

# Israeli and Foreign Assistance to the PA. The Human Rights Impact of a Predicted Collapse in the occupied Palestinian territories

Carlotta Bellini\*

## 1. Summary

Several UN agencies<sup>1</sup> have recently made an assessment of the humanitarian situation in the occupied Palestinian territories (oPt), leading them to warn of a risk of future collapse.

Already in January, soon after the Palestinian Legislative Council elections and the victory of Hamas, the UN Office for the Co-ordination of Humanitarian Affairs (OCHA), reported about a sharp deterioration in the situation, mainly caused by an intensification of Israeli security measures. Further, it considered that the crises would have become worse as a consequence of the decision of the Government of Israel (GOI), to stop transferring VAT and custom taxes to the Palestinian Authority (PA), and of external donors to cut their financial support.

Between March and May, updated reports by International Agencies<sup>2</sup> provided a detailed description of the economic and humanitarian crisis that would result from the adoption of the above mentioned measures. Their analysis is organised according to different scenarios, depending on the level of implementation of these measures. The most critical situation would be produced in case all measures, including the reduction or suspension of foreign assistance, are implemented. This situation is likely to produce a very serious deterioration of human rights particularly economic and social rights, of the Palestinians in the West Bank and Gaza Strip.

This position paper presents some background information on the Palestinian economy, describes the economic and humanitarian impact of economic, security and policy measures that are expected to be implemented in future months (under the most critical scenarios – those assuming that foreign assistance is reduced or suspended) and examines the situation

\* Laureate of the European Master Degree in Human Rights and Democratisation 2000/2001. This paper has been circulated in a partial version in the occupied Palestinian territories by the Palestinian Human Rights Monitoring Group, with which Carlotta Bellini has collaborated. This is an updated version.

<sup>1</sup> Among the agencies are: OCHA, UNICEF, World Food Program and the World Health Organisation, see OCHA Humanitarian Update, January 2006.

<sup>2</sup> See, OCHA, *Assessment of the Future Humanitarian Risks on the Occupied Palestinian Territories*, 11 April 2006 (hereinafter, OCHA, April Humanitarian Report); World Bank, *Economic Update and Potential Outlook*, 15 March 2006 (hereinafter, WB Economic Update, March 2006); World Bank, *West Bank and Gaza Economic Update and Potential Look*, April 2006; World Bank, *The Impending Palestinian Fiscal Crisis, Potential Remedies*, 9 May 2006.

from a human rights perspective, focusing on specific human rights violations and analysing standards of International Human Rights Law (IHRL), and International Humanitarian Law (IHL), that should be implemented.

Eventually, it puts forward recommendations to several actors who bear the responsibility to prevent a dramatic human rights crisis.

## 2. Background

The 2005 Palestinian Economy Report by the World Bank, judges that «today's Palestinian economy operates at well below its potential, with real GDP per capita almost 30 percent lower than in 1999»<sup>3</sup>, with a high level of unemployment and 43% of the Palestinian population falling below the poverty line<sup>4</sup>.

In light of recent developments, in a recent paper, the World Bank also added that 2006 is likely to be «the worst year in the West Bank and Gaza's dismal recent economic history»<sup>5</sup>.

When assessing the economic situation, one should bear in mind that the Palestinian economy is highly dependent on Israel and foreign assistance.

As a matter of facts, in accordance with the 1994 Paris Protocol<sup>6</sup>, GOI transfers to the PA taxes and VAT collected in Israel on goods directed to the Gaza Strip and the West Bank. The World Bank estimates that in 2005 these revenues amounted to approximately 13% of GDI<sup>7</sup>.

As for foreign assistance, it is classified as follows:

- *budget support*, meaning direct budget assistance to the PA;
- *emergency/humanitarian assistance*;
- *development aid*.

According to the World Bank, in 2005 donors' contribution to the Palestinian economy, amounted to approximately US\$ 1.3 billion, roughly 22% of GDI, of which US\$ 350 million for budget support.

