

**ISRAELI SETTLEMENTS
IN THE OCCUPIED PALESTINIAN TERRITORIES**

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According to the Oslo Accords signed between the Israeli government and the Palestinian Liberation Organization (PLO) on 13 September 1993, the two parties agreed to postpone to the final status negotiations some specific issues which would be difficult to resolve. Among these issues were the Israeli settlements in the Occupied Palestinian Territories, which were built and expanded by successive Israeli governments throughout the over thirty years of the Israeli Occupation.

The Israeli policy of settlement in the Occupied Palestinian Territories is claimed on the basis of historical and religious rights and ownership of the Jewish people vis a vis the land of "Eretz Israel". It was also based as a means to enhancing the Israeli State security.

"The occupying power has also attempted to change the status of the occupied territory or parts of it and to change the demographic composition of the territory through illegal confiscation of land... For years the Israeli Government claimed that the settlements were built to serve security considerations and military needs." Along this claim, settlements were therefore built so that the Jewish presence in the Occupied Palestinian territory becomes a permanent reality. Israel has pursued its settlement activities with the will and specific goal to render the emergence of an independent Palestinian state virtually impossible.

It is difficult to give a precise figure as to the total amount of land confiscated since 1967. However, unofficial estimates published for instance by Amnesty International show that 41 % of West Bank land was confiscated in 1984. This percentage increased to 60 % by 1991 and to 73 % by 1998. The impact of confiscation has disastrous social, economic and environmental consequences in the life of Palestinians. The affected family or even a whole village loses brutally its roots and its main source of income. This collectively threatens the living standards of the community and put pressure on its social and economic structure.

In its occupation of the West Bank and Gaza Strip, Israel is bound by the international law of belligerent occupation. The law of belligerent occupation provides special protection for an occupied civilian population, while ceding to the Occupying Power the right to maintain temporary control. The law of belligerent occupation finds its source in customary international law, which has evolved from the Hague Convention of 1907. Customary norms are binding on all States. These customary norms were later on codified and elaborated upon in the 1949 Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, and regulates, *inter alia*, the occupation of foreign territory, to which Israel is party.

Article 46 of the 1907 Hague Regulations states that:

"Family honor rights, the lives of persons, and private property, as well as religious

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family, honor, rights, the lives of persons, and private property, as well as religious conviction and practice, must be respected. Private property cannot be confiscated.”

Furthermore, Article 47 of the Fourth Geneva Convention emphasises that:

“ Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory...”

Israeli settlements and the Fourth 1949 Geneva Convention

The Israeli government claims that the Fourth Geneva Convention is not *de jure* applicable to the occupied Palestinian territory, including Jerusalem. As a justification to its settlement policy, Israel refers therefore to Article 52 of the 1907 Hague Regulations which provides that the confiscation of private property is generally prohibited but it may be requisitioned temporarily by justification of military necessity by the occupation army.

In addition to justifying its settlement policy, Israel also argued that its occupation of the Palestinian territory is *sui generis* and therefore the normal provisions of the Convention cannot apply. Nevertheless, in order to minimize international pressure, Israel has claimed that it will apply the “humanitarian” provisions of the Convention. However, the whole Convention is humanitarian in its essence and purpose, and it would be impossible to single out a provision which is non humanitarian. The Israeli arguments have been rejected by the international community which holds by consensus that the Convention is *de jure* applicable to Israel with regard to the Occupied Palestinian Territories, and refer for that matter to Article 4 of the Convention:

“ The persons protected by the Convention are those who, at any given moment and in any manner whatsoever, find themselves, in case of conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals...”

