



# Russell Tribunal

## on Palestine

With the support of

The Bertrand Russell Peace Foundation Ltd

### THE RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION

By **Madjid Benchikh**, emeritus professor, Cergy-Pontoise University (Paris Val d'Oise), former dean of the Algiers Law Faculty.

The right of people to govern themselves, or the right of people to self-determination, has for a long time been recognised as a fundamental principle of international law. Indeed, Article 1 §2 and Article 55 of the United Nations Charter codify this rule while fixing as an aim of the United Nations to develop "peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples."

It is therefore pursuant to the Charter that the United Nations General Assembly adopted, on 14 December 1960, resolution 1514 (XV) which stresses that "all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory". This resolution declares that "all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.... [...] Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations"

Resolution 2625 (XXV), adopted by the United Nations General Assembly on 24 October 1970, confirms the "codification" of the "principle of equal rights and self-determination of peoples."

Numerous treaties or resolutions, concluded between states or under the aegis of international organisations, recall and strengthen this rule which thus appears as an essential and even imperative rule, as the International Law Commission underlines. Furthermore, the two 1966 International Covenants relating to civil and political laws and to economic, social and cultural rights recall: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

In the context of this fundamental precept of contemporary international law, the Palestinian people have been struggling to exercise their right to self-determination for a long time, in particular since the partition decided by Resolution 181 of the United Nations General Assembly of 29 November 1947.

It is therefore first of all by its struggles that the Palestinian people insisted on formal recognition by the international Community of its right, and even by Israel from the Oslo Accords in 1993 -1995. But we will see that this recognition is limited or thwarted by numerous obstacles and by violations of international law initiated by Israel to prevent its

concretisation in a sovereign state (part 1). But it must be seen that the failure of the Palestinian people to realise their right to self-determination without doubt would not have been assured if several major powers had not chosen to support Israel and to safeguard its impunity. It is advisable on this subject to examine the European Union's share of responsibility (part 2), even if this research does not aim to diminish the decisive role of the United States of America in violations of international law by Israel, and especially in the impunity of this state.

## 1. The multiple violations by Israel of the Palestinian peoples' right to self-determination.

Before examining the violations of the Palestinian peoples' right to self-determination, it is advisable to recall that this right was recognised explicitly for Palestinian people by the United Nations, by numerous states and other international law subjects, and even by Israel under the Oslo Accords, particularly by the Israeli-Palestinian Interim Agreements of 28 September 1995.

### 1.1 The recognition of the right of the Palestinian people to self-determination

The Palestinian peoples' determined struggle enabled them to extract recognition of their right to self-determination. *This struggle and this result are in line with the line of the contributions which allowed the transformation of international law and the conquests of rights carried out thanks to national freedom movements.* Several resolutions of the United Nations General Assembly and of other international organisations recognise very clearly the right of the Palestinian people to self-determination. It is not necessary to quote them all; it is sufficient to refer to the proceedings of the Committee on the Exercise of the Inalienable Rights of Palestinian people since 1975 and to recall the most recent resolutions of the General Assembly and of the Security Council.

As on numerous other occasions, the United Nations General Assembly reaffirmed, on 18 December 2009 (A/64/438), "the right of the Palestinian people to self-determination". But the General Assembly also clarified the right to self-determination by underlining the right of this people in an independent state, and the need to respect its territorial unity and the contiguity and integrity of its territory, including East Jerusalem.

The Security Council itself, although slower and more reticent to decide the recognition of the right to the Palestinian people to self-determination, in view of the policies of support for Israel stated by the USA and by certain European permanent members, has nevertheless adopted several resolutions in which it recognises the right of the Palestinian people to a state. Resolution 1850 (2008) adopted on 16 December 2008 is very explicit. The Security Council reiterates "its vision of a region where two democratic States, Israel and Palestine, live side by side in peace within secure and recognized borders". It welcomes "the 9 November 2008 statement from the Quartet "and calls for the obligations arising under the Roadmap and from the Annapolis agreement to be respected. It "calls on all States and international organizations to support [...] the Palestinian government that is committed to the Quartet principles and the Arab Peace Initiative and respects the commitments of the Palestinian Liberation Organization". The Security Council affirms that "lasting peace can only be based on an enduring commitment to mutual recognition, freedom from violence, incitement, and terror, and the two-State solution, building upon previous agreements and obligations".

The General Assembly and the United Nations Security Council have therefore on several occasions not only affirmed the right of the Palestinian people to self-determination, but have

also given precise content to this right by asking for the creation and the recognition of an independent Palestinian state with East Jerusalem as its capital, integrity and the *contiguity* of the Palestinian territory on the basis of Resolution 242 of the Security Council and the opening of negotiations with the purpose of realising these rights.