In light of the above consideration, at its December Meeting, the Ad Hoc Liaison Committee<sup>8</sup>, acknowledged that desirable rates of Palestinian GDP growth can be achieved only if some conditions are met, these including:

- Israel continues transferring revenues to the PA;
- Israel lifts movement restrictions (of people and good) and

<sup>3</sup> World Bank, *The Palestinian Economy and the Prospects for Its Recovery, Economic Monitoring Report to the Ad Hoc Liaison Committee*, no. 1, December 2005 (hereinafter, World Bank, *Economic Monitoring Report*, December 2005). See also, UNCTAD, *The Palestinian War-Torn Economy: Aid, Development and State Formation*, 5 April 2006.

<sup>4</sup> The poverty line is defined by the World Bank as per capita consumption of US\$ 2.3 per day for a household of two adults and four children.

<sup>5</sup> See, World Bank, *The Impeding Palestinian Fiscal Crisis, Potential Remedies*, 9 May 2006.

<sup>6</sup> *Protocol on Economic Relations between Israel and the PLO*, Paris, 29 April 1994.

<sup>7</sup> Gross Disposable Income (GDI), including all resources available to the economy.

<sup>8</sup> The Ad Hoc Liaison Committee (AHLIC), is the main policy level mechanism co-ordinating development assistance to Palestine and is composed of 12 members. Its Secretariat is with the World Bank. For more information see: [http://www.lacc.ps/Donor\\_Coordination/adhoc/](http://www.lacc.ps/Donor_Coordination/adhoc/).

maintains or increases labor access to Israel<sup>9</sup>;

– high level assistance from donors;

– Palestinian governance reform.

Nonetheless, following the outcome of the Palestinian Legislative Council elections of January, with the victory of Hamas Party, GOI and external donors have been contemplating the adoption of economic and policy measures, such as the suspension of revenues, intensified restrictions on Palestinian movements and access to services and the reduction or suspension of foreign budget assistance, that are expected to badly hit the already weak economy and the difficult humanitarian situation and, in the worst case, produce a total collapse.

More in details, on the one hand, GOI has already stopped the regular transfer to the PA of VAT and custom taxes collected in Israel on behalf of the PA on goods destined for Gaza and the West Bank, although has decided to use a portion of the money to reimburse Israeli companies providing electricity, water and health services to the PA. In addition, as reported by the UN and several NGOs<sup>10</sup>, in recent months, GOI has been tightening its security measures, these including the construction of the wall, increased number of checkpoints and roadblocks as well as intensification of military operations. This pattern is expected to continue.

On the other hand, external donors are considering either to withdraw or reduce their funding, although their intention is not to alter their level of emergency/humanitarian assistance, but rather aid provided for budget support and development aid.

Humanitarian/emergency assistance is in fact channeled through the UN or NGOs, and not the PA and is likely to be increased, to counterbalance the effects caused by the reduction of other forms of assistance.

For example, at the end of February, one of the major donors, the EU, disclosed € 120 million for the Palestinians, of which € 40 million to contribute to the supply of essential public services, particularly, electricity and water, and € 64 million, allocated to UNWRA, for health and educational services. In a press release, the EU stated that «This emergency relief will help alleviate the hardships of the most vulnerable people in the West Bank and Gaza Strip», and also added that «this package is

<sup>9</sup> According to World Bank data, in the period 2000-2005, the number of laborers working in Israel has declined by 56%. See World Bank, Economic Monitoring Report, December 2005.

<sup>10</sup> See, for example, OCHA, *Humanitarian Updates, Access and Closures Reports, Barrier Reports and Humanitarian Monitoring Reports*; World Bank, *Economic Monitoring Report*, December 2005; PCBS, *Impact of the Expansion and Annexation Wall on the Socioeconomic Conditions of Palestinian Households in the Localities in which the Wall Passes through in the West Bank*, August 2005; Al-Haq, *Building Walls, Breaking Communities: The Impact of the Annexation Wall on East Jerusalem Palestinians*, October 2005; UN Special Rapporteur on the situation of human rights in the oPt, *Israeli Practices Affecting Human Rights of the Palestinian People in the oPt, including East Jerusalem*, Report to the General Assembly, A/60/271, 18 August 2005; and *Report to the Sixty-second Session of the Commission on Human Rights*, E/CN.4/2006/, 29 January 2006.

independent from any future decisions on support for the incoming Palestinian Authority»<sup>11</sup>.

