, therefore, is not merely sporadic acts of violent individuals or mobs but are [sic] a calculated strategy that serves the interest of all the Israeli parties involved.<sup>138</sup>

The IDF and Israeli police have consistently failed to intervene to prevent or restrain settler violence and, at times, have even facilitated it. For example, on December 9, 2000, settlers took over the home of Atta Jaber, which is situated near the settlement of Giv’at Harseena; the IDF, however, refused to take any action to evict the settlers, citing orders to allow the settlers to stay.<sup>139</sup> In many instances, Israeli forces have declined to come to the assistance of Palestinians under attack by Israeli settlers but, when Palestinians have attempted to defend themselves, the Israeli forces have taken action against them.<sup>140</sup> For example, on November 13, 2000, a number of Palestinian farmers – including two women in their seventies – were injured when settlers attacked them with stones and sticks while they were working their fields near the settlement of Yitzhar. According to the Alternative Information Center, one eyewitness reported:

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<sup>137</sup> Alternative Information Center, *Preliminary Report on Settler Violence During the al-Aqsa Uprising* (Draft, Dec. 28, 2000) (hereinafter “AIC Preliminary Report”).

<sup>138</sup> *Id.*

<sup>139</sup> AIC Preliminary Report.

<sup>140</sup> LAW- Palestinian Society for the Protection of Human Rights, *Settler Attacks on Palestinian Civilians: Submission to the UN High Commissioner for Human Rights* (November 2000), at 7 (hereinafter *LAW Report*).

We knew that there may be problems, but we were encouraged to go to the field because the Israeli Army in DCO [District Coordination Office] told the Palestinian side that the farmers may gather their olives in this area and there will be no problems. So we were surprised when the soldiers not only came and did nothing to stop the settlers but also in fact helped them by forcing us to leave our fields.<sup>141</sup>

Similarly, after a wave of settler attacks on Palestinian neighborhoods in East Jerusalem between October 7<sup>th</sup> and 9<sup>th</sup>, clashes erupted between Israeli and Palestinian youths. Israeli forces arrived at the scene and began randomly shooting rubber-coated metal bullets into the crowd of Palestinians, who quickly dispersed. On the other hand, the Israelis involved in the clashes were politely asked to leave over loudspeakers and nevertheless continued to throw stones at Arab cars until late in the night, eliciting no further response from the Israeli police.<sup>142</sup>

Settler impunity has had particularly dire consequences in the city of Hebron, where 400 Israeli settlers live among 120,000 Palestinian residents. According to Peace Now, “Hebron’s settlers have always been extraordinarily violent.”<sup>143</sup> Nevertheless, for much of the last three months, Israeli forces have imposed a strict curfew and other restrictions on 35,000 Palestinian residents of Hebron at the request of Israeli settlers.<sup>144</sup> These restrictions have emboldened settlers to engage in acts of violence and harassment without restraint. For example, on November 20<sup>th</sup>, Israeli settlers attacked the Cortaba Elementary Girls’ School, entering the school and beating a number of students. Rather than taking action against the settlers, Israeli military forces shot gas canisters and live ammunition into the school. The same day, during a break in the curfew, Israeli settlers gathered and attacked Palestinians in the vegetable market (*al Hesba*), calling for it to be shut down. Clashes resulted, and the IDF re-imposed the curfew on Palestinians. The following day, the IDF bulldozed down the market during the curfew, and the settlers took over the site, depriving dozens of Palestinian families of their source of income.<sup>145</sup>

The failure of the IDF and Israeli police to take action against settler violence has elicited further distrust and resentment among Palestinians, who perceive Israeli forces as complicit in settler attacks. As one Palestinian observed, “[the security forces] do not intervene when Arabs are under threat; and if they do so, it is only to shoot at them.”<sup>146</sup> This state of affairs has discouraged Palestinians from calling on Israeli forces for

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<sup>141</sup> Alternative Information Center, *Report V on Settlers’ Attacks During the al-Aqsa Uprising*, (visited Dec. 30, 2000) [http://www.alternativenews.org/settlers\\_violence/report\\_no\\_5.htm](http://www.alternativenews.org/settlers_violence/report_no_5.htm). On October 21, 2000, the IDF responded in the same way to clashes between settlers and farmers on Palestinian lands near the settlement of Betar Illit, in the Bethlehem area. Alternative Information Center, *Report II on Settlers’ Attacks During the al-Aqsa Uprising*, (visited Dec. 30, 2000) [http://www.alternativenews.org/settlers\\_violence/report\\_no\\_2.htm](http://www.alternativenews.org/settlers_violence/report_no_2.htm).

