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**Human rights situation in Palestine and other
occupied Arab territories**

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

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 13/9, reiterated its call for all concerned parties, including United Nations bodies, to ensure the implementation of the recommendations contained in the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48) (hereinafter the “Mission”). 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 paragraph 3 of section B of Human Rights Council resolution S-12/1, to the Council at its fifteenth session. The present report is submitted pursuant to that request, and updates the information contained 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). 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

2. In paragraph 1968 of its report, the Mission addressed five recommendations to the Council. It 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.

3. As stated in the report of the Secretary-General submitted pursuant to section B of Human Rights Council resolution S-12/1, the Council endorsed the Mission’s recommendations and called on 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; in paragraph 17, it decided to follow up on the implementation, inter alia, of its paragraph 4 at its fifteenth session. In paragraph 16, the Council also requested the United Nations High Commissioner for Human Rights to submit to the Council, at its fourteenth session, a progress report on the implementation of the resolution, including its paragraph 4. The High Commissioner submitted that report (A/HRC/14/CRP.4) to the Council, which the Council reviewed at its fourteenth session.

4. 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 has reported, the 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 may consider action according to the Mission’s relevant recommendations.

5. To date, the 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.

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

7. As stated in the report of the Secretary-General submitted pursuant to section B of Human Rights Council resolution S-12/1, the report of the Mission was transmitted to the Prosecutor of the International Criminal Court on 10 December 2009.
8. In paragraph 1968 (d) of its report, the Mission recommended that the Council should submit the report to the General Assembly with a request that it should be considered.
9. As stated in the report of the Secretary-General submitted pursuant to section B of Human Rights Council resolution S-12/1, the Council recommended that the General Assembly should consider the report of the Mission during the main part of its sixty-fourth session.¹
10. 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 may include review of progress in their implementation, as may 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.
11. As stated in the report of the Secretary-General submitted pursuant to section B of Human Rights Council resolution S-12/1, the Mission's report was transmitted to the treaty bodies that monitor compliance by Israel with the human rights treaties to which it is party² on 10 December 2009.

B. Action by the Security Council

12. In paragraph 1969 of its report, the Mission addressed a total of six recommendations to the Security Council.
13. 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 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.
14. To date, the Security Council has not directed such a request to the Government of Israel.

¹ See General Assembly resolution 64/254 and the report of the Secretary-General on the second follow-up to the report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/64/890).

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.

15. In paragraph 1969 (b) of its report, the Mission also 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. 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. The Security Council should request the committee to report to it at determined intervals, as may be necessary. The committee should be appropriately supported by the Office of the High Commissioner for Human Rights (OHCHR).

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

17. 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. 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 may assess whether appropriate action to ensure justice for victims and accountability for perpetrators has been taken or is 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 may be necessary.

18. 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 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. As the Security Council has not established an independent committee of experts, none of these recommended actions has been carried out.⁴

³ In resolution 13/9, the Human Rights Council decided, in the context of the follow-up to the report of the Independent International Fact-Finding Mission, to establish a committee of independent experts 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, genuineness of these investigations and their conformity with international standards. The Council also requested the High Commissioner for Human Rights to appoint the members of the committee and to provide them with all necessary administrative, technical and logistical assistance. Accordingly, the High Commissioner appointed Professor Christian Tomuschat (Chairperson), Param Cumaraswamy and Justice Mary McGowan Davis as members of the committee, and established a secretariat to provide the required administrative, technical and logistical assistance (see A/HRC/14/CRP.4).

⁴ Ibid.

C. Action by the Prosecutor of the International Criminal Court

19. 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.

20. In a letter dated 22 July 2010 addressed to the Deputy High Commissioner for Human Rights, the Office of the Prosecutor of the International Criminal Court stated that the Prosecutor had not, to date, made a determination of whether, in his view, the Court had 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 January 2009. The Office of the Prosecutor noted that it had received submissions on the issue from Palestinian and Israeli authorities, as well as from other entities,⁵ and that a determination would be made once the Office was satisfied that all relevant arguments had been collected and considered.

D. Action by the General Assembly

21. In paragraph 1971 of its report, the Mission addressed four recommendations to the General Assembly. The Mission recommended that the 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. 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. The Assembly 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.

22. To date, the General Assembly has not directed such a request to the Security Council (see paragraph 4 above).

23. 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.