At the same time, in line with these considerations, on 24 April, Alvaro de Soto, the UN Special Co-ordinator for the Middle East Peace Process, addressing the UN Security Council, said that «In light of the current developments, the scale of the UN activities will increase». He also added that «UN programmes and agencies will continue to interact with the Palestinian Authority counterparts, to ensure that the United Nations serves the interest of peace and meets the needs of the Palestinian people as effectively as possible»<sup>12</sup>.

Still, very recently, OCHA pointed out that emergency interventions can slow down the deterioration of the humanitarian situation «but cannot completely eliminate the possibility of humanitarian suffering», concluding that «humanitarian assistance should not replace the core public sector responsibilities»<sup>13</sup>. It also warned that the UN, NGOs and the private sector do not have the capacity to duplicate or replace the role of the PA and its service delivery.

Also the International Committee of the Red Cross (ICRC), has expressed its concern about the situation and Pierre Krahenbuhl, Director of ICRC operations, said that «Neither the ICRC nor any other humanitarian organization can replace the authorities in their role as provider of public services»<sup>14</sup>.

Jan Coffey, representing the Association of Development Agencies (AIDA)<sup>15</sup>, in a recent press conference, expressed the same opinion, saying that NGOs can not replace the Public Sector<sup>16</sup>.

For sure, emergency assistance can only prevent a serious crisis in the short term. Still in the medium and long term, the prediction is of a total collapse.

### 3. PA Funding and the Humanitarian Collapse

Unlike other humanitarian crises in the world that are notoriously difficult to predict, if PA funding is not forthcoming, many of the dimensions of this one are measurable in advance. [...] The extent of the collapse should not be underestimated<sup>17</sup>.

In case of suspension of revenue transfers, movement

<sup>11</sup> EU, *Commission Unveils €120 Million Package for the Palestinians*, IP/06/235, Bruxelles, 27 February 2006.

<sup>12</sup> See UN, Department of Public Information, Security Council, 5419th Meeting, *Stabilizing Security in Occupied Palestinian Territory Major Challenge, Special Coordinator for Middle East Peace Tells Security Council*, 24 April 2006.

<sup>13</sup> OCHA, April Humanitarian Report, cit.

<sup>14</sup> ICRC Press Release 06/31, *Israel/Occupied and Autonomous Palestinian Territories: ICRC Concerned over Deteriorating Situation*, 10 April 2006.

<sup>15</sup> AIDA is the main co-ordination forum for international NGOs operating in the oPt. For more information see: [www.aida-jer.org/index.html](http://www.aida-jer.org/index.html).

<sup>16</sup> Press conference by International Non-governmental Organisations, *Gaza Humanitarian Situation Six Months after the Redeployment*, Jerusalem, 4 May 2006.

<sup>17</sup> *Ibidem*.

restrictions (trade and labour) and reduced donor funds, the World Bank estimates that poverty in the oPt would reach the 78% and unemployment would increase to 47% by 2008. By the same year, GDP per capita would decline by 55%<sup>18</sup>.

Furthermore, in a recent report<sup>19</sup>, OCHA recognises that those measures pose an increased humanitarian risk. Particularly, if PA budget and services will be only partially funded or won't be funded at all, thousands of Palestinians will lose their jobs. For example, according to the given data, the PA employs 70,328 people in the West Bank and 73,437 in Gaza, meaning approximately 37% of all employees of the oPt.

Half of PA employees are security staff. Hence, their unemployment is likely to cause an increase of criminality and probably an escalation of violence, particularly in the Gaza Strip, resulting in an intensification of security measures by Israel.

The crisis is predicted to be sharper in Gaza and in the Northern West Bank, where unemployment and poverty are already very high<sup>20</sup>.

Also the educational and health sectors are expected to be badly damaged. As a matter of facts, the PA runs 75% of the schools in the West Bank and Gaza, and 62% of primary health clinics depend from the Ministry of Health (against 8.5% run by NGOs and 30% by UNRWA). The Ministry also runs 22 hospitals, while UNRWA only 1 and NGOs 12 small structures.