Resolution 242 of 22 November 1967 is based particularly on the Charter of the United Nations, and in particular on Article 2 which prohibits "the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations". This resolution states that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

- i) withdrawal of Israeli armed forces from territories occupied during the recent conflict;
- ii) termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognised borders free from threats or acts of force."

This resolution is of capital importance for at least two reasons. On the one hand, it prohibits recourse to force and draws the consequences by calling upon Israel to withdraw from the territories occupied during the June 1967 war; on the other hand, it will serve as a basis to determine the territorial base of the Palestinian state, with the exception of arrangements agreed upon by the parties. The right to self-determination has consequently to be exerted on the Palestinian territories in the West Bank including East Jerusalem and the Gaza Strip, as they were configured before the June 1967 war.

It is also noteworthy that the General Assembly and the Security Council have on several occasions affirmed that the town of East Jerusalem is not recognised as a part of the Israeli capital (Resolution A/64/L.24). According to United Nations Resolutions, supported and reiterated by several states and international organisations, East Jerusalem is part of the Palestinian territories on which the Palestinian people have the right to exercise their self determination. As an examples, Resolution 55/50 of 1 December 2000 of the General Assembly and Resolution 478 of the Security Council of 20 August 1980 reject the so-called "Basic Law" on Jerusalem and the proclamation of Jerusalem as the capital of Israel. The Security Council even "called upon those States which had established diplomatic missions in Jerusalem to withdraw such missions..." Twenty years later the abovementioned Resolution 55/50 recalled the obligation of states to comply with Security Council Resolution 478 (1980).

This recognition of the right of the Palestinian people to self-determination and to form a sovereign state within the borders of the territories occupied in 1967, with Jerusalem as capital, is also affirmed by the European Union. We shall see that whatever the positive aspect of this recognition, this organisation does not draw all the political and legal consequences which would make it possible to oblige Israel to respect the Resolutions of the Security Council, of the United Nations General Assembly and the European Union.

### 1.2 Violations by Israel of the right of the Palestinian people to self-determination

For a long time the state of Israel refused any contact with the Palestinians and denied any representation to the Palestine Liberation Organisation. Despite covert contacts, the success of the secret negotiations in Oslo had to be awaited, and precisely the Israeli Prime Minister's letter dated 9 September 1993, which stated that: "the Government of Israel has decided to recognize

the PLO as the representative of the Palestinian people and commence negotiations with the PLO within the Middle East peace process." "But this recognition of the PLO did not clearly express the Palestinian people's right to self-determination.

The Oslo Accords, including obviously the Interim Agreement of 28 September 1995, are as we wrote (French Directory of International Law 1995), very miserly in direct references to the Palestinian people and Palestinian rights. It was only at the insistence of Arafat, and his threat not to sign the Interim Agreement in Washington, that the expression "the Palestine Liberation Organization (hereinafter "the PLO"), the representative of the Palestinian people" was introduced into the Agreement. Certainly, the Interim Agreement is considered as an international agreement. The commitments which are entered into by the parties are those usually undertaken by the subjects of international law. *The Agreement begins with an opening sentence in the purest style of negotiations with a view to realising national liberation:* " The Government of the State of Israel and the Palestine Liberation Organization (hereinafter "the PLO")". Everything occurs as if the Interim Agreement and all that is called the Oslo process were a step in the liberation process, and therefore a step in the implementation of the right of the Palestinian people to self-determination.

Certainly, the setting up of a "Palestinian Authority" prefigures a kind of state and "the Palestinian Executive" with a "President" gives the appearance of a government just as the creation of an elected Palestinian "Council" resembles Parliament. These agreements make it possible to pass through a stage in the exercise of the right to self-determination not only because representative Palestinian institutions are set up but also because these institutions have jurisdiction both on the Palestinian people and on the West Bank and Gaza territories, as they were configured before the occupation of June 1967. Some of the solutions adopted by the Interim Agreement of 1995 (see article 11§2) regarding the territorial jurisdiction of the Authority, integrity and the unity of the territory express a vision in conformity with the usual exercise of the right to self-determination. The provisions of this Agreement on the "legislative" elections of the Council and on the election of the President of the Authority can be interpreted in the same sense, as favouring the exercise of the right to self-determination.

But these agreements do not only express reticence in a terminological sense with regard to the exercise of the Palestinian peoples' right to self-determination. The violations by Israel, of general international law and of conventional international law, in this case the violations of the Oslo Accords, were already rooted in the clauses of the Interim Agreement of 1995. The continuation of the military occupation, all recourse to force, colonisation and the construction of the wall on the Palestinian Occupied Territories are clearly in breach of general international law rules and of the United Nations Charter.

