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Human rights situation in Palestine and other occupied Arab territories

Progress made in the implementation of the recommendations of the United Nations Fact-Finding Mission on the Gaza Conflict by all concerned parties, including United Nations bodies, in accordance with Human Rights Council resolution S-12/1 B, paragraph 3

Report of the Secretary-General*

Summary

The present report focuses on the status of implementation of the recommendations contained in the report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48). It reviews all recommendations made by the Mission, in the order in which they appear in the Mission report

* Late submission.

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I. Introduction

1. The Human Rights Council, in its resolution 16/32, reiterated its call upon all concerned parties, including United Nations bodies, to ensure the full and immediate implementation of the recommendations contained in the report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48), in accordance with their respective mandates. It also requested the Secretary-General to submit a comprehensive report on progress made in the implementation of the Mission's recommendations, in accordance with its resolution S-12/1 B, paragraph 3, to the Council at its eighteenth session.

2. The present report is submitted pursuant to that request. It updates the information contained in the previous report of the Secretary-General on progress made in the implementation of the Mission's recommendations in accordance with Human Rights Council resolution S-12/1 B, paragraph 3 (A/HRC/15/51). It contains information requested and received from States, organizations and other entities to which the Mission addressed its recommendations, as well as that gathered directly by the United Nations.

II. Status of the implementation of the recommendations of the Mission report

A. Action by the Human Rights Council

3. In paragraph 1968 of its report, the Mission addressed five recommendations to the Human Rights Council. In paragraph 1968 (a) of its report, the Mission recommended that the Council should endorse the recommendations contained in the report, take appropriate action to implement them as recommended by the Mission and through other means as it may deem appropriate, and continue to review their implementation at future sessions.

4. As stated in the report of the Secretary-General on the status of implementation of paragraph 3 of Council resolution S-12/1 B (A/HRC/13/55, para. 4), the Human Rights Council, in paragraph 3 of that resolution, endorsed the Mission's recommendations and called upon all concerned parties, including United Nations bodies, to ensure their implementation in accordance with their respective mandates. In paragraph 4 of its resolution 13/9, the Council reiterated this call and, in paragraph 17, decided to follow up on the implementation of that resolution at its fifteenth session. In paragraph 1 of its resolution 15/6, the Council requested the Secretary-General to follow up on the implementation of the recommendations contained in the Mission's report, in accordance with its resolution S-12/1. In paragraph 3 of its resolution 16/32, the Council reiterated its call upon all concerned parties, including United Nations bodies, to ensure the full and immediate implementation of the Mission's recommendations, in accordance with their respective mandates; and, in paragraph 12, it decided to follow up on the implementation of that resolution at its nineteenth session.

5. In paragraph 1968 (b) of its report, the Mission recommended that, in view of the gravity of the violations of international human rights and humanitarian law and possible war crimes and crimes against humanity that it had reported, the Human Rights Council should request the Secretary-General to bring the report to the attention of the Security Council under Article 99 of the Charter of the United Nations in order that the Security Council might consider action according to the Mission's relevant recommendations.

6. To date, the Human Rights Council has not directed any specific request to the Secretary-General to bring the Mission's report to the attention of the Security Council under Article 99 of the Charter.

7. In paragraph 1968 (c) of its report, the Mission recommended that the Human Rights Council should formally submit the report to the Prosecutor of the International Criminal Court.

8. As stated in the report of the Secretary-General A/HRC/13/55, the report of the Mission was transmitted to the Prosecutor of the International Criminal Court on 10 December 2009.

9. In paragraph 1968 (d) of its report, the Mission recommended that the Human Rights Council should submit the report to the General Assembly with a request that it should be considered.

10. In its resolution S-12/1 B, paragraph 4, the Human Rights Council recommended that the General Assembly should consider the report of the Mission during the main part of its sixty-fourth session.¹ In paragraph 8 of its resolution 16/32, the Human Rights Council recommended that the General Assembly reconsider the report of the Mission at its sixty-sixth session and urged the Assembly to submit the report to the Security Council for its consideration and appropriate action, including consideration of referral of the situation in the Occupied Palestinian Territory to the Prosecutor of the International Criminal Court, pursuant to article 13 (b) of the Rome Statute.

11. In paragraph 1968 (e) of its report, the Mission recommended that the Council should bring the Mission's recommendations to the attention of relevant United Nations human rights treaty bodies so that they might include review of progress in their implementation, as might be relevant to their mandate and procedures, in their periodic review of compliance by Israel with its human rights obligations. The Mission also recommended that the Council should consider review of progress as part of its universal periodic review process.

12. As stated in the report of the Secretary-General A/HRC/13/55, paragraph 12, the Mission's report was transmitted to the treaty bodies that monitor compliance by Israel with the human rights treaties to which it was party² on 10 December 2009.

B. Action by the Security Council

13. In paragraph 1969 of its report, the Mission addressed a total of six recommendations to the Security Council.

14. In paragraph 1969 (a) of its report, the Mission recommended that the Security Council should require the Government of Israel, under Article 40 of the Charter of the United Nations, to:

(a) Take all appropriate steps, within a period of three months, to launch appropriate investigations that are independent and in conformity with international standards, into the serious violations of international humanitarian and international human

¹ The General Assembly did so and adopted its resolution 64/10 of 5 November 2009.

² The Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and the Committee on the Rights of the Child.

rights law reported by the Mission, and any other serious allegations that might come to its attention;

(b) Inform the Security Council, within a further period of three months, of actions taken, or in the process of being taken, by the Government of Israel to inquire into, investigate and prosecute such serious violations.