In addition, the PA holds the main responsibility as provider of social and relief services. For example, it is responsible for the distribution of 65% of all WFP food to social hardship cases, and for the payment of pensions to 9,800 Palestinians.

Women are likely to be mostly affected by the humanitarian crises. For example, one third of PA employees who are likely to lose their jobs are women. Furthermore, women married to Palestinian detainees in Israeli prisons, will not be able to receive the relief provided to their households by the PA and won't have any alternative source of income.

Considering the serious situation, in their meeting in New York, held on 9 May, members of the Quartet reiterated their support for assistance, «directed to help meet the basic humanitarian needs of the Palestinian people and promotion of Palestinian democracy and civil society»<sup>21</sup>. To this extent, they

<sup>18</sup> See WB Economic Update, March 2006, cit.

<sup>19</sup> OCHA, April Humanitarian Report, cit.

<sup>20</sup> See AIDA, *Gaza Humanitarian Situation Six Months after the Redeployment*, April 2006; OCHA, *Gaza Strip Situation Report*, 3 May 2006; OCHA, *Humanitarian Updates and Humanitarian Briefing Notes*, cit.

<sup>21</sup> *Quartet Statement*, New York, UN News Centre, 9 May 2006.

expressed their will to support a temporary international mechanism, limited in scope and duration, transparent and accountable that would ensure direct delivery of assistance to the Palestinian people, by-passing the PA, and welcomed the offer of the European Union to develop the mechanism. Still, after one month, the promised mechanism is not operational yet, despite the pressure from some UN Agencies<sup>22</sup>, as well as from the Committee on Political Affairs, Security and Human Rights of the Euro-Mediterranean Parliamentary Assembly, which called for the continuation of aid in its entirety and for the rapid establishment of the temporary aid mechanism proposed by the European Union.

Eventually, on 19-20 June, in occasion of the visit to Israel of EU Commissioner for External Relations, Ferrero-Waldner, the mechanism was presented. Assistance will be delivered through three channels:

1. the *Emergency Services Support Programme* (ESSP) of the World Bank: the intention is to expand the Programme to guarantee the coverage of essential supplies in the health sector and basic allowances to those who are providing care in hospitals and clinics;
2. the *Interim Emergency Relief Contribution* (ICRC) of the European Commission: the plan is to reinforce this channel so to ensure the supply of essential utilities, such as fuel;
3. the *Need Based Allowance Programme*: apparently it will be developed as soon as possible, leading to the creation of a social safety net. This implies the establishment of a fund to make payments direct to bank accounts of Palestinians in greatest need.

According to a recent statement, part one and two of the mechanism will be launched immediately and will be operational by mid July. The third part will start up as soon as practicable.

In the meantime, to respond to the impact of the fiscal crisis facing the PA and the disastrous effects on the population, the UN have revised the Consolidated Appeal for the occupied Palestinian territories (CAP), which has been increased from US\$ 215 million to US\$ 385 million. As pointed out in the new CAP, «Most of the new funding being sought is in the sector of temporary jobs and cash assistance to the most vulnerable, medical supplies to PA institutions and food to the

<sup>22</sup> John Ging, UNRWA Director of operations for the Gaza Strip, recently stated: «We urgently need to get the funding mechanism, promised by the Quartet a month ago, operational now». See Gaza Humanitarian situation, «deplorable and getting worse», UN Official Warns, UN News Service.

growing “most at-risk” groups identified by UNRWA and WFP»<sup>23</sup>. However, UN Agencies are still of the opinion that the new funding will alleviate the worst effects of the humanitarian crisis, but that «a lasting solution lies in a fully functioning PA and the easing of movement restrictions on Palestinians»<sup>24</sup>.