<sup>142</sup> *LAW Report*, at 6.

<sup>143</sup> Peace Now, *Hebron Settlers Pressuring IDF to Impose Repressive Apartheid Measures on Local Palestinians* (Nov. 22, 2000).

<sup>144</sup> *Id.*

<sup>145</sup> Alternative Information Center, *Report VII on Settlers’ Attacks During the al-Aqsa Uprising*, (visited Dec. 30, 2000) [http://www.alternativenews.org/settlers\\_violence/report\\_no\\_7.htm](http://www.alternativenews.org/settlers_violence/report_no_7.htm).

<sup>146</sup> *LAW Report*, at 5.

assistance<sup>147</sup> and has ratified many Palestinians' belief that the Israeli forces remain in the Occupied Palestinian Territories solely to promote Israeli territorial expansion, at Palestinian expense.

Israeli forces' failure to restrain, and its frequent participation in, settler attacks violates the bilateral agreements reached between Israel and the PLO, the Fourth Geneva Convention, and United Nations Security Council resolutions:

- The obligation to prevent and punish this violence is confirmed in the Gaza Strip and Jericho Agreement, the Interim Agreement, and the Wye River Memorandum, all of which compel both sides to “take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed . . . against individuals falling under the other's authority and against their property” and to “take legal measures against offenders.”<sup>148</sup> Israel has called for the PNA to take more active measures to comply with this obligation, but has blatantly disregarded its commitment to do the same.
- Under Article 27 of the Fourth Geneva Convention, Israel is obliged to protect Palestinian civilians “against all acts of violence or threats thereof and against insults and public curiosity.” In addition, under Article 32, it is prohibited from taking “any measure as to cause the physical suffering or extermination or extermination of protected persons in their hands,” a prohibition that applies “to any . . . measures of brutality whether applied by civilian or military agents.” Israel's failure to prevent or punish attacks, harassment, and killings by settlers of Palestinian protected persons directly contravenes these obligations.
- Israel's failure to comply with these obligations by restraining settler violence has been condemned on two separate occasions by the United Nations Security Council. In Resolution 471 (1980), the Security Council expressed its deep concern “that the Jewish settlers in the occupied Arab territories are allowed to carry arms, thus enabling them to perpetrate crimes against the civilian Arab population” and that “Israel, as the occupying Power, has failed to provide adequate protection to the civilian population in the Occupied Palestinian Territories in conformity within the provisions of the [Fourth Geneva Convention].”<sup>149</sup> Based on these observations, the Security Council called again upon Israel to “respect and comply” with the Fourth Geneva Convention. The Council reaffirmed this position in Resolution 904 (1994), after the massacre of scores of Palestinians in the Ibrahimi mosque in Hebron by an Israeli settler. The Council called upon Israel “to continue to take and implement measures, including *inter alia*, confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers.”<sup>150</sup> The ongoing settler attacks on Palestinians in the twenty years since Resolution 471 was passed – and particularly during the last

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<sup>147</sup> *Id.*

<sup>148</sup> Agreement on Gaza Strip and Jericho (Isr.-PLO), art. 18 (May 4, 1994); Palestinian-Israeli Interim Agreement on the West Bank and Gaza Strip (Isr.-PLO), art. 15 (Sept. 28, 1995); Wye River Memorandum (Isr.-PLO), art. 2 (Oct. 23, 1998).

<sup>149</sup> U.N.S.C. Res. 471 (1980).

<sup>150</sup> U.N.S.C. Res. 904 (1994).

three months – make clear that Israel has done nothing to comply with these obligations.

