



# General Assembly

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## Committee on the Exercise of the Inalienable Rights of the Palestinian People

### Summary record of the 385th meeting

Held at Headquarters, New York, on Wednesday, 15 November 2017, at 10 a.m.

*Vice-Chair:* Ms. Rodríguez Camejo . . . . . (Cuba)

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*In the absence of Mr. Seck (Senegal), Ms. Rodríguez Camejo (Cuba) took the Chair.*

*The meeting was called to order at 10.15 a.m.*

### **Adoption of the agenda**

1. *The agenda was adopted.*

### **Update on developments since the previous meeting of the Committee**

2. **Mr. Inguañez** (Malta), Rapporteur, said that, at its third annual retreat held on 3 October 2017, the Bureau had agreed to develop a common communications strategy to be used by Committee members, including in their social media outreach, that would focus on promoting recognition of the State of Palestine; emphasize the peace, justice and human rights dimensions of the question of Palestine; highlight the linkages between the resolution of the question of Palestine, the achievement of the Sustainable Development Goals and the attainment of stability in the Middle East; and underscore that the question of Palestine was not a religious issue. The Bureau had also decided to promote greater participation by Committee members in Committee activities; enhance understanding of the question of Palestine among newly elected members of the Security Council and candidates for membership; encourage regional groups to include a reference to that question in their statements before the Security Council and other United Nations bodies; and seek to organize meetings with, inter alia, relevant Permanent Representatives to the United Nations and contacts within the Government of the United States to promote support of the Committee's mandate. In addition, the Bureau had encouraged the Committee to consider organizing side events on the question of Palestine during major intergovernmental summits and to conduct targeted visits to Member States in order to enhance outreach to specific regions and countries. In that connection, it had discussed plans to visit the United Republic of Tanzania in early December 2017.

3. While the programme of work for 2018 had not been fully discussed owing to time constraints, the Bureau had decided that the Committee's activities for 2018 would focus on identifying areas for future action while reflecting on the 70-year legacy of the Nakba. The Bureau would also organize an international conference on the question of Jerusalem in 2018, in collaboration with the Organization of Islamic Cooperation (OIC), and would establish a working group comprising Bureau focal points to facilitate information sharing and operational discussions regarding Committee activities. Committee members were encouraged to propose

additional activities for inclusion in the programme of work.

4. On 18 October 2017, the Permanent Representative of Cuba, as Vice-Chair of the Committee, had delivered a statement on behalf of the Committee at the quarterly debate of the Security Council on the situation in the Middle East, including the Palestinian question. In addition, on 2 November, the Committee had hosted a lecture by Professor Rashid Khalidi of Columbia University on the Balfour Declaration and its impact on the Palestinian people, which had been chaired by Committee member South Africa.

5. As part of the capacity-building programme for staff of the Government of the State of Palestine, the Division for Palestinian Rights had sponsored the participation, from 9 to 19 October 2017, of two Palestinians in a course on multilateral environmental agreements organized by the United Nations Environment Programme in conjunction with the University of Eastern Finland; the participation of three Palestinians in a course, organized by the United Nations System Staff College, on the theme "United Nations Catalytic Support to South-South and Triangular Cooperation in Implementing the 2030 Agenda for Sustainable Development," held in Bonn from 17 to 19 October; and a visit by three Palestinians to Geneva to observe meetings of the sixty-eighth session of the Committee on the Elimination of All Forms of Discrimination Against Women. Regrettably, on 9 November, the annual capacity-building programme for Palestinian officials at United Nations Headquarters had, for the first time, been cancelled, as the United States consulate in Jerusalem had not issued travel visas to the two selected participants. Lastly, on 28 September, the annual report of the Committee (A/72/35) had been published as a United Nations document in all six official languages.