As a result of the escalation of Israel’s settlement activities, the United Nations General Assembly (UNGA) has adopted a series of resolutions repeatedly reaffirming the illegality of Israeli settlement activities in the Occupied Palestinian territory under international human rights and humanitarian law. Those resolutions also recommend that the High Contracting Parties to the Convention fulfil their legal obligation under the Convention in accordance to Article 1:

“ The High contracting Parties undertake to respect and ensure the respect for the present Convention in all circumstances ”

Resolution ES-10/6, of 9 February 1999, reiterates its recommendation that the High Contracting Parties to the Fourth Geneva Convention convene a conference on measures to enforce the

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Convention in the Occupied Palestinian Territory, including Jerusalem, and to ensure respect thereof in accordance with common article 1, and further recommends that the High Contracting Parties convene the said conference on 15 July 1999 at the United Nations Office at Geneva.”

In order to fulfill their legal obligations, the High Contracting Parties ought to monitor, assess and communicate violations of the Fourth Geneva Convention by the State of Israel in the Occupied territory, in particular the breaches of Articles 49 and 147 of the Convention:

“ Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive...

“...The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”

(Art 49)

“ Grave breaches [...] shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment [...] unlawful deportation or transfer or unlawful confinement of a protected person [...] taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”

(Art 147)

During the 15 July 1999 Conference, the High Contracting Parties, rather than fulfilling the goals of the UNGA resolutions decided that: “ Taking into consideration the improved atmosphere in the Middle East as a whole, the Conference was adjourned on the understanding that it will convene again in the light of consultations on the development of the humanitarian situation in the field”

However, the practices of the Barak administration, after more than one year in office, show very clearly that there has been no essential change from those of previous administrations. On the contrary, Israeli settlement activities in the Occupied Palestinian Territories have escalated under Barak, before the Final Status Agreement and in disregard of the Israeli-Palestinian Interim Agreement, asserting that “neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations” (Article XXXI, para.7).

Settlement Policies under Prime Minister Ehud Barak

During 1999 the Israeli Occupation Forces continued its settlement activities throughout the

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Occupied Palestinian Territories. For instance, the Palestinian Centre for Human Rights (PCHR) recorded more than 43 cases of incidents against Palestinian land in the Gaza strip, in comparison to 33 similar cases in the previous year. Of these 43 incidents of settlement activity, 28 took place after the establishment of the new Barak government.

This escalation of settlement activity in both the West Bank and the Gaza Strip has provoked deep concern among many of the Palestinian leadership who expected that the current Israeli government would begin to prepare the Israeli public for the evacuation of settlements – That include for instance Netzarim settlement located in the Gaza Strip, or Tel Rumeina settlement in Hebron. The Palestinian Authorities receives daily reports on the growing number of apartments for settlers, on the expansion of their lands, and on the booming construction in the new Jewish neighborhoods in East Jerusalem – Har Homa and Ras al-Amud settlements – projects which were stopped by the Netanyahu government.

In fact, the Israeli Peace Now Movement's Settlement Watch reported that settlement activities under the Barak government is proceeding at a rate 10 times higher than under Netanyahu.

This intensifying settlement activity took place simultaneously with an Israeli campaign misleading the international community. In October 1999, the Israeli Prime Minister Ehud Barak announced his intention to adopt a group of decisions concerning 42 settlement outposts in the West Bank. The Israeli media intensively covered the activities of the Israeli Occupation Forces during their action to dismantle one of these outposts on 10 November 1999. In fact, a recent example shows the conversion of a military base into a civilian settlement located at approximately 380 meters southwest of Kisan village in Bethlehem district. This outpost was one of the 42 settlement listed in the Israeli Prime Minister declaration of October 1999. As a further example of outposts which was not dismantled, many were retrospectively added to the number of established settlements recognized by the Israeli government in the West Bank.

In October 1999, the Israeli Peace Now Movement's Settlement Watch reported to the Israeli media that 106 housing units had been added to 41 West Bank settlement outposts under the new Barak administration. The Israeli government makes a distinction between these outposts, which are established without the government's approval, and other settlements, which it considers legal. However, under international law, there is no distinction, as all settlements in occupied territories are illegal, and no endorsement by the Israeli government can affect that status.