### ***Settlement-related Confrontations***

Israel's unrelenting pursuit of its settlement program and its unwillingness to restrain settler violence in the face of international condemnation have made settlements a source and a focus of violence over the last three months. The causal relationship between these policies and many of the recent violent confrontations is plain: Much of the violence has occurred in areas where settlements or settlement "bypass" roads were established on confiscated Palestinian land adjacent to Palestinian cities and towns, including the confrontations in Hebron, between Gilo and Beit Jala/Bethlehem, between Ramallah and Psagot, and at the Netzarim Junction in Gaza. In addition, on a number of occasions, settler violence has itself prompted clashes. For example, on November 1<sup>st</sup>, settler attacks on Palestinian houses near the village of al Khader, west of Bethlehem, prompted military clashes in the town that claimed the lives of 4 Palestinians and 2 Israeli soldiers.<sup>151</sup>

The severity and indiscriminate nature of Israel's reprisals for alleged attacks on settlements is detailed elsewhere in this report. It is important to note, however, that these reprisals have no legal validity under international humanitarian law. Article 53 of the Fourth Geneva Convention prohibits "[a]ny destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organisations, except where such destruction is rendered absolutely necessary by military operations." In light of the fact that the Convention unquestionably prohibits Israel's construction and maintenance of settlements in the Occupied Palestinian Territories, it cannot be the case that Israel's destruction of property in Palestinian communities in an alleged effort to defend illegal settlements is a legitimate "military operation" within the meaning of Article 53.

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<sup>151</sup> AIC Report No. 3, Oct. 28-Nov. 3, 2000.

## Part IV: Recommendations

This Committee has been charged not only with determining the facts surrounding the recent events, but also – and more importantly – with identifying how to stop the violence and prevent its recurrence. Accordingly, the parties will look to the Committee for concrete recommendations regarding how they can most effectively move forward.

The recommendations presented in this section are intended to begin a dialogue with the Committee, the Government of Israel, and the international community regarding the issues that have come into focus during the last few months. In setting forth these recommendations, the PLO is aware that the Committee is obliged to work within political constraints that it neither created nor is capable of altering. We recognize that the Committee cannot replace the peace process and that it cannot, itself, compel the parties to take action. In our estimation, however, what the Committee can and must do is provide a sober assessment of the options available to the parties. The current situation has complex causes and will require a multifaceted response; however, not all courses of action are equally just or equally practical. We are convinced that candor and clarity from the Committee regarding the merits of available options will do much to facilitate difficult decision-making by the parties, as well as focus international attention on the key sources of conflict.

It bears emphasizing once again that the PLO remains committed to the achievement of a just, lasting, and comprehensive peace agreement with Israel. It is our conviction that the recommendations outlined below, if implemented by the parties, not only will promote stability and respect for human rights in the immediate term, but also will reinvigorate ongoing peace negotiations between the parties.

### 1. Scrupulous compliance with the Fourth Geneva Convention

The tremendous suffering, loss of life, and damage to personal and public property over the last three months – as well as the parties’ inability to resolve a number of key issues in negotiations – are directly attributable to Israel’s refusal to abide by the terms of the Fourth Geneva Convention. The applicability of the Convention to the Occupied Palestinian Territories has been affirmed unanimously by the international community, including the United Nations Security Council<sup>152</sup> and the International Committee of the Red Cross, whose interpretation of the Convention is authoritative. Indeed, Israel is alone in challenging the applicability of the Convention.

It is imperative that Israel abide “scrupulously by the Fourth Geneva Convention.”<sup>153</sup> As described in more detail above, Israel’s policies and practices over the last three months reflect blatant disregard for the obligations imposed by the Fourth Geneva Convention

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<sup>152</sup> See U.N.S.C. Res. 465 (1980) (“Affirming once more that the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem”).

<sup>153</sup> U.N.S.C. Res. 446 (1979).

and have severely exacerbated the situation on the ground. Recognition by Israel of these obligations, and an earnest effort to ensure that its occupation forces comply with them, are a legal and practical necessity if the current cycle of violence is to be brought to an end.

Israel's recognition of the applicability of the Fourth Geneva Convention will also facilitate more rapid progress toward peaceful resolution of the "permanent status" issues. The Convention implicates, *inter alia*, territorial questions, including Jerusalem, compensation issues, and water rights. Respect for its provisions will contribute to the equitable and expeditious resolution of these issues and will set an important legal precedent, promoting compliance with international law in other contexts.