15. To date, the Security Council has not directed such a request to the Government of Israel.

16. In paragraph 1969 (b) of its report, the Mission further recommended that the Security Council should at the same time establish an independent committee of experts in international humanitarian and human rights law to monitor and report on any domestic legal or other proceedings undertaken by the Government of Israel in relation to the above-mentioned investigations. The Mission also recommended that such a committee should report at the end of its six-month period to the Security Council on its assessment of relevant domestic proceedings initiated by the Government of Israel, including their progress, effectiveness and genuineness, so that the Security Council may assess whether appropriate action to ensure justice for victims and accountability for perpetrators has been or is being taken at the domestic level; that the Security Council should request the committee to report to it at determined intervals, as may be necessary; and that the committee should be appropriately supported by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

17. To date, the Security Council has not established such a committee.³

18. In paragraph 1969 (d) of its report, the Mission recommended that the Security Council should require the said independent committee of experts to monitor and report on any domestic legal or other proceedings undertaken by the relevant authorities in the Gaza Strip in relation to the above-mentioned investigations and that the committee should report at the end of the six-month period to the Security Council on its assessment of relevant domestic proceedings initiated by the relevant authorities in Gaza, including their progress, effectiveness and genuineness, so that the Security Council might assess whether appropriate action to ensure justice for victims and accountability for perpetrators had been taken or was being taken at the domestic level. The Mission also recommended that the Security Council should request the committee to report to it at determined intervals, as might be necessary.

19. In paragraphs 1969 (c) and (e) of its report, the Mission further recommended that, upon receipt of the committee's report, the Security Council should consider the situation and, in the absence of good-faith investigations that are independent and in conformity with international standards having been undertaken or being under way within six months of the date of its resolution under Article 40 by the appropriate authorities of Israel or the relevant authorities in Gaza, respectively acting under Chapter VII of the Charter of the

³ The Human Rights Council, in its resolution 13/9, decided to establish a committee of independent experts in international humanitarian and human rights laws to monitor and assess any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side, in the light of General Assembly resolution 64/254, including the independence, effectiveness and genuineness of these investigations and their conformity with international standards. In accordance with that same resolution, the Committee of Independent Experts presented its report to Human Rights Council at its fifteenth session (A/HRC/15/50). In its resolution 15/6, the Council welcomed the Committee's report and decided to renew and resume the mandate of the Committee. In accordance with that same resolution, the Committee of Independent Experts presented its report to the Council at its sixteenth session (A/HRC/16/24). In its resolution 16/32, the Council took note of the Committee's two reports and called for the implementation of the conclusions contained therein.

United Nations, refer the situation in Gaza to the Prosecutor of the International Criminal Court pursuant to article 13 (b) of the Rome Statute of the International Criminal Court. In paragraph 1969 (f) of its report, the Mission recommended that lack of cooperation by the Government of Israel or the Gaza authorities with the work of the committee should be regarded by the Security Council to be obstruction of the work of the committee.

20. As the Security Council has not established an independent committee of experts, none of these recommended actions has been carried out.

C. Action by the Prosecutor of the International Criminal Court

21. In paragraph 1970 of its report, the Mission stated that, with reference to the declaration under article 12 (3) of the Rome Statute received by the Office of the Prosecutor of the International Criminal Court from the Government of Palestine, it considered that accountability for victims and the interests of peace and justice in the region required that the Prosecutor should make the required legal determination as expeditiously as possible.

22. In a letter dated 28 June 2011 addressed to the Deputy High Commissioner for Human Rights, the Office of the Prosecutor of the International Criminal Court stated that, in accordance with articles 12 and 15 of the Rome Statute, the Office has continued its preliminary examination into whether the statutory requirements are fulfilled for the Court to exercise jurisdiction in respect of any crimes referred to in article 5 of the Rome Statute that may have been committed in the Gaza Strip between December 2008 and 22 January 2009. The Office of the Prosecutor noted that it has considered public reports and received legal submissions in this regard from experts and academics.⁴ It has also received a report from the Palestinian Authority on the issue of the statutory requirements for exercise of jurisdiction by the Court. The Office has also received and accepted requests from different parties involved in the conflict to present their views before it makes a determination.

D. Action by the General Assembly

23. In paragraph 1971 of its report, the Mission addressed four recommendations to the General Assembly. In paragraph 1971 (a) of its report, the Mission recommended that the General Assembly should request the Security Council to report to it on measures taken with regard to ensuring accountability for serious violations of international humanitarian law and human rights in relation to the facts in its report and any other relevant facts in the context of the military operations in Gaza, including the implementation of the Mission's recommendations. It stated that the Assembly could remain apprised of the matter until it was satisfied that appropriate action had been taken at the domestic or international level in order to ensure justice for victims and accountability for perpetrators and could also consider whether additional action within its powers was required in the interests of justice, including under its resolution 377 (V) on uniting for peace.

⁴ An updated list of such submissions is available on the Court's website, together with the summary of submissions on whether the declaration lodged by the Palestinian Authority meets statutory requirements. Available from www.icc-cpi.int/Menu/ICC/Structure+of+the+Court/Office+of+the+Prosecutor/Comm+and+Ref/Palestine/.

24. To date, the General Assembly has not directed such a request to the Security Council.⁵

25. In paragraph 1971 (b) of its report, the Mission recommended that the General Assembly should establish an escrow fund to be used to pay adequate compensation to Palestinians who have suffered loss and damage as a result of unlawful acts attributable to Israel during the December-January military operation and actions in connection with it, and that the Government of Israel should pay the required amounts into such fund. The Mission also recommended that the Assembly should ask OHCHR to provide expert advice on the appropriate modalities to establish the escrow fund.