In further proof of the vacuity of Barak's earlier posturing over the dismantling of settlements, he made a statement, on 20 February 2000, in which he denied reports that he had plans to dismantle 12 settlement outposts and that the status of a further 16 was doubtful.

On 7 December 1999, the Israeli government announced that it would freeze all new construction in the settlements and refrain from issuing any new housing tenders while discussions on the final status issues are ongoing. However, the use of the term 'freezing' in this context is particularly misleading, as the announcement confirmed that building already in progress would not be stopped. According to Peace Now estimates, this category includes some 7,000 housing units in both the West Bank and the Gaza Strip. At the end of February 2000, there were more than 7.120 housing units in various stages of construction. Thousands of others have already been approved and await only a decision by contractors to begin construction.

According to information gathered by regional human rights organizations, the estimation was that the Israeli government through civil administration and under the pressure of settlers has

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confiscated and ordered confiscation of approximately 12,000 dunums of Palestinian land in the first hundred days of the year 2000. This land is used for the expansion of existing settlements as well as the construction of by-pass roads. During the first quarter of year 2000, the Israeli Occupation Forces have leveled 1,933 dunums of land, uprooted 1,110 trees and sought to implement the construction of 7,744 housing units and 7 hotels on Palestinian land.

In the sole month of April 2000, the Israeli Authorities confiscated 1,956 dunums of land, uprooted 48 olive trees and demolished 18 Palestinian houses throughout the Occupied Palestinian Territories.

According to figures released on 20 February 2000 by the Council for Jewish Settlements, the population of Israeli settlements in the Occupied Palestinian Territories grew by 12.5 percent in 1999, the highest growth rate recorded in recent years. (According to these figures) the population of Israeli settlements in December 1999 was 193,680. Approximately 66,500 of these settlers live in the greater Jerusalem area. Only in 1991 (15 percent), and 1992 (12 percent) were comparable rates of increase in settlement population recorded. From 1993 to 1997 the rate of growth was 9 percent, and in 1998, the last year of the Netanyahu government, the rate was 7.5 percent.

As a result of this movement, the Settlers Council claims that nearly 250,000 acres - or 20% - of West Bank land is now under settlement jurisdiction. One of the reasons for this population growth is that those areas are eligible for benefits and subsidies. According to Ran Cohen, the Israeli Minister of Trade and Industry, 25 percent of the Ministry's budget is spent in the West Bank settlements, despite the fact that settlers represent only for 2.5 percent of Israel's population. Eventually, Israel's structural plan for the year 2020 foresees an increase in the settler population in the West Bank, amounting to 310,000.

These impressive figures do not give, however, an accurate picture of the real effect of the Israeli government's ongoing policy of settlement expansion in the Occupied Palestinian Territories. Firstly, the population figures, and even the number of housing units, do not accurately reflect the scale of land expropriation. In the Gaza Strip, for instance, whilst the settler population is estimated to be of approximately 5,000 individuals, the land controlled by the Israeli government represents almost 40 percent of the entire territory of the Gaza Strip. Along with the existing settlements, land is confiscated for the establishment of military installations to 'protect' the settlers, and for the construction of settler by-pass roads.

Another reason for the lack of accuracy with regard to the land confiscated since Barak came to power is due to the fact that the press reports almost daily incidents of confiscation and subsequent troubles. There are more than one thousand of dunums of Palestinian land that is confiscated every month, mostly in the West Bank and Jerusalem district. Most of the seized land has been turned over to settlements, storehouses, nature reserves, by-pass roads and closed military areas. One of the most recent outstanding cases concerns Kisan village, reported by the Applied Research Institute of Jerusalem. On 28 May 2000, the Israeli Authorities seized 200 dunums of Kisan land used for agricultural and grazing purposes. This land will extend the Jewish colony of Ma'ale Amos preventing Palestinian farmers and shepherds to benefit from their main resource of income. Moreover, this land is close to an ex-military base turned into a colony. This development suggests that, in the future, Israeli authorities plan to connect Ma'ale Amos with the new colony to create a one large settlement.