### **The situation in the Occupied Palestinian Territory, including East Jerusalem, and developments in the political process**

6. **Ms. Abdelhady-Nasser** (Observer for the State of Palestine) expressed gratitude to those Committee members and observers that, during recent debates at the United Nations on the question of Palestine, had drawn attention to the plight of the Palestinian people and had called for an end to the illegal policies and actions of Israel, and for the realization of the inalienable rights of the Palestinian people, including to self-determination and independence. She was particularly grateful to the overwhelming majority of delegations that had voted in favour of the draft resolutions on the question of

Palestine adopted in the Fourth Committee of the General Assembly, which reflected the international consensus on the illegality of Israeli settlement activities and of the Israeli blockade of the Gaza Strip; and the illegality and harmful impact of the collective punishment imposed by Israel, which had resulted in the demolition of Palestinian homes and the forced eviction and displacement of Palestinian civilians. The draft resolutions also reaffirmed the applicability of the Geneva Convention relative to the Protection of Civilians in Time of War (Fourth Geneva Convention); the rights of Palestine refugees; the indispensability of, and importance of increasing funding for, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA); and the need for a two-State solution on the basis of the pre-1967 borders. Member States must continue to support draft resolutions on the question of Palestine, in particular during the plenary General Assembly. Noting with regret the passage of 50 years since the onset of the Israeli occupation and 70 years since the adoption of General Assembly resolution 181 (II) and the Nakba without tangible progress towards a just and lasting solution, she invited delegations to participate in the events to be held in observance of the International Day of Solidarity with the Palestinian People on 29 November 2017, in particular the inauguration of an exhibit celebrating the identity and cultural achievements of the Palestinian people, which bore testimony to their resilience.

7. Palestinian reconciliation talks, conducted under the auspices of the Government of Egypt, continued to yield meaningful progress. The signing of an agreement between Fatah and Hamas in Cairo on 12 October 2017 had led to the restoration of the Palestinian Government's control over public institutions in Gaza and to the return of its personnel to crossing points, and efforts were under way to enable a national consensus Government to assume administrative responsibility over the enclave, in particular to address the humanitarian situation. She recognized the support for Palestinian reconciliation provided by the international community and the United Nations Special Coordinator for the Middle East Peace Process and encouraged their continued assistance, including in the form of humanitarian funding. More importantly, the international community must continue to call for an end to the illegal and inhumane Israeli blockade of Gaza, in accordance with international humanitarian law and relevant United Nations resolutions, in order to remedy the dire situation of Palestinians on the ground and restore hope, in particular for Palestinian youth.

## Consideration of draft resolutions on the question of Palestine

*Draft resolution: Committee on the Exercise of the Inalienable Rights of the Palestinian People*

*Draft resolution: Division for Palestinian Rights of the Secretariat*

*Draft resolution: Special information programme on the question of Palestine of the Department of Public Information of the Secretariat*

*Draft resolution: Peaceful settlement of the question of Palestine*

8. **Ms. Abdelhady-Nasser** (Observer for the State of Palestine), introducing the four draft resolutions submitted under agenda item 38, said that the draft resolution entitled "Committee on the Exercise of the Inalienable Rights of the Palestinian People" had been revised from the version adopted at the seventy-first session of the General Assembly to include references to Security Council resolution [2334 \(2016\)](#), the seventieth anniversary of the Nakba and the recommendations made by the Committee in its annual report ([A/72/35](#)). The draft resolution entitled "Division for Palestinian Rights of the Secretariat" reflected a number of technical changes and also included a reference to the positive, constructive approach of the Committee and the Division for Palestinian Rights, in response to inaccurate characterizations of their work as biased or one-sided. The draft resolution entitled "Special information programme on the question of Palestine of the Department of Public Information of the Secretariat", which provided for the continuation of the special information programme, reflected a number of technical updates.

9. The draft resolution entitled "Peaceful settlement of the question of Palestine" reaffirmed the long-standing terms of reference and parameters for the achievement of a peaceful settlement of the question of Palestine and underscored the importance of Palestinian reconciliation and the role of Egypt in that regard. It had been updated to include references to Security Council resolution [2334 \(2016\)](#), in particular the Council's affirmation that it would not recognize any changes to the 4 June 1967 lines, including with regard to Jerusalem, other than those agreed by the parties through negotiations; and its call upon States to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967. She welcomed delegations' support and sponsorship of the draft resolutions.

