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**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE
SIXTY-FIRST SESSION OF THE COMMISSION**

Draft report of the Commission

Rapporteur: Ms. Deirdre KENT (Canada)

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* Documents E/CN.4/2005/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/2005/L.11 and addenda.

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2005/5. Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant human rights instruments,

Recalling the provisions of its resolution 2004/16 of 16 April 2004,

Recalling also the Charter of the Nürnberg Tribunal and the Judgement of the Tribunal, including all the provisions of the Judgement related to the SS organization and all its integral parts, including the Waffen SS,

Recalling further the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001 (A/CONF.189/12 and Corr.1), in particular its paragraph 2 of the Declaration and paragraph 86 of the Programme of Action,

Recalling the study undertaken by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2004/61) and taking note of his report (E/CN.4/2005/18 and Add.1-6),

Alarmed, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups,

1. *Reaffirms* the provision of the Durban Declaration, in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist prejudice and stated that these phenomena could never be justified in any instance or in any circumstances;

2. *Expresses deep concern* over the fact of the glorification of the Nazi movement, including through erecting monuments and memorials as well as holding public demonstrations in the name of glorification of the Nazi past, the Nazi movement and neo-Nazism;

3. *Stresses* that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization, and poison the minds of young people, in particular in the year of the sixtieth anniversary of victory in the Second World War and the liberation of Auschwitz and other concentration camps, and that these practices may be incompatible with the obligations of States Members of the United Nations under its Charter and are incompatible with the goals and principles of the Organization;

4. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups;

5. *Notes with concern* the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as noted by the Special Rapporteur;

6. *Emphasizes* the need to take the necessary measures to put an end to the practices described above and calls upon States to take more effective measures to combat these phenomena and the extremist movements, which pose a real threat to democratic values;

7. *Requests* the Special Rapporteur to continue to reflect on this issue and to make relevant recommendations in his report to the Commission at its sixty-second session, to seek and to take into account in this regard the views of Governments as well as non-governmental organizations;

8. *Invites* Governments as well as non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the aforementioned task;

9. *Decides* to consider this issue at its sixty-second session under the same agenda item.

*49th meeting
14 April 2005*

[Adopted by a recorded vote of 46 to none,
with 4 abstentions. See chap. VI.]

2005/6. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

The Commission on Human Rights,

Guided by the principles of the Charter of the United Nations, and affirming the inadmissibility of the acquisition of territory by force,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Recalling relevant resolutions of the Commission, the Security Council and the General Assembly, most recently General Assembly resolution 59/123 of 10 December 2004 in which it reaffirmed, inter alia, the illegality of the Israeli settlements in the occupied territories,

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem and the Syrian Golan, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Considering that the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the Geneva Conventions,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and its conclusion that the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law,

Recalling also General Assembly resolution ES-10/15 of 20 July 2004,

Recalling further its attachment to the implementation by both parties of their obligations under the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict (S/2003/529), which was endorsed by the Security Council in resolution 1515 (2003) of 19 November 2003, and noting in particular its call for a freeze on all settlement activity,

Expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution,

Noting the potential of the announced withdrawals by Israel, the occupying Power, from the Gaza Strip and from certain parts of the northern West Bank, which can represent a step towards the implementation of the Quartet road map and a two-State solution, provided that they take place within the context of the road map and that they should not involve transfer of settlement activity to the West Bank, that there should be an organized and negotiated handover of responsibility to the Palestinian Authority and that Israel should facilitate the rehabilitation and reconstruction of the Gaza Strip,

Expressing grave concern about the continuing construction, contrary to international law, by Israel of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, and expressing its concern in particular about the route of the wall in departure from the Armistice Line of 1949, which could prejudice future negotiations and make the two-State solution physically impossible to implement and which is causing the Palestinian people further humanitarian hardship,

Deeply concerned that the wall's route has been traced in such a way as to include the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem,

Expressing its concern at the failure of the Government of Israel to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2005/29 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Welcomes* the understandings by both parties at the Sharm el-Sheikh Summit, held on 8 February 2005, to stop all acts of violence as well as the positive steps taken by them in fulfilment of these understandings and urges them to enhance a new spirit of cooperation and to promote an atmosphere conducive to the establishment of peace and coexistence;

3. *Expresses its grave concern* at:

(a) The continuing Israeli settlement and related activities, in violation of international law, including the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem and the Syrian Golan, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and in particular article 49 of that Convention; settlements are a major obstacle to the establishment of a just and comprehensive peace and to the creation of an independent, viable, sovereign and democratic Palestinian State;

(b) The new construction plan by the Government of Israel announced on 21 March 2005 for a project of 3,500 additional housing units in Maale Adumim and the planned expansion of two other settlement blocks in the West Bank, and deplors the negative impact of

these plans on the confidence between the two parties at a time when a genuine window of opportunity exists to relaunch the peace process, as the continuation of settlement activities by Israel, the occupying Power, would be a violation of international humanitarian law, the relevant United Nations resolutions and Israeli commitments in the context of the road map;