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In the West Bank, the network of settler by-pass roads criss-crosses the entire territory reducing the areas under Palestinian control to isolated bantustans, depriving Palestinians from basic human rights such as freedom of movement. Furthermore, whilst the area of land actually inhabited by settlers in the West Bank is estimated at around 78,786 dunums, the Settlers Council estimates that the area of land under 'settlement jurisdiction' amounts to a million dunums. This figure does not include Israeli Defense Forces installations or settler by-pass roads.

According to Al-Quds Newspaper report of 28 June 2000, the Israeli army stated that in the past weeks the settlers had taken part in their latest widespread campaign to take over Palestinian land in the West Bank by building roads, houses or caravans. The army even appeared concerned that these actions would cause serious clashes.

Incidents of settlement activities documented by PCHR and other human rights organizations in 2000, included all the following provocative practices against Palestinians and their property:

1. Demolition of buildings and fences
2. Destruction of crops and uprooting trees
3. Destruction of water pipes
4. Forced evictions
5. Confiscation of Palestinian land
6. Expansion of existing settlements
7. Construction of new military installations
8. Construction of new settler roads
9. Diversion of water sources into settlements
10. Preventing farmers from entering and working their land
11. Searches, interrogation and beatings of residents in the settlement areas
12. Detention and searching of Palestinians at the entrances to the settlement areas
13. Settler cars hitting Palestinian pedestrians
14. Closing roads and junctions

To those practices, most of the time occurring under the threat of weapons and military intimidation and generally during night time, have to be added other insidious processes: building greenhouses where the uprooted trees or destroyed crops used to stand or relocating checkpoints in order to redefine the boundary, incorporating parts of the Occupied Palestinian Territories into Israel.

Settlement Situation in the Gaza Strip and the West Bank

Israeli settlements are concentrated in three areas : 1) along the Jordan River, serving as Israel's eastern "security border", and separating the West Bank from Jordan, 2) along the Green Line, particularly in areas within commuting distance of Tel Aviv and Jerusalem, in order to alter the pre-1967 borders and to ensure the annexation of portions of these border areas in the event of a final peace settlement, and 3) surrounding major Palestinian population centers.

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Most of the attention is often concentrated on settlement building in the West Bank. This is due in large part to the concentration of the majority of Israeli settlers in the West Bank, including East Jerusalem.

Settlements in the Gaza Strip started at a much slower pace than it did in the West Bank for a number of reasons. Gaza does not possess the historical and religious influence that the West Bank holds for Jews. The strategic importance of the West Bank, as well as the greater availability of land in a less densely populated area contributed to the concentration of settlement activities in the West Bank.

Settlements are usually located in the most strategic areas and have absorbed the most fertile land and most important water sources in the Gaza Strip. Allegedly, for the protection of settlers, Israeli soldiers are stationed on the main roads in the Gaza Strip controlling, therefore, the movement of Palestinians and subjecting them to searches. The Palestinian Centre for Human Rights (PCHR) data for the end of 1999 reports that there are 53 Israeli checkpoints and installations within the Gaza Strip. From time to time Israeli Occupation Forces and Israeli settlers close roads and junctions, in violation of the right to freedom of movement of Palestinian citizens.

The largest concentration of Israeli settlements in the Gaza Strip is located in the Mawasi areas in Rafah and Khan Younis, south of the Gaza Strip where most of the harassment of Palestinians by Israeli Occupation Forces occurs. The Israeli soldiers at the checkpoints located at the entrances to the Mawasi areas engage in systematic provocation of Palestinians. Palestinian citizens are detained by Israeli soldiers and subjected to searches, which often last for many hours. Some other times the checkpoints are simply closed by Israeli soldiers, and citizens' movement is prevented outright. This includes 3,000 school students who are prevented from travelling to their schools outside the Mawasi area or from returning back to their homes in the area.