The difficulties and the obstacles encountered by the Palestinian people to exercise their right to self-determination, connected obviously to the power balance involved on the ground and at the international level, and also inscribed in the provisions of the Interim Agreement. Several clauses express the Israeli refusal to implement the Palestinian peoples' right to self-determination. Israel never recognised unequivocally and explicitly the right of the Palestinian people to self-determination.

Certain provisions of the Interim Agreement, expressing the Israeli positions, are clearly violations of international law. The recognition of the Palestinian competence in "the Occupied Territories", despite recognised territorial integrity, is undermined in several clauses. The Palestinian Authority can only exert jurisdiction by attribution. Israel continues to exert competence which has not been expressly transferred, thus in breach of the international law of



decolonisation accepted by the United Nations. Moreover, the Israeli citizens residing in Palestine do not fall within Palestinian jurisdiction. This recalls the distressing "capitulations" that certain European states imposed on defeated states in the 19th century. This provision is all the more contrary to contemporary international law because it contains the germ of conflict and domination since all the Israeli colonies are not dismantled. From this point of view, by not putting any clear end to colonisation and by not accepting Palestinian jurisdiction on the Israeli residents, Israel violates an essential element of the Palestinian peoples' right to self-determination by preventing it from availing of all its land and by placing its citizens above Palestinian law. What was embedded in the Interim agreement was unfortunately implemented by Israel by multiplying the authorisations to build and extend settlements on Palestinian territory or by endorsing the settlers' individual initiatives.

The Interim agreement implies, in several articles, that the territorial questions will be settled only in the final definitive status. The Agreement stipulates therefore that there can be "exceptions" to the principle of territorial integrity: which constitutes a refusal to simply agree to restore to the Palestinian people the territories occupied in 1967, in accordance with Security Council Resolutions 242 and 338. This involves not only a violation of the Security Council Resolutions but especially a violation of the fundamental rules of international law prohibiting recourse to force and the acquisition of territories by war (Article 2 of the United Nations Charter.)

Very quickly Israel embarked upon a series of violations of the Interim Agreement thus precluding the implementation of the right to self-determination. This includes for examples unexpected and brutal military incursions into the Palestinian territories, the arrest of Palestinians and in particular of elected personalities. Several Palestinian ministers or delegates have been imprisoned. This also involves various abuses by Israeli forces regarding movement of people, withholding of customs duties, refusing permits to build houses and farms and refusing to allow exports of goods. In short, instead of implementing the Interim Agreement in good faith, in accordance with the United Nations Charter and in the Vienna Convention of 1969 on the Law of Treaties, Israel has been acting to undermine it and violate it, thus ending the self-determination process that it should have set in motion. Israel on the contrary used the limits and the serious deficiencies contained in the Agreement to put an end to it by its actions.

The result is that by its refusal to accept expressly the Palestinian peoples' right to self-determination, by its rejection of a sovereign Palestinian state as an essential consequence of the exercise of the right to self-determination and by its use of force against the Palestinian people and institutions, in particular against Gaza in December 2008 and January 2009, Israel is deliberately violating international law - which serves as the basis for the exercise of the right to self-determination - and is in breach of the Oslo Accords, including the Interim Agreement, which constitute the conventional international law governing, for an interim period, relations between the two parties.

Numerous resolutions made by international organisations and opinions of States which have called for recognition and implementation of the Palestinian peoples' right to self-determination, and in particular for the creation of a sovereign state with East Jerusalem as its capital, have thus failed. The international community appears to be impotent to enforce the most fundamental international laws. Israel, a new state, with a territory, a population and limited natural and financial resources of its own, has an army and sophisticated military equipment that the industrial powers have placed at its disposal in violation of the rules and code of good conduct that they themselves have established. Without any protest on the part of the major powers, Israel can build the nuclear bomb and provide its army and intelligence services with highly sophisticated equipment, including weapons of mass destruction. Israel can violate the most

undeniable rules of international law without any fear of sanctions. Despite several acts of aggression and taking of territory by force, against the neighbouring states and against the Palestinian people, despite the non-compliance with the opinion of the International Court of Justice on the construction of the wall on Palestinian territories, despite denouncements by international human rights organisations of torture, arbitrary arrests, bombardment of civilian populations, of extra-judicial killings and of destruction of Palestinian homes, despite the overwhelming findings of the Goldstone report including with regard to war crimes, Israel can bypass the core rules of international law, without any sanction. Israel clearly enjoys impunity which "enables" it to violate international law, without any detrimental consequences for its interests.

