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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Report of the Special Rapporteur of the Commission on Human Rights,
John Dugard, on the situation of human rights in the Palestinian territories
occupied by Israel since 1967***

* In accordance with General Assembly resolution 53/208 B, paragraph 8, this document is submitted late so as to include the most up-to-date information possible.

Summary

The situation in the Occupied Palestinian Territory (OPT) is characterized by serious violations of general international law, of human rights law and of international humanitarian law. It is not helpful to suggest that a solution can be found to the conflict in the region by ignoring norms of international law. A sustainable peace in the region must take place within the framework of international law and relevant resolutions of the United Nations.

Terrorism is a constant feature of the conflict in the OPT and neighbouring Israel. Both Palestinians and Israelis have been responsible for inflicting a reign of terror on innocent civilians. Measures must be taken to prevent terrorism, but not at the expense of fundamental principles of law. The Wall presently being constructed by Israel, insofar as it is built on Palestinian territory, cannot be justified as a legitimate or proportionate response to terrorism.

The present report focuses on the Wall in the West Bank. This should not result in a failure to pay proper attention to the situation in Gaza where death and destruction remain a feature of daily life. House demolitions continue unabated and the number of homeless persons rises steadily - particularly in the Rafah refugee camp. Moreover, the people of Gaza are subjected to regular military incursions in which scant regard is paid to civilian life.

The Wall being built by Israel in the name of security penetrates deep into Palestinian territory and has resulted in the creation of a zone between the Green Line (the de facto border between Israel and Palestine) and the Wall inside the OPT, which Israel has designated as "closed" to all Palestinians. Palestinians who live, farm, work or go to school within this closed zone require special permits from the Israeli authorities. Both the construction of the Wall and the operation of the permit system for the "Closed Zone" between the Wall and the Green Line have caused great hardships to Palestinians and violated norms of human rights law and international humanitarian law.

The construction of the Wall has resulted in the large-scale destruction of Palestinian property. Olive and citrus trees have been uprooted and agricultural land reduced to a wasteland. The seizure of land for the building of the Wall has taken place without due process of law. Notice of seizure of land has been served in an arbitrary manner and there is, in the circumstances, no real remedy available to landowners to contest the seizure of land. The Wall has infrequent gates for the purpose of crossing. Consequently, those farmers granted permits to farm their land have difficulty in accessing their land.

The permit system for the Closed Zone is administered in an arbitrary and humiliating manner. Permits are frequently withheld, even for landowners and residents of the Closed Zone, or granted for short periods only. The failure to grant permits to farmers to cultivate their lands will result in neglect and ultimate decay of fertile agricultural land. The permit system has also drastically interfered with education, health care and family life. This system, which subjects Palestinian freedom of movement to the whim of the Occupying Power, creates anger, anxiety and humiliation among the population. In the result, it is likely to create insecurity for Israel rather than security.

There is a real prospect that life will become so intolerable for those villagers living in the Closed Zone that they will abandon their homes and migrate to the West Bank. Farmers whose lands are in the Closed Zone are also likely to abandon their farms under pressure from an arbitrary permit system.

The main beneficiaries of the Wall are settlers: 54 settlements and 142,000 settlers (that is 63 per cent of the West Bank settlement population) will find themselves on the Israeli side of the Wall, with access to land separated from its Palestinian owners.

The Wall might have been justified as a legitimate security measure to prevent would-be suicide bombers from entering Israel had it followed the course of the Green Line. The manner in which it has been built - largely on Palestinian territory - cannot, however, be justified on security grounds. The building of the Wall, in such a way that it separates farmers from their land, isolates villages from employment, schools and health care, brings settlers within the de facto borders of Israel and confirms the unlawful annexation of East Jerusalem, suggests that the main purpose of the Wall is the annexation, albeit by de facto means, of additional land for the State of Israel.