26. To date, the General Assembly has not established such a fund.⁶

27. In paragraph 1971 (c) of its report, the Mission recommended that the General Assembly should ask the Government of Switzerland to convene a conference of the high contracting parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War on measures to enforce the Convention in the occupied Palestinian territory and to ensure its respect in accordance with its article 1.

28. Steps taken by the General Assembly in furtherance of the implementation of this recommendation were outlined in the previous progress report of the Secretary-General (A/HRC/15/51, para. 26). Since then, the General Assembly has not taken any further action in this matter.⁷

29. In paragraph 1971 (d) of its report, the Mission recommended that the General Assembly should promote an urgent discussion on the future legality of the use of certain munitions referred to in its report, and in particular white phosphorous, flechettes and heavy metal such as tungsten. In such a discussion, it recommended that the Assembly should draw on, inter alia, the expertise of the International Committee of the Red Cross (ICRC). The Mission also recommended that the Government of Israel should undertake a

⁵ The Human Rights Council, in its resolution 16/32, recommended that the General Assembly remain apprised of the matter until it is satisfied that appropriate action has been taken at the domestic or international level to ensure justice for victims and accountability for perpetrators, and also remain ready to consider whether additional action within its powers is required in the interests of justice.

⁶ By its resolution 13/9, the Human Rights Council called upon the High Commissioner to explore and determine the appropriate modalities for the establishment of such an escrow fund. The High Commissioner reported to the Council on this matter in the context of her report on follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict (A/HRC/15/52/Add.1). In paragraph 6 of its resolution 16/32, the Human Rights Council called upon the High Commissioner to follow up on the determination of appropriate modalities for the establishment of an escrow fund for the provision of reparations to Palestinians who suffered loss and damage as a result of unlawful acts attributable to the State of Israel during the military operations conducted from December 2008 to January 2009, also taking into consideration Israelis who suffered loss and damage as a result of unlawful acts attributable to the Palestinian side. The High Commissioner subsequently reported on this matter in the context of her progress report on the implementation of Human Rights Council resolution 16/32 (A/HRC/18/50).

⁷ In paragraph 5 of its resolution 16/32, the Human Rights Council welcomed the efforts made by the Government of Switzerland, in its capacity as depositary of the Geneva Convention relative to the Protection of Civilian persons in Time of War, to reconvene, as soon as possible, a conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure respect in accordance with common article 1, bearing in mind the statement adopted on 15 July 1999, as well as the reconvening of the conference and the declaration adopted on 5 December 2001, and recommended that the Government of Switzerland continue to pursue its efforts with the aim of resuming the conference before September 2011. See also A/HRC/18/50.

moratorium on the use of such weapons in the light of the human suffering and damage they had caused in the Gaza Strip.

30. To date, the General Assembly has not taken action to promote such a discussion.⁸

E. Action by the State of Israel

31. In paragraph 1972 of its report, the Mission addressed a total of nine recommendations to the State of Israel.

32. In paragraph 1972 (a) of its report, the Mission recommended that Israel should immediately cease the border closures and restrictions on passage through border crossings with the Gaza Strip and allow the passage of goods necessary and sufficient to meet the needs of the population, for the recovery and reconstruction of housing and essential services, and for the resumption of meaningful economic activity in the Gaza Strip.

33. The border closures and restrictions on passage through border crossings with the Gaza Strip continue to seriously negatively affect livelihoods and infrastructure.⁹ In light of restrictions on the importation of building materials, the vast majority of the 40,000 housing units needed to replace homes destroyed during Operation Cast Lead and meet natural population growth have not been constructed. This housing shortage has especially affected families living in dilapidated and overcrowded housing conditions, and has disproportionately impacted women and children.¹⁰ Unemployment in the second half of 2010 in Gaza reached 45.2 per cent, one of the highest rates in the world.¹¹ High unemployment levels and the demand for construction materials resulted in thousands of people risking their lives to work in tunnels along the border with Egypt, or in access-restricted areas near the barrier surrounding Gaza.¹² In December 2010, Israel allowed the export of a limited amount of cut flowers and strawberries.¹³ Israel announced in June 2011 that it would allow the entry of material to construct new houses and schools to the value of \$100 million, bringing the total of approved projects involving “dual use” material to \$265 million.¹⁴

⁸ In paragraph 13 of its resolution 13/9, the Human Rights Council called upon the General Assembly to promote an urgent discussion on the future legality of the use of certain munitions as referred to in the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict, drawing on, inter alia, the expertise of ICRC. The Council reiterated this call in paragraph 7 of its resolution 16/32.

⁹ See United Nations Office for the Coordination of Humanitarian Affairs office in the occupied Palestinian territory (OCHA-OPT), *Easing of the Blockade: assessing the humanitarian impact on the population of Gaza* (March 2011). Available from www.ochaopt.org/documents/ocha_opt_special_easing_the_blockade_2011_03_english.pdf, accessed on 21 July 2011.

¹⁰ Ibid, p. 1.

¹¹ United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), *Labour Market Briefing: Gaza Strip, Second Half 2010* (June 2011).

¹² *Easing of the Blockade*, p. 1.

¹³ See Security Council Brief of the United Nations Special Coordinator for the Middle East Peace Process (December 2010). Available from www.unsco.org/Documents/Statements/MSCB/2008/SCB%2014%20December%202010.pdf, accessed on 20 July 2011. See also Integrated Regional Information Network (IRIN), “OPT: Farmers can export again, but livelihoods precarious” Humanitarian News and Analysis, 23 January 2011.

