

## **ONE REPORT AND THREE QUESTIONS**

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Mr. Chairman, Mr. Secretary, your Excellences, Ladies and Gentlemen

Thank you for the invitation to take part in this meeting. First, I will present the Anti Apartheid Wall Campaign and second I would like to ask three important questions, at least important for the Palestinian People. Since I have been asked to discuss the role of civil society, the following points need to be raised in regards to human rights, international NGOs and the international community, three components that any civil society depends on.

### **ONE REPORT**

The Anti-Apartheid Wall Campaign is focused in the struggle against the wall, but as a part of the Palestinian struggle against the occupation. The Campaign is a national grassroots movement coordinated by the Palestinian Environmental Non Governmental Organizations Network (PENGON) and rooted in the communities affected by the Wall. The reason for the name "Anti Apartheid Wall" is not only because we wanted to remark the similarity with the situation in South Africa. But also because we count on the legal arguments to demonstrate that the wall breaks the "International Convention on the suppression and punishment of the crime of Apartheid". As a part of the Palestinian society, the campaign calls for 1) the end of the construction of the Wall. 2) The dismantling of all parts of the Wall. 3) The return of lands confiscated, and 4) the compensation of damages and the restitution of land.

The campaign develops its strategies according to the decisions and need of the communities affected by the wall. The communities, as the base of the Campaign, are mobilizing under exceptionally difficult conditions due to the Occupation's control on everyday life--the severe restrictions on movement, continuous closures of towns, villages, and refugee camps, curfews and incursions. Farmers, unions, village and town councils, NGO workers, and activists are regularly meeting to assess the needs of the communities, to clarify the farmers' demands and goals, and coordinate actions.

During these one and a half years, the Campaign has succeeded in the following areas:

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- Organizing three Campaign Emergency Centers which are active in tens of communities. The Campaign's Emergency Centers were formed in order to support communities in their struggle to defend their lands and homes from confiscation and destruction, in Qalqiliya District, Tulkarem District, and Jenin District. In the Jerusalem, Bethlehem and Ramallah areas, the Campaign's coordinating office, along with other PENGON members, play the role of such centers. The Emergency Centers see their role as supporting local communities, coordinating meetings, supporting a flow of information with the Campaign, and promoting cohesive positions.

- Organizing tens of demonstrations on a local and national level. During this year, particularly, the Palestinian people have developed more and more its capacity to demand justice regarding to the impact of the wall. We can say that as the same speed that the wall is building the indignation of the Palestinians become bigger.

- Organizing a permanent camp on the de facto annexed or confiscated lands in Jayyous. This town is totally isolated. The farmers had to choose between their homes or their lands due to the wall. The farmers who choose their land are under horrible living condition. Jayyous is in fact the clearest example about the Israeli policy as well as the results asked by Israel.

- Producing numerous publications, reports, fact sheets, press releases, and maps, including the book "Stop the Wall in Palestine: Facts, Testimonies, Analysis and Call to Action".

- Meeting and touring with hundreds of journalists and representatives of international organizations.

- The problem of justice is also a problem of information. Therefore, the Campaign have worked producing presentations and disseminating them; having Campaign material translated into various languages; displaying a Wall exhibition in a number of Palestinian cities; and creating a web site ([www.stophthewall.org](http://www.stophthewall.org)).

It is clear that the conflict goes beyond the borders and therefore it was also necessary to create activities thinking about the European people, the USA people, the Latin America people, where, by the way, are living thousands of Palestinian refugees, waiting to go back home, despite the last Bush declarations. The Campaign's international advocacy has created a great awareness on the issue. Our experiences in the international arena have included:

- The Campaign proposed to commemorate the 9<sup>th</sup> of November as the "Day against the Wall". There were more than 70 demonstrations in 28 countries: from Japan to Chile, from UK to South Africa. In Rome, for instance, 30.000 people took part in the demonstration.

- One example regarding nationals support is the Spanish Campaign by more than 35 organizations in close cooperation with the Palestinian Campaign. It included meetings with member of the parliament of all the biggest political parties and trade unions, several conferences in universities and institutions, and an itinerant photo exhibition.