10. **Mr. Rivero Rosario** (Cuba) said that his delegation stood ready to sponsor the draft resolutions.

11. **Mr. Habib** (Indonesia) said that, as a long-time supporter of all resolutions relating to the question of Palestine, his delegation would sponsor the draft resolutions.

12. **Mr. Arcia Vivas** (Bolivarian Republic of Venezuela) said that his delegation appreciated the emphasis placed on Security Council resolution 2334 (2016) in the draft resolutions, as it had participated actively in drafting that resolution during its term as a non-permanent member of the Security Council. His delegation would sponsor the draft resolutions.

*13. The draft resolutions were adopted.*

**Interactive dialogue with the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (A/72/556)**

14. **Mr. Lynk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967), accompanying his statement with a digital slide presentation, introduced his report (A/72/556). The report provided an analysis of the legal framework of the 50-year Israeli occupation, the longest-running military occupation in the modern world, according to the International Committee of the Red Cross. As Israel did not recognize the Palestinian territory as being occupied, it did not accept its obligations as an occupying Power under international human rights law, international criminal law and the laws of occupation reflected in the Regulations respecting the Laws and Customs of War on Land (the Hague Regulations), the Fourth Geneva Convention and Additional Protocol I thereto, a position that was at variance with successive General Assembly resolutions. The international community currently treated Israel as the lawful occupant of the occupied Palestinian territories, but settlements, the construction of the separation wall, the annexation of East Jerusalem and the systematic violations of Palestinians' human rights had made it necessary to re-examine that legal characterization.

15. He proposed a four-part test to determine whether an occupying Power was administering an occupied territory in a manner consistent with international law or whether it had crossed a line and become an illegal occupant. First, under international law, an occupier could not annex or gain title to any part of an occupied territory, regardless of whether the territory was occupied through a war of self-defence or a war of aggression, a principle reaffirmed in numerous Security Council and General Assembly resolutions. Second, occupation must be temporary, not indefinite or permanent, and the occupying Power must return the

territory to the sovereign Power as soon as reasonably possible. Third, the occupying Power was required to govern in the best interests of the people under occupation, subject only to the legitimate security concerns of the occupying military authority, a principle reflected in the Hague Regulations and the Fourth Geneva Convention. Accordingly, the occupying Power must ensure the enabling economic and social conditions for a return to sovereignty and self-determination and was prohibited from administering the territory in a self-serving or avaricious manner, inflicting collective punishment or engaging in mass forcible transfers or deportations. Fourth, the occupying Power must govern the territory in good faith, as determined by its compliance with directions issued by international bodies and with international humanitarian law and human rights law, a principle enshrined in, inter alia, the Charter of the United Nations and the Vienna Convention on the Law of Treaties.

16. The 1971 advisory opinion of the International Court of Justice on the Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970) was an applicable precedent for the assessment of the legality of the Israeli occupation on the basis of the four-part test. South Africa had been granted administrative responsibility of South West Africa under the mandate system established under the Covenant of the League of Nations, which had subsequently been replaced by the international trusteeship system under the Charter of the United Nations. When South Africa had refused to place South West Africa under the trusteeship system and had begun to introduce forms of apartheid in, and engage in the de facto annexation of, parts of the territory, the Security Council had declared its continued presence in the territory illegal, and had requested an advisory opinion on the matter from the International Court of Justice. In its advisory opinion, the Court had determined that South Africa had violated international law in its administration of South West Africa, reaffirming that mandatory Powers were prohibited from annexing mandated territories, including through disguised cessions; that they were obligated to govern as trustees for the benefit of the peoples in the territories concerned and to fulfil their responsibilities in good faith; and that deliberate and persistent violations of international law by a mandatory Power rendered its continued presence in the mandated territory illegal. The Court had furthermore underscored that, in cases where a mandatory Power's continued presence in a territory was determined to be illegal, the governing legal framework protecting the people concerned remained in force for the duration of the mandatory Power's

effective control of the territory. Lastly, the Court had emphasized that Member States were obligated to take steps to end situations characterized as illegal by international bodies, in line with Article 25 of the Charter.