¹⁴ Security Council Brief by the Special Coordinator, June 2011. Available from www.unsco.org/scb.asp, accessed on 26 July 2011. See also United Nations News Service, “UN welcomes Israel’s decision to approve construction projects in Gaza”, 22 June 2011.

34. In paragraph 1972 (b) of its report, the Mission recommended that Israel should cease the restrictions on access to the sea for fishing purposes imposed on the Gaza Strip and allow such fishing activities within the 20 nautical miles as provided for in the Oslo Accords. It also recommended that Israel should allow the resumption of agricultural activity within the Gaza Strip, including within areas in the vicinity of the borders with Israel.

35. There has been no change in the policies of Israel in response to this recommendation since the previous progress report of the Secretary-General (A/HRC/15/51, para. 33). The status and impact of these policies are addressed in detail in the most recent report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 (A/HRC/16/71).¹⁵

36. In paragraph 1972 (c) of its report, the Mission recommended that Israel should initiate a review of the rules of engagement, standard operating procedures, open fire regulations and other guidance for military and security personnel. It recommended that Israel should avail itself of the expertise of ICRC, OHCHR and other relevant bodies, and Israeli experts, civil society organizations with the relevant expertise and specialization, in order to ensure compliance in this respect with international humanitarian law and international human rights law. It recommended that, in particular, such rules of engagement should ensure that the principles of proportionality, distinction, precaution and non-discrimination were effectively integrated in all such guidance and in any oral briefings provided to officers, soldiers and security forces, so as to avoid the recurrence of Palestinian civilian deaths, destruction and affronts on human dignity in violation of international law.

37. Certain action taken by Israel in implementation of the above recommendation was outlined in the previous progress report of the Secretary-General (A/HRC/15/51, para. 35). The Secretary-General is not aware that any further action has been taken to implement the recommendation.

38. In paragraph 1972 (d) of its report, the Mission recommended that Israel should allow freedom of movement for Palestinians within the Occupied Palestinian Territory – within the West Bank, including East Jerusalem, between the Gaza Strip and the West Bank, and between the Occupied Palestinian Territory and the outside world – in accordance with international human rights standards and international commitments entered into by Israel and the representatives of the Palestinian people. The Mission further recommended that Israel should forthwith lift travel bans currently placed on Palestinians by reason of their human rights or political activities.

39. Freedom of movement within the Occupied Palestinian Territory remains severely restricted. Although Israel began dismantling a section of the barrier near the West Bank village of Bil'in in June 2011 in compliance with the decision of the Israeli High Court of Justice in *Beit Sourik Village Council v. the Government of Israel* (HCJ 2056/04).¹⁶ There has been no significant improvement in access for Palestinians to areas to the west of the

¹⁵ See also OCHA-OPT and World Food Programme, *Between the Fence and a Hard Place, Special Focus*, August 2010. Available from www.ochaopt.org/documents/ocha_opt_special_focus_2010_08_19_english.pdf, accessed on 21 July 2011.

¹⁶ OCHA-OPT, "Protection of Civilian Weekly Update", 8–21 June 2011. Available from www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2011_06_24_english.pdf, accessed on 21 July 2011.

barrier, including East Jerusalem, or to land and rural communities in the Jordan Valley.¹⁷ Freedom of movement for Palestinians between Gaza and the West Bank and abroad remains strictly limited.¹⁸ Palestinian human rights defenders continue to face difficulties travelling between the Occupied Palestinian Territory and the outside world due to the travel bans imposed by Israel.¹⁹

40. In paragraph 1972 (e) of its report, the Mission recommended that Israel should release Palestinians detained in Israeli prisons in connection with the occupation. The release of children should be an utmost priority. The Mission further recommended that Israel should cease the discriminatory treatment of Palestinian detainees and that family visits for prisoners from Gaza should resume.

41. As of June 2011 approximately 5,500 Palestinians remained in prisons in Israel and in the Occupied Palestinian Territory, including 211 children (38 between ages of 12 and 15).²⁰ More than 200 Palestinians were in administrative detention.²¹ Arrest and detention of children from East Jerusalem suspected of throwing stones at Israeli settlers and their private security personnel increased.²² Conditions of detention remain poor and ill-treatment and abuse of detainees during arrest, interrogation and detention are reportedly routine.²³ The Israeli authorities continue to bar family visits for prisoners from Gaza.²⁴

42. In paragraph 1972 (f) of its report, the Mission recommended that Israel should forthwith cease interference with national political processes in the Occupied Palestinian Territory and, as a first step, release all members of the Palestinian Legislative Council currently in detention and allow all members of the Council to move between Gaza and the West Bank so that it may resume functioning.

43. As of the date of writing, twelve members of the Palestinian Legislative Council (PLC) remain in Israeli detention. Three PLC members who had been in detention between 2006 and June 2010, and who subsequently had their residency permits revoked by the Government of Israel on the basis of their lack of loyalty to the State, continued to seek refuge on ICRC premises in East Jerusalem (A/HRC/16/71, para. 23). A fourth PLC

¹⁷ See, generally, OCHA-OPT, "Barrier Update: Seven years after the Advisory Opinion of the International Court of Justice on the Barrier: The Impact of the Barrier in the Jerusalem area", July 2011. Available from

http://www.ochaopt.org/documents/ocha_opt_barrier_update_july_2011_english.pdf.

¹⁸ See, generally, OCHA-OPT, "Humanitarian Situation in the Gaza Strip Fact Sheet", July 2011. Available from www.ochaopt.org/documents/ocha_opt_gaza_fact_sheet_july_2011.pdf.

