

# **ONE SINGLE TASK TO BE PERFORMED BY THE UNITED NATIONS: TO ENFORCE INTERNATIONAL LAW**

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International law has been a constant feature of the Palestinian conflict, from the Partition Plan (1947) to the Advisory Opinion of the International Court of Justice –ICJ– (2004). "The responsibility of the United Nations in this matter also has its origin in the Mandate and the Partition Resolution concerning Palestine... this special responsibility was discharged for five decades without proper regard for the rule of law".<sup>2</sup> International law needs indeed to be more than a moral proposal to deserve the label of "law", it needs real mechanisms to guarantee its implementation, and it needs to answer the victims and to prevent the impunity of criminals. Owing to the constant disregard for international law in Palestine, we have to admit that the United Nations have until now failed to discharge their responsibility.

Admittedly, the United Nations do not have the primary responsibility for enforcing international law in Palestine and the organization as such is not the sole responsible of the failure of international law but it should undeniably be its ultimate guardian. As it shall be emphasized during this intervention, both Israeli law and international law have failed to bring justice to the Palestinian people, human rights have been traded off during the successive peace agreements and processes and non governmental organizations, under the impulse of donor governments, have substituted human rights advocacy by humanitarian assistance. Accomplice by their silence and their passivity, the United Nations has resisted and still resist the application of sanctions against Israel.

## **1. THE FAILURE OF ISRAELI DOMESTIC LAW TO BRING JUSTICE**

We cannot expect from the Israeli judicial system to bring justice to Palestinians. Israel denies the rights of the Palestinian people through three different strategies: a) by refusing the applicability of international law in Palestine, b) by creating a body of rules to "legalize" the lack of rights of the Palestinians, and c) by guaranteeing systematic impunity to those responsible for violations of the Palestinians' rights.

The first strategy, the inapplicability of international law, is out of discussion.<sup>3</sup> Regarding the second one, to "legalize" the lack of rights of the Palestinians, series of practices, illegal according to international law, have been approved by the Israeli legal

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<sup>2</sup> Separate opinion of Judge Elaraby to the Advisory Opinion. See: International Court of Justice: *Legal consequences of the construction of the wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, paragraph 1.

<sup>3</sup> Beside experts and institutions' opinions, between 1967 and 2002, a total of 26 Security Council resolutions have confirmed the applicability of Geneva Conventions in Palestine. See among others, Al-Haq: *The applicability of Human Rights Law to Occupied Territories: the case of Occupied Palestinian Territories*, Ramallah, 2003; International Court of Justice: *Legal consequences...* paragraphs 95 and 109.

system<sup>4</sup>. For instance, with regard to the wall, the Israeli judicial system had only proposed to modify its path of few kilometers<sup>5</sup>; later on, the Israeli High Court of Justice considered unanimously that the wall is legal even beyond the Green Line.<sup>6</sup> With regard to interrogations, the Israeli judicial system used to accept “moderate physical pressures” on detainees. Furthermore, for the Israeli judicial system, the destruction of houses has been justified by “imperative military reasons”.<sup>7</sup>

Despite the international status of Jerusalem, the Israeli Basic Law proclaimed Jerusalem as the capital of Israel. The Israeli legal system considers legal the administrative detention, which breaches international human rights law, and has even been applied to children.<sup>8</sup> Israel controls water sources in Palestine and under domestic law it is legal: Palestinians cannot dig new wells and they have limited quantity of water. Finally, with regards to Israeli settlements, both old and new illegal according to international law, the Israeli judicial system considers most of them legal. This is the logic of negotiation of international law. For instance, contrary to the idea spread by Israeli leadership, the withdrawal from Gaza is not a concession; it is a duty, and it should be done not only from Gaza but also from West Bank. Since 1967, Israel has passed more than 2,500 military orders to control the life of Palestinians. Between October 2000 and October 2002 more than 60 projects to control even more Palestinians were presented before the Israeli parliament.<sup>9</sup>

The third strategy mentioned is the impunity. It does not concern isolated cases; it results from a clear policy of the government. As Sharon said, “It won’t be possible to reach an agreement with them before the Palestinians are hit hard. Now they have to be hit. If they aren’t badly beaten, there won’t be any negotiations... we have to cause them heavy casualties...”<sup>10</sup> Then, this kind of acts has the clear support of the Israeli government.