The Wall violates the prohibition on the acquisition of territory by forcible means, and seriously undermines the right to self-determination of the Palestinian people by reducing the size of a future Palestinian State. Moreover, it violates important norms of international humanitarian law prohibiting the annexation of occupied territory, the establishment of settlements, the confiscation of private land and the forcible transfer of people. Human rights norms are likewise violated, particularly those affirming freedom of movement, the right to family life and the right to education and health care.

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Introduction

1. This is an addendum to the Special Rapporteur's report of 8 September 2003 (E/CN.4/2004/6).
2. The Special Rapporteur visited the Occupied Palestinian Territory (OPT) and Israel from 8 to 15 February 2004. He met with members of the Palestinian Authority (PA), Palestinian and Israeli interlocutors and non-governmental organizations (NGOs), United Nations agencies, and Palestinian men, women and children who have suffered as a consequence of the Israeli occupation. This visit focused upon human rights violations in Gaza and the impact on human rights of the wall, or barrier,^{*} being built in Palestinian territory in the West Bank. In Gaza, the Special Rapporteur visited Gaza City and the Rafah refugee camp, where he examined the damage caused to homes adjacent to the wall built by Israel along the border with Egypt and met with teachers and children in United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) schools who had suffered as a result of Israeli military incursions and shelling. In the West Bank the Special Rapporteur visited many sections of the Wall or barrier and discussed its impact on affected communities with local residents and NGOs active in monitoring the situation. The following towns and villages along the Wall were visited:

Bethlehem region: Al Walaja, Beit Jala, Beit Sahur, Al Khas and Bethlehem;

Jerusalem: Abu Dis, Al Eizariya;

North-West Jerusalem: Beit Surik, Biddu, Qatanna;

Qalqiliya region: Sanniriya, Beit Amin, Azzun Atma, Ras Atiya, Ras A-Tira and Qalqiliya;

Tulkarm region: Far'un, Jubara, Al-Jarushiya, Attil, Zeita, Baqa Ash-Sharqiya and Tulkarm.

3. The mandate of the Special Rapporteur is to investigate Israel's "violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons of 1949" in the OPT (Commission resolution 1993/2). This requires the Special Rapporteur to ascertain, on the basis of the available evidence, whether Israel has violated fundamental principles of international law, international human rights law and international humanitarian law and, if so, to report it to the Commission. In some quarters, it is being suggested that reports of this kind are unhelpful to the peace process in the Middle East. It is argued that the principal parties to the conflict in the region should resolve their differences and agree upon matters such as boundaries, Israeli settlements in the OPT, the return of refugees and access to religious sites free from the restraints of international law. The Special Rapporteur does not share this view. There are universally

* The terms "wall" and "barrier" are both used in this report. "Wall" is the term used by the General Assembly in resolution ES-10/14 of 3 December 2003.

accepted rules of international law prohibiting the acquisition of territory by force, the signing of treaties under duress, the mistreatment of civilians of occupied territories, the settling of a belligerent occupant's population in occupied territory and the violation of human rights. There are also a host of resolutions of the United Nations applying these rules to the OPT. An internationally acceptable peace in the region must take place within the framework and constraints of these rules. By reporting on violations of these rules the Special Rapporteur therefore advances rather than hinders the peace process.