¹⁹ See Al-Haq, "Alternative report submitted by Al-Haq to the Human Rights Committee on the occasion of its consideration of Israel's third periodic report: Israel's violations of the Covenant on Civil and Political Rights with respect to Freedom of Movement in the Occupied Palestinian Territory", June 2010.

²⁰ Figures from Addameer, available at http://www.addameer.org/detention/current_stats.html, and B'Tselem available at http://www.btselem.org/statistics/detainees_and_prisoners.

²¹ Ibid.

²² Naama Baumgarten-Sharon, *Caution: Children Ahead, The Illegal Behavior of the Police toward Minors in Silwan Suspected of Stone Throwing*, (B'Tselem, 2010). Available from www.btselem.org/publications/summaries/201012_caution_children_ahead, accessed on 21 July 2011.

²³ See Adv. Yossi Wolfson, *Kept in the Dark, treatment of Palestinian Detainees in the Petah Tikva interrogation Facility of the Israel Security agency*, (B'Tselem and Hamoked, 2011). Available from www.btselem.org/download/201010_kept_in_the_dark_eng.pdf, accessed on 20 July 2011

²⁴ ICRC, "Gaza detainees barred from family visits", 23 June 2011.

member was forcibly transferred to another part of the West Bank by Israeli authorities in December 2010.²⁵

44. In paragraph 1972 (g) of its report, the Mission recommended that the Government of Israel should cease actions aimed at limiting the expression of criticism by civil society and members of the public concerning the policies and conduct of Israel during the military operations in the Gaza Strip. The Mission also recommended that Israel should set up an independent inquiry to assess whether the treatment by Israeli judicial authorities of Palestinian and Jewish Israelis expressing dissent in connection with the offensive was discriminatory, in terms of both charges and detention pending trial. The results of the inquiry should be made public and, subject to the findings, appropriate remedial action should be taken.

45. Israel has not established an independent inquiry to assess whether the treatment by Israeli judicial authorities of Palestinian and Jewish Israelis expressing dissent in connection with the offensive was discriminatory. Non-governmental organizations continue to report concerns regarding initiatives to curtail freedom of expression in Israel and the Occupied Palestinian Territory, reportedly as a reaction to their roles during the Israeli military operations in the Gaza Strip. In November 2010 a bill was introduced proposing an amendment to the Associations Law²⁶ to close organizations whose activities “harm the State of Israel as a Jewish state”, namely those that participate in filing lawsuits abroad against senior Israeli politicians and army officers. The bill is set to be debated in the Knesset later in 2011.²⁷ On 21 February 2011 the Knesset enacted the NGO Funding Transparency Law,²⁸ which requires Israeli non-profit organizations to disclose foreign sources of funding. Two bills amending legislation were also under consideration by the Knesset at the time of this report: one amending the Income Tax Order²⁹ whereby funding from foreign states would be taxed at a rate of 45% and the other amending the Associations Act³⁰ limiting donations from a foreign entity to 20,000 NIS per year. The official explanation attached to the draft bill amending the Income Tax Order specifically references the “Goldstone Report”.³¹

46. In paragraph 1972 (h) of its report, the Mission recommended that the Government of Israel should refrain from any action of reprisal against Palestinian and Israeli individuals and organizations that have cooperated with the United Nations Fact-Finding

²⁵ Security Council Briefs given by the Special Coordinator, 14 December 2010 and 19 January 2011. See also Jerusalem Center for Social and Economic Rights, “Israel decides to deport from Jerusalem PLC member Abu Teir”, 8 December 2010. Available from www.jcser.org/index.php?option=com_content&view=article&id=719%3Aisrael-decides-to-deport-from-jerusalem-plc-member-abu-teir-&catid=34%3Anews&Itemid=1.

²⁶ Associations Law, 5740-1980: Statute Book 5740, p. 127; the current title of this amendment is Association Law (amendment – reservations regarding the registration and activity of an association), 5770-2010. Available in Hebrew from www.knesset.gov.il/privatelaw/data/18/2456.rtf.

²⁷ See Association for Civil Rights in Israel (ACRI), “Knesset 2010-2011 Winter Session: Legislative Roundup”, April 2011. Available at: www.acri.org.il/en/?p=2033, accessed on 21 July 2011.

²⁸ Disclosure Requirements for Recipients of Support from a Foreign State Entity, 5771-2011. Available in Hebrew from www.nevo.co.il/Law_word/law14/law-2279.pdf.

²⁹ Available from <http://www.acri.org.il/en/wp-content/uploads/2011/07/Kirshenbaum-Income-Tax-ENG.doc>, accessed on 21 July 2011.

³⁰ The Akunis bill is entitled Associations Law (amendment – prohibition on foreign state entities' support for political associations in Israel), 5771-2011. Available in Hebrew from www.knesset.gov.il/privatelaw/data/18/3140.rtf.

³¹ The Kirshenbaum bill is entitled Income Tax Order (amendment – taxation of public institutions that receive donations from a foreign state entity), 5771-2011. Available from <http://www.knesset.gov.il/privatelaw/data/18/2917.rtf>.

Mission on the Gaza Conflict, in particular individuals who had appeared at the public hearings held by the Mission in Gaza and Geneva and expressed criticism of actions by Israel.