## 2. THE FAILURE OF INTERNATIONAL LAW TO BRING JUSTICE

The ICJ has gone beyond the discussion about the wall in its Advisory Opinion; it has examined all the legal arguments of the Palestinian people against the occupation and its consequences (except, among others, the right to return of the Palestinian refugees). It confirmed for example the applicability of the Geneva Conventions<sup>11</sup> as well as human rights law in Palestine<sup>12</sup>. It also denounced Israeli attempts to annex Jerusalem; it

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<sup>4</sup> Regarding “legal” basis supported by the Israeli High Court of Justice, see, Ayoub, Nizar: *The Israeli High Court of Justice and the Palestinian Intifada. A stamp of approval for Israeli violations in the Occupied Territories*, Al-Haq, Ramallah, 2003

<sup>5</sup> Dallashah, Leena: “Salvation from the High Court or a Hollow Victory?” *News from Within*, Vol. XX. No 5. August 2004, pp. 18-19

<sup>6</sup> The Court based its decision on the rights of settlers under Israeli law. See: “High Court: Construction of W. Bank fence is legal” *Haaretz*, September 15 2005

<sup>7</sup> Shane Darcy: “Israel’s punitive house demolition policy. Collective punishment in violation of International Law”, Al-Haq, Ramallah, 2003

<sup>8</sup> Kay, Adah: “The current situation: Palestinian children”. United Nations Headquarter, New York, September 2004, p. 4

<sup>9</sup> Warschawski, Michel: *A tumba abierta*, Icaria, Barcelona, 2004, p. 71

<sup>10</sup> “Sharon: First we’ll beat them badly, then we can negotiate” *Haaretz*, March 5 2002

<sup>11</sup> See also, the “Conference of High Contracting Parties to the Fourth Geneva Conventions” Geneva, 5 of December, 2001.

<sup>12</sup> See also, Al-Haq: *The Applicability of Human Rights...*

underlined the Palestinians' right to access to holy places; it mentioned the right to self-determination of the Palestinian people<sup>13</sup>; it recalled the illegality of Israeli settlements,<sup>14</sup> and it reaffirmed that land acquisition by force is illegal.<sup>15</sup>

The ICJ also asserted that the implementation of international law not only binds Israel but also other governments and, especially, the United Nations (UN). States "are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction".<sup>16</sup>

The problem is not only the wall. The wall is only the last of a long series of misdeeds on the ground such as expropriations, settlements, home demolition, and so on. This constant behavior evidences not only a systematic impunity but also a clear dare on the part of Israel against the UN system. Our hope in international justice has to go beyond the ICJ Advisory Opinion. For some governments, the adoption of a UN Resolution against Israel is a sufficient contribution to the Palestinian cause. For the Palestinian people another UN Resolution is good but it is obviously not enough.

Thomas Hobbes said that "conventions, without the sword, are just words",<sup>17</sup> and this is the worst problem of international law. Another problem derives from the tendency of most actors involved to negotiate away from international law or to negotiate international law itself.

The holders of the sword are trapped in their own system created to bring international peace: the Security Council. It is well-known that the UN, as well as the ICJ, has its own limitations, but it is difficult to explain to the victims that Palestinians won in The Hague but die in Gaza and in the West Bank, while they remain ignored by the rest of the world. If the UN does not want to use Hobbes' sword, then society as a whole has the duty to do it. Sometimes societies bypass governments. This has been the case, for example, of mobilizations against antipersonnel landmines, the Apartheid régime in South Africa, the creation of the International Criminal Court, and the fall of the Berlin wall. Societies and NGOs can and have to denounce. However, impunity for war crimes is not imputable to NGOs but to States parties to international agreements.

The UN should not limit itself to UNRWA<sup>18</sup> and UNRWA should not limit itself to humanitarian aid. In order to further analyze the failure of international law in Palestine, the following two paragraphs present the humanitarian law situation as well as the human rights situation in Palestine.

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<sup>13</sup> The United Nations General Assembly Resolution 58/292 May 17 2004, "affirms (...) that the Palestinian people have the right to self-determination and to sovereignty over their territory and that Israel, the occupying Power, has only the duties and obligations of an occupying Power under the Geneva Convention".