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

⁵ A summary of the submissions is available at www.icc-cpi.int/Menu/ICC/Structure+of+the+Court/Office+of+the+Prosecutor/Comm+and+Ref/Palestine/.

⁶ In paragraph 8 of its resolution 13/9, the Human Rights Council called upon the High Commissioner to explore and determine the appropriate modalities for the establishment of an escrow fund for the provision of reparations to the Palestinians who suffered loss and damage as a result of the unlawful acts attributable to the State of Israel during the military operation conducted from December 2008 to January 2009. See also the report of the High Commissioner on the follow-up to the report of the

25. 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 Fourth Geneva Convention of 1949 on measures to enforce the Convention in the Occupied Palestinian Territory and to ensure its respect in accordance with its article 1.

26. As stated in the report of the Secretary-General submitted pursuant to section B of Human Rights Council resolution S-12/1, the General Assembly recommended that the Government of Switzerland, in its capacity as depository of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, should undertake as soon as possible the necessary steps to reconvene a conference of High Contracting parties to the Fourth Geneva Conventions on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure its respect in accordance with article 1. In a subsequent communication to the Secretary-General, the Government provided information on the preliminary consultations that it had undertaken to that end (A/64/651, annex III). In paragraph 4 of its resolution 64/254, the Assembly reiterated its recommendation that the Government of Switzerland, in its capacity as depository of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, undertake as soon as possible the necessary steps to reconvene a Conference of High Contracting parties to the Fourth Geneva Conventions on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem, and to ensure its respect in accordance with article 1, bearing in mind the convening of such a Conference and the statement adopted on 15 July 1999, as well as the reconvening of the Conference and the declaration adopted on 5 December 2001. In a subsequent communication to the Secretary-General, the Government provided information on the preliminary consultations that it had undertaken to that end.⁷

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

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

United Nations Independent International Fact-Finding Mission on the Gaza Conflict (A/HRC/15/52), in which she stated that she had requested guidance from the Controller of the United Nations on the modalities for the establishment of an escrow fund, including its appropriate custodian, and that the response received from the Controller had identified a range of considerations and questions, which should be referred to the Office of Legal Affairs, that the High Commissioner had accordingly written to that Office for legal advice and would provide further information on this matter following the receipt of its reply.

⁷ A/64/890, annex III. In paragraph 7 of its resolution 13/9, the Council welcomed the recommendation of the General Assembly addressed to the Government of Switzerland, and recommended that the Government reconvene the conference envisaged before the end of 2010.

⁸ In paragraph 13 of its resolution 13/9, the 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 the International Committee of the Red Cross.

E. Action by the State of Israel

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

30. 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.

31. On 20 June 2010, the Government of Israel announced a new policy in relation to border closures and restrictions on passage through border crossings with the Gaza Strip.⁹ In connection with this announcement, a list detailing items that were banned or otherwise restricted from entering Gaza was released.¹⁰ According to the new list, the entry of arms and munitions and “dual-use” goods and items¹¹ would be subject to specific permission by the Government. Moreover, construction items and materials were to be allowed entry only for projects authorized by the Palestinian Authority and implemented by the international community. Since the announcement of the new policy, new food and productive items have been allowed into Gaza and the volume of imports has increased steadily. A total of 696 truckloads of goods entered Gaza between 20 and 26 June 2010, immediately after the announcement, a six per cent increase compared to the weekly average of 553 truckloads that entered in 2010 prior to the announcement.¹² In the week between 18 and 24 July 2010, the number of truckloads reached 979;¹³ by 7 August 2010, the number stood at an average of 1006 truckloads per week. However, this figure only represents 36 per cent of the weekly average of the first five months of 2007, before the imposition of the blockade.¹⁴ Approvals have also been given for a number of additional United Nations projects in the vital areas of education and health. Israel continues to prohibit all exports from Gaza.¹⁵

32. 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.

33. Israeli naval forces continue to prohibit Gazans access beyond three nautical miles from the shore and within a 300-metre wide strip of land near the border fence. This has drastically reduced the quantity and quality fishing activities. As a result, nearly 90 per cent of Gazan fishermen now live in either poverty or extreme poverty.¹⁶ Fishermen going

⁹ See Israeli Security Cabinet Decision of 20 June 2010.

¹⁰ See the Civilian policy towards the Gaza Strip: the implementation of the Cabinet Decision (June 2010), State of Israel, Ministry of Defense, Coordinator of Government Activities in the Territories, June 2010.