I. TERRORISM, SECURITY AND THE VIOLATION OF INTERNATIONAL LAW

4. Terrorism, unfortunately, is a feature of the conflict in the region. Palestinian suicide bombers have caused death and devastation within Israel. Innocent Israeli civilians, in buses and public places, have been killed and wounded by fanatical Palestinians prepared to spread terror throughout Israel. At the same time, the Israel Defence Forces (IDF) have inflicted a reign of terror upon innocent Palestinians in the course of their assassination of militants in densely populated towns, their destruction of homes, and their random firing in built-up areas - not to mention the methodical intimidation and humiliation of civilians at checkpoints. In this environment of terror and intimidation both Israelis and Palestinians understandably yearn for security. But security cannot be achieved at the expense of basic principles of international law. There are limits to the measures that may be taken to achieve security. Israel cannot under international law advance its security by forcibly seizing the land of its neighbour and subjecting its neighbour to an oppressive regime in which basic human rights are violated. International law permits the use of force in self-defence, the departure from some principles of humanitarian law on grounds of military necessity and the derogation from some human rights in emergency situations. But these are exceptional measures that are subject to the restraints of both proportionality and legitimacy. In the view of the Special Rapporteur many of the measures taken by Israel against Palestine are seriously disproportionate to the dangers to which Israel is subjected. Moreover, the question must be asked whether some of the actions taken by Israel that are described in this report are primarily concerned with the achievement of security. Checkpoints seem to have as one of their goals the humiliation of the Palestinian people while the Wall, when it enters Palestinian territory, seems to be mainly aimed at the seizure of land for purposes unrelated to security. These are serious matters. But they are matters that must be addressed in any evaluation of Israel's compliance or non-compliance with international law. States throughout the world have exploited international concerns about terrorism in the post-11 September era to their advantage. Israel is no exception.

II. THE VIOLATION OF HUMAN RIGHTS IN GAZA

5. Death and destruction continue to be the fate of Gaza. During the visit of the Special Rapporteur 15 Palestinians, including 3 civilians, were killed and 62 wounded in gun battles with the IDF. The targeted killing of militants in densely populated areas is carried out with little regard for civilians. Innocent passers-by, often children, have consequently been killed or wounded in these attacks. Of the 95 persons killed or injured in targeted killings in Gaza since 1 January 2003, most were civilians. As pointed out in earlier reports, targeted killings and assassinations are illegal and may constitute war crimes. Moreover, the principle of distinction, a fundamental tenet of international humanitarian law, obliges States to distinguish at all times between civilians and combatants in their military operations. The IDF often fails to pay due

regard to this principle and, moreover, does not in most cases investigate the killing of civilians or prosecute those responsible. Although over 2,500 Palestinians have been killed by the IDF since the start of the second intifada in September 2000, only 15 soldiers have been indicted for causing death or grievous injury to Palestinians. Impunity of this kind in an international order committed to accountability for international crimes and the criminal responsibility of commanders for crimes committed by their troops is a matter of serious concern.

6. The demolition of houses and the destruction of property continue unabated. A total of 1,640 homes have been destroyed or damaged beyond repair in the Gaza Strip since 2000, rendering 2,705 families - about 15,000 persons - homeless. The IDF has been particularly active in its demolition of homes in Rafah, adjacent to the border with Egypt. A total of 1,063 homes have been destroyed or damaged beyond repair since 2000 rendering 1,846 families - about 9,970 persons - homeless. Since January 2003 the number of homes destroyed has increased dramatically. In October 2003 alone 198 homes were destroyed in Rafah. Here, as elsewhere, the defence of military necessity and security must be carefully scrutinized. An eight-metre metal and concrete wall along the Egyptian border protects IDF patrols along the border from sniper fire. That tunnels from Egyptian territory into Rafah exist cannot be disputed. Nor can it be disputed that these tunnels are used for the smuggling of goods and arms. On the other hand, the question must be asked whether the high-tech IDF does not have the expertise to discover and destroy these tunnels in the vacant territory adjacent to the wall. Is it really necessary to destroy more and more houses in the vicinity of the boundary wall on the pretext of destroying tunnels?

7. While in Rafah the Special Rapporteur visited UNRWA schools close to the razed zone near the boundary wall. Teachers at one school told of random shooting in the direction of the school that terrorized children and disrupted school activities. Shell holes in the school walls confirmed the veracity of these statements. At another school, teenage girls at a trauma counselling session attended by the Special Rapporteur spoke with tears and pain about their experiences of military occupation: of neighbours shot by the IDF and savaged by IDF sniffer dogs; of homes destroyed without proper notice; and of their desire to live normal lives like children in other countries. To deny childhood to children is unforgivable. Moreover, to create feelings of hatred in the youth of Palestine in this way is impossible to reconcile with the security concerns that Israel claims guide its actions. From the perspective of international law it must be noted that the actions of the IDF violate many provisions of the Convention on the Rights of the Child.