17. The mandate for South West Africa and the occupation of the Palestinian territory were both examples of alien rule and were therefore subject to the principles of international law outlined in the four-part test. In his view, Israel was in violation of all four of those principles. First, the annexation by Israel of East Jerusalem, strongly condemned by the General Assembly and the Security Council, as well as its ongoing de facto annexation of parts of the West Bank in defiance of the 2004 advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, violated the principle of non-annexation. Under the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Israel exercised full civil and security jurisdiction over Area C of the West Bank, where 400,000 Israeli settlers lived in approximately 225 illegal settlements. The ability of the 300,000 Palestinians who lived in Area C to develop and use land was severely restricted, and there were significant disparities between the legal rights and social conditions enjoyed by Palestinians and Israeli settlers in Area C as compared with Area A, which was controlled by the Palestinians. Second, given that, in its resolution 476 (1980), the Security Council had already characterized the Israeli occupation as prolonged and that no modern occupation had lasted more than 10 years, the Israeli occupation did not adhere to the principle of temporariness. The longer an occupation lasted, the greater the onus on the occupying Power to justify its continuation, and Israel lacked commensurate justification for its protracted occupation of the Palestinian territories. Third, Israel had failed in its obligation to administer the Occupied Palestinian Territory in the best interests of the Palestinian people, as evidenced by the negative impact of the occupation on the Palestinian economy; the significant restrictions on Palestinians' freedom of movement throughout the occupied territories; the unequal social conditions and legal rights enjoyed by Israeli settlers and Palestinians in the occupied territories; and the adverse effects of the Israeli blockade of Gaza. Fourth, in failing to comply with international humanitarian law and human rights law, as well as with directions issued by, inter alia, the General Assembly, the Security Council and the International Court of Justice, Israel had violated the good faith principle.

18. International pressure alone could bring the Israeli occupation to an end. A determination by the international community that the Israeli occupation had crossed the line into illegality, based on the parameters outlined in his report (A/72/556), would encourage Member States to take steps to end their cooperation with Israel and would require international and national courts to apply appropriate laws with a view to ending such cooperation. It would also require the international community to develop strategies and policies for reviewing its cooperation with the occupying Power for the duration of the occupation. Lastly, it would provide an important precedent for potential future cases of prolonged occupation.

19. **Mr. Inguanez** (Malta), speaking in his national capacity, asked whether it was not paradoxical to suggest that an occupying Power could occupy a territory in good faith.

20. **Ms. Abdelhady-Nasser** (Observer for the State of Palestine) said that the international community had consistently recognized the violation by Israel of its obligation to govern in the best interests of the Palestinian people. In the light of the occupying Power's blatant non-compliance with international law, she asked what further steps the international community could take to hold it accountable for its illegal occupation of the Palestinian territory and to bring an end to the occupation.

21. **Mr. Rivero Rosario** (Cuba) said that all occupations violated the international legal principles of sovereignty and territorial integrity, regardless of their duration, even though the United Nations continued to recognize a small number of Non-Self-Governing Territories administered by foreign Powers, which represented the last vestiges of colonialism. Notwithstanding the importance of the advisory opinion of the International Court of Justice on Namibia (South West Africa) as a legal precedent, he recalled that South Africa had ignored the opinion and continued its occupation of South West Africa, resulting in the escalation of the South African Border War between South Africa and the South West African liberation forces backed by, inter alia, Cuban troops, which had ultimately led to the negotiation of the Agreement among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa granting independence to Namibia. Like the representative of Malta, he questioned whether an occupying Power could occupy a territory in good faith and asked what additional measures the international community could take to bring the occupation to an end and achieve a two-State solution.

22. **Mr. Ramírez Carreño** (Bolivarian Republic of Venezuela) asked how the international community could encourage the Security Council to affirm the illegality of the Israeli occupation when the threat of veto by the United States made any constructive discussion of the topic impossible. The unconditional support of the Government of the United States enabled the Government of Israel to continue to violate international law with impunity, and there was increasing discussion within the Israeli political sphere of the definitive annexation of the occupied territories. Indeed, Security Council resolution 2334 (2016) reaffirming the illegality of the Israeli settlements had been the first statement on the topic by the Council in 10 years and had largely been made possible by favourable political circumstances. He also asked why regional groups and other organizations that claimed to uphold the values of the United Nations, such as the European Union, did not declare their support for the Palestinian cause and the principles of international law.