¹¹ Ibid. “Dual-use” items are defined as “liable to be used, side by side with their civilian purposes, for the development, production, installation or enhancement of military capabilities and terrorist capacities”.

¹² See Protection of Civilian Weekly Report, United Nations Office for the Coordination of Humanitarian Affairs Occupied Palestinian territory (OCHA-OPT), 23-29 June 2010.

¹³ Ibid., 18-24 July 2010.

¹⁴ Ibid., 28 July-10 August 2010.

¹⁵ Letter received by OHCHR from the Permanent Mission of Israel, Geneva, 28 June 2010.

¹⁶ See “Gaza closure: not another year”, International Committee of the Red Cross, press release of 14 June 2010, available at www.icrc.org/web/eng/siteeng0.nsf/html/palestine-update-140610.

beyond the imposed zone are subject to arrest, seizure of their vessel, and/or armed attack from Israeli naval forces.

34. 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. 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.

35. In July 2010, the Government of Israel issued a document entitled “Gaza operation investigations: second update”. In the document, the Government describes the adoption by the Israel Defense Forces of new procedures and doctrine to improve the protection of civilians in urban warfare.¹⁷ These include positive measures to “insulate the civilian population from combat operations, and to limit unnecessary damage to civilian property and infrastructure and require integration of civilian interests into the planning of combat operations”.¹⁸ It also reports the issuance of a new standing order on the destruction of private property for military purposes.¹⁹ The Government of Israel has not approached OHCHR to draw on its expertise in connection with a review of rules of engagement, standard operating procedures, open fire regulations or other relevant guidance for military personnel.

36. 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 also recommended that Israel should forthwith lift travel bans currently placed on Palestinians by reason of their human rights or political activities.

37. The freedom of movement of Palestinians within the Occupied Palestinian Territory remains severely restricted. The barrier, in conjunction with its gate and permit regime, continues to be the single largest obstacle to Palestinian movement within the West Bank. On 24 May 2010, Israeli authorities announced a welcome package of measures that included the opening of a key route to Palestinian traffic and the removal of 60 roadblocks.²⁰ Still, there has been no significant improvement in the access of Palestinians to areas behind the barrier, including East Jerusalem, or to land and rural communities in the Jordan Valley. Freedom of movement for Palestinians between Gaza and the West Bank, and abroad remains highly limited. In this regard, the Government of Israel stated that its adjusted policy on the entry of goods into Gaza would not remove existing

¹⁷ Available at www.mfa.gov.il/NR/rdonlyres/1483B296-7439-4217-933C-53CD19CE859/0/GazaUpdateJuly2010.pdf.

¹⁸ *Ibid.*, paras.150-153.

¹⁹ *Ibid.*, paras.154-156.

²⁰ The West Bank Movement and Access Update, OCHA-OPT, June 2010.

restrictions on freedom of movement to and from Gaza.²¹ 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.²²

38. 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 also recommended that Israel should cease the discriminatory treatment of Palestinian detainees, and that family visits for prisoners from Gaza should resume.

39. The number of Palestinian prisoners in Israeli prisons has decreased. As at the end of June 2010, more than 6,200 Palestinians remained in Israeli prisons, including nearly 300 children.²³ The number of Palestinians held in administrative detention had also decreased. Nonetheless, more than 200 people, including two children, remained in administrative detention.²⁴ The recent decline has been attributed to various factors, including a drop in violence.²⁵ Family visits for prisoners from Gaza continue to be banned by Israeli authorities.

40. 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.

41. Four members of the Palestinian Legislative Council who had been in Israeli detention since 2006 were released in May and early June 2010. In June 2010, the members, all elected on the Change and Reform political party list in 2006 and permanent residents of Jerusalem, had their residency permits revoked by the Government of Israel and were ordered to leave East Jerusalem. A petition was filed at the Israeli High Court on 15 June 2010 to contest the revocation of the permits. The High Court is due to hear the merits of the case on 6 September 2010.²⁶ At present, 12 Council members remain in Israeli detention.²⁷

42. 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

²¹ "Israel announces: no easing for travel of people into and out of Gaza", Gisha press release, 8 July 2010.

²² See Al-Haq Alternative report to the Human Rights Committee on the occasion of Israel's third periodic report; Israel's violations of the Covenant on Civil and Political Rights with respect to the freedom of movement, June 2010.

