

April 2016

Concept Note

United Nations Security Council Arria-Formula Meeting Protection of the Palestinian Civilian Population in the Occupied Palestinian Territory

Co-Chairs of the Meeting: Egypt (President of the Security Council for May 2016), Malaysia, Senegal and Venezuela

Background:

1. The international community is witnessing the suffering of millions of civilians in conflicts around the world, particularly in the Middle East, where civilians are bearing the highest toll of armed conflict in all its forms, including foreign occupation. Such conflicts are inflicting grave humanitarian, social, economic, psychological and security consequences for innocent children, women and men.
2. Grave breaches of international humanitarian law (IHL) and serious violations of human rights law (HRL) and relevant United Nations resolutions are being committed systematically and with impunity, endangering the well-being, safety and lives of millions of civilians and deepening current crises and longstanding conflicts. The implications are far-reaching, including on large youth populations in affected countries and on short and long-term prospects for peace and stability. Such flagrant breaches and violations raise serious concerns, *inter alia*, about the applicability of and respect for the provisions of international law intended to protect civilians in armed conflict and require urgent international action to protect civilians and to uphold and strengthen the rule of law for this purpose.
3. In a June 2015 report on “Protection of Civilians in Armed Conflict”, the UN Secretary-General stressed that disrespect of IHL by some States and non-State armed groups and impunity for such violations have become “*one of the most critical challenges for the protection of civilians*”. Underscoring this crisis, the Secretary-General and the President of the ICRC issued an unprecedented joint appeal on 31 October 2015, condemning the growing lack of respect for IHL and decline in protection for civilians in many conflicts. They urged States to make every effort, individually and collectively, to achieve political solutions to conflicts, ensure compliance with IHL, hold violators accountable, grant unhindered access to and protect humanitarian and medical personnel, and respond to the needs of internally-displaced persons and refugees.
4. The Palestinian people, including millions of refugees from the 1948 *Nakba*, are among the millions of civilians suffering worldwide from the blatant lack of respect for international law. For nearly 50 years, since Israel occupied the West Bank, including East Jerusalem, and Gaza Strip in 1967, the Palestinian civilian population has endured systematic human rights violations, and even war crimes, by the occupying Power. Despite unequivocal reaffirmations by the Security Council (in at least 27 resolutions), General Assembly and International Court of Justice, among others, that the Geneva Convention relative to the Protection of Civilians in Time of War (4th Geneva Convention) is applicable to the Occupied Palestinian Territory, including East Jerusalem, and must be respected, Israel continues to perpetrate grave breaches deliberately

and with total impunity. Such actions have inflicted widespread human suffering, spanning multiple generations, and caused a protection crisis for the Palestinian people. The direct correlation between high rates of human insecurity and lack of compliance with IHL is obvious.

5. The 4th Geneva Convention specifically provides for civilian protection. Article 27 stipulates: *“Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.”* Article 29 defines the occupying Power’s obligations in this regard: *“The Party to the conflict in whose hands protected persons may be is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.”*
6. Further, as stressed in a relevant report by the UN Secretary-General in 1988 (S/19443): *“While that Convention makes the occupying Power responsible for maintaining law and order, its raison d’être is the safety and protection of the civilian population, for which the occupying Power is no less responsible.”* (Para 50) Israel’s illegal policies and practices in the Occupied Palestinian Territory constitute not only grave violations of this obligation, but reflect a total abdication of its responsibilities. Rather than ensuring the safety and well-being of the Palestinian civilian population, the occupying Power is the direct and constant source of their suffering and hardship.
7. This is evidenced in the experience of Palestinian civilians over the decades of the occupation and most painfully in recent years in the context of the Israeli military operations against the Gaza Strip in July-August 2014, November 2012 and December 2008-January 2009 and the vast human and physical devastation caused. In 2014, Israeli assaults, including deliberate and indiscriminate attacks on civilian areas, killed over 2,200 Palestinians and injured more than 11,000 people. In the same year, Israel caused the third highest number of child fatalities in conflicts worldwide, with 557 Palestinian children killed, the majority in Gaza in July-August 2014.
8. It is also evidenced in the context of ongoing, violent Israeli military raids in cities, towns, villages and refugee camps in the West Bank, including East Jerusalem, and the consequent killing and injury of civilians, including children and youth, several extra-judicially executed; rising Israeli settler violence and terror against Palestinian civilians; increased home demolitions and forced displacement of Palestinian civilians as Israel’s settlement campaign persists with impunity; its inhumane blockade of the Gaza Strip in collective punishment of the entire civilian population there; draconian movement restrictions violating rights to education, healthcare, livelihood, movement and worship; and the widespread arrest, detention, abuse and torture of Palestinian civilians, among other violations. This deplorable situation is corroborated in many UN and human rights organization reports, including the Secretary-General’s annual report on Children and Armed Conflict (A/69/926-S/2015/409), which documented, *inter alia*, the occupation’s devastating impact in specific on Palestinian children and their extreme vulnerability.