23. **Mr. Lynk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said that the protections afforded under international law to peoples living under occupation applied regardless of whether the territory in question had been illegally occupied through a war of aggression or legally occupied through a defensive war. Even if one considered the Israeli occupation of the Palestinian territories to be the lawful outcome of a defensive war, that occupation was no longer being conducted in accordance with the core principles of international humanitarian law.

24. With regard to the steps that Member States could take to follow up on his analysis, he recommended that the General Assembly should commission a study on the legality of the continued occupation of the Palestinian territory by Israel; consider seeking an advisory opinion from the International Court of Justice on the question of the legality of the occupation; consider commissioning a legal study to determine the ways in which Member States should fulfil their duties and obligations under international law, including the duty of non-recognition of situations resulting from breaches of international law, the duty to cooperate in order to bring to an end a wrongful situation and the duty to investigate and prosecute grave breaches of the Geneva Conventions; and consider adopting a resolution on the question of Palestine in accordance with General Assembly resolution 377 (V), should it determine that the Israeli occupation was no longer lawful.

25. Notwithstanding the difficulty of taking meaningful action on the question of Palestine in the Security Council, he recalled that, in 2003, after the

Council had failed to obtain an advisory opinion from the International Court of Justice on the legal consequences of the construction of the separation wall in the Occupied Palestinian Territory, the General Assembly had ultimately succeeded in obtaining the landmark opinion affirming the illegality of the wall. In addition, while the Court's advisory opinion on Namibia (South West Africa) had not resulted in the immediate realization of the right of the Namibian people to self-determination, it had played a minor role. In any event, the situations of South West Africa and of the Occupied Palestinian Territory were fundamentally different in that the international community's stated commitment to upholding the rule of international law was greater than it had been in the 1970s; there was stronger international recognition, at the diplomatic and civic levels, of the plight of the Palestinian people, as compared with that of the people of South West Africa; and there was a broad understanding that a determination by the international community that the Israeli occupation had become illegal would entail specific consequences. Member States must now ensure that Israel faced such consequences. Lastly, he disagreed with the approach whereby some international bodies sought to bend international humanitarian law in order to make situations of prolonged occupation more bearable for peoples under occupation rather than questioning the need for prolonged occupation in the first place.

26. **Mr. Fakhrul** (Observer for Bangladesh) said that Bangladesh strongly supported the Palestinian people's legitimate aspiration for the establishment of an independent State of Palestine. The gravity of the situation in the Occupied Palestinian Territory, the occupying Power's defiance of international law and the international community's repeated calls for a return to peace and stability in the region had been highlighted in successive United Nations reports. The Committee must continue to encourage Member States to prevail upon Israel to end its systematic violations of human rights and international humanitarian law, including its acts of collective punishment against the Palestinians.

27. The recent reconciliation agreement between Fatah and Hamas was an important step towards remedying the humanitarian situation in Gaza. His delegation appreciated the Committee's efforts to organize a forum to mark 50 years of the Israeli occupation in June 2017, as well as its efforts to engage with Governments in order to resolve the crisis. His delegation also looked forward to the events to be held by the Committee in observance of the International Day of Solidarity with the Palestinian People and to the activities to be organized in recognition of the seventieth

anniversary of the Nakba in 2018. Urgent efforts must be made to achieve a just, lasting and comprehensive peace settlement in accordance with relevant United Nations resolutions, the terms of reference of the Madrid Conference, including the principle of land for peace, the Arab Peace Initiative and the road map proposed by the Middle East Quartet.

28. **Mr. Naouali** (Tunisia) asked how many States currently recognized the State of Palestine and requested a breakdown of those States by geographical region. He also wished to know how Member States could draw on international law to ensure that they fulfilled their obligations in the face of situations of illegal occupation, and, in particular, to guarantee broad international recognition of the State of Palestine with a view to persuading the occupying Power and its allies to review their positions.