Commenting on the cut of funds by donor countries and agencies, the UN Special Rapporteur on the situation of human rights in the occupied Palestinian territories, Prof. John Dugard, said that «the Palestinian people have been subjected to possibly the most rigorous form of international sanctions imposed in modern times» and expressed the opinion that the limited support provided through the Temporary Mechanism, «will ameliorate the humanitarian situation but will not alleviate the suffering of the Palestinian people»<sup>25</sup>. Sharing the same opinion, the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, defined the Mechanism as a temporary, incomplete fix, reflecting on the fact that, it will cover some essential supplies but will not pay health professionals, causing problems to the good functioning of the health system. He concluded that «although a step in the right direction, the emergency plan does not fulfil the donors’ responsibility to provide health assistance in the oPt»<sup>26</sup>.

#### 4. The Deteriorating Situation of Human Rights

Given the above described situation, there is a serious concern that human rights, and particularly economic and social rights of Palestinians, such as the right to food as part of the right to an adequate standard of living, the right to education, to health and to work, may badly deteriorate in future months. These rights are affirmed in the International Covenant on Economic Social and Cultural Rights (ICESCR), the main UN international legal instrument on the protection of this category of rights.

The Committee on Economic, Social and Cultural Rights, the UN monitoring body of the Covenant, responsible of examining states’ implementation of the ICESCR, interpreted those provisions in several of its General Comments, GC.

Relevant articles of the Covenant and some observations by the

<sup>23</sup> UN, *Revised Emergency Appeal, Context Analysis and Humanitarian Response*, 31 May 2006.

<sup>24</sup> *Ibidem*.

<sup>25</sup> UN Press Release, *Special Rapporteur on the Situation of Human Rights in the Occupied Palestinian Territories, Professor John Dugard, Human Rights in Palestine*, 21 June 2006.

<sup>26</sup> UN Press Release, *UN Health Rights Expert Criticizes Donors for Failing to Fulfil their Humanitarian Responsibilities in the Occupied Palestinian Territories*, 22 June 2006.

Committee expressed in its General Comments are reported below.

#### 4.1. The Right to Work

##### Article 6

1. The State Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this rights. [...]

In its recent GC no. 18 (2006), on the *right to work*, the Committee affirms that «every individual has the right to be able to work, allowing him/her to live in dignity. The right to work contributes at the same time to the survival of the individual and to that of him/her family [...]». The Committee also considers that this right implies the right not to be unfairly deprived of employment<sup>27</sup>.

#### 4.2. The Right to an Adequate Standard of Living

##### Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food and housing and to the continuous improvement of living conditions. [...]

In GC no. 12 (1999) on the right to food, as part of the *right to an adequate standard of living*, the Committee, recognises that «the right to adequate food is realized when every man, woman and child, alone or in the community with others, has physical and economic access at all times to adequate food or means for its procurement»<sup>28</sup>.

#### 4.3. The Right to Health

##### Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. [...]

<sup>27</sup> GC no. 18 (2006), E/C.12/GC/18, 6 February 2006, paras. 1 and 6.

<sup>28</sup> GC no. 12 (1999), E/C.12/1999/5, 12 May 1999, para. 6.



In GC no. 14 (2000), the Committee interprets the *right to health* as «an inclusive right, extending not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, health occupational environmental conditions and access to health-related education and information, including on sexual and reproductive health»<sup>29</sup>.

#### 4.4. The Right to Education

##### Article 13

1. The State Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. [...]

This right has been defined by the Committee as an «empowerment right». In its GC no. 13 (1999), the monitoring body affirms that «education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means and participate fully in their communities»<sup>30</sup>.

The Committee specifies that the obligation to respect this right requires states parties to «avoid measures that hinder or prevent the enjoyment of the right to education»<sup>31</sup>.

<sup>29</sup> GC no. 14 (2000), E/C.12/2000/4, 11 August 2000, para. 11.

<sup>30</sup> GC no. 13 (1999), E/C.12/1999/10, 8 December 1999, para. 1.

<sup>31</sup> *Ibidem*, para. 47.

<sup>32</sup> ICESCR, Article 2, para. 1: «Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including, particularly the adoption of legislative measures».

<sup>33</sup> GC no. 3 (1990), 14 December 1990, para. 9. See also GC no. 11 (1995), E/C.12/1995/5, 12 May 1999, para. 14.