Moreover, Israeli occupation forces, from time to time, close the two main roads that connect the south of the Gaza Strip to its north. On more than one occasion the closure of these roads, which in most cases is initiated by settlers, has led to conflict between the Israeli and Palestinian sides. In all cases where settlers, with the protection and support of Israeli soldiers, confiscated Palestinian land, violent clashes took place between Palestinian civilians and Israeli soldiers.

Similarly, in the West Bank the issue is of deep concern as Israelis try to isolate the different Palestinian districts from one another. Another consequence of this strategy is that, since the beginning of the redeployment, many settlements are finding themselves all but surrounded by Palestinian-controlled territory which increases the problem of access and transport routes.

Many troubles related to the restriction on the freedom of movement have been recorded. Settlers frequently build roadblocks to turn back vehicles driven by Palestinians, preventing them from a free access to their land adjacent to settlements.

Furthermore, the relocation of checkpoints entails new complications for the Palestinians. Usually interpreted as an attempt to annex the West Bank areas to Israel, it bars the Palestinian farmers from reaching some of their lands, making the new prohibited area larger.

If previously, Palestinian citizens were transmitting reports about settler's activities to the Israeli Civil Administration, now they are beginning to act violently in response to the escalation of settlement activities in the West Bank since Barak's administration. Settler attacks in the districts of Bethlehem, Nablus or Hebron became more and more violent since the beginning of 2000. They

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DEPORTATION, RAIDS OF TERROR BECAME MORE AND MORE VIOLENT SINCE THE BEGINNING OF 2000. THEY CONFISCATE LAND, FORCING PALESTINIANS, IN POSSESSION OF DOCUMENTS PROVING THEIR OWNERSHIP OF THE LAND, TO LEAVE THEIR HOUSES AND ARE AT TIMES PHYSICALLY INJURED. PALESTINIAN VILLAGERS ENDEURE CLOSURES, ADMINISTRATIVE DISCRIMINATIONS SUCH AS THE REJECTION OF BUILDING PERMITS, THE DENIAL OF BASIC MUNICIPAL SERVICES AND, ABOVE ALL, THE DEMOLITION OF HOMES.

House demolitions

As part of the land seizure activity is the house demolition practice. This is said to be a typical colonial practice whereby attacking or eliminating the habitat of the indigenous population serves the dual purpose of eradicating or replacing that population, and carrying out collective punishment either in retaliation or as a deterrent against resistance. According to Article 33 of the Fourth Geneva Convention:

“ No protected person may be ^{Page 8} punished for an offence he or she has not personally committed, Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.”

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In so doing, the Israeli Occupation forces perpetuate the policy of altering the ethnic composition of Palestinian territories, creating a nation of homeless and dispossessed. The Israelis have set up a policy of demolishing Palestinians villages and refusing building permit. Following the *Intifada*, “houses are no longer demolished under the guise of security but as an administrative procedure on the basis of Israeli urban planning. If the structure is built without the elusive building permit or happens to stand near a future Israeli settlement or by-pass road then it is usually slated for destruction”. This occurs in complete violation of Article 53 of the Fourth Geneva Convention:

“ Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.”

As the Israeli administration seldom issues building permits, illegal structures are increasingly common as the overcrowding problem in the Occupied Palestinian Territories escalates.

“Since 1967, Israeli authorities have demolished or sealed over 6,000 Palestinian homes and there are currently 2,000 demolition orders in effect” According to Applied Research Institute of Jerusalem, of the 170 homes slated for demolition in the southern area of the West Bank, 41 percent of these were for enlarging the Green Line, 31 percent were for settlement activities such as by-pass roads and expansion or construction of settlements, 18 percent for being illegal structures and the remaining 10 percent for security reasons.

Most of the time, house demolitions happen in the morning. Israeli troops (Border Guards, Special Forces or Israeli Police) seal off a village, come with bulldozers, and do not give time to the occupant to take his furniture out. In addition, serious clashes usually occur between the villagers and Israelis while the bulldozers are doing their work, and several people are injured on both sides. When the demolition is completed and after destroying part of the access road and uprooting trees, the Israeli Authorities declare the area open again.