²³ B'Tselem, Statistics at 30 June 2010, available at www.btselem.org/english/statistics/Detainees_and_Prisoners.asp. See also Defence for Children International/Palestine Section, statistics as of 22 June 2010, available at <http://dci-pal.org/english/Display.cfm?DocId=902&CategoryId=11>.

²⁴ Ibid.

²⁵ See Annual Human Rights Review, B'Tselem, 1 January 2009 to 30 April 2010, p. 43.

²⁶ See statement by Richard Miron, Spokesperson for the United Nations Special Coordinator for the Middle East Peace Process, Robert Serry, Jerusalem, 1 July 2010.

²⁷ Quarterly update on Palestinian Prisoners, Addameer Prisoner Support and Human Rights Association, 19 July 2010.

inquiry should be made public and, subject to the findings, appropriate remedial action should be taken.

43. Some non-governmental organizations report concerns regarding limits on freedom of expression in Israel and the Occupied Palestinian Territory, and point primarily to the recently proposed bill, entitled “Amendment of restrictions on an organization’s registry and activity”, as an indication of ongoing efforts to limit the freedom of expression by civil society organizations concerned with human rights. If enacted, the proposed legislation would prevent the registration of non-governmental organizations or shut down existing ones “if there is a reasonable basis to conclude that the organization is providing information to foreign bodies or is involved in lawsuits abroad against senior officials in the government in Israel and/or officers in the Israeli army regarding war crimes.”²⁸ As of the publication of the present report, 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.

44. 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 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.

45. OHCHR is not aware of any reprisals taken by the Government of Israel against Palestinian or Israeli individuals or organizations that cooperated with the Mission.

46. 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 take all appropriate measures to ensure that there was no repetition of violations in the future. It also recommended that reparations to the United Nations should be provided fully and without further delay, and that the General Assembly should consider the matter.

47. On 22 March 2010, an IDF missile hit a well in the Toufah quarter in Gaza, damaging the nearby school run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).²⁹ As of the publication of this report, the United Nations has not received any formal communication from the Government of Israel reiterating its commitment to respecting the inviolability of United Nations premises and personnel.

F. Action by Palestinian armed groups

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

²⁸ Bill no. P/18/2456 (available at www.adalah.org/newsletter/eng/apr10/bill.pdf). See also the joint response issued by the following organizations: Adalah - The Legal Center for Arab Minority Rights in Israel; Association for Civil Rights in Israel; Bimkom – Planners for Planning Rights; B’tselem - The Israeli Information Center for Human Rights in the Occupied Territories; Gisha - Legal Center for Freedom of Movement; Hamoked - Center for the Defence of the Individual; Physicians for Human Rights – Israel; Public Committee against Torture in Israel; Rabbis for Human Rights; Yesh Din - Volunteers for Human Rights (available at www.adalah.org/eng/pressreleases/pr.php?file=29_04_10).

²⁹ Information received by OHCHR from UNRWA.

49. 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.

50. Indiscriminate rocket and mortar attacks against Israel continue to be frequently launched from Gaza.³⁰ According to the United Nations Department of Safety and Security, from 1 March 2010 to 23 July 2010, there were 37 incidents of rocket fire (totalling 41 rockets) and seven incidents of mortar shelling (totalling 12 mortar shells). OHCHR is unable to determine whether these attacks targeted military or civilian objectives. On 18 March 2010, a rocket attack launched from Gaza resulted in the death of one person.³¹ OHCHR is unable to confirm whether Palestinian armed groups have taken all feasible precautionary measures to avoid harm to Palestinian civilians during hostilities.

51. 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.

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

G. Action by responsible Palestinian authorities

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

54. 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.

55. As stated in the report of the Secretary-General submitted pursuant to section B of Human Rights Council resolution S-12/1, the Minister of Interior of the Palestinian Authority issued two decisions instructing security forces, within the context of handling detainees, to abide by human rights norms as enshrined in the Palestinian Basic Law and international instruments. The OHCHR field presence has nevertheless received information that the Palestinian Authority continues to subject civilians to military tribunals.

56. 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.