#### 5. Whose Responsibility?

##### 5.1. Responsibility under International Human Rights Law (IHRL)

Article 2 of the ICESCR, requires that the full realisation of the rights enunciated in the Covenant be achieved «progressively», «by all appropriate means»<sup>32</sup>.

Although the wording of Article 2, seems somehow to give wide flexibility in the realisation of the rights, the Committee has interpreted the word «progressively» as imposing an obligation to move as expeditiously and effectively as possible towards the goal of the full realisation of the rights enshrined in the Covenant<sup>33</sup>.

Furthermore, the Committee clarifies that a «minimum core

obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights, is incumbent upon *every State party*»<sup>34</sup>.

Article 2 also affirms that, in a view to satisfying its obligation, *every state party* has to «take steps, individually and through international and assistance and co-operation, especially economic and technical, to the maximum of its available resources».

It is the opinion of the Committee that the word «available resources» means both those existing within the state and those available from the International Community through international co-operation and assistance<sup>35</sup>.

The Committee also emphasizes that the realisation of economic, social and cultural rights is an *obligation of all states*, in accordance with the provisions of the Covenant, as well as with Articles 55 and 56 of the Charter of the United Nations, which state:

#### Article 55

[...] the United Nations shall promote:

- a. higher standards of living, full employment and conditions of economic and social progress and development;
- b. solutions of international economic, social, health and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion.

#### Article 56

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

This opinion has been reaffirmed by the Committee in its most recent General Comment, published in February, GC no. 18 (2006) on the right to work, where the Committee stated that:

In its GC no. 3 the Committee draws attention to the obligation of all States Parties to take steps individually and through international assistance and cooperation, especially economic and technical, towards the full realization of the rights recognized in the Covenant.

<sup>34</sup> GC no. 3 (1990), cit., para. 10.

<sup>35</sup> *Ibidem*, para. 13.

In the spirit of Article 56 of the Charter of the United Nations and specific provisions of the Covenant (Articles 2.1, 6, 22 and 23), States Parties should recognize the essential role of international cooperation and comply with the commitment to take joint and separate action to achieve the full realization of the right to work. States Parties should, through international agreements where appropriate, ensure that the right to work as set forth in Articles 6, 7 and 8 of the Covenant, is given due attention<sup>36</sup>.

Thus, under International Human Rights Law, particularly under the ICESCR, and in accordance with the Charter of the United Nations, the International Community, and namely, external donors such as the EU and US, are responsible for the full realisation of economic, social and cultural rights in the West Bank and Gaza.

Furthermore, under International Human Rights Law, also the State of Israel is obliged to guarantee the full realisation of economic, social and cultural rights in the West Bank and Gaza Strip, as repeatedly stressed by the monitoring body of the ICESCR, in its Concluding Observations on Israel<sup>37</sup> and by the UN Special Rapporteur on the oPt<sup>38</sup>.

On its behalf, the Palestinian Authority should also take all necessary steps to facilitate the provision of assistance by the International Community, this meaning that it should place human rights of Palestinians at the basis of its positions and considerations.

<sup>36</sup> GC no. 18 (2006), cit., para. 29.

<sup>37</sup> See, Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel, 04/12/98, E/C.12/1/Add.27; and 31/08/2001, E/C.12/1/Add.69.

<sup>38</sup> This view has been expressed in many reports by the UN Special Rapporteurs, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?m=91](http://ap.ohchr.org/documents/dpage_e.aspx?m=91).

<sup>39</sup> «Under International Humanitarian Law (IHL), it is the responsibility of the State of Israel to ensure that the basic needs of the civilian population in the occupied territories are met. These needs include food stuff, medical supplies, means of shelter and other essentials. Moreover, the law requires all State Parties to the Geneva Conventions to allow the free passage of essential humanitarian supplies». ICRC, Press Release, 06/31, 10 April 2006.

## 5.2. Responsibility under International Humanitarian Law (IHL)

In addition to International Human Rights Law, Humanitarian Law also applies to the State of Israel.

Particularly, as occupying power, the State of Israel is primarily responsible to ensure that the basic needs of the population in the occupied territories are met. Any foreign assistance from the International Community does not relieve Israel of its responsibility.

