



# General Assembly

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## Human Rights Council

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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 parties concerned, including United Nations bodies, in accordance with Human Rights Council resolution S-12/1**

#### **Report of the Secretary-General\***

##### *Summary*

The present report focuses on progress in implementing the recommendations made by the United Nations Fact-Finding Mission on the Gaza Conflict in its report (A/HRC/12/48). It reviews all recommendations made by the Mission, and provides detailed information on non-implementation and the measures required to ensure the most adequate and effective implementation.

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\* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.



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## **I. Introduction**

1. In its resolution 19/18, the Human Rights Council reiterated its call for all concerned parties to ensure the full and immediate 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). It also requested the Secretary-General to submit a comprehensive report on progress made in the implementation of the Mission's recommendations, in particular by providing detailed information on non-implementation and the measures required to ensure the most adequate and effective implementation of the recommendations by all parties concerned, in accordance with Council resolution S-12/1, to the Council at its twenty-first session. The present report is submitted pursuant to that request.

2. The present report updates and supplements the information contained in the previous reports of the Secretary-General on progress in implementing the Mission's recommendations (A/HRC/13/55, A/HRC/15/51 and A/HRC/18/49). It contains the information requested and received from States, organizations and other entities to which the Mission addressed recommendations, as well as information gathered directly by the United Nations.

## **II. Progress in implementing the recommendations made by the United Nations Fact-Finding Mission on the Gaza Conflict in its report**

### **A. Human Rights Council**

3. With regard to the recommendation that the Human Rights Council endorse the recommendations made by the Mission in its report, take appropriate action to implement them as recommended by the Mission and through other means it deems appropriate, and continue to review their implementation at future sessions (A/HRC/12/48, para. 1968 (a), the Council, in its resolution S-12/1, endorsed the recommendations and called upon all concerned parties to ensure their implementation in accordance with their respective mandates. In its resolution 13/9, the Council reiterated that call and decided to follow up on the status of implementation at its fifteenth session. In its resolution 15/6, the Council requested the Secretary-General to follow up on the implementation of the Mission's recommendations, in accordance with resolution S-12/1. In its resolution 16/32, the Council reiterated its call upon all concerned parties to ensure the full and immediate implementation of the recommendations in accordance with their respective mandates. Also in resolution 16/32, the Council decided to follow up on the status of implementation at its nineteenth session. At its nineteenth session, in its resolution 19/18, the Council reiterated its call upon all concerned parties to ensure the full and immediate implementation of the Mission's recommendations. In addition, the Council recommended that the General Assembly remain apprised of the matter until it was satisfied that appropriate action with regard to implementing the recommendations had been taken at the domestic or the international level to ensure justice for victims and accountability for perpetrators, and also remain ready to consider whether additional action within its powers was required in the interests of justice. The Secretary-General notes that the Human Rights Council has endorsed the Mission's recommendations, in accordance with the specific recommendation made by the Mission in its report, and that the recommendation is being implemented further on an ongoing basis.

4. With regard to the implementation that the Human Rights Council bring the report of the Fact-Finding Mission to the attention of the Security Council pursuant to Article 99 of the Charter of the United Nations so that the Security Council could consider action (A/HRC/12/48, para. 1968 (b)), the Secretary-General notes that, to date, the Human Rights Council has not requested the Secretary-General to bring the report to the attention of the Security Council under Article 99 of the Charter. The Secretary-General also notes that, in order to ensure adequate and effective implementation of the recommendation, the Council would need to make a specific request, in accordance with its mandate and procedures, that the Secretary-General bring the report to the attention of the Security Council under Article 99 of the Charter.

5. With regard to the recommendation that the Human Rights Council formally submit the report to the Prosecutor of the International Criminal Court (A/HRC/12/48, para. 1968 (c)), the Secretary-General recalls that, as stated in his first progress report on the status of implementation of the Mission's recommendations (A/HRC/13/55), the report of the Mission was transmitted to the Prosecutor of the International Criminal Court on 10 December 2009. The Secretary-General notes that the Council has implemented the Mission's recommendation.

6. With regard to the recommendation that the Human Rights Council submit the report of the Mission to the General Assembly with a request that the report be considered (A/HRC/12/48, para. 1968 (d)), the Secretary-General recalls that, as stated in his first progress report on the status of implementation of the recommendations made by the Mission (A/HRC/13/55), the Council, in its resolution S-12/1, recommended that the Assembly consider the report at its sixty-fourth session. In its resolution 16/32, the Council recommended that the Assembly reconsider the report at its sixty-sixth session. The Secretary-General notes that the Council has implemented the Mission's recommendation.

7. The Secretary-General notes that the recommendation that the Human Rights Council bring the Mission's recommendations to the attention of the relevant United Nations human rights treaty bodies so that they may include a review of progress in their implementation in their periodic review of compliance by Israel with its human rights obligations (A/HRC/12/48, para. 1968 (e)) has been partially implemented. He recalls that, as stated in his first progress report on the status of implementation of the Mission's recommendations (A/HRC/13/55), the report of the Mission was transmitted to the treaty bodies that monitor compliance by Israel with the human rights treaties to which it is party<sup>1</sup> on 10 December 2009. To date, the Human Rights Committee and the Committee on the Rights of the Child have issued concluding observations and recommendations concerning implementation by Israel of the Mission's recommendations. To ensure adequate and effective implementation of the Mission's recommendation, the Council would need to review the progress made by Israel in implementing the Mission's recommendations as part of the State's participation in the second cycle of the universal periodic review process, to be held during the fifteenth session of the Working Group on the Universal Periodic Review, from 21 January to 1 February 2013.