## **2. End to the violence against the Palestinian civilian population**

In accordance with its legal obligations, Israel must desist from its use of excessive force against the Palestinian civilian population. As outlined above in Part III, Section A, and described in detail in the attached reports from impartial human rights observers, Israel has employed military force to quell civilian demonstrations, even when its soldiers faced no cognizable threat of harm. Israel must use policing techniques, rather than wartime measures, in response to these demonstrations, and must take disciplinary action against security personnel who violate applicable international norms. Specifically, Israel should compel its security personnel to:

- Refrain from the use of "lethal and less lethal" weapons, and at all times use live ammunition only when there is an immediate threat to life;
- Declassify stone-throwing as an "immediate threat to life";
- Use alternative means, other than live ammunition and rubber-coated metal bullets, to disperse demonstrations;
- Escalate the use of force only gradually and only after the preceding means have clearly failed to attain their objective;
- Cease the indiscriminate use of force;
- Cease all assassinations and extra-judicial executions of Palestinians.

Israel must discontinue shelling Palestinian civilian areas in reprisal for alleged attacks on settlements or military locations.

Israel must also take active measures to protect Palestinians from settler violence, in accordance with its commitments under Articles II and XI of Annex I of the Interim Agreement, including initiating legal proceedings against settlers accused of engaging in criminal conduct against Palestinians.

## **3. End to restrictions on freedom of movement of persons, vehicles, and goods**

As described in Part III (B) and (C), above, Israel's imposition of severe and often arbitrary restrictions on the movement of Palestinian persons, vehicles, and goods is an

impermissible form of collective punishment and bears no reasonable relation to legitimate security goals. These restrictions have had a catastrophic effect on Palestinian economic life, have precluded access to Islamic and Christian holy sites, and have fostered despair and instability within Palestinian communities.

The PLO recognizes that in some circumstances it may be necessary to regulate movement within and between the West Bank and Gaza Strip to serve security or public order interests. This regulation, however, must be narrowly tailored to achieve reasonable and legitimate security goals and must be applied in a coherent and non-discriminatory fashion. In addition, if security considerations necessitate the temporary restriction of access to particular transportation routes, alternative routes of similar quality and convenience must be made available. Within this framework, Israel must cease immediately to impose blanket measures such as closures and curfews on Palestinian populated areas as a means of promoting the alleged security interests of illegal Israeli settlements.

In order to prevent further deterioration in the Palestinian economy, Israel should also permit Palestinian laborers to enter Israel for work, subject to reasonable and *individualized* screening for security. Israel must also lift the debilitating restrictions on Palestinian imports and exports entering through Israeli ports and airports.

One additional means of facilitating Palestinian freedom of movement is for Israel to comply with its obligation to carry out the third further redeployment from all areas of the West Bank except settlements, border areas, specified military locations, and Jerusalem.

#### **4. Freeze on settlement construction and expansion**

It is impossible to overstate the threat posed by Israel's continued settlement activity to achieving a peaceful resolution of the Palestinian-Israeli conflict. Israel's ongoing land confiscation, settlement expansion, and bypass road construction have severely eroded Palestinian confidence in the peace process: in addition to the direct burdens placed upon Palestinians whose land is confiscated, or whose movement and development are restricted as a result of settlement policy, Palestinians perceive Israel's settlement program as a bald attempt to prejudice the result of territorial negotiations. Palestinian powerlessness to stem illegal settlement expansion (which continues even now) combined with unpunished attacks on Palestinians by radical Israeli settlers has made settlements and the areas around them a focal point for the violence of recent months.

An unequivocal, written commitment by Israel to a freeze on settlement construction and expansion – and concrete measures to enforce that freeze – will contribute significantly to easing tensions in the Occupied Palestinian Territories and restoring confidence in the peace process. In particular, Israel should commit to:

- o immediately cease the construction of new settlements in the West Bank (including Jerusalem) and the Gaza Strip;

- o immediately cease the construction of new housing units in or other forms of expansion of existing settlements in the West Bank (including Jerusalem) and the Gaza Strip;
- o refrain from the issuance of new tenders for the construction of new housing units in or other forms of expansion of existing settlements in the West Bank (including Jerusalem) and the Gaza Strip;
- o refrain from confiscating, seizing, or taking control of any land in the West Bank (including Jerusalem) or the Gaza Strip, including by declaring it to be abandoned or state land, requisitioning or closing it for military purposes, expropriating it for public purposes, or acquiring it through a commercial transaction;
- o refrain from transferring or settling, or facilitating the transfer of Israelis to, or settlement in, the West Bank (including Jerusalem) or the Gaza Strip; and
- o immediately cease new road construction in the West Bank (including Jerusalem) and the Gaza Strip, pending resolution of the territorial issues by negotiation.