The exceptional situation of Israel in the international order is explained by the conditions under which the Jewish people were oppressed in Europe, in particular between the two world wars and during the Nazi period, and by the birth of Zionism, which led to the creation of the Israeli state at the urging of the European powers, the USA and with the agreement of the USSR. As from the moment when, for these reasons, the major powers decided to create the Israeli state, it had to be assured, according to them, that the Jews would not be at risk of a recurrence of any attack or oppression. The security of "the Jewish state", conceived to achieve this objective, is therefore above all international law.

Although globally there are various conceptions of the security and respect of Jewish rights and of the safety of the Israelis and of their state, despite some disputes in particular by the European Union or some of its Member States, it is as if the policies and the measures laid down by the Israeli government have to take precedence over all other legal considerations. Israel thus acquires a special status that enables it to be apart in the international order. In this perspective, the support of the USA, as the prime global superpower, is the more critical, but also significant is the support of the European Union and its Member States. Although we have to keep in mind the essential and decisive role of the USA regarding the respect of the Palestinian peoples' right to self-determination and the establishment of peace in the Middle East compared to the roles of any other power, it is useful to clarify the policies of the European Union by showing its involvement in the violation of the Palestinian peoples' right to exercise self-determination.

## **2. The European Union's responsibilities with regard to the violation of the Palestinian people's right to self-determination**

It can appear paradoxical to want to underline the responsibilities of the European Union (EU), and of some of its Member States, in the violation of the Palestinian peoples right to self-determination insofar as several resolutions and statements of the bodies of this organisation distance themselves from the Israel positions, or sometimes even condemn some of its policies and measures of recourse to force, of repression and of violation of international law.

However, a more precise analysis of the resolutions of the EU and of the policies and measures actually carried out by this organisation and by some of its Member States shows serious failures in relation to the obligations of this organisation and/or of some of its Member States, both with regard to the United Nations and to the obligations of the Association Agreement concluded with Israel. It is not the intention to raise here all the failures of the organisation and of each Member State relating to the conflict between Israel and Palestine or other countries of the Middle East. We retain primarily the policies having an impact on the violation of the Palestinian peoples' right to self-determination. If the EU has to be encouraged to support the Palestinian people in their struggle to exercise their right to self-determination and to condemn all the

violations of international law by Israel, it is however necessary, in a constructive spirit, to note the responsibilities and the failures of this organisation and of some of its Member States when it come to implementing both the resolutions of its own bodies and those of the Security Council. This manner of seeing is all the more necessary as the EU is a major economic and political power, with sufficient weight to be able to have an influence on the solution to the conflict and capable of obstructing, or even preventing or sanctioning, violations of international law. It is an important actor on the international stage and in addition is a member of the Quartet. We will in turn examine the policies of the EU or of some of its most important Member States, regarding the Palestinian peoples' right to self-determination, first in the context of the United Nations and then in the context of the EU's institutions and in particular in the implementation of the Association Agreement with Israel.

## 2.1 the failures the EU and of certain of its Member States with regard to the UN

Everyone knows the place and the role of the Security Council in the maintenance of international peace and security. We recalled that several Council Resolutions require Israel's withdrawal from the Occupied Territories (Resolutions 242 and 338), the creation of an independent and viable Palestinian state alongside the state of Israel, an end to use of force in Gaza, respect of humanitarian law, an end to Israel's illegal actions concerning East Jerusalem (Resolutions 1397 (2002), 1515 (2003), 1850,2008), 1860 (2009)). But these resolutions have essentially remained without any effect. One of the reasons for this situation lies in the fact that these resolutions are not taken under Chapter VII of the United Nations Charter, which would make it impose political, diplomatic or military sanctions against those responsible for contraventions which undermine peace or international security.

Two Member States of the EU are permanent members of the Security Council and therefore have the capacity to propose and put on the agenda recourse to Chapter VII to discuss and adopt sanction measures against Israeli policies which undermining peace and international security. The occupation of territories, the attacks on the status of East Jerusalem, the bombardments of Palestine populations in Syria and in Lebanon, the massive violations of human rights, in contravention of the Geneva Conventions of 1949 and of the two 1966 United Nations Charters on human rights, are issues on which the Security Council has the authority to meet under Chapter VII. The EU itself has never sought, either at the diplomatic level, or within its institutions, or in the context of the United Nations, to engage its members or the international Community in a process of sanctions or threats of sanction to bring to an end the abovementioned Israeli contraventions.