47. The Secretary-General is not aware of any reprisals taken by the Government of Israel against Palestinian or Israeli individuals that cooperated with the Mission. However, a proposal introduced in the Knesset in June 2011 would, if adopted, end the assignment of National Service civilian volunteers to the Israeli non-governmental organizations that cooperated with the Mission.³²

48. In paragraph 1972 (i) of its report, the Mission recommended that Israel should reiterate its commitment to respecting the inviolability of United Nations premises and personnel and that it should undertake all appropriate measures to ensure that there was no repetition of violations in the future. It further recommended that reparations to the United Nations should be provided fully and without further delay by Israel, and that the General Assembly should consider the matter.

49. To date, the United Nations has not received any formal communication from the Government of Israel reiterating a commitment to respecting the inviolability of United Nations premises and personnel. Information on the subject of reparations was included in A/HRC/13/55.

F. Action by Palestinian armed groups

50. In paragraph 1973 of its report, the Mission addressed two recommendations to Palestinian armed groups.

51. In paragraph 1973 (a) of its report, the Mission recommended that Palestinian armed groups should undertake forthwith to respect international humanitarian law, in particular by renouncing attacks on Israeli civilians and civilian objects, and take all feasible precautionary measures to avoid harm to Palestinian civilians during hostilities.

52. Indiscriminate rocket and mortar attacks against Israel continue to be launched from Gaza.³³ According to the United Nations Department of Safety and Security, from 1 September 2010 to 21 June 2011 there were 32 incidents of rocket fire and 19 incidents of mortar shelling. The Secretary-General is unable to confirm whether Palestinian armed groups have taken all feasible precautionary measures to avoid harm to Palestinian civilians during hostilities.

53. In paragraph 1973 (b) of its report, the Mission recommended that the Palestinian armed groups holding Israeli soldier Gilad Shalit in detention should release him on humanitarian grounds; pending that release, they should recognize his status as prisoner of war, treat him as such, and allow him ICRC visits.

54. At the time of writing, Gilad Shalit was still in detention, had not been recognized as a prisoner of war and had not been not allowed any contact with ICRC.³⁴

³² Jonathan Lis, "Israeli rights groups that cooperated with Goldstone may no longer get National Service volunteers", *Haaretz*, 12 June 2011.

³³ See also letters of the Permanent Mission of Israel to the High Commissioner for Human Rights of 13 April 2011, 24 December 2010 and 22 November 2010.

³⁴ ICRC, "Gaza: ICRC demands proof that Gilad Shalit is alive", 23 June 2011. Available from www.icrc.org/eng/resources/documents/news-release/2011/israel-palestine-news-2011-06-23.htm.

G. Action by responsible Palestinian authorities

55. The Mission directed three recommendations to responsible Palestinian authorities in paragraph 1974 of its report.

56. In paragraph 1974 (a) of its report, the Mission recommended that the Palestinian Authority should issue clear instructions to security forces under its command to abide by human rights norms as enshrined in the Palestinian Basic Law and international instruments, ensure prompt and independent investigations of all allegations of serious human rights violations by security forces under its control, and end the resort to military justice to deal with cases involving civilians.

57. On 17 January 2011 the Palestinian Authority reportedly announced that civilians will no longer be tried by military courts.³⁵

58. In paragraph 1974 (b) of its report, the Mission recommended that the Palestinian Authority and the Gaza authorities should release without delay all political detainees currently in their power and refrain from further arrests on political grounds and in violation of international human rights law.

59. OHCHR is not aware of any developments in this regard.

60. In paragraph 1974 (c) of its report, the Mission recommended that the Palestinian Authority and the Gaza authorities should continue to enable the free and independent operation of Palestinian non-governmental organizations, including human rights organizations, and of the Palestinian Independent Commission for Human Rights.

61. There is no indication that any action has been taken to implement the above-mentioned recommendation. Repression of freedom of expression and attacks on civil society organizations continue in the West Bank and in Gaza. Palestinian security forces arrested a manager of a radio station on 15 November 2010, after the station reported on differences between the president of the Palestinian Authority and the Fatah Central Committee.³⁶ Palestinian security forces also arrested a journalist working for al-Quds Press News Agency on charges of libel and slander against President Mahmoud Abbas.³⁷ In October 2010 Hamas security forces shut down the Palestinian Journalists' Syndicate;³⁸ and on 30 November Hamas security forces shut down all offices of the Sharek Youth Forum, on the basis of allegations of "moral misconduct".³⁹ In March 2011 Hamas security forces attacked journalists, including women, covering peaceful demonstrations, including

³⁵ See Al-Haq, "Palestinian General Intelligence: civilians will be no longer tried in military courts", 17 January 2011. Available from www.alhaq.org/etemplate.php?id=566.

³⁶ Reporters without Borders, "Political divisions make reporting nearly impossible for journalists", 22 November 2010.

³⁷ International Freedom of Expression Exchange, "MADA calls for immediate release of journalist Mamdouh Hamamreh", 22 October 2010.

³⁸ International Freedom of Expression Exchange, "Hamas shuts down journalist union", 20 October 2010.

³⁹ Statement by Maxwell Gaylard, United Nations Resident and Humanitarian Coordinator in the occupied Palestinian Territory on the Dissolution of Sharek Youth Forum in the Gaza Strip, 20 July 2011. Available from unispal.un.org/UNISPAL.nsf/47D4E277B48D9D3685256DDC00612265/FF5418A04E3A8442852578D30052968B; see also Palestine Monitor, "Sharek Youth Forum closed in Gaza", December 2010. Available from www.sharek.ps/gaza-press-1.

beating, insulting, threatening and detaining journalists, and raiding several media agency offices.⁴⁰

H. Action by the international community⁴¹

62. Paragraph 1975 of the Mission's report contains five recommendations addressed to a range of actors and partners in the international community.