9. Such violations have also presented serious challenges for humanitarian actors seeking to alleviate the plight of affected civilian populations. Access restrictions, harassment and intimidation, and direct attacks against humanitarian personnel, supplies and facilities severely undermine the capacity to meet basic civilian needs and ensure protection for the most vulnerable, including children, women and disabled and elderly persons. The experience of UN agencies and other humanitarian organizations and human rights defenders in Occupied Palestine, including, *inter alia*, at the forefront the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), is a testament to the difficulties faced on a daily basis in this regard.
10. Despite these appalling facts; despite the global calls for respect of IHL principles and obligations for protection of civilians; despite the repeated calls for protection of the Palestinian civilian population; despite the review of historical precedents of UN missions with protection regimes conveyed by the Secretary-General to the Security Council (S/2015/809-21 October 2015); and despite the Council's own relevant resolutions, the Palestinian people under Israeli occupation continue to be deprived of effective protection, and these violations and crimes continue as the international community, foremost the Security Council, continues to fail to hold Israel accountable and to compel a halt to its violations and compliance with its legal obligations.
11. It should be recalled that:
- In resolution 605 (1987), the Council took into account "*the need to consider measures for the impartial protection of the Palestinian civilian population under Israeli occupation*" and requested the Secretary-General to examine the situation and report "*on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation*". The report's (S/19943) recommendations, however, similar to countless resolutions, were not implemented due to Israel's rejection of resolution 605 and the lack of political will to hold it to account.
 - In resolution 904 (1994), the Security Council called for "*measures to be taken to guarantee the safety and protection of Palestinian civilians throughout the occupied territory, including, inter alia, a temporary international or foreign presence...*". The Council also called upon "*Israel, the occupying Power, to continue to take and implement measures, including, inter alia, confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers*".
 - Reaffirmations of the occupying Power's legal obligations have also been repeatedly made by the General Assembly, Human Rights Council, Conferences of High Contracting Parties to the 4th Geneva Convention and successive Special Rapporteurs and High Commissioners for Human Rights, including Ms. Mary Robinson, who in 2001 stressed that "*The protection of the victim should be the overriding concern of the UN and its agencies and programmes... Protection needs to be accorded to the people of the occupied territories in strict compliance with the 4th Geneva Convention...*"
12. All of this has been to no avail as the Security Council has remained paralyzed, allowing Israel to continue its violations with impunity and with grave consequence for the civilian population. While in 1997 the Temporary International Presence in Hebron (TIPH), a small, unarmed international civilian contingent established after adoption of resolution 904 (1994), was deployed and continues to provide a limited protective presence in the city, Israeli violations never ceased and persist unabated to the present, underscoring the pressing need for effective protection of the Palestinian people.

13. The international community has clear responsibilities, particularly the Security Council and the High Contracting Parties to the 4th Geneva Convention. The UN's special responsibilities in this regard were further underscored in the recent report of the High-Level Independent Panel on Peace Operations (HIPPO-A/70/95-S/2015/446), which stressed that "*the protection of civilians in armed conflict is a core principle of international humanitarian law and a moral responsibility for the United Nations*", and decried the systemic constraints, including lack of consensus among Security Council members, that have prevented UN action to address the protection needs of civilians in many conflicts, as well as to resolve longstanding conflicts and prevent the outbreak of new conflicts.
14. Protecting civilian lives and sparing them the atrocities of war must be seen as necessary corollaries to the aims of peace and security, not as contradictory. The Security Council can and should act to protect civilians in situations of armed conflict, including situations of foreign occupation, and should make this objective a priority simultaneous with efforts to end conflicts and promote peaceful solutions, consistent with its Charter duties, international law, and its resolutions and commitments. For the Palestinian people, this call is more urgent than ever in an unsustainable and dangerous situation requiring immediate and genuine international attention and action.
15. This meeting will provide an opportunity for Security Council members to listen to presentations from legal scholars, human rights advocates and others on the critical situation of the Palestinian civilian population in the Occupied Palestinian Territory and to seriously consider what must be done by the international community to rectify this injustice, including the imperative of efforts to protect civilians and uphold human rights until the occupation is brought to an end and the Palestinian people are able to realize their inalienable rights, including to self-determination and independence. This is essential for saving human lives, for salvaging the prospects for Palestinian-Israeli peace in accordance with the relevant UN resolutions, the Madrid principles and the Arab Peace Initiative, and for restoring the primacy of international law and the credibility of the Council itself.

Date/Time: 6 May 2016 at 15:00 hours

Format/Participation: Open to attendance by all delegations, interventions by Security Council members and briefers only