- In the World Social Forum, in India, some Palestinian farmers of the Emergency Centers could share its struggle with people from everywhere.

- In the Dutch case, we counted on the support of the Dutch NGOs, especially to realize a parallel symposium in The Hague and discussed about the illegality of the wall in last February as well as conferences in other cities and meetings with workers and farmers both Palestinian and Dutch.

Let me say at this moment that for me, personally, the definition of the so-called “civil society” is not clear. What I think is that it includes the Palestinian farmers and their landless families, Palestinian workers now unemployed, teachers and students without access to schools, and doctors and patients without access to hospitals. Thinking about this people I would like to ask the following three questions, daily questions by the ordinary member of the Palestinian civil society.

## **1. ENFORCEMENT OF HUMAN RIGHTS**

The first question is regarding both the enforcement and the applicability of international law in so-called “negotiations” and “peace processes”. Why in almost all the proposals and agreements, are human rights and international law excluded?

The Campaign believes in Human Rights as an international language, which means the belief that the United Nations is based on the acceptance of this universal language that is the basis to justify the use of force, sanctions and even war: that discourse is called human rights. We have placed our confidence in human rights and put substantial efforts into the legal analysis of the Wall. The Campaign strategy in Europe, Latin America, and worldwide has been to speak of the illegality of the Wall from the perspective of international law, trusting that this language is in fact universal.

The continuous violations of human rights is based on the continuous Israeli violations of international law and UN resolutions, as well as the building of so-called peace processes that don't even take into consideration human rights. This argument was one of the strongest critiques against the Oslo agreements. It is also the strongest argument of the NGO Human Rights Watch against the Road Map to Peace. The same analysis can apply to the Geneva Accord. For some Palestinians it is better to talk about the Geneva Convention rather than the Geneva Accord. This means that the priority is to talk about the guarantee of right to life and right to freedom.

The debate is not just about one state or two states. An integral part of the debate for Palestinians in Palestine and Palestinians in Israel is what kind of State. Looking at the Wall map, the two-state solution becomes impossible, as it seems that no real pressure on Israel to stop the Wall will take place. With the Wall, Palestine does not have a State. Without territorial contiguity, without ties with third countries, without land or water, living in ghettos, without any possibility to develop its own economy, it is impossible to talk about any Palestinian State. No Wall, whatever its path, is acceptable.

But also, the one-state solution will fail if such a State will not guarantee the same rights to everyone, as is happening now in Israel where non-Jews do not enjoy the same rights. In the long term, a one-state solution will have to answer questions related to real

democracy and full applicability of human rights. The basis and nature of Israel is, unfortunately, the central problem when discussing the prospects of a one-state solution.

After the fatal blow of the Geneva Convention in the Afghanistan war and the denial of the UN by the USA during the Iraq war, what is at stake here, in addition to the legality of the Wall, is the international system itself. If the Israeli message and actions of eradicating a Palestinian state continues to be accepted internationally, it is going to be very difficult to speak again in terms of human rights as universal principles recognized by decent societies and which would help bring justice to Palestine.

## **2. THE ROLE OF INTERNATIONAL NGOs**

The second question is regarding the role of the International Non-Governmental Organizations (NGO) within the conflict and especially the humanitarian aid provided in relation with the impact of the Wall on the communities. Why do the international NGOs provide food and other non-food aid to the communities when the biggest problem is human rights violations?

The question is what should be the role of the international NGOs in Palestine. We confront a tragedy and injustice, which is not the so-called classic one, where a lack of material goods calls for assistance in the strict sense of the word. Persons and institutions with experience in other conflicts recognize that the solutions needed for Palestine go beyond. The Bertini Report, the most famous UN report about the humanitarian situation in Palestine said: "The crisis is not a 'traditional' humanitarian crisis.. (It) is inextricably linked to the ongoing conflict and particularly to the measures imposed by Israel... if the overall environment improves sufficiently to enable a free flow of people, goods and services, the humanitarian crisis will rapidly dissipate".