(c) The continued closures of and within the Occupied Palestinian Territory and the restriction of the freedom of movement of people and goods, including the extensive curfews imposed for long periods of time, which do not contribute to restoring confidence and reinforcing the ongoing dialogue between the two parties, and have caused an extremely precarious humanitarian situation for the civilian population as well as impaired the economic and social rights of the Palestinian people;

(d) The continued construction, contrary to international law, of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem;

4. *Takes note with satisfaction* of the resumption of the dialogue between the parties and the steps forward taken, and urges the Government of Israel:

(a) To reverse the settlement policy in the occupied territories, including East Jerusalem and the Syrian Golan and, as a first step towards their dismantlement, to stop immediately the expansion of the existing settlements, including “natural growth” and related activities;

(b) To prevent any new installation of settlers in the occupied territories;

5. *Demands* that Israel implement the recommendations regarding the settlements made by the then United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

6. *Calls upon* Israel to take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians and Palestinian properties in the Occupied Palestinian Territory, including East Jerusalem;

7. *Demands* that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice;

8. *Urges* the parties to seize the opportunity offered by the current political context to give renewed impetus to the peace process and to implement fully the road map endorsed by the Security Council in resolution 1515 (2003), with the aim of reaching a comprehensive political settlement in accordance with the resolutions of the Council, including resolutions 242 (1967) and 338 (1973), and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security;

9. *Decides* to continue its consideration of this question at its sixty-second session.

*49th meeting
14 April 2005*

[Adopted by a recorded vote of 39 to 2,
with 12 abstentions. See chap. VIII.]

**2005/7. Israeli practices affecting the human rights of the Palestinian people
in the Occupied Palestinian Territory, including East Jerusalem**

The Commission on Human Rights,

Recalling the applicability of the Geneva Convention relative to the Protection of Civil Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the relevant resolutions of the Security Council and the Commission on Human Rights,

Taking note of the recent reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (A/59/256 and E/CN.4/2005/29 and Add.1),

Expressing grave concern about the extrajudicial executions and the use of force by Israel against the Palestinian civil population, inflicting heavy casualties, and the continued targeting of schoolchildren, which led to loss of lives and fatal injuries,

Condemning the denial by Israel of access to hospitals for Palestinian pregnant women, which forces them to give birth at checkpoints under hostile, inhumane and humiliating conditions,

Asserting that the punitive measures imposed by Israel, the occupying Power, on the Palestinian civil population, including collective punishment, border closures and severe restrictions on the movement of people and goods, arbitrary arrests and detentions, destruction of homes and vital infrastructure, including religious, educational, cultural and historical sites, led to a steep deterioration in the socio-economic conditions, perpetuating a dire humanitarian crisis throughout the Occupied Palestinian Territory, including East Jerusalem, and affirming that these punitive measures violate the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice and General Assembly resolution ES-10/15 of 20 July 2004, and reaffirming the principle of the inadmissibility of the acquisition of territory by force,

Noting in particular the court's reply, including that the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law,

Welcoming the decision of the Secretary-General to establish a register of damage caused by the construction of the wall and its associated regime in the Occupied Palestinian Territory, including East Jerusalem,

Condemning the continued systematic violations of the human rights of the Palestinian people by Israel, the occupying Power, arising from the settlements, the construction of the wall inside the Occupied Palestinian Territory in departure from the Armistice Line of 1949, the

destruction of property and all other actions designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem,

Welcoming the recent free and democratic Palestinian presidential election in the Occupied Palestinian Territory, including East Jerusalem,

Affirming that the obstructive measures taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, during the Palestinian presidential campaign and election, including arbitrary arrest, detention of candidates and denying access to polling stations, constitute a breach of the principles and provisions of international covenants and instruments related to the right to self-determination,¹

Expressing deep concern that thousands of Palestinians, including children, continue to be held in Israeli prisons and detention centres under harsh conditions impairing their well-being, and also expressing deep concern about their ill-treatment, harassment and reports of torture,

Aware of the responsibility of the international community to promote human rights and ensure respect for international law,

Stressing the need for full compliance with the Israeli-Palestinian agreements reached within the context of the Middle East peace process and the implementation of the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict,

Stressing the necessity for the full implementation of all relevant United Nations resolutions,

¹ See Articles 1 and 55 of the Charter of the United Nations; article 1 of the International Covenant on Civil and Political Rights and article 1 of the International Covenant on Economic, Social and Political Rights; General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948; Security Council resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 1397 (2002) of 12 March 2002 and 1402 (2002) of 30 March 2002; Commission resolution 2003/3 of 14 April 2003 and paragraphs 2 and 3 of Part I of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights.