III. THE WALL (OR BARRIER) AND INTERNATIONAL LAW

8. In his report of 8 September 2003 the Special Rapporteur described the nature of the Wall. At times it takes the form of an eight-metre-high concrete wall, at other times it takes the form of a barrier some 60-100 metres wide with buffer zones protected by barbed wire and trenches and patrol roads on either side of an electric fence. The first phase of the Wall, running for 180 kilometres, has been completed. It is estimated that, when completed, it will be 687 kilometres in length, penetrating some 22 kilometres into Palestinian territory at one point to include the settlements of Ariel, Immanuel and Kedumim. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimated in its report of 9 November 2003, that approximately 680,000 persons - that is 30 per cent of the population of the West Bank - will be directly harmed by the Wall; 280,000 Palestinians living in 122 towns and villages will be

enclosed in the area between the Wall and the 1949 Armistice Line or Green Line (the de facto border between Israel and Palestine) or in enclaves completely surrounded by the Wall while another 400,000 living to the east of the Wall will need to cross it to get to their farms, jobs and services. Other studies put the estimated number of Palestinians likely to be affected by the Wall at over 860,000, that is about 36 per cent of the population. OCHA estimates that 14.5 per cent of West Bank land (excluding East Jerusalem) will lie between the Wall and the Green Line. Estimates of this kind may not be completely accurate. However, they are supported by studies from reliable sources and it is significant that they have not been seriously challenged by Israel.

9. Israel has designated the area between the Wall and the Green Line as a “Closed Zone” in which Israelis may travel freely, but not Palestinians. Thus, over 13,500 Palestinians who live in the “Closed Zone” are obliged to have permits to live in their own homes. (See Order Regarding Security Regulations (Judea and Samaria) (No. 378) 5730-1970 [Declaration concerning Closing an Area No. S/2/03 (Seam Zone)]). This means that it has become a privilege for Palestinians to live in their own homes while Israelis have the right to travel freely in this area. Surely this provides yet further evidence of Israel’s intention to annex this territory?

10. Palestinians living within the West Bank with farms inside the “Closed Zone” require permits to cross the Wall into this zone, as do others from the West Bank who wish to visit the Zone for personal, humanitarian or business reasons. To make matters worse, passage through the wall or barrier at checkpoints is administered in an arbitrary manner, apparently designed to pressure Palestinians into leaving their homes to relocate on the other side of the wall, thereby creating a new generation of internally displaced persons.

11. The barrier has been, and is being, built with no regard for the environment. Beautiful hills and valleys have been scarred by the wide barrier. Thousands of olive and citrus trees have been uprooted and fertile agricultural land reduced to a wasteland. There is no evidence that Israel carried out an environmental impact assessment before it embarked on the construction of the Wall.

12. In his earlier report the Special Rapporteur described the construction of the wall in Palestinian territory as an act of de facto annexation in violation of basic norms of international law. The International Court of Justice has been asked by the General Assembly to give an advisory opinion on this subject and, at the time of writing this report, this has still to be done. The view of the Special Rapporteur on this subject remains unchanged. Indeed, his view has been strengthened by his visit to several sections of the Wall inside Palestinian territory in the Qalqiliya/Tulkarm region, which cannot be explained in terms of security.