For instance, the vulnerability in Palestine is based on the access to the distribution systems of food and the employment possibilities which guarantee the capacity of Palestinians to buy food. As Mr. Ziegler said yesterday, there are a hungry people living in a fertile land. The general problem is therefore access either to buy in the markets or to have access to the fields to produce it.

What we find is that most of the international NGOs, not all of them, have to replace the Occupying Power in its duties and are then imposing on them selves a form of silence. In fact, their primary preoccupation must not be the distribution of food but advocacy against the everyday and systematic violations of human rights carried out by the Israeli government. The humanitarian agenda on behalf of the Palestinian People goes beyond food distribution and also include those tortured in the Israeli prisons and the killings of civilians.

Palestinians do not need the so-called "classical humanitarian aid", but it is easier to convert the Palestinian struggle into a food-aid solution. It is easier to distribute food than demand from Israel to respect the farmer's access to the land. It is easier to distribute safe water than discuss on the political level the Israeli military and government control of the water resources in Palestine and in the Middle East. This

clearly wrong step, of replacing human rights for an undefined minimum of humanitarian aid, is not a contribution to the Palestinian People.

This wrong step being taken is possible due to the mistaken notion of “neutrality”. It is possible to talk about neutrality between two combatants, but not between a combatant and his victim. As the ICRC itself said, silence has a limit.

### **3. THE SUPPORT OF THE INTERNATIONAL COMMUNITY**

The third question is regarding the role of the so-called international community in the legal process concerning the Wall. Why did most of the international community take a step back and refuse to take part in the public audience in the International Court of Justice last February?

The Campaign placed hope in the power of law when the Campaign received news of the United Nations General Assembly Resolution in October 2003. As a result of Israel’s refusal to accept the terms of the General Assembly Resolution, the General Assembly took the next step and requested an Advisory Opinion from the International Court of Justice. Then, Israel claimed that the Court does not have jurisdiction to study the legality of the Wall, which they call a “political” rather than legal question. The United States, Israel’s unconditional ally, took a similar position and led a boycott against the International Court of Justice.

All the contracting parties of the Geneva Convention, including Israel, must ensure the application of International Humanitarian Law. Since the Wall is illegal, all states that have signed the Geneva Convention have the legal responsibility to take part and stop the Wall’s construction and its impact on the civilian population. But to our surprise, the European Union has joined the argument that the debate is political and not a legal one, supporting the Israeli voice that affirms that the Court is not legally competent to examine the Wall. The fact that it is political is not in question, but the political nature of occupation does not place it outside the law.

We cannot say that war crimes are not legal matters but rather political, since wars are political issues. Denying war crimes and crimes against humanity that accompany the construction of the Wall is a position that the Government of Israel is expected to take. But if the rest of the so-called international community—including the European Union—takes part in this opinion, then it denies the expropriation of land and other serious violations to the rights to freedom of movement, property, health, education and work as have been clearly exposed. Then the universality of human rights then disappears.

### **CONCLUSION**

First, any kind of agreement or accord, even if signed by the Palestinian Authority, even if supported by the international community or the United Nations itself, can not erase or disregard international law. Many take the position, which states that without human rights, without a minimum of possibilities to build justice, it is almost impossible to talk about civil society. If human rights are one of the requirements to be talked about in the case of Palestine, we must then add the support of the international community as a part of this discussion,

Second: The international NGOs have to combine the demand of the duties of the Occupying Power and the applicability of international law. The NGOs, according to their own humanitarian principles, deserve another and better role. The international community cannot be limited to only providing Palestinians with painkillers and this only when the Israeli government permits it.

Third: The Palestinian civil society exists, but its survival depends also on genuine support and action by the international community based on international rules and institutions, such as the International Court of Justice. The wrong message that can be sent by the international community is “Palestinians, rights do not exist in your case, only politics”. In this case, we must be reminded of the sentence, which states that war is the continuation of politics, but by other means. Thanks you for your attention.

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