63. In paragraph 1975 (a) of its report, the Mission recommended that the States parties to the Geneva Conventions relating to the protection of victims of international armed conflicts should start criminal investigations in national courts, using universal jurisdiction, where there is sufficient evidence of the commission of grave breaches of the Geneva Conventions of 1949. It also recommended that, where so warranted following investigations, alleged perpetrators should be arrested and prosecuted in accordance with internationally recognized standards of justice.

64. The Secretary-General is not aware of any further action taken to implement the above recommendation since his previous progress report (A/HRC/15/51, para. 62).

65. In paragraph 1975 (b) of its report, the Mission recommended that international aid providers should step up financial and technical assistance for organizations providing psychological support and mental health services to the Palestinian population.

66. The United Nations Children's Fund (UNICEF) reports that the impact of Operation Cast Lead and the blockade have greatly diminished family coping mechanisms and led to significant deterioration of services, thereby deeply affecting the well-being of children. In 2011, it had received a total of \$3.8 million from the Canadian International Development Agency and the European Commission Humanitarian Aid department, which is earmarked for emergency response for protection and psychosocial support. UNICEF also reports that, owing to extreme economic distress, many children are engaged in dangerous labour to support their families, including the collection of gravel and scrap metal in abandoned settlements and in the buffer zone near the barrier around Gaza, where they are at high risk of being shot by Israeli security forces. In addition, UNICEF states that, in collaboration with Columbia University and local partners, it is introducing standardized tools for monitoring and evaluating psychosocial interventions for children and caregivers.

67. UNRWA reports that children who suffered trauma after Operation Cast Lead were initially supported through a special initiative under the UNRWA Community Mental Health Programme. After completing targeted counselling in late 2009, children who continued to show symptoms were given additional care through existing counselling activities in UNRWA schools throughout Gaza.

68. In paragraph 1975 (c) of its report, the Mission recommended that, in view of their crucial function, donor countries and assistance providers should continue to support the work of Palestinian and Israeli human rights organizations in documenting and publicly reporting on violations of human rights and international humanitarian law, and advising relevant authorities on their compliance with international law.

⁴⁰ International Freedom of Expression Exchange, "MADA demands investigation into attacks on journalists covering protest", 17 March 2011.

⁴¹ In order to gather information regarding the status of implementation of the recommendations contained in paragraphs 1975, 1976 and 1977, OHCHR addressed letters to United Nations agencies working in the occupied Palestinian territory. The information regarding these recommendations is based on replies received.

69. In response to informal queries from OHCHR, neither Israeli nor Palestinian NGOs had reported any major changes in their funding at the time of publication of the present report.

70. OHCHR continues to lead the Protection Cluster Working Group and the Accountability Task Force within it. Both include Palestinian and Israeli non-governmental organizations and share information relating to documenting, developing reports and advocacy activities concerning violations of human rights and international humanitarian law.

71. UNICEF reports that it leads an inter-agency working group that regularly reports to the Working Group of the Security Council on Children and Armed Conflict. The Working Group has submitted four bi-monthly reports to the Security Council covering the time period from September 2010 to April 2011. The reports document grave violations⁴² against children in the Occupied Palestinian Territory by Israeli security forces, Palestinian armed groups and Israeli settlers. This includes reports of killing and injuries, detention, ill-treatment and torture, use of children by armed forces, forced displacement, attacks on schools and impediments to humanitarian access, including health services and education.

72. In paragraph 1975 (d) of its report, the Mission recommended that States involved in peace negotiations between Israel and representatives of the Palestinian people, especially the Quartet, should ensure that respect for the rule of law, international law and human rights assumes a central role in internationally sponsored peace initiatives.

73. On 21 September 2010 the Quartet issued a statement that, among other things, urged a complete halt to all violence and reiterated its call on all parties to ensure the protection of civilians and to respect international humanitarian and human rights law.⁴³

74. In paragraph 1975 (e) of its report, the Mission recommended that, in view of the allegations and reports about long-term environmental damage that may have been created by certain munitions or debris from munitions, a programme of environmental monitoring should be implemented under the auspices of the United Nations, for as long as deemed necessary; the programme should include the Gaza Strip and areas within southern Israel close to impact sites. The environmental monitoring programme should be in accordance with the recommendations of an independent body, and samples and analyses should be analysed by one or more independent expert institutions. Such recommendations, at least at the outset, should include measurement mechanisms that address the fears of the population of Gaza and southern Israel at that time and should at a minimum be in a position to determine the presences of heavy metals of all varieties, white phosphorous, tungsten micro-shrapnel and granules and such other chemicals as may be revealed by the investigation.

75. The United Nations Environment Programme (UNEP) reports that, as part of a follow-up to its study *Environmental Assessment of the Gaza Strip following the escalation of hostilities in December 2008 – January 2009*,⁴⁴ it has focused on restoring groundwater sustainability in Gaza, prepared a technical paper which proposes that a major

⁴² For further information on the grave violations against children, see Office of the Special Representative of the Secretary-General for Children and Armed Conflict, "The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation", Working Paper No. 1, October 2009. Available from www.un.org/children/conflict/_documents/SixGraveViolationspaper.pdf.

⁴³ Statement by Middle East Quartet, SG/2162, 21 September 2010. Available from www.un.org/News/Press/docs/2010/sg2162.doc.htm.