## **B. Security Council**

8. With regard to the Mission's recommendation that the Security Council require the Government of Israel, under Article 40 of the Charter, (i) to take all appropriate steps,

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<sup>1</sup> 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.

within a period of three months, to launch appropriate investigations that are independent and in conformity with international standards, into the serious violations of international humanitarian and international human rights law reported by the Mission and any other serious allegations that might come to its attention; and (ii) to inform the Security Council, within a further period of three months, of actions taken, or in process of being taken, by the Government to inquire into, investigate and prosecute such serious violations (A/HRC/12/48, para. 1969 (a)), the Security Council has to date not required that the Government take all appropriate steps to launch appropriate investigations into the serious violations of international humanitarian and international human rights law reported by the Mission. However, with regard to adequate and effective implementation of the Mission's recommendation, the Secretary-General notes that the Security Council has not, to date, established a committee such as that detailed by the Mission (see A/HRC/12/48, para. 1969, subparas. (b) – (e)). He nonetheless notes that the Human Rights Council, in its resolution 13/9, established a committee of independent experts in international humanitarian and human rights laws to monitor and assess domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side, including the independence, effectiveness and genuineness of these investigations and their conformity with international standards. In accordance with resolution 15/6, the committee reported to the Council at its fifteenth session (A/HRC/15/50). In its resolution 15/6, the Council welcomed that report and renewed and resumed the mandate of the committee. The committee presented its second report to the Council at its sixteenth session (A/HRC/16/24). In its resolution 16/32, the Council took note of the two reports submitted by the committee and called for the implementation of its conclusions.

### **C. Prosecutor of the International Criminal Court**

9. With regard to the Mission's recommendation that the Prosecutor take the required legal steps to determine as expeditiously as possible that accountability for victims and the interests of peace and justice in the region are ensured, with reference to the declaration under article 12 (3) received by the Office of the Prosecutor of the International Criminal Court from the Government of Palestine (A/HRC/12/48, para. 1970), the Office of the Prosecutor informed, by letter dated 23 May 2012, the United Nations High Commissioner for Human Rights that, on 3 April 2012, it had issued an update on the Palestine situation in which it assessed that it was "for the relevant bodies at the United Nations or the Assembly of States Parties [to the Rome Statute of the International Criminal Court] to make the legal determination whether Palestine qualifies as a State for the purpose of acceding to the Rome Statute and thereby enabling the exercise of jurisdiction under article 12 (1)." The Office of the Prosecutor also informed the High Commissioner that the Rome Statute "provides no authority for the Office [...] to adopt a method to define the term "State" under article 12 (3), which would be at variance with that established for the purpose of article 12 (1)." The Office pointed out that it could, in future, consider allegations of crimes committed in Palestine should the competent bodies of the United Nations or [...] the Assembly of States Parties resolve the legal issue relating to an assessment of article 12, or should the Security Council, in accordance with article 13 (b), make a referral providing jurisdiction. The Secretary-General therefore notes that the Office of the Prosecutor has implemented the Mission's recommendation.

### **D. General Assembly**

10. With regard to the Mission's recommendation that the General Assembly 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 recommendations (A/HRC/12/48, para. 1971 (a)), the Secretary-General notes that, to date, the Assembly has not made the request to the Council. With regard to the adequate and effective implementation of the recommendation, the Secretary-General refers to the developments reported above (see para. 9).

11. The Secretary-General notes that, to date, the General Assembly has not established an escrow fund as described by the Mission in its report (A/HRC/12/48, para. 1971 (b)), 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. He notes, however, that, in 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 a fund. The High Commissioner reported to the Council on this matter in her report on the follow-up to the report of the Mission (A/HRC/15/52/Add.1). In her report, the High Commissioner summarized the advice received from the Office of Legal Affairs, according to which a number of decisions would need to be taken by a competent organ of the United Nations (for example, the General Assembly) if the decision were to be made to follow up on the recommendation made by the Mission. According to the Office, this would include (a) a decision to establish the escrow fund; (b) a decision on the source(s) of funding for the fund; (c) a decision to establish a body to administer the fund; (d) a decision on the extent to which the body would rely on the investigations carried out by the Government of Israel and the Palestinian authorities in order to determine the factual basis of a claim for compensation for the fund; and (e) a decision to establish a secretariat of the body administering the fund. The Office also identified a set of ancillary decisions that would need to be taken, including decisions on the identification of persons eligible to receive compensation from the fund; the particular types of loss for which compensation might be paid from the fund; the process for the submission of claims for compensation; a timetable for the submission of claims; and a target date for the completion of claims processing. Subsequently, the High Commissioner reiterated the advice given the Office in her progress report submitted to the Human Rights Council pursuant to its resolution 16/32 (A/HRC/18/50). With regard to the most adequate and effective implementation of the Mission's recommendation, the Secretary-General refers to the advice provided by the Office of Legal Affairs.

12. With regard to the recommendation that the General Assembly request the Government of Switzerland to convene a conference of the High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory and to ensure its respect in accordance with its article 1 (A/HRC/12/48, para. 1971 (c)), the steps taken by the Assembly to implement the recommendation were outlined in a previous progress report of the Secretary-General (A/HRC/15/51). Since then, the Assembly has not taken any further action. The Secretary-General notes that, with reference to paragraph 5 of Assembly resolution 64/10, the Assembly has implemented the recommendation made by the Mission in its report. Furthermore, in its resolution 16/32, the Human Rights Council welcomed the efforts made by the Government of Switzerland to reconvene such a conference, and recommended that it pursue its efforts with the aim of resuming the conference before September 2011. The High Commissioner reported on the efforts made by the Government in this regard in her progress report on the implementation of Council resolution 16/32 (A/HRC/18/50). Subsequently, in its resolution 19/18, the Council welcomed the efforts made by the Government of Switzerland and recommended that it pursue its efforts with the aim of resuming the above-mentioned conference as soon as possible. In a note verbale addressed to OHCHR on 23 May 2012, the Government recalled that, in July 2011, it had concluded that, following a year of consultations, a cross-regional critical mass had not been reached in support of the convening of such a conference. It pointed out that it had received, on 16 January 2012, correspondence from the President of the coordinating office of the Non-

Aligned Movement reiterating the urgency of undertaking further consultations with the objective of convening such a conference as soon as possible. On 22 March 2012, the Government informed the President of the Non-Aligned Movement of its intention to undertake discussions with the parties concerned. In this regard, it met with representatives of Israel and Palestine on 28 March and 2 April 2012 respectively. On 17 April 2012, the Government of Switzerland submitted an informal document to the parties that included suggestions for a collaborative approach to attain concrete goals. At the time of transmission of the note verbale from the Government, the parties concerned were considering the informal document. The Government reiterated its readiness to cooperate with the High Contracting Parties and other interested parties in this respect.

13. With regard to the recommendation that the General Assembly 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 metals, such as tungsten, and that, in its discussion, the Assembly draw on, *inter alia*, the expertise of the International Committee of the Red Cross (ICRC) (A/HRC/12/48, para. 1971 (d)), the Secretary-General notes that, to date, the Assembly has not taken action to promote such a discussion. He notes, however, that the Human Rights Council, in its resolution 13/9, called upon the Assembly to promote an urgent discussion on the future legality of the use of certain munitions, as referred to by the Mission in its report. The Council reiterated its call in its resolution 16/32, and subsequently recommended, in its resolution 19/18, that the Assembly consider launching such a discussion. The Secretary-General has not been informed of any moratorium on the use of such weapons by the Government of Israel. In order to ensure the most adequate and effective implementation of this aspect of the Mission's recommendation, the Government of Israel would need to take appropriate action within its own national legal and political framework.

#### **E. Israel<sup>2</sup>**

14. With regard to the recommendation that Israel immediately cease border closures and the 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 (A/HRC/12/48, para. 1972 (a)), positive steps towards the resumption of meaningful economic activity include the export of 150 truckloads of goods from Gaza and the approval by Israel, in August 2012, of \$360 million worth of United Nations projects for recovery and reconstruction. The approval of \$85 million worth of United Nations projects is still pending. Although Israel recently released 20,000 tons of construction materials for the private sector in Gaza, the border closures and restrictions on passage through border crossings continue to have a serious negative effect on the population in the Gaza Strip. More than 75 per cent of the units needed to replace homes destroyed during Operation Cast Lead have not been constructed. The unemployment rate in Gaza remains high. This situation is compounded by the urgent demand for construction materials to rebuild homes, schools and other infrastructure, resulting in thousands of people continuing to risk their lives working in tunnels along the border with Egypt. The Secretary-General notes that Israel, notwithstanding the above-mentioned positive steps, has yet to implement fully the recommendation made by the

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<sup>2</sup> On 3 May 2012, OHCHR, on behalf of the Secretary-General, addressed a note verbale to the Permanent Mission of Israel to the United Nations Office at Geneva, in which it requested information regarding measures taken or envisaged to implement the recommendations made to Israel, as well as information on non-implementation and measures required to ensure the most adequate and effective implementation of the said recommendations. No response had been received at the time of finalization of the present report.

Mission in its report. With regard to the most adequate and effective implementation of the recommendation, Israel should lift the closure, in compliance with Security Council resolution 1860 (2009), and prioritize the unrestricted import of key building materials, particularly aggregate, iron bars and cement.

15. With regard to the recommendation that Israel lift its 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, and that it allow the resumption of agricultural activity within the Gaza Strip, including within areas in the vicinity of the borders with Israel (A/HRC/12/48, para. 1972 (b)), Israel continues to limit the access of Palestinians to the sea to three nautical miles. According to investigations carried out by OHCHR, the means used by Israel to enforce this limit raise serious concerns with regard to its obligations under international human rights and international humanitarian law (see A/HRC/19/20). Specific concerns include incidents involving the use of live ammunition and rubber bullets against unarmed fishermen, arbitrary detention, ill-treatment, the illegal confiscation of private property, and impinging upon the fishermen's access to work and a livelihood. While an estimated 35,000 Palestinians depend on the fishing industry as their primary source of income, in 2011 the Food and Agriculture Organization of the United Nations (FAO) recorded an 80 per cent drop in the overall catch since Israel limited the fishing area to three nautical miles. Israel has not changed its policy regarding agricultural activity within areas in the vicinity of the borders of Gaza with Israel. The Secretary-General notes that Israel has yet to implement fully the Mission's recommendations. With regard to the most adequate and effective implementation of these recommendations, Israel should fulfil its commitments pursuant to the Oslo Accords and allow resumption of agricultural activity inside the Gaza Strip, taking into full account its international legal obligations and with due regard for its legitimate security concerns.

16. The Secretary-General recalls that certain actions taken by Israel to implement the recommendation that it initiate a review of the rules of engagement, standard operating procedures, open fire regulations and other guidance for military and security personnel, and that it 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 (A/HRC/12/48, para. 1972 (c)) were outlined in a previous progress report (A/HRC/15/51). With regard to ensuring the most adequate and effective implementation of the recommendation, Israel may wish to avail itself of the expertise of ICRC, OHCHR and other relevant bodies, and Israeli experts and civil society organizations with the relevant expertise and specialization in order to ensure that the actions it has taken will allow it to comply fully with international humanitarian law and international human rights law.

17. With regard to the recommendation that Israel 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 (A/HRC/12/48, para. 1972 (d)), in April 2012, Israeli authorities instituted less-restrictive measures for Palestinian movement to and from Nablus, Tulkarm, Salfit and Ramallah. Nonetheless, according to information received from the Office for the Coordination of Humanitarian Affairs, there were some 540 obstacles to Palestinian movement within the West Bank (excluding the East Jerusalem area of the West Bank). These included 59 permanently-staffed checkpoints (excluding checkpoints on the Green Line), 26 partial checkpoints (staffed on an ad hoc basis) and around 455 unstaffed physical obstacles. This does not include extensive obstacles to Palestinian movement to and from East Jerusalem. The severe restrictions imposed by Israel on passage through its border

crossings with the Gaza Strip continued to limit travel between the West Bank and Gaza. Among other things, such restrictions limited the access of the population of Gaza to health services, legal counsel and judicial mechanisms (see A/HRC/19/20). Palestinian human rights defenders continue to face difficulties travelling between the Occupied Palestinian Territory and the outside world owing to the travel bans imposed by Israel. To ensure the most adequate and effective implementation of the Mission's recommendations, Israel should take additional measures to allow freedom of movement for Palestinians throughout the Occupied Palestinian Territory. Such measures should extend to removing obstacles to Palestinian movement, including with respect to limiting travel between the West Bank and Gaza, in accordance with Israel's international human rights commitments and taking into account legitimate security concerns. Such measures should also extend to removing travel bans on Palestinian human rights defenders.

18. With regard to the recommendations that Israel release Palestinians who are detained in Israeli prisons in connection with the occupation, and that it cease the discriminatory treatment of Palestinian detainees (A/HRC/12/48, para. 1972 (e)), according to information gathered by the non-governmental organizations Addameer and B'Tselem, at the end of July 2012 approximately 4,500 Palestinians, including 210 children, still remained in Israeli prisons, while 250 Palestinians were being held in administrative detention by Israel. Throughout 2012, Palestinian prisoners went on hunger strikes to protest against their conditions of detention and treatment by Israeli authorities. A mass hunger strike was launched on 17 April 2012, in which 1,200 Palestinians reportedly participated. To end the strike, on 14 May 2012 Israel reportedly agreed to end solitary confinement, to allow prisoners from Gaza to receive family visits and to discuss improved conditions and the conditional non-extension of existing administrative detention orders against certain Palestinians. The Secretary-General reiterates his view that administrative detention should only be used in exceptional circumstances, in compliance with international human rights law and international humanitarian law. In general, persons detained must either be charged and face trial with all judicial guarantees or released without delay. The Secretary-General welcomes reports that family visits for prisoners from Gaza resumed in July 2012 after a five-year suspension.<sup>3</sup> With regard to ensuring the most adequate and effective implementation of the Mission's recommendations, the Secretary-General urges Israel to launch, as a first step, a transparent process to identify Palestinians detained in Israeli prisons in connection with the occupation with a view to their release. The situation of each child detainee should be reviewed as matter of the highest priority. The Secretary-General also urges Israel to undertake a review of its policies and practices relating to the treatment of Palestinian detainees with the objective of ending any discriminatory treatment of them.

19. The Secretary-General notes that the recommendation that Israel cease interference in national political processes in the Occupied Palestinian Territory, 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 (A/HRC/12/48, para. 1972 (f)) remains to be fully implemented. At the end of July 2012, 14 members of the Council were still in Israeli detention. Council member Abu Teir, who in 2010 was forcibly transferred from East Jerusalem to another part of the West Bank by Israeli security forces and arrested again by Israeli authorities in September 2011, is currently in administrative detention. Of the three other Council members who had sought refuge at the premises of ICRC in East Jerusalem, Mohamed Attoun was detained by Israel, on the premises of ICRC, in September 2011 and forcibly transferred to another part of the West Bank on 7 December 2011.<sup>4</sup> Mohamed Totah and Khaled Abu Arafah were detained

<sup>3</sup> ICRC, "Gaza: ICRC facilitates first family visits for five years", news release, 16 July 2012.

<sup>4</sup> ICRC, "Jerusalem: member of Palestinian Legislative Council arrested", news release, 26 September 2011.

by Israel, on the premises of ICRC, on 23 January 2012.<sup>5</sup> The latter two Council members were charged with illegal presence in Israel and are currently held by the Israeli authorities. With regard to the most adequate and effective implementation of the Mission's recommendation, the Secretary-General refers to his observations in paragraphs 18 and 19 above.

20. With regard to the recommendations that the Government of Israel cease actions aimed at limiting the expression of criticism by civil society and members of the public concerning its policies and conduct during the military operations in the Gaza Strip, and that it set up an independent inquiry to assess whether the treatment by Israeli judicial authorities of Palestinian and Jewish Israelis expressing dissent in connection with the offensive was discriminatory (A/HRC/12/48, para. 1972 (g)), Israel has not organized an independent inquiry. In the Knesset (Parliament), a draft bill amending the Income Tax Order, whereby funding from foreign States for non-profit organizations would be taxed at a rate of 45 per cent, and a draft bill amending the Associations Act, which would limit donations from a foreign entity to non-profit organizations to 20,000 NIS per year, were combined into the Bill on Income of Public Institutions Receiving Donations from a Foreign State Entity (Legislative Amendments). Both the bill and the amendment to the Associations Law are currently dormant in the Knesset. The Secretary-General notes that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression conducted a mission to Israel and the Occupied Palestinian Territory in December 2011. The Secretary-General refers, in the first instance, to the report of the Special Rapporteur thereon (A/HRC/20/17/Add.2) with regard to the most adequate and effective implementation of the Mission's recommendations.

21. The Secretary-General is not aware of any reprisals taken by the Government of Israel against Palestinian or Israeli individuals who cooperated with the Mission. In this regard, the Secretary-General notes that, to date, it appears that the relevant recommendation made by the Mission (A/HRC/12/48, para. 1972 (h)) has been implemented.

22. With regard to the recommendation that Israel reiterate its commitment to respecting the inviolability of United Nations premises and personnel and that it take all appropriate measures to ensure that there is no repetition of violations in the future (A/HRC/12/48, para. 1972 (i)), the United Nations has still not received any formal communication from the Government of Israel reiterating such a commitment. Information on reparations was included in the first progress report of the Secretary-General on the status of implementation of the Mission's recommendations (A/HRC/13/55). To ensure the most adequate and effective implementation of the recommendation of the Mission, Israel should reiterate its commitment to respecting the inviolability of United Nations premises and personnel.

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<sup>5</sup> ICRC, "Jerusalem: former minister for Jerusalem Affairs and PLC member arrested", news release, 23 January 2012.

## F. Palestinian armed groups<sup>6</sup>

23. The Secretary-General notes that the recommendation that Palestinian armed groups pledge to respect international humanitarian law, in particular by renouncing attacks on Israeli civilians and civilian objects, and take all feasible precautionary measures to avoid harm to Palestinian civilians during hostilities (A/HRC/12/48, para. 1973 (a)) has not been implemented. Palestinian armed groups continued to fire indiscriminate rockets and mortar shells at Israel. According to information provided by the Department of Safety and Security to OHCHR on 17 June 2012, a total of 752 rockets, including 642 homemade rockets and 110 Grad rockets, and 175 mortar shells were fired toward Israel from 1 July 2011 to 15 June 2012. Rocket and mortar fire against Israel resulted in the death of one Israeli civilian. A Palestinian child was also killed and six others injured by a rocket that landed in Gaza. While the Secretary-General is unable to confirm whether Palestinian armed groups have taken all feasible precautionary measures to avoid causing harm to Palestinian civilians during hostilities, it has been alleged that rockets and mortars are often fired from densely populated areas, which would not only endanger Palestinian civilians but also violate international humanitarian law. Furthermore, such weapons do not discriminate between civilian objects and military objectives and are therefore contrary to international humanitarian law. The Secretary-General urges Palestinian armed groups to comply with their international humanitarian law obligations, including by renouncing attacks on Israeli civilians and civilian objects and taking all feasible precautionary measures to avoid harm to civilians during hostilities, with a view to ensuring the most adequate and effective implementation of the Mission's recommendation.

24. The Secretary-General notes that, notwithstanding the non-implementation of the recommendation that Palestinian armed groups holding Israeli soldier Gilad Shalit in detention release him on humanitarian grounds (A/HRC/12/48, para. 1973 (b)), on 18 October 2011 Gilad Shalit was released in exchange for hundreds of Palestinians detained by Israel.<sup>7</sup>

## G. Palestinian authorities

25. With regard to the recommendations that the Palestinian Authority issue clear instructions to security forces under its command to abide by human rights norms as enshrined in the Palestinian Basic Law and international instruments, ensure prompt and independent investigation 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 (A/HRC/12/48, para. 1974 (a)), OHCHR, in a meeting with the Palestinian Security Service in February 2011, was informed that, on 31 December 2010, the decision to end use of military courts for civilians had come into force; all detainees would henceforth be tried by civilian courts, with the exception of those held prior to that date. The Secretary-General recalls his previous finding on progress in the implementation of the

<sup>6</sup> On 3 May 2012, OHCHR, on behalf of the Secretary-General, addressed a note verbale to the Permanent Observer Mission of the National Palestinian Authority to the United Nations Office at Geneva in which it requested information on measures taken or envisaged to implement the recommendations made to "responsible Palestinian authorities", the "Palestinian authorities" and "Palestinian armed groups", as well as on non-implementation and measures required to ensure the most adequate and effective implementation of the said recommendations. No response had been received at the time of finalization of the present report.

<sup>7</sup> Statement attributable to the Spokesperson for the Secretary-General on the release of Israeli Staff Sergeant Gilad Shalit and hundreds of Palestinian prisoners, New York, 18 October 2011.

Mission's recommendations (A/HRC/13/55), and notes that significant progress appears to have been made in implementing the recommendations.

26. With regard to the recommendation that the Palestinian Authority and the Gaza authorities 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 (A/HRC/12/48, para. 1974 (b)), the de facto authorities in Gaza continue to detain Fatah members and supporters. They also continue to summon and interrogate Fatah members and supporters regarding their political activities. At times, this extends to harassment and/or ill-treatment by the security officers of the de facto authorities in Gaza.<sup>8</sup> For instance, on 3 July 2012, the "Internal Security Apparatus" summoned and subsequently detained and interrogated a 33-year-old Fatah activist from Khan Younis. According to information collected by OHCHR, he was held without charge until 2 August and ill-treated. In the West Bank, Palestinian Authority security agencies continue to arbitrarily arrest and detain Palestinians affiliated with Islamist parties, demonstrators supporting the "Arab spring" and Palestinian reconciliation, and journalists critical of the Palestinian Authority. Cases documented by OHCHR concern incidents of arrest and detention without a warrant and without informing the persons concerned of the charges against them. The Secretary-General notes that, to ensure the most adequate and effective implementation of the Mission's recommendation, the Palestinian Authority and the de facto authorities in Gaza should launch, as a first step, a transparent process to identify Palestinian political detainees currently detained with a view to their release. Furthermore, they should also desist from making further arrests on political grounds.

27. With regard to the recommendation that the Palestinian Authority and the Gaza authorities continue to enable free and independent operation of Palestinian non-governmental organizations, including human rights organizations, and of the Independent Commission for Human Rights (A/HRC/12/48, para. 1974 (c)), efforts to limit freedom of expression and the work of civil society organizations persist in the West Bank and Gaza. In August 2010, a Hamas bloc in the Palestinian Legislative Council adopted a bill that would enable it to control the Independent Commission for Human Rights. The bill was officially published in December 2010, but has not yet been enforced. In January 2011, the de facto authorities in Gaza stated that the Commission was not legally qualified to operate.<sup>9</sup> In July 2011, Gaza authorities formally dissolved the Sharek Youth Forum, alleging that it lacked the required operating licenses.<sup>10</sup> The Secretary-General notes that the Mission's recommendation has not yet been implemented. In order to ensure the most adequate and effective implementation of the recommendation, the Palestinian Authority and the de facto authorities in Gaza should, as a first step, address the concerns raised in the present and previous reports on the status of implementation of the recommendation (A/HRC/13/55, A/HRC/15/51 and A/HRC/18/49).

## H. International community<sup>11</sup>

28. The Secretary-General is not aware of any further action taken since his previous progress report (A/HRC/18/49) to implement the recommendation that States parties to the

<sup>8</sup> Palestinian Centre for Human Rights. "PCHR gravely concerned over the Internal Security Service's summons against Fatah members in the Gaza Strip", press release, 27 March 2012.

<sup>9</sup> Ma'an News Agency, "Gaza ministry slams rights group report", 8 January 2011.

<sup>10</sup> Al Mezan Center for Human Rights, "Al Mezan and Al Dameer call on the Minister of Interior to reconsider his decision dissolving Sharek Forum Youth", 19 July 2011.

<sup>11</sup> In order to gather information regarding the status of implementation of the recommendations made by the Mission addressed to the international community (A/HRC/12/48, paras. 1975, 1976 and 1977), OHCHR addressed letters to United Nations agencies working in the Occupied Palestinian Territory. The information on the recommendations is based on replies received.

Geneva Conventions initiate criminal investigations in national courts, using universal jurisdiction, where there is sufficient evidence of the commission of grave breaches of the Conventions (A/HRC/12/48, para. 1975 (a)). With regard to the most adequate and effective implementation of the recommendation, the Secretary-General refers, in the first instance, to the developments reported in paragraph 9 above.

29. With regard to the recommendation that international aid providers step up financial and technical assistance for organizations providing psychological support and mental health services to the Palestinian population (A/HRC/12/48, para. 1975 (b)), the United Nations Children's Fund (UNICEF) reported the receipt of \$11,412,192 from donors to support its efforts to protect and provide psychosocial support to Palestinian families and children. Such efforts include partnering non-governmental organizations to deploy emergency psychosocial teams, consisting of 11 in the West Bank and five in Gaza, which reach 17,460 children and 7,970 caregivers. The teams are composed of 25 community-based psychologists, educators and legal counsellors. In the first half of June 2012, 3,574 children in Gaza and 5,449 children in the West Bank were provided with emergency psychosocial support services. In Gaza, 21 family centres provide psychosocial, educational and recreational services for the benefit of 23,000 Palestinian children. In-depth counselling is provided to 1,501 children, while holistic support services are provided for 11,899 children and 6,527 caregivers. In addition, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) reported that children who suffered from 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. Furthermore, the World Health Organization (WHO) reported that it had continued to provide technical advice and training in relation to the national mental health strategic plan, including by supporting the integration of mental health in primary health-care services by training 450 doctors and nurses and the establishment of family associations in both the West Bank and the Gaza Strip. It further reported that, under its leadership, the Health and Nutrition Cluster in the Occupied Palestinian Territory conducted a needs assessment in 2011, which identified mental health and psychosocial support as a programmatic priority for the health sector in Gaza. WHO referred to an assessment made in March 2012, according to which 40 per cent of the 1,831 people surveyed experienced significant symptoms of anxiety, 41 per cent experienced deep feelings of hopelessness and 41 per cent experienced significant symptoms of depression. Against this backdrop, WHO anticipated that the Cluster would provide mental health and psychosocial support services to around 20,000 people in Gaza in 2012.

30. The Secretary-General notes that the implementation of the recommendation that international aid providers step up financial and technical assistance for organizations providing psychological support and mental health services to the Palestinian population (A/HRC/12/48, para. 1975 (b)) is ongoing. In order to ensure the most adequate and effective implementation of the recommendation, donor countries and assistance providers should continue to step up financial and technical assistance for organizations providing psychological support and mental health services to the Palestinian population.

31. With regard to the recommendation that donor countries/assistance providers 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 (A/HRC/12/48, para. 1975 (c)), Palestinian and Israeli human rights organizations continue to monitor and document violations of human rights and international humanitarian law throughout the Occupied Palestinian Territory. Much of this work relies on financial assistance from international sources. In response to informal queries from

OHCHR, neither Israeli nor Palestinian non-governmental organizations have reported any major changes in their funding since the finalization of the present report. In addition, OHCHR continues to lead the Protection Cluster in the Occupied Palestinian Territory. The Cluster includes Palestinian and Israeli non-governmental organizations that monitor, document, share information, report and carry out advocacy relating to, inter alia, violations of and accountability for human rights and international humanitarian law in access-restricted areas in Gaza and settler violence in the West Bank. UNICEF continues to lead the inter-agency working group that reports to the Working Group of the Security Council on Children and Armed Conflict. The Working Group submitted six reports to the Security Council in 2011 in which it had documented grave violations against children in the Occupied Palestinian Territory by Israeli security forces and Palestinian armed groups, as well as abuses by Israeli settlers. In 2011, UNICEF reported a significant increase in the number of children being killed or injured owing to the Israeli-Palestinian conflict. Twenty Palestinian children were killed and 448 were injured, while five Israeli children were killed and two were injured. Furthermore, UNICEF recorded 36 cases of Palestinian schools being attacked, resulting in disruption to education, damage to educational facilities and injury to Palestinian children. UNICEF also provides direct support to Palestinian and Israeli human rights organizations to strengthen their capacity to document human rights violations, and is currently working to strengthen those efforts.

32. The Secretary-General notes that the implementation of the recommendation is ongoing. In order to ensure the most adequate and effective implementation of the recommendation, 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.

33. The Secretary-General notes that the implementation of the recommendation that States involved in peace negotiations between Israel and representatives of the Palestinian people, especially the Quartet, ensure that respect for the rule of law, international law and human rights assumes a central role in internationally-sponsored peace initiatives (A/HRC/12/48, para. 1975 (d)) is ongoing. On 11 April 2012, the Quartet issued a statement in which it, inter alia, called upon the Palestinian Authority to continue to make every effort to improve law and order, to fight violent extremism and to end incitement, expressed concern regarding Israeli settler violence and incitement in the West Bank, and called upon Israel to take effective measures, including bringing the perpetrators of such acts to justice. The Quartet expressed further concern at unilateral and provocative actions by both parties, including continued Israeli settlement activity. In its statement of 11 April 2012, the Quartet, while stressing the need for calm and security for Palestinians and Israelis, condemned rocket attacks from Gaza. The Secretary-General also notes that, in order to ensure the most adequate and effective implementation of the recommendation, the States involved in peace negotiations between Israel and representatives of the Palestinian people, including through the Quartet, should use all opportunities to ensure that respect for the rule of law, international law and human rights are advanced through such negotiations.

34. The Secretary-General is not aware of developments further to what was communicated in his previous report (A/HRC/18/49) in relation to the recommendation that a programme of environmental monitoring be conducted under the auspices of the United Nations for as long as deemed necessary (A/HRC/12/48, para. 1975 (e)). With regard to the most adequate and effective implementation of the recommendation, the Secretary-General refers to the initiatives of the United Nations Environment Programme noted in previous progress reports (A/HRC/13/55 and A/HRC/18/49) and would, in the first instance, encourage relevant actors to implement the recommendations and proposals detailed therein.

## **I. International community and responsible Palestinian authorities**

35. The Secretary-General notes that, to date, no mechanism has been established to track, receive and allow disbursement of funds for the reconstruction of Gaza, pursuant to the Mission's recommendation (A/HRC/12/48, para. 1976 (a)). UNRWA reports that United Nations agencies have difficulty in obtaining access to and use of funds pledged at the International Conference in support of the Palestinian Economy for the Reconstruction of Gaza in March 2009, for construction activities for the benefit of the civilian population. UNRWA received \$69.9 million from one donor, which had been pledged at the Conference to help to rehouse Palestinians displaced from their homes by the conflict. UNRWA also reported that it had proposed to Israeli authorities a streamlined process of project approvals and transfers of construction supplies through the crossings established under the Agreement on Movement and Access of 2005, with a view to expediting the implementation of construction and reconstruction projects. With regard to the most adequate and effective implementation of the recommendation, the Secretary-General encourages the international community to work with responsible Palestinian authorities to establish such a mechanism.

36. The Secretary-General noted in his previous progress reports (A/HRC/15/51 and A/HRC/18/49) that he was not aware of any action taken by responsible Palestinian authorities or Palestinian structures in response to the recommendation that responsible Palestinian authorities as well as international aid providers pay special attention to the needs of persons with disabilities (A/HRC/12/48, para. 1976 (b)). This continues to be the case. UNRWA reported, however, that it continued to work with local organizations to ensure that patients who sustained injuries during Operation Cast Lead receive prosthetic devices and artificial limbs. It also continues to provide community organizations with financial assistance and technical advice to help to deliver services to target groups, and to deliver direct psychosocial support, physiotherapy, occupational therapy and assistive devices to affected individuals and families. In addition, WHO noted that, in 2010 and 2011, 2,421 Palestinians were referred outside of the Gaza Strip to receive specialized health services, thus indicating serious gaps in access to health care for patients from Gaza who suffered injuries during the Gaza conflict. It also reported that, in its 2011 needs assessment, the Health and Nutrition Cluster had identified support for people with disabilities as a programmatic priority for the health sector in Gaza for 2012. In this connection, the Cluster had developed a strategy to provide health care and rehabilitation services to around 5,400 persons with disabilities in Gaza. WHO also noted that, as at May 2012, only 36 per cent of the Cluster projects had been funded.

37. The Secretary-General observes that, thanks in particular to the efforts of UNRWA and WHO, the implementation of the Mission's recommendation is ongoing. In order to ensure the most adequate and effective implementation of the recommendation, responsible Palestinian authorities and structures should initiate efforts to provide the necessary medical treatment and follow-up to persons with disabilities, and international aid providers should continue to support efforts in this regard.

## **J. International community, Israel and Palestinian authorities**

38. The Secretary-General is not aware of any developments further to what was communicated in his previous report (A/HRC/18/49) in relation to the implementation of the recommendation that Israel and representatives of the Palestinian people, and international actors involved in the peace process, involve Israeli and Palestinian civil society in devising sustainable peace agreements based on respect for international law (A/HRC/12/48, para. 1977 (a)). During his visit to the region in February 2012, the Secretary-General met with Palestinian civil society activists, many of whom voiced

scepticism about the peace process and frustration regarding the lack of Palestinian unity and the impact of Israeli settlements on their daily lives.<sup>12</sup> In order to ensure the most adequate and effective implementation of the Mission's recommendation, the Secretary-General urges Israel, representatives of the Palestinian people and international actors to strengthen their efforts to involve Israeli and Palestinian civil society, particularly women, in accordance with Security Council resolution 1325 (2000), in the peace process.

39. With regard to the recommendation that attention be given to the position of women and steps be taken to ensure their access to compensation, legal assistance and economic security (A/HRC/12/48, para. 1977(b)), UNRWA reports that it continues to provide women whose homes were damaged or demolished during Operation Cast Lead with cash assistance and rental subsidies. Subsidies have been disbursed to enable female-headed households who had their homes or shelters damaged to pay for repairs. In cases where homes or shelters were completely destroyed, UNRWA continues to pay one-year rental subsidies. Women continue to account for one third of employees in the UNRWA job creation programme. Since Operation Cast Lead, several Gaza women programme centres supported by UNRWA have offered psychosocial and legal support to women. The Secretary-General notes that, thanks to the efforts of UNRWA, the implementation of the Mission's recommendation is ongoing. He also notes that, in order to ensure the most adequate and effective implementation of the recommendation, international aid providers should ensure sufficient financial support for such efforts.

## **K. Secretary-General**

40. With regard to the recommendation that the Secretary-General develop a policy to integrate human rights in peace initiatives in which the United Nations is involved, especially the Quartet, and the request addressed by the Mission to the United Nations High Commissioner for Human Rights to provide the expertise required to implement that recommendation (A/HRC/12/48, para. 1978), OHCHR and the Office of the United Nations Special Coordinator for the Middle East Peace Process are working in close cooperation on an ongoing basis. This cooperation extends to the provision of expertise to identify and respond to human rights issues, including for the purposes of briefings to the Security Council<sup>13</sup> and in the broader context of the peace process. In addition, United Nations partners in the Occupied Palestinian Territory have developed an integrated strategic framework that addresses human rights, including with respect to the peace process. The Secretary-General notes that the Mission's recommendation is being implemented on an ongoing basis.

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

41. With regard to the recommendation that OHCHR monitor the situation of persons who have cooperated with the Mission and periodically update the Human Rights Council through its public reports and in other ways it deems appropriate (A/HRC/12/48, para.

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<sup>12</sup> See Secretary-General, briefing to the Security Council, 8 February 2012.

<sup>13</sup> See for example the briefings of the Assistant Secretary-General for Political Affairs to the Security Council on 24 January 2012; of the Secretary-General on 8 February 2012; of the Under Secretary-General for Political Affairs on 28 February 2012; of the Special Coordinator for the Middle East Peace Process on 27 March 2012; of the Under Secretary-General for Political Affairs on 23 April 2012; of the Special Coordinator for the Middle East Peace Process on 29 May 2012; of the Special Coordinator for the Middle East Peace Process on 25 July 2012; of the Assistant Secretary-General for Political Affairs on 19 June 2012; and of the Under Secretary-General for Political Affairs on 22 August 2012.

1979(a)), OHCHR continues to monitor and report on the situation of human rights in the Occupied Palestinian Territory. Any situation of concern regarding persons who cooperated with the Mission would be identified and addressed by OHCHR through such activities. The Mission's recommendation is being implemented on an ongoing basis.

42. The most recent report of the High Commissioner on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 (A/HRC/19/20) contains information relevant to the status of implementation of many of the Mission's recommendations. The Secretary-General notes that the recommendation that OHCHR give attention to the Mission's recommendations in its periodic reporting on the Occupied Palestinian Territory to the Human Rights Council is being implemented on an ongoing basis.

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