57. According to information provided to OHCHR, arbitrary arrests on political grounds continue in both the West Bank and Gaza. OHCHR received information that, in April, May and June 2010, approximately 364 people in the West Bank and 76 people in Gaza

³⁰ Letters of the Permanent Mission of Israel to the United Nations High Commissioner for Human Rights of 15 March, 9 April, 29 April, 28 June and 30 July 2010.

³¹ *Ibid.*

were arbitrarily detained for political reasons.³² The Palestinian Authority and the Gaza authorities maintain that detainees are not held on political grounds.

58. 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.

59. There is no indication that any action has been taken to implement the above recommendation. Repression of freedom of expression and attacks on civil society organizations have increased in Gaza; for example, on 24 May 2010, the Gaza authorities prevented the Palestinian Independent Commission for Human Rights from convening an event to present its annual human rights report.³³ In the West Bank, assaults on freedom of expression have escalated. In April 2010, Palestinian authorities in the West Bank shut down 10 television and radio stations. The Palestinian Authority has demanded that the remaining outlets pay exorbitant licensing fees, or face closure.³⁴ More recently, authorities in Gaza and the West Bank imposed restrictions on the publication and distribution of the newspapers *al-Quds*, *al-Ayyam* and *al-Hayat al-Jadida* in Gaza, and *al-Resala* and *Palestine* in the West Bank.³⁵

H. Action by the international community

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

61. In paragraph 1975 (a) of its report, the Mission recommended that the States parties to the Geneva Conventions of 1949 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. Where so warranted following investigations, alleged perpetrators should be arrested and prosecuted in accordance with internationally recognized standards of justice.

62. According to media reports, on 23 June 2010, an indictment was filed in Belgium against various Israeli Government officials for the commission of possible war crimes during Operation Cast Lead;³⁶ on 12 July 2010, a group of lawyers filed a complaint with a Moroccan prosecutor seeking the arrest of several high-ranking Israeli Government officials in relation to their involvement in Operation Cast Lead.³⁷

63. 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.

³² Information provided by the Palestinian Independent Commission for Human Rights.

³³ See "Al-Haq condemns recent attacks on civil society organizations in the Gaza Strip", Al-Haq press release, 26 May 2010. For more information on the situation of civil society in Gaza, see also "UNRWA strongly condemns second attack on Summer Games locations", UNRWA press release, available at www.unrwa.org/etemplate.php?id=723.

³⁴ See Palestinian Centre for Human Rights, press release, 12 July 2010. See also "Journalists under pressure: experiences from the frontline", Valentina Al-Ama, Ma'an Network, International Conference on Freedom of Information: the Right to Know, United Nations Educational, Scientific and Cultural Organization, Brisbane, Australia, 2 May 2010.

³⁵ Ibid.

³⁶ See for example "Belgian indictment against Barak, Livni", Jerusalem Post, 23 June 2010.

³⁷ "Morocco looks to arrest Cast Lead architects", Daily Star, 13 July 2010.

64. The United Nations High Commissioner for Human Rights addressed letters to United Nations agencies engaged in such activities in the Occupied Palestinian Territory; the information given below regarding the above-mentioned recommendation is based on the replies received.³⁸

65. Since mid-April 2010, the United Nations Children's Fund (UNICEF) has received approximately \$5.5 million towards providing protection and psychosocial support for Palestinian families and children following Operation Cast Lead. UNICEF is currently finalizing an evaluation of psychosocial support in the Occupied Palestinian Territory with a view to informing the development of monitoring tools for psychosocial programmes.

66. The UNRWA Community Mental Health Programme continues to provide counselling to school children and their families affected by the conflict, focusing particularly on those with special needs. In addition, UNRWA is currently mapping resources and working to establish a referral mechanism to ensure long-term commitment to victims.

67. 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.

68. In response to informal queries from the OHCHR field presence in the Occupied Palestinian Territory, neither Israeli nor Palestinian non-governmental organizations have reported any major changes in their funding at the time of publication of the present report.

69. 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 in relation to violations of human rights and international humanitarian law.

70. 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.

71. Following a meeting on 19 March 2010, the Quartet issued a statement that, *inter alia*, underscored the importance of respect for international law in the promotion of an environment conducive to successful negotiations. In the same statement, the Quartet expressed concern over the continuing deterioration of the human rights situation in Gaza and stressed the urgency of a durable resolution to the Gaza crisis.³⁹

72. 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

³⁸ Letters were addressed to the Humanitarian Coordinator of the Office of the United Nations Special Coordinator for the Middle East Peace Process, which were copied to the Heads of United Nations agencies in the Occupied Palestinian Territory; the Prosecutor of the International Criminal Court; international aid providers: the European Commission in the West Bank and Gaza and to the Chair of the Ad-Hoc Liaison Committee; and to the United Nations Environment Programme and the World Health Organization.