<sup>14</sup> According to the international law, all the Israeli settlements in Palestine are illegal (article 49 *Fourth Geneva Convention*, 1949) and also a war crime (article 147, *Fourth Geneva Conventions*)

<sup>15</sup> Article 2, *Charter of the United Nations*, 1945

<sup>16</sup> International Court of Justice: *Legal consequences...* paragraph 163

<sup>17</sup> Hobbes, Thomas: *Leviathan* 1651, Chapter XVII.

<sup>18</sup> UNRWA, United Nations Relief and Works Agency for Palestine Refugees in the Near East

## 2.1. International Humanitarian Law

International Humanitarian Law, IHL, seeks to protect the civilian population among of an armed conflict as well as an occupation. Besides, the Geneva Conventions seek to guarantee humanitarian action and access to the victims. Many examples illustrate the failure to achieve this mission in Palestine. For instance, during the Second *Intifada* and, especially, during the “Operation Defensive Shield” many ambulances and ICRC’s (International Committee of the Red Cross) cars were destroyed.

The Israel Defense Forces -IDF- attacked medical personnel, humanitarian organizations and even killed wounded people inside ambulances. The Palestinian Red Crescent could answer only 10% of the emergency calls received.<sup>19</sup> The distinction between civilians and combatants has been regularly ignored by the IDF. During the attack on Jenin (April 2002), a great number of civilians were wounded, used as human shields or killed.<sup>20</sup> Tanks surrounded many hospitals; the army endangered the life of patients and medical personnel; and prevented the supply of medical services.<sup>21</sup>

The application of IHL principles does not even require the end of the occupation; it only requires political will to guarantee humanitarian conditions. IHL does not concern itself with political debates on the status of Jerusalem or the right to return of Palestinians refugee; nonetheless, respect for basic rules cannot be achieved.<sup>22</sup> It seems that “The only viable prescription to end the grave violations of international humanitarian law is to end occupation”.<sup>23</sup>

## 2.2. Human Rights Law

The situation of human rights in Palestine is a disaster. Murders, tortures, illegal detentions, curfews, sieges, home demolitions, destruction and expropriations are common features of the occupation.<sup>24</sup> The perpetrators of human rights’ violations are not only the Israeli Defense Forces but also the settlers, who rely on the support of the IDF.<sup>25</sup> In the course of the second *Intifada*, 3,040 Palestinians have been killed by the IDF, among these, 606 were underage.<sup>26</sup> From September 2000 to June 2004, more than 10,000 children have been wounded, most of them while undertaking daily activities such as going to school or being inside of their homes.<sup>27</sup>

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<sup>19</sup> International Committee of the Red Cross: *ICRC Annual Report 2002*, Geneva, p. 305

<sup>20</sup> Human Rights Watch” Jenin: IDF Military Operations” May 2002 Vol. 14, No. 3 (E); and Human Rights Watch ” In a dark hour: The use of civilians during IDF arrest operations”, 18 April 2002, Vol. 14, Num. (E)

<sup>21</sup> AL-HAQ: *Israeli Attacks upon the Palestinian Medical Establishment during the Second Intifada*, Ramallah, 2004

<sup>22</sup> “Confronting Barriers to Medical Care in the West Bank” The Washington Post, April 10, 2002

<sup>23</sup> Separate opinion of Judge Elaraby to the Advisory Opinion. See: International Court of Justice: *Legal consequences...* paragraph 3

<sup>24</sup> Al-Haq: “*Four years since the beginning of the Intifada: systematic violations of Human Rights in the Occupied Palestinian Territories*” Ramallah, September 2004

<sup>25</sup> B’tselem: *Tactic Consent: Israeli Law Enforcement on Settlers in the Occupied Territories*, Jerusalem, Information Sheet, March 2001, y B’tselem: *Free Rein, Vigilante Settlers and Israel’s Non-Enforcement of the Law*, Information Sheet, October 2001.