This has also been stressed by the ICRC in a recent press release<sup>39</sup> and OCHA noted in this regard: «Under the Fourth Geneva Convention, Israel, as the occupying power, bears the responsibility for the welfare of the Palestinian population. In recent years, international donors and the Palestinian Authority have in practical terms taken on this role. If the PA is unable to provide basic services to the Palestinian population and donors

withhold assistance, the emphasis will shift back to Israel to resume its legal obligation»<sup>40</sup>.

Specifically, Israel is bound to respect the Hague Regulations concerning the Laws and Customs of War on Land of 1907<sup>41</sup> and some specific provisions of the IV Geneva Convention<sup>42</sup>.

Article 43 of the Hague Regulations states that:

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Articles 50, 55, 56, 59 and 60 of the IV Geneva Convention, recognise the following responsibilities of the Occupying Power:

- to facilitate the proper working of all institutions devoted to the care and education of children;
- to ensure the food and medical supplies of the population;
- to ensure and maintain the medical and hospital establishments and services;
- to agree to relief schemes on behalf of the occupied population, and facilitate them by all the means at its disposal;
- not to divert relief consignments from the purpose for which they are intended.

The Commentary of the ICRC, which is the authoritative-interpretative instrument of the Geneva Conventions, states that:

The rule that the Occupying Power is responsible for the provision of supplies for the population places that Power under a definite obligation to maintain at a reasonable level the material conditions under which the population of the occupied territory lives [...]. Supplies for the population are not limited to food, but include medical supplies and any articles necessary to support life<sup>43</sup>.

To conclude, it is important noticing that, if donor states are High Contracting Parties to the Geneva Conventions, they are obliged to respect and ensure respect for the Conventions<sup>44</sup>. Thus, they have the responsibility to ensure that Israel satisfy its obligations deriving from the Conventions.

<sup>40</sup> OCHA, April Humanitarian Report, cit., p. 2.

<sup>41</sup> Convention (IV) respecting the Laws and Customs of War on Land and its Annex, *Regulations Concerning the Laws and Customs of War on Land*, 18 October 1907, Section III, Article 43.

<sup>42</sup> Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949.

<sup>43</sup> ICRC Commentary, Commento to Article 55, para. 1.

<sup>44</sup> See Geneva Convention (IV), Article 1.

## 6. Conclusions and Recommendations

We are witnessing a potential dangerous deterioration of the situation in the Israeli-Palestinian conflict.

Alvaro de Soto  
UN Security Council, 5419th Meeting, 24 April 2006

The human rights situation in the West Bank and Gaza Strip is already deteriorating and could become even worse as a consequence of the adoption of economic, political and security measures implemented by the International Community and the State of Israel.

The total collapse, meaning a deep economic, humanitarian and human rights crises, can be prevented only with a joint effort by all actors involved: the State of Israel, the Palestinian Authority, international donors and international institutions.

From a human rights point of view, those actors should recognise their responsibility under IHRL and IHL and act consequently to facilitate the full realisation and respect of human rights and human dignity of Palestinians living in the West Bank and Gaza.

Particularly:

### *The State of Israel*

- should lift unnecessary, disproportionate and arbitrary movement restrictions preventing the free circulation of people and goods;
- should ensure that the basic needs of Palestinians in the oPt are fully met, maintaining a reasonable level of material conditions under which the population lives, in accordance with its obligations under IHL;
- should guarantee the full realisation of human rights in the West Bank and Gaza Strip, meeting its obligations under IHRL.

### *International donors*

- should place human rights considerations at the basis of their decisions on financial assistance, in order to avoid a deterioration of Palestinians' human rights;
- should provide all resources needed to guarantee the full realisation of economic and social rights of the Palestinian

population, meeting their obligation under the ICESCR and the UN Charter;

– as high contracting parties to the Geneva Conventions, they should ensure that Israel satisfy its obligations under IHL.

*The Palestinian Authority*

– should place human rights considerations at the basis of its political positions and decisions, taking all necessary steps to facilitate financial assistance and thus, the full realisation of human rights of Palestinians in the West Bank and Gaza Strip.