13. Most of the Wall is built in Palestinian territory. Where the Wall penetrates Palestinian territory it snakes around villages, separating villages and people from agricultural land. Security could just as easily, and probably more effectively, have been achieved by building the Wall to the west along the Green Line. It is difficult to resist the Palestinian claim that the Wall has been built in this way in order to put agricultural land out of the reach of farmers - and within the reach of settlements adjacent to these lands. Israel clearly wants land, not people. Hence the construction of the Wall around villages, leaving land on its westward side to Israel. Enclaves within the Closed Zone between the Green Line and the wall cannot be explained in terms of security. What conceivable security goal does the enclave enclosing the village of Ras-A-Tira achieve? Is it not easier to explain enclaves of this kind as a measure to isolate villages so that

their inhabitants will ultimately withdraw to the eastern side of the Wall, leaving more vacant land to Israel? And is not this the fate intended for villages like Jubara in the Closed Zone? How is the Wall separating Palestinians at Abu Dis in Jerusalem to be justified on security grounds? If the purpose of the Wall is to prevent Palestinian suicide bombers from crossing into Israel, why is Israel unconcerned about the security risk posed by the thousands of Palestinians who are situated in villages on the Israeli side of the Wall (between Green Line and Wall)? Or is the final aim to compel them to relocate to the West Bank side of the Wall? These are questions that must be satisfactorily answered by Israel if it is to persuade the international community that the latter is confronted with a good faith attempt to provide security for its people rather than forcible territorial expansion.

14. Israel claims that the taking of land for the purposes of the Wall has been done in accordance with due process of law; and that the people affected have been treated humanely, particularly in respect of the granting of permits and access to schools and medical facilities. The Special Rapporteur found no evidence to substantiate these claims.

15. The justification advanced by Israel for the seizure of land between the Green Line and the Wall is security. Notices of land seizure in many instances have simply been served by placing an order of seizure under a stone or on a tree. Sometimes the order is written in Hebrew only, with no Arabic translation. In theory, the seizure of the land is temporary, until 31 December 2005, but there is every likelihood that such seizures will be renewed. Thus, it seems that this is a case of constructive confiscation. Owners are given one week in which to lodge an appeal, but this has not occurred in most instances for reasons ranging from shortness of notice, lack of funds to prosecute an appeal properly, and the widespread distrust of the Israeli judicial system resulting from the lack of success of Palestinian landowners in other cases involving the taking of land. The process of land taking has also been destructive. Olive and citrus trees have been uprooted - and sometimes sold in Israel! The Special Rapporteur visited an area near the Wall at Al-Jarushiya where 30 dunums of olive trees had been destroyed by error in the course of construction of the Wall.

16. The Wall may be crossed at checkpoints only. These checkpoints are infrequent - only 31 in the first 180 kilometres - and most open for limited periods of the day only. Consequently, farmers generally have to travel great distances to reach their lands adjacent to their homes, but across the Wall. Schoolchildren likewise have to travel considerable distances to reach school. Checkpoints are staffed in an intimidating manner: those crossing the barrier are carefully searched, at gunpoint. The situation is aggravated by the arbitrary manner in which gate crossings are opened. During October 2003 gates were closed for several weeks because of Jewish holidays. Moreover, gates are not regularly opened at the scheduled time or kept open for the scheduled period of time.

17. Farmers separated by the Wall from their land require permits to farm their land. In many instances permits are refused. Reasons advanced for refusal are:

(a) Failure to prove ownership - a difficult requirement in a country with archaic land ownership laws and one in which landowners often leave their land to several sons without formal registration of ownership;

(b) Security - interpreted generously by the IDF to exclude anyone with a security record;

(c) Age - in practice elderly farmers receive permits but not their younger, able-bodied sons who might constitute a security risk.

18. Permits are not granted to those who rent land only. Nor are they granted to labourers to cultivate land or to harvest crops. To aggravate matters, permits are sometimes granted for very short periods, normally from two to six months. The Special Rapporteur met a farmer granted a permit to farm his land for only 12 days. The system is administered in a highly bureaucratic manner in which applicants are required to provide clear evidence of their residence and land ownership and to satisfy the IDF that they pose no security risk. As a result farms are sometimes worked by men seen as too old to be a security risk or boys who have received permits to attend school in the Closed Zone. Moreover, permits are often denied to heavy vehicles to cross the Wall.