³⁹ See Office of the Quartet Representative, Tony Blair, press release, 19 March 2010.

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.

73. OHCHR is not aware of any action taken within the reporting period to implement the above recommendation.

I. Action by the international community and responsible Palestinian authorities

74. In paragraph 1976 (a) of its report, the Mission recommended that the international community and responsible Palestinian authorities should establish appropriate mechanisms should 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.

75. At the time of publication of the present report, no mechanism had been established to track commitments against the \$4.2 billion pledged by international donors at the International Conference in Support of the Palestinian Economy for the Reconstruction of Gaza, held in Sharm el-Sheikh on 2 March 2009. UNRWA has not been able to fully utilize the \$4.5 billion received from donors for reconstruction in the Gaza Strip owing primarily to the restrictions on importing construction materials. Following the decision by Israel to adjust its policy of closures in Gaza, UNRWA has proposed to the Government of Israel a new process for receiving international aid and construction materials for housing, schools and medical facilities. The proposal includes monitoring, verification and quality assurance processes to guarantee the integrity of UNRWA programmes.

76. 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 suffered amputations or were 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.

77. OHCHR is not aware of any action taken by responsible Palestinian authorities or Palestinian structures in response to the above recommendation.

78. The Disability Sub-Cluster, led by the World Health Organization (WHO), is conducting activities to address the needs of disabled people in Gaza, including providing assistive devices, supplying new limb prosthesis every month, providing outreach services (approximately 3,000 beneficiaries from May 2009 to June 2010), counselling and psychosocial support. The Sub-Cluster continues to provide capacity-building in physiotherapy and occupational therapy and coordinate over 40 non-governmental organizations working on disability issues in Gaza. According to WHO, during the reporting period, 80 patients whose limbs had been amputated as a result of injuries

incurred during Operation Cast Lead had received artificial limbs. At least 70 patients remain in need of prostheses.

79. UNRWA 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 to 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 has also delivered psychosocial support, physiotherapy, occupational therapy and assistive devices, and coordinated the travel of 21 persons with disabilities to the United Arab Emirates to allow them to receive medical attention.

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

80. 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).

81. As stated in the report of the Secretary-General submitted pursuant to section B of Human Rights Council resolution S-12/1, there are ongoing efforts to involve Israeli and Palestinian civil society groups and women in the peace process, including those led by United Nations bodies. In particular, in June 2010 and in commemoration of the tenth anniversary of resolution 1325 (2000), the United Nations Development Fund for Women (UNIFEM) and the International Women's Commission for a Just and Sustainable Palestinian-Israeli Peace convened a two-day high-level colloquium in Spain that brought together Government leaders and experts on women's human and political rights and the Israeli-Palestinian conflict; they highlighted, inter alia, the critical need to recognize women's civil society leadership as participants in resolving the Israeli-Palestinian conflict, ensure that women had a place in all processes to negotiate peace, and take concrete steps to protect women from the specific ways that conflict affects them.⁴⁰

82. 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.

83. UNRWA reports that it has provided women whose houses were damaged or demolished as a result of Operation Cast Lead with cash assistance for living expenses and rental fees. Since March 2010, UNRWA has recruited 4,934 women at various UNRWA and non-UNRWA installations. Owing to the general lack of employment opportunities, UNRWA has not been able to offer employment to a large number of unskilled women in Gaza. It has, however, developed a project proposal that seeks to offer employment opportunities to 5,772 unemployed, unskilled women in vulnerable households.

⁴⁰ See "Women share a vision for Israeli-Palestinian peace", UNIFEM press release, 3 June 2010.

K. Action by the Secretary-General

84. 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 United Nations High Commissioner for Human Rights to provide expertise required to implement that recommendation.

85. The Secretary-General 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 initiated a process to develop proposals in response to the request of the Secretary-General.

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

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

87. 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.

88. 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.

89. 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.

90. In her periodic report on the implementation of Council resolution S-9/1 (A/HRC/13/54), the High Commissioner addresses a number of human rights issues that are also relevant to the Mission's recommendations.