The international community has repeatedly pressed the PLO to refrain from taking unilateral actions that could prejudice the atmosphere or outcome of permanent status negotiations. We have done our best to respect that wish, notwithstanding considerable domestic opposition. We expect the international community to be similarly firm with Israel with respect to unilateral actions, the most destructive of which is settlement activity.

## **5. Gun control**

The Palestine National Authority recognizes the imperative need to reduce the level of violence in the Occupied Palestinian Territories and is prepared to intensify its efforts to enforce gun control measures. In light of the repeated attacks by Israeli settlers on Palestinian citizens and communities, however, Israel should also take steps to confiscate weapons held by settlers in the Occupied Palestinian Territories, in accordance with United Nations Security Council Resolution 904 (1994). At minimum, Israel should revoke the registration of weapons held by Israeli settlers found to have engaged in criminal acts against Palestinian civilians.

## **6. Compliance with past agreements**

In order to create a positive environment for permanent status negotiations and to reduce tensions on the ground, Israel should fulfill its outstanding commitments under the Interim Agreement on the West Bank and Gaza Strip and subsequent agreements. These commitments include the following:

- Israel should undertake its third further redeployment from the entire West Bank, except for issues to be addressed in permanent status negotiations (such as settlements, Jerusalem, “military locations,” and borders);
- Israel should release the 1600 Palestinian political prisoners that remain in Israeli jails; and

- Israel should open a northern safe passage route between the West Bank and Gaza Strip and provide safe passage of commercial goods via the southern safe passage route.

## **7. Deployment of international monitoring and implementation mission**

Since the beginning of the recent uprising, a number of States and international organizations have called for the deployment of an international presence to ensure respect for the rights of the Palestinian people under international humanitarian and human rights law and to promote stability in the Occupied Palestinian Territories. These proposals have varied in content, some suggesting a limited observer mission, others calling for a more robust peacekeeping or protection force. The PLO believes that an international presence could play an important role in bringing an end to the current violence and preventing its recurrence, as well as in facilitating freedom of movement for goods, vehicles, and persons. The structure and mandate of such a presence must, however, be carefully defined.

In permanent status negotiations, the Palestinian and Israeli sides have both expressed support for the deployment of international forces to monitor and guarantee implementation of the agreement, to contribute to Palestinian national defense, and to promote regional security. Although the parties have not yet reached agreement regarding the details, it is clear that international forces will play an integral role in a permanent settlement. Accordingly, it would be extremely beneficial for both parties if the international presence established to address problems during the immediate term is capable of developing into – or, at minimum, complementing – the presence envisaged for the longer term.

The PLO submits that, if it is to be effective, an international monitoring and implementation mission (IMIM) should have the following capacities:

- o A monitoring and intelligence-gathering capacity with both institutional independence and a close working relationship with the political and military/security institutions of each side;
- o A coordination and technical assistance capacity whereby the mission can serve to improve communication and help reconcile differences between the parties, provide expert advice in addressing problem areas, and facilitate creative problem-solving; and
- o A clearly defined, if limited, capacity to intervene during crisis situations in order to prevent the violation of international human rights or humanitarian standards.

The PLO envisages that these functions would be exercised by mobile military and civilian units comprised of experienced professionals. It will also be critical that these units are granted free access throughout the Occupied Palestinian Territories, both to

ensure that they are capable of carrying out their mission and to avoid the permanent entrenchment of jurisdictional arrangements defined for the Interim Period.

The success of a such a mission will be contingent upon the establishment of an oversight authority with decision-making ability that is capable of translating political will into operations on the ground. The parties themselves would undoubtedly form the core of such an authority; however, the active involvement of one or more third parties trusted by both sides will be essential in order to avoid the political deadlock that has plagued a number of joint commissions during the Interim Period. If properly constituted, such an authority could form the backbone for Palestinian-Israeli security cooperation in the longer term.

The PLO is in the process of developing a more detailed proposal for the IMIM and would welcome the opportunity to discuss it with the Committee.