⁴⁴ UNEP, Nairobi, 2009. Available from www.unep.org/PDF/dmb/UNEP_Gaza_EA.pdf, accessed on 21 July 2011. See also A/HRC/13/55, paragraph 81.

desalination plant or a series of smaller plants be established and noted that sewage systems in Gaza need to be upgraded to ensure connectivity and improved treatment. According to UNEP, this will require the establishment of a series of new sewage treatment plants, as the existing ones are overloaded and incapable of producing the quality of water needed for re-use in the Gaza Strip.

I. Action by the international community and responsible Palestinian authorities

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

77. To date, no mechanism has been established to track, receive and allow disbursement of funds for the reconstruction of Gaza. UNRWA reports that United Nations implementing agencies remain unable to effectively access and use funds pledged at the International Conference on the Palestinian Economy and Gaza Reconstruction in March 2009 for construction activities for the benefit of the civilian population. UNRWA also reports that it has proposed to Israeli authorities a streamlined process of project approvals and transfer of construction supplies through the crossings established under the Agreement on Movement and Access of 2005, with a view towards expediting the implementation of construction and reconstruction projects.

78. In paragraph 1976 (b) of its report, the Mission recommended that, in view of the consequences of the military operations, responsible Palestinian authorities and international aid providers should pay special attention to the needs of persons with disabilities. In addition, the Mission recommended that medical follow-up should be ensured by relevant international and Palestinian structures with regard to patients who had suffered amputations or been otherwise injured by munitions, the nature of which had not been clarified, in order to monitor any possible long-term impact on their health. Financial and technical assistance should be provided to ensure adequate medical follow-up to Palestinian patients.

79. The Secretary-General noted in his previous progress report (A/HRC/15/51, para. 77) that he was not aware of any action taken by responsible Palestinian authorities or Palestinian structures in response to the above recommendation. This continues to be the case.

80. In its submission to OHCHR, UNRWA reports that it continues to cooperate with local organizations to ensure that patients receive prosthetic devices and artificial limbs, and to provide physiotherapy for persons who sustained injuries during Operation Cast Lead. In addition, UNRWA is providing community-based organizations with financial assistance and technical advice to help them deliver services to their target groups. For example, UNRWA has provided financial subsidies to cover a portion of operating expenses and educational fees, covered salaries for employees through its job creation programme and assisted such organizations to provide basic goods to affected families. UNRWA also reports that it has delivered direct psychosocial support, physiotherapy, occupational therapy and assistive devices to individuals and families affected.

J. Action by the international community, Israel and Palestinian authorities

81. In paragraph 1977 (a) of its report, the Mission recommended that Israel and representatives of the Palestinian people, and international actors involved in the peace process, should involve Israeli and Palestinian civil society in devising sustainable peace agreements based on respect for international law. The participation of women should be ensured in accordance with Security Council resolution 1325 (2000).

82. As stated in A/HRC/13/55, paragraph 93, there are ongoing efforts to involve Israeli and Palestinian civil society groups in the peace process, including those led by United Nations bodies. The United Nations Population Fund (UNFPA) supports a network of 20 non-governmental organizations in Gaza that seek to combat violence against women, promote women's protection, emphasize women's issues and mainstream Security Council resolution 1325 (2000).

83. In paragraph 1977 (b) of its report, the Mission recommended that attention should be given to the position of women and steps be taken to ensure their access to compensation, legal assistance and economic security.

84. In its submission to OHCHR, UNRWA reports that it continues to provide women whose homes were damaged or demolished during Operation Cast Lead with cash assistance and rental fees. Cash subsidies have been disbursed to enable female-headed households who had their shelters damaged to pay for minor and major repairs. In cases where shelters have been destroyed completely, UNRWA continues to pay one-year rental fees. Women continue to account for approximately one third of employees under the UNRWA Job Creation Programme. Since Operation Cast Lead, a number of Gaza Women Programme Centres supported by UNRWA have offered psychosocial and legal support to women.

85. In its submission to OHCHR, UNFPA reports that it has, in partnership with two non-governmental organizations, supported centres for women in the Jabalia and Bureij areas. These centres provide a package of services, including reproductive health care such as family planning, antenatal and postnatal care, and psychosocial, legal and recreational services.

K. Action by the Secretary-General

86. In paragraph 1978 of its report, the Mission recommended that the Secretary-General should develop a policy to integrate human rights into peace initiatives in which the United Nations is involved, especially the Quartet, and request the High Commissioner for Human Rights to provide expertise required to implement that recommendation.

87. As stated in his previous progress report (A/HRC/15/51, para. 85), the Secretary-General has asked OHCHR, in cooperation with the United Nations Special Coordinator for the Middle East Peace Process, to devise proposals to ensure increased integration of human rights into the Middle East peace process. OHCHR has developed proposals in response to that request. It is envisaged that consultations with the United Nations Special Coordinator for the Middle East Peace Process regarding these proposals will be initiated and concluded in the coming months.

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

88. Paragraph 1979 of the Mission's report contains two recommendations addressed to OHCHR.

89. In paragraph 1979 (a) of its report, the Mission recommended that OHCHR should monitor the situation of persons who have cooperated with the United Nations Fact-Finding Mission on the Gaza Conflict and periodically update the Human Rights Council through its public reports and in other ways as it may deem appropriate.

90. Through its field presence in the Occupied Palestinian Territory, OHCHR has maintained contact with persons who have cooperated with the Mission in order to monitor their situation and will periodically report on their situation as appropriate.

91. In paragraph 1979 (b) of its report, the Mission recommended that OHCHR should give attention to the Mission's recommendations in its periodic reporting on the Occupied Palestinian Territory to the Human Rights Council.

92. In the High Commissioner for Human Rights' most recent report on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 (A/HRC/16/71), the status of implementation of the Mission's recommendations was addressed.