<sup>26</sup> B’tselem: *Fatalities in the Al-Aqsa Intifada*,: 29 Sept. 2000 - 30 November 2004

<sup>27</sup> Kay, “The current situation... p. 3

Since 1967, Israel has detained more than 600,000 Palestinians.<sup>28</sup> In 2002, thousands of Palestinians were arrested, most of them without charges. 6,000 were still in prison in September 2003.<sup>29</sup> There exist, a special detention regime without charges or assistance of a lawyer, the so-called “administrative detention”, introduced in Israeli law in 1970. Between 1988 and 1993, more than 16,000 persons suffered this kind of detention.<sup>30</sup> In September 2003, 760 Palestinians remained under administrative detention.<sup>31</sup>

196 homes were demolished during the first 10 days of the Second *Intifada*<sup>32</sup> and 1,016 during the first semester of 2004.<sup>33</sup> Only in Rafah, during 2004, Israel demolished totally 598 homes and 458 partially.<sup>34</sup> According to UNRWA, in Gaza during 2004, 1,360 persons became homeless per month that is 45 persons per day.<sup>35</sup> This summary of the situation of the right to life, the right to freedom and the right to property shows clearly the lack of implementation of human rights law in Palestine.

Feelings of guilt in Europe and the powerful pro-Israeli lobby in the USA make the conclusion of any agreement based on international law difficult. It is not even possible to demand the application international law in Palestine. Advocating the rights of the Palestinian people is widely understood as an anti-Semitic behavior.

Regarding the enforcement of international law in so-called “negotiations” and “peace processes”, why are human rights and international law excluded from almost all the proposals and agreements? This has been the case in the Oslo Agreements, in the Road Map to Peace.<sup>36</sup> If the overt denial and constant violation of Palestinians’ rights by Israel remains internationally accepted, it will become very difficult to speak of human rights as universal principles and able to contribute to justice to Palestine.

Beside it, the role of the so-called international community through the NGOs and the donors is source of concern. The way a “humanitarian crisis” has been created by the NGOs and the donors themselves is a shame. According to the World Health Organization (WHO), “there is no evidence that the *Intifada* has dramatically influenced rates of malnutrition in children”.<sup>37</sup> Despite this technical information as well as the fact that “there is no evidence that the food aid has had any impact on nutritional status”<sup>38</sup>, humanitarian agencies and the so-called “international community” continue prioritizing food aid. Of the 302 millions asked by the humanitarian agencies in 2005,

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<sup>28</sup> Kay, “The current situation... p. 3

<sup>29</sup> Dugard, “Question of the violation... Section VI: prisoners.

<sup>30</sup> AL-HAQ: *The Applicability of...* p. 68

<sup>31</sup> B’tselem: “Administrative detention – statistics”, 2004

<sup>32</sup> UNRWA: “Emergency Appeal Tenth Progress Report”, September 2001.

<sup>33</sup> Greenspahn, Rachel: “Two step back – and One Forward?” United Nations Headquarter, New York, September 2004, p. 2

<sup>34</sup> Palestinian Centre For Human Rights: *The annual Report for 2004* (1 January – 31 December 2004), Gaza, 2005, pp.27-31

<sup>35</sup> Quoted in: Adalah, The Legal Center for Arab Minority Rights in Israel: press release, 26 October 2004

<sup>36</sup> See, in general: Human Rights Watch: “The ‘Roadmap’ Repeating Oslo’s Human Rights Mistakes”, Washington, 2003; and Mari, Mustafa: “The negotiation process: The Lack of Human Rights Component”, in: *Palestine-Israel Journal* (Vol. 10, Num. 3, 2003), pp. 5-16.

<sup>37</sup> WHO / Palestinian National Authority / UNICEF: *The Sate of Nutrition. West Bank and Gaza Strip*, June 2005, p. 22 See also: Palestinian Central Bureau of Statistics / Birzeit University / UNICEF: *Nutrition Survey – 2002*. PCBS, Ramallah, 2003

<sup>38</sup> WHO / Palestinian National Authority / UNICEF: *The Sate of Nutrition...* p. 38

98 are for food aid.<sup>39</sup> In a context where what is needed is not classical humanitarian aid but human rights, to remain quiet is to betray humanitarian principles; in a context where the main problem is the systematic violation of human rights, to replace them by food is to be accomplice.