1. *Reiterates* that all actions and punitive measures taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and contrary to the relevant resolutions of the Security Council, are illegal and have no validity, and thereby demands that Israel, the occupying Power, comply fully with its provisions and cease immediately all measures and actions taken in violation and in breach of the Convention, including extrajudicial executions;

2. *Condemns* the use of force by the Israeli occupying forces against Palestinian civilians, resulting in extensive loss of life, vast numbers of injuries and massive destruction of homes, properties, agricultural lands and vital infrastructure;

3. *Urges* all Member States signatories to the Fourth Geneva Convention to express the inadmissibility of the ongoing violation of the rights of Palestinian civilians, especially women and children, stipulated in these instruments, and to demand their effective observance by Israel, the occupying Power;

4. *Requests* the United Nations High Commissioner for Human Rights to address the issue of Palestinian pregnant women giving birth at Israeli checkpoints owing to denial of access by Israel to hospitals, with a view to ending this inhumane Israeli practice, and to report thereon to the General Assembly at its sixtieth session and the Commission at its sixty-second session;

5. *Calls upon* Member States to take the necessary measures that fulfil their obligations under the instruments of international human rights law and international humanitarian law to ensure that Israel ceases killing, targeting, arresting and harassing Palestinians, particularly women and children;

6. *Requests* the High Commissioner for Human Rights to demand, in accordance with her mandate, the immediate release of the Palestinian detainees, including women, children and the sick, and the investigation of reported cases of torture, harassment or ill-treatment and the bringing to justice of Israeli officers involved in the abuse of detainees;

7. *Requests* Israel, the occupying Power, to facilitate the forthcoming Palestinian legislative elections in the Occupied Palestinian Territory, including East Jerusalem, and demands that it refrain from all acts that interfere in, obstruct or impede these elections;

8. *Demands* that Israel, the occupying Power, comply with its legal obligations under international law, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice and as demanded in resolution ES-10/15 and resolution ES-10/13 of 21 October 2003, and that it cease the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, dismantle forthwith the structure situated therein, repeal or render ineffective all legislative and regulatory acts relating thereto, and make reparation for all damage caused by the construction of the wall;

9. *Calls for* the boycott of firms involved in the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

10. *Stresses* the need to preserve the territorial integrity of all the Occupied Palestinian Territory and to guarantee the freedom of movement of persons and goods within the Palestinian territory, including the removal of restrictions on movement into and from East Jerusalem, and the freedom of movement to and from the outside world as a sine qua non for resolving the humanitarian crisis throughout the Occupied Palestinian Territory, restoring the livelihoods of the Palestinian people and rebuilding their ravaged institutions and economy;

11. *Requests* the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session, in compliance with his mandate;

12. *Decides* to continue its consideration of this question at its sixty-second session.

*49th meeting
14 April 2005*

[Adopted by a recorded vote of 29 to 10,
with 14 abstentions. See chap. VIII.]

2005/8. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the Syrian citizens in the occupied Syrian Golan due to the violation of their fundamental and human rights since the Israeli military occupation of 1967,

Recalling Security Council resolution 497 (1981) of 17 December 1981,

Recalling also all relevant General Assembly resolutions, including the latest, resolution 59/33 of 1 December 2004, in which the Assembly declared that Israel had failed to comply with Security Council resolution 497 (1981) and demanded that Israel withdraw from all the occupied Syrian Golan,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that Syrian territory,

Reaffirming the principle of non-acquisition of territory by force in accordance with the Charter of the United Nations, the principles of international law and Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/59/381) and, in this connection, deploring the Israeli settlement in the occupied Arab territories, including in the occupied Syrian Golan, and regretting Israel's constant refusal to cooperate with and to receive the Special Committee,

Guided by the relevant provisions of the Charter of the United Nations, international law and the Universal Declaration of Human Rights, and reaffirming the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the relevant provisions of the Hague Conventions of 1899 and 1907 to the occupied Syrian Golan,

Reaffirming the importance of the peace process which started in Madrid on the basis of Security Council resolutions 242 (1967) and 338 (1973) and the principle of land for peace, and expressing its grave concern over the halt in the peace process in the Middle East, and its hope that peace talks will be resumed on the basis of the full implementation of Council resolutions 242 (1967) and 338 (1973) for the establishment of a just and comprehensive peace in the region,

Reaffirming also its previous relevant resolutions, the most recent being resolution 2004/8 of 15 April 2004,

1. *Calls upon* Israel, the occupying Power, to comply with the relevant resolutions of the General Assembly and of the Security Council, in particular resolution 497 (1981), in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration on the occupied Syrian Golan is null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision;

2. *Also calls upon* Israel to desist from changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, and emphasizes that the displaced persons of the population of the occupied Syrian Golan must be allowed to return to their homes and to recover their properties;

3. *Further calls upon* Israel, the occupying Power, to desist from imposing Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan, to release all detained citizens in the occupied Syrian Golan, to desist from its repressive measures against them and from all other practices mentioned in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories;

4. *Determines* that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the occupied Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and have no legal effect;

5. *Calls once again upon* Member States not to recognize any of the legislative or administrative measures and actions referred to above;

6. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission at its sixty-second session;

7. *Decides* to include in the provisional agenda of its sixty-second session, as a matter of high priority, the item entitled “Question of the violation of human rights in the occupied Arab territories, including Palestine”.

49th meeting

14 April 2005

[Adopted by a recorded vote of 32 to 2,
with 19 abstentions. See chap. VIII.]