29. **Mr. Lynk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said that Member States must strengthen their commitment to international law, the common language of the international community, in order to achieve a more peaceful world order. While the Israeli-Palestinian conflict had significantly advanced understanding in the area of international law with regard to the rights of refugees, the right to self-determination, the illegality of settlements and various aspects of the Fourth Geneva Convention, that understanding had not resulted in significant benefits for the Palestinian people. The international community must therefore narrow the gap between rhetoric and reality in order to ensure that vulnerable populations benefited from the protections to which they were entitled under international law.

30. **The Chair** said that 138 States currently recognized the State of Palestine.

#### **Update on activities organized in observance of the International Day of Solidarity with the Palestinian People**

31. **The Chair** recalled that the special meeting in observance of the International Day of Solidarity with the Palestinian People would be held on 29 November 2017 and requested delegations to be represented at the ambassadorial level. She also welcomed messages of solidarity from Heads of State or Government. Later that day, the General Assembly would discuss the four draft resolutions adopted by the Committee at its current meeting, with a view to holding a vote on 30 November 2017. In the evening, the inauguration of a photography exhibit entitled “The Palestinian People: Everlasting

Roots, Infinite Horizons” would be held, to be followed by a performance by Palestinian singer Ameer Dandan.

32. **Mr. Abdelaziz** (Permanent Observer for the League of Arab States) said that the League was preparing to participate actively in the events organized by the Committee in observance of the International Day of Solidarity with the Palestinian People. High-level League officials and representatives of States members of the League would work in coordination in order to demonstrate their support for the achievement of a two-State solution and the realization of the inalienable rights of the Palestinian people. In that connection, the Secretary-General of the League had participated in several meetings during the high-level week of the General Assembly and had organized meetings to raise awareness of the negative impact of the Balfour Declaration on the occasion of its hundredth anniversary. In addition, the League secretariat had released a documentary film that had been translated into many languages and would provide a hyperlink to the film so that Committee members could watch it. Coordination between the United Nations, in particular the Division for Palestinian Rights, the League of Arab States and OIC would continue to be of critical importance.

33. **Mr. Escoto** (Nicaragua) said that Nicaragua had chaired the fourth congress of the Confederation of Palestinian Communities in Latin America and the Caribbean in October 2017.

#### **Other matters**

34. **Mr. Ramírez Carreño** (Bolivarian Republic of Venezuela), presenting, in his capacity as Chair of the Fourth Committee, a summary of that Committee’s deliberations at the current session of the General Assembly under agenda items related to the question of Palestine, said that, under agenda item 53, United Nations Relief and Works Agency for Palestine Refugees in the Near East, the Commissioner-General of the Agency had delivered a statement outlining the numerous threats to the human rights of Palestine refugees and condemning the lack of predictable funding for the Agency, which precluded strategic planning. A lively interactive discussion had followed the presentation. Israel had requested a vote on all draft resolutions submitted under that agenda item, which had been adopted with the support of a majority of delegations.

35. Under agenda item 54, Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, the Chair of the Special

Committee had introduced the relevant report (A/72/539) and a representative of the Office of the United Nations High Commissioner for Human Rights had delivered a statement. Participants had condemned the ongoing violations of the human rights of Palestinians, in particular the incarceration in Israeli military prisons of approximately 300 Palestinian children between the ages of 8 and 12 years. The Committee had approved all draft resolutions submitted under the agenda item. Inappropriate references by Israel to the Committee's work as a circus had prompted a vigorous debate among delegations.

36. Speaking in his national capacity, he condemned the tendency of some major donors to UNRWA to attach conditions to their budgetary contributions. Such donors, which exacerbated the refugee crisis by supporting the Israeli occupation, made their contributions contingent on, inter alia, the General Assembly's agreement not to adopt draft resolutions on the issue of funding for UNRWA, a situation that prevented the Agency from effectively planning its operations.

*The meeting rose at 12.25 p.m.*