### 3. THE FAILURE OF THE UNITED NATIONS

The Advisory Opinion is an answer given by the highest UN tribunal to the General Assembly. It is neither only an opinion nor a recommendation addressed to NGOs. The failure of the Advisory Opinion embodies the failure of the United Nations.

The fear of Europe and the support of the USA suffice to guarantee impunity to Israel. The United Nations seems to be rather a new version of the non-aligned countries than the organization responsible for safeguarding the international peace and security. In spite of the clear distinction between Anti Zionism and Anti Semitism, it is necessary to distinguish it with anti-Zionism. In reality, the UN determined that "Zionism is a form of racism and racial discrimination".<sup>40</sup>

Recently, the Secretary General proposed the creation of a register of damages caused by the wall.<sup>41</sup> It is indeed a recommendation of the ICJ, but the Secretary General avoids the most important issue: the immediate application of the other recommendations contained in the Resolution that establishes the register of damages.<sup>42</sup> To register is necessary but not enough. The United Nations resign to their role of guardian of international law to become accountant of damages. But this attempt has also failed because Israel has modified its Compensation Law in order to prevent Palestinians from asking for any kind of compensation.<sup>43</sup>

In July 22, 2005, the Security Council, following a petition submitted by USA, Russia, (by the way, members of the Quartet) UK and France, refused to discuss the wall. The latter asserted that the real debate should be the disengagement plan, while the latter confirms the construction of the wall as well as the settlements, and does not mention at all the Advisory Opinion.<sup>44</sup>

There are 191 State parties to the Geneva Conventions and none has reacted to put an end to grave violations of the international law, according to its duties. It seems that the Advisory Opinion does not mean anything to anyone, not even within the UN system. How to explain to Palestinians that international law is on their side but not the United Nations? In 1974, the General Assembly adopted a resolution denouncing the annexation policy, settlements, home demolitions, land expropriations, deportations,

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<sup>39</sup> This amount does not included agriculture projects, which would receive only 12 millions. See: OCHA: *Occupied Palestinian Territory 2005. Consolidate Appeals Process*. October 2004

<sup>40</sup> United Nations, General Assembly: Resolution 3379. Elimination of all forms of racial discrimination, November 10 1975.

<sup>41</sup> United Nations, General Assembly: "Letter dated 11 January 2005 from the Secretary-General to the President of the General Assembly". A/ES-10/294, 13 January 2005

<sup>42</sup> United Nations, General Assembly: Resolution A/RES/ES-10/15, 20 July 2004

<sup>43</sup> AL-HAQ: "The Legalisation of Human Rights Violations: Israeli Knesset Passes Two Discriminatory Laws in One Day" Press Release, July 28 2005

<sup>44</sup> "Key Principles of Israeli PM Ariel Sharon's Disengagement Plan", *Haaretz*, 16 April 2004

massive arrests, administrative detentions, and so on<sup>45</sup>. More than 31 years later, the situation is worst.

#### 4. DISCUSSION

The nature of the Israeli State is the central problem. Moreover, the current system of human rights is partially a reaction to the crimes committed during the Second World War. This system sought the protection of victims of war. But sons and daughters of victims of the Holocaust do not accept the rules established to protect their parents and relatives.

The Israeli State refuses to apply international law in the Occupied Palestinian Territories and also in Israel. The Israeli state, as a theocratic state, as a non-modern state<sup>46</sup>, refuses to recognize both civil and political, and social and economical rights of the Palestinian population. With two kinds of citizenship, the core of the rights does not depend on the relationship between individuals and the State, but on believers and the State, in contradiction to the basic principle of democracy.

The main problem is that Israel refuses to recognize its condition of occupier in the West Bank and Gaza Strip. If Palestine is their Promised Land, how can they be occupier on their own promised land? This may be the most important explanation: the application of international law would not only mean accepting international obligations in the context of the Occupation, but would also question the legitimacy of Israel as a Jewish state. One big dilemma Israel faces is: how to be a modern State –with all of the consequences it entails- and at the same time to be a religious State. The main victims of this dilemma are the Palestinians.