19. The permit system has already had a devastating effect upon agriculture in Palestine. Citrus trees are dying due to lack of irrigation. In the village of Jayyus, 90 per cent of the guava crop was lost, and poultry farming is coming to an end in the Closed Zone and enclaves because of the impossibility of providing food for poultry. There is a marked decline in agricultural productivity and production as many crops and orchards to the west of the Wall remain uncultivated by their owners who live on the eastern side of the Wall. Inevitably, this decline in food production from the agricultural heartland of Palestine will have serious consequences for the Palestinian people.

20. In some instances children are required to cross the barrier to attend school. The school at Azzun Atma, for instance, has 219 pupils of whom 80 live in Beit Amin on the other side of the Wall. The Special Rapporteur saw school crossings at Beit Amin/Azzun Atma, Ras Atiya/Ras-A-Tira and Jubara. Permit policy varies from place to place. In some places the crossing point simply keeps a list of children's names, while in other places permits are required for children over the age of 12. Children not infrequently have to wait for long periods of time at crossing points, without shelter from the rain. There are serious complaints of harassment of children at such crossing points. The Special Rapporteur's observation of the school crossing at Ras Atiya/Ras-A-Tira was painful: he saw young girls carefully searched by one soldier while another pointed a gun at her. Parents are not given permits to visit their children's school. (Would such a practice be tolerated by Israeli parents?) The Al-Quds University of Abu Dis is also directly affected by the Wall. Students will be obliged to travel considerable distances to reach a campus which, geographically, is not far from their homes.

21. There are no hospitals in the Closed Zones. Those living in such zones must therefore cross the barrier at a checkpoint to reach hospitals. Inevitably, this causes delays in emergency situations and there are already reports of deaths en route to hospital. A stark example of the change in access to hospitalization is presented by Abu Dis. Before the construction of the Wall residents might be treated at a hospital in Jerusalem. Now they must travel to Bethlehem - a journey of some two hours along a poor road and through checkpoints. Although there are primary health-care clinics isolated between the Wall and the Green Line they do not extend to ophthalmology, gynaecology, dermatology, paediatrics or diabetes services. Many clinics do not

offer medication and there are difficulties in gaining access to pharmacies. Moreover, many doctors do not live in the same village as their clinic and have the usual problems in gaining access to their clinic.

22. Family life is a victim of the Wall. Within the Closed Zone not all members of a family are granted permits to reside within the Zone. In some localities, such as Jerusalem, married couples are divided by their identity documents. The husband may have a West Bank identity document, the wife a Jerusalem identity document. Such couples will either have to move to the West Bank or face separation. Moreover, the quality of family life suffers from unnecessarily long journeys to reach checkpoints to work or to school. Visits to family members resident on the other side of the Wall are subject to the usual uncertainties of the permit system.

23. The permit system regulating movement between the Wall and the Green Line and into the Closed Zone is intrinsically unfair and arbitrarily administered. There are different kinds of permits. (Lily Galili, writing in *Haaretz* on 13 February 2004, estimates that there are 11 different kinds of permit for persons wishing to visit the Closed Zone!) If they are granted, they are granted for short periods of time and require repeated renewal with all the attendant bureaucratic difficulties. Often they are refused without reason or for no apparently good reason. They subject the freedom of movement of Palestinians to the whim of the Occupying Power. The uncertainty and unpredictability of the permit system creates anger, anxiety and humiliation.

24. The Wall aggravates a humanitarian crisis that is already acute in the West Bank as a result of curfews, closures and checkpoints. The cities of Qalqiliya and Tulkarm have become ghost towns: their commercial life has been destroyed by their isolation from the West Bank; while farmers in the vicinity of these cities are no longer able to market their produce. Some 600 shops have reportedly closed in Qalqiliya and an estimated 6,000 persons have left the area.

25. At present those affected by the Wall are determined to stay. But there is a real possibility that the residents of villages within the Closed Zone, and those near to the Wall who have been separated from their lands, will admit defeat and move east, the victims of strangulation by permit, intimidation and isolation. Palestinians in Jerusalem face a similar fate. The Wall at Abu Dis has already led to a 60 per cent depreciation in property values and both residents and shopkeepers now contemplate migration. "Voluntary" population transfer of this kind is seen by Palestinians as the principal aim of the Wall.