Within the framework of the work of the United Nations relating to all issues regarding the right to self-determination, the EU and several of its Member States, while distancing themselves, at times, from the USA unconditional support for Israel, attempt to avoid binding sanctions or measures which they consider could vex Israel. The resolutions of the Security Council are often addressed to all the parties, including the Palestinian victims, as if the latter, in opposing the denial of their rights and in particular the contravention of their right to self-determination, were responsible for similar contraventions comparable with those of the Israeli occupant. But whatever the attraction of compromise, this EU diplomacy amounts to extending the status quo based on the use of force and on the contravention of the Palestinian peoples' right to self-determination. Placing on an equal footing the Israeli aggressor and the Palestinian victims, the European Union and certain of its Member States contribute, by a manipulation of the facts, to a breach of the principle of good faith which should govern implementation of international law, in accordance with the United Nations Charter (art. 2 §2) and with the 1969 Vienna Convention on

the Law of Treaties of (Article 26).

The European Union has, however, on several occasions, acted in an active and determined way in issues relating to Serbian aggressions in Bosnia and Kosovo and during the conflict between Georgia and the Russian Federation. During the conflict in Georgia, the EU dispatched a fact-finding mission (Decision of the Council on 2 December 2008) to "investigate the origins and the course of the conflict in Georgia, including with regard to international law, humanitarian law and human rights, and the accusations made in this context, including allegations of war crimes". (See on these issues the report drawn up by several NGOs including Amnesty International, Oxfam International, Pax Christi International, EMHRN and others: *The position of the EU on the peace process in the Middle East: principal contradiction*, September 2009.). The EU has never made an equivalent effort to oblige Israel to respect the resolutions of the Security Council or of the institutions of the EU itself.

## 2.2 the responsibilities of the EU within the framework of its resolutions and the Association Agreement with Israel.

Several resolutions of the of the EU and its institutions, in particular the European Parliament, the Council of Ministers and the Council of the European Union, have condemned Israeli policies. Thus, resolutions Council of the EU condemned the occupation of the territories by force, the colonisation of the Palestinian territories, the construction of the partition wall, the Gaza blockade and the bombardments of this territory. (Also see EU Council Resolution of 15 June 2009 and Council Resolutions of 12/07/2004 relating to the Wall, Council conclusions of 17-18 June 2004 relating to ending the establishment of colonies etc.)

Since the 1980 European Council in Venice, the EU has been asking that the right of the Palestinian people to self-determination take practical form in the creation of a Palestinian state. In 1999, the European Council asked that the Palestinian state be created on the basis of the territories occupied in 1967. The European Council of Seville of 21 and 22 June 2002 took a similar position. In accepting to be member of the Quartet, the European Union has the responsibility to take action to give concrete expression to the creation of a sovereign Palestinian state. The principle of good faith compels the EU and the Member States to show consistency between, on the one hand, the decisions and public statements which they make, the responsibilities accepted as members of the Quartet and of the Security Council and, on the other hand, the political, diplomatic and legal actions in which they engage. The EU has never undertaken actions making it possible to give concrete expression to its declared policies on the establishment of a Palestinian state.

On the contrary, the EU has gone in a direction, with, some of its policies, which is contrary to the principle of the right of the Palestinian people to self-determination. Indeed, after the results of the general election to the Palestinian Council, which gave the majority to the Hamas movement, the EU made demands which deliberately undermined the Palestinian people's will, as if the latter could only express the interests of foreign points of view. By denying the Palestinian voters' will and by refusing the formation of a national unity government between the PLO and Hamas, the EU yielded to Israeli demands and contravened the principle and the substance of the Palestinian people's right to self-determination.

Furthermore, the EU acts in a discriminatory manner in several areas which are sensitive for the exercise of the right to self-determination. In the context of the Quartet and also outside this context, the EU insists that Hamas recognise Israel and gives up all use of force against the occupant without making any demands of Israel in return, in particular regarding clear and



complete recognition of the right of the Palestinian people to self-determination, even though this recognition is an essential precondition which has to be required of Israel.

The EU insists that the Palestinian Authority respect the law with regard to the occupier and its nationals, without requiring in return any effective action against the violence of the settlers. The EU takes no action with regard to the discrimination constituted by the application of military law to the Palestinians. The settlers' violence remains generally unpunished. The statement of the Quartet on 26 September 2008, which "condemned the recent rise in settler violence against Palestinian civilians, urging the enforcement of the rule of law without discrimination or exception" remained without follow-up on the ground, as if the Israeli government and the settlers were ensured impunity, as a consequence of inertia or often as a consequence of the support of the USA and the European Union.

This discriminatory behaviour, incompatible