One clear possibility is to demand the implementation of the ICJ Advisory Opinion's recommendations. All High Contracting Parties to the Geneva Conventions, including Israel, have a duty to respect and to ensure respect for International Humanitarian Law in all circumstances.<sup>47</sup> As the Court said, "The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the present Advisory Opinion".<sup>48</sup> It is clear that UN member states are legally entitled to declare an international boycott against Israel.<sup>49</sup> As the ICJ states: "All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction".<sup>50</sup> The problem is that there are two different levels of application of international law. UN member States require one level from non-powerful countries and another from powerful countries as illustrated in Guantanamo, Afghanistan and Iraq.

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<sup>45</sup> United Nations, General Assembly: Resolution A/RES/3240, November 1974

<sup>46</sup> The State should be, by definition to be a State, modern. See: Bobbio, Norberto: *Stato, governo, società. Per una teoria generale della Politica*. Giulio Einaudi, Turin, 1985.

<sup>47</sup> Art. 1, Common to the Geneva Conventions (1949)

<sup>48</sup> International Court of Justice: *Legal consequences...* paragraph 163

<sup>49</sup> It can include sporting, cultural and economic boycott, consumer information campaign, affecting among others universities and scientific exchanges, Israeli products, etc.

<sup>50</sup> International Court of Justice: *Legal consequences...* paragraph 163

## 5. CONCLUSIONS AND RECOMMENDATIONS

We cannot justify the lack of response to the Occupation in Palestine by the internal crisis of the UN. If international law fails to bring justice, we have to wonder whether this is a fortuitous outcome or if it directly derives from the structure of the UN and international law. After the fatal blow to the Geneva Conventions in the Afghanistan war, the denial of International Law in Guantanamo and Baghdad's jails, and the virtual transformation of the UN into an NGO during the war in Iraq, what has been at stake here, in addition to the legality of the Wall, was the international legal system itself.

UN member states have to recognize that commercial agreements and diplomatic relationships should be conditioned to respect of international law, including the Association Agreement between Israel and the European Union, arms trade, and even Israel's membership of the UN.<sup>51</sup> In Rawls' words, the respect for human rights is one of the conditions imposed upon any political regime to be accepted as a member of a just political society of people.<sup>52</sup> According to the Charter of the UN, "A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization..."<sup>53</sup> The natural conclusion of this is to expel Israel from the UN. Sanctions against Israel would be possible, but they are not used<sup>54</sup>.

To conclude, first, no agreement or accord, even signed by the Palestinian Authority, even supported by the international community or the United Nations, may suppress or disregard international law or the Palestinians' rights. These are the key words of any democratic solution. The agreements should be done respecting some principles that allow talking about justice.

Second: The international community must play a better role. A genuine support and action by the international community should be based on international rules and institutions, such as the International Court of Justice.

Third: All High Contracting Parties of the Geneva Conventions, including Israel, have the duty to ensure the implementation of IHL in all circumstances.<sup>55</sup> Since the occupation is illegal, all the states signatories of the Geneva Conventions have the responsibility to intervene.

To conclude, let me clarify here the current failure of international law in Palestine: the Palestinians ask for justice and they only receive papers; the Palestinians ask for freedom and they only get rice; the Palestinians ask for open support and they are surrounded by silence. Justice, freedom and support should be the result of the enforcement of international law.

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<sup>51</sup> Boyle, Francois: *Palestine, Palestinians and International Law*, Clarity Press, Atlanta, 2003, pp. 153-176

<sup>52</sup> Rawls, John: "The Law of Peoples" in: Hurley, Susan and Shute, Stephen: *On Human Rights: The Oxford Amnesty Lecture*, 1993. New York. Basic Books, 1993

<sup>53</sup> Article 6, *Charter of the United Nations*, 1945

<sup>54</sup> On 11 May 1949, Israel was admitted as a UN member. In admitting Israel, the General Assembly specifically referred to Israel's undertaking to implement Resolution 181 (ii) and Resolution 194 (III).

<sup>55</sup> Art. 1, Common to the Geneva Conventions, 1949



I hope the Palestinians will not suffer the same fate as the Saharan people who also got an Advisory Opinion in its favor in 1975<sup>56</sup> and fell into the silence of the international community. I hope the United Nations will not feed wrong decisions as in Rwanda and in Srebrenica. I hope we will understand on time that the failure of international law means the failure of our own principles.

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<sup>56</sup> International Court Of Justice: Western Sahara, Advisory Opinion of 16 October 1975