26. The immediate beneficiaries of the Wall are the settlers: 54 settlements containing 142,000 settlers (that is 63 per cent of the West Bank settlement population) will find themselves on the Israeli side of the Wall, with the prospect of access to and, in due course, appropriation of new land separated from its Palestinian owners. The rhetoric of a "freeze on settlements" has lost its meaning and settlements feel free to expand, both in terms of new buildings and asserted security zones. Settlements may be illegal in terms of the sixth paragraph of article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (the Fourth Geneva Convention), but they have achieved a new

recognition and status under Israeli law as a result of the Wall. However, it is important to stress that the illegal nature of settlements makes it impossible to justify the penetration of the Wall into Palestinian territory as a lawful or legitimate security measure to protect settlements. This also applies to the building of the Wall within the illegally annexed part of East Jerusalem.

27. The Special Rapporteur is compelled to conclude, on the basis of evidence made available to him and the benefit of on-site inspection, that the Wall does not serve a legitimate security purpose when it enters into Palestinian land. Rather, this penetration seems designed to expand Israeli territory and to bring illegal settlements into Israel. It must therefore be seen as an instrument of annexation, in violation of international law. As shown above, the Wall has serious implications for human rights and international humanitarian law. Space does not permit a detailed account of the norms violated. The following violations are, however, the most obvious.

28. *General international law.* As pointed out in the report of 8 September 2003, the construction of the Wall constitutes de facto annexation of Palestinian territory by forcible means and therefore violates the prohibition on the acquisition of territory by forcible means contained in Article 2 (4) of the United Nations Charter and General Assembly resolution 2625 (XXV) of 24 October 1970 on the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations. (See further E/CN.4/2004/6, para. 14.)

29. *International humanitarian law.* The Wall violates, directly or indirectly, a number of important principles of international humanitarian law. These include the prohibition on annexation of occupied territory (Fourth Geneva Convention, art. 47), on settlements (*ibid.*, art. 49, sixth paragraph), on confiscation of private property (The Hague Regulations, respecting the Laws and Customs of War on Land, art. 23 (g) and 46), on mass forcible transfers of the population of occupied territory (Fourth Geneva Convention, art. 49, first paragraph) and on the destruction of private property where such destruction is not “rendered absolutely necessary by military operations” (*ibid.*, art. 53). The Wall has also resulted in the failure on the part of Israel to facilitate the education of children and to ensure that the occupied population has adequate food and medication, in violation of articles 50 and 55 of the Fourth Geneva Convention.

30. *International human rights law.* A number of basic human rights are violated as a result of the Wall. These include freedom of movement, and the rights to family life, to work, to health, to an adequate standard of living, including adequate food, clothing and housing, and to education. The prohibition on discrimination contained in many international conventions is clearly violated in the Closed Zone in which Palestinians, but not Israelis, are required to have permits.

31. *Self-determination.* As pointed out in the report of 8 September 2003, the Wall interferes with the Palestinian right of self-determination as it substantially reduces the size of the self-determination unit within which the right is to be exercised (E/CN.4/2004/6, para. 15).

IV. CONCLUSION AND RECOMMENDATIONS

32. This addendum to the report of 8 September 2003 (E/CN.4/2004/6), and the report itself, identify serious violations of the international law prohibiting the acquisition of territory by force, of international human rights law and of international humanitarian law. The correct response on the part of States to such violations of international law is explicit non-recognition of the acquisition of territory by forcible means occasioned by the Wall and the condemnation of the violation of human rights and international humanitarian law that follow from this. It is recommended that the Commission call upon States to take such action. It is also recommended that the Commission establish a firmer presence of the Office of the High Commissioner for Human Rights in the region. This should be done by expanding the mandate of the Office in the region to include monitoring of human rights violations in addition to technical assistance.