## **8. End to attacks on the Palestinian environment**

Palestinian civilians have not been the only targets for Israeli aggression; the Palestinian environment has also sustained serious damage. Article 12 (b) 5, Annex III of the Interim Agreement states that:

*Both sides shall respectively adopt, apply and ensure compliance with internationally recognized standards concerning the following: levels of pollutants discharged through emissions and effluents; acceptable levels of treatment of solid and liquid wastes, and agreed ways and means for disposal of such wastes; the use, handling and transportation (in accordance with the provisions of Article 38 (Transportation)) and storage of hazardous substances and wastes (including pesticides, insecticides and herbicides); and standards for the prevention and abatement of noise, odor, pests and other nuisances, which may affect the other side.*

The Israeli military warfare against the Palestinian people has had dire effects on air quality, soil fertility and the underground water profile whose ultimate consequences cannot be foreseen or estimated. The increase in use of bullets and other weapons has caused an unprecedented rise in the levels of heavy metals in Palestinian soil and waterways.<sup>154</sup> This will ultimately affect human health.

- Most Palestinian cities and all villages are suffering from water shortages due to the Israeli attacks: wells within the vicinity of settlements have been destroyed by settler attacks, and water distribution networks have been damaged and water lines broken.<sup>155</sup>
- Wastewater disposal has also become a problem during the recent events. In Palestinian cities, Israeli forces have prevented the staff of local municipalities from

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<sup>154</sup> PALESTINIAN NATIONAL AUTHORITY MINISTRY OF ENVIRONMENTAL AFFAIRS, REPORT ON THE ISRAELI AGGRESSION AGAINST PALESTINIAN ENVIRONMENT DURING AL-AQSA INTIFADA 10 (2000).

<sup>155</sup> *Id* at 11.

accessing wastewater treatment stations to carry out their regular duties.<sup>156</sup> Cesspools have suffered from lack of regular maintenance and emptying due to roadblocks. Furthermore, attacks on several cesspools have rendered them unusable, and caused penetration of their contents into the groundwater.<sup>157</sup>

- Due to the continued siege enforced on the West Bank and the Gaza Strip, solid waste accumulation has reached dangerous levels. Hospitals are on a heightened state of emergency to deal with air and water-borne diseases resulting from insect and rodent breeding in the waste sites. This condition is further worsened by the dumping of waste products from Israeli settlements into sites within the Occupied Palestinian Territories.<sup>158</sup>

In light of the above, it is imperative that Israel complies with the Interim Agreement and international law. Israel must fulfill its obligations concerning the protection of human health and protection, and the preservation of the environment. This requires Israel to prevent all activities occurring under its sovereignty and control that are causing harm to the Palestinian environment.

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<sup>156</sup> *Id* at 11.

<sup>157</sup> *Id* at 11.

<sup>158</sup> *Id* at 11.

## **Part V - Conclusion**

As this report is being written, the Occupied Palestinian Territories remain under a strict siege and the death toll of Palestinian civilians continues to rise daily. The format, procedures, investigation, and recommendations of the Sharm El-Sheikh Committee will have a real and lasting effect on the lives of millions of Palestinians still living under the world's last belligerent occupation. Even the process of an impartial and thorough investigation may help to mitigate the sense of outrage and hurt felt by all Palestinians in the Occupied Palestinian Territories and elsewhere and so assist in ending the crisis.

The international community has tended to define "the crisis" as the pattern of Palestinian demonstrations and Israeli shootings. However, as this report indicates, and as the Committee will surely find, the crisis exists in the occupation itself. Whereas the day to day humiliations and other oppressions will have to come to an end in order to bring an end to this uprising, the occupation itself will have to end in order to ultimately guarantee that Palestinians never revolt against their oppressors or that occupation forces never again respond to such demonstrations with the illegal use of violence.

The Palestinian community is not unaware of the tremendous political pressure that will be exerted on the Committee to limit its investigation and its findings so as not to embarrass individuals or parties. Already, the Committee has notified the parties that it will not assign blame for any criminal acts that may have been committed. The Committee will have to find creative ways to investigate what is, at its heart, a violation of international law without assigning responsibility for such violations.

In the final analysis, this Committee's work itself has the potential to stand as a milestone in helping to bring the parties to a just conclusion to this conflict. Far too many Palestinians have died in the last three months, as well as in the last century, and too many lives have been forever damaged. The Palestine Liberation Organization, as well as Palestinian civil society, stands ready to assist the Committee in any way we can, to help bring this last tragic chapter of the 20<sup>th</sup> century to a close.