Jerusalem

East Jerusalem was formally annexed by Israel in June 1967 with the adoption by the Knesset of amendment No 11 of the Administration Ordinance Law and amendment No 6 of the Municipalities Ordinance Law and the Protection of Holy Places Law. The adoption of these laws established the broad legal framework for the extension of Israeli jurisdiction and administration to East Jerusalem. In 1980, the Knesset adopted the Basic Law which states:

“ Jerusalem complete and united is the capital of Israel. Jerusalem is the seat of the President of the State, the Knesset, the Government and the Supreme Court.”

In order to secure Israeli claim over the whole Jerusalem region and to expand its control over East Jerusalem, Israelis built and continue to build and to plan new settlements and expand existing ones in and around the city. The settlements form two rings around the city isolating Arab East

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Jerusalem and cutting the West Bank in half: the inner ring in East Jerusalem and the outer ring, “Greater Jerusalem”, reaching far the West Bank.

The completion of the Israeli settlement expansion projects will complete the inner ring of Jewish settlements around East Jerusalem, and establish a Jewish majority in the south-east of Jerusalem, severely restricting Palestinian movement between the north and south of the West Bank, rendering therefore the Palestinian territorial integrity impossible.

A commonly used strategy to achieve Israel’s goal – a maximum of territory with a minimum of non-Jewish population – has been the zoning of Palestinian land as ‘Green Areas’, ‘unobstructed view’ areas on the Jerusalem zoning maps. These areas officially labeled public spaces have in fact served as land reserves for the construction or expansion of Jewish settlements, while at the same time freezing Palestinian construction.

The Occupation forces give great priority to increasing settlements in Jerusalem and surrounding areas. Today, new housing construction in Israel’s East Jerusalem settlement communities, as well as construction in places like Har Homa settlement, are escalating.

In March 2000, the Israeli Housing ministry has prepared the construction of 22,410 units in the Jerusalem area, whose settler population at the end of 1997 reached 40,000. The ministry’s objective is to increase the number of Israelis living in this area to 250,000 by the year 2020.

This policy also entails further house demolitions. Without being granted building permits Palestinians face the dilemma of leaving the city or constructing ‘illegally’, thus becoming subject/exposed to house demolition which is currently carried out at an average rate of at least 50 houses a year. The Israeli Committee Against Home Demolitions stated that in June 2000 Israelis had already destroyed 13 Palestinian homes in Jerusalem district, since the beginning of the year.

Conclusion

The pattern of land confiscation, house and villages demolition is slowly isolating the Palestinian population scattered in particular in the West Bank. The expansion of settlements furthermore render the whole area look like a fragmented mosaic affecting thereof, the territorial integrity/unity of the Palestinian land. In addition, these activities often leading to violence do not contribute to the creation of mutual respect and trust necessary for the establishment and the faith toward a just and lasting peace.

Consequently, the path towards the achievement of free and lasting enjoyment of basic human rights for Palestinians over their land and possession is still a long way to go.

In this respect the responsibility and duties of the international community, specifically the High Contracting Parties in their legal obligation “to respect and ensure respect” of the Fourth Geneva Convention should be pursued against these ongoing violations of international humanitarian law committed by the State of Israel.

1. The international community must continue to refuse to recognize these illegal annexations.

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1. The international community must continue to refuse to recognize these illegal annexations and settlements, and continue to affirm that such activities are legally void as well as violating international humanitarian and human rights law.
2. State parties to the Convention must ensure that neither they nor their citizens are guilty of acting in a way which directly or indirectly supports, encourages or assists these illegal activities.
3. Pressure must be applied to Israel to bring these illegal practices to an end.
4. All State Parties that supported the UNGA resolutions must take further steps to recover the genuine attempt embodied in those resolutions to bring Israeli violations of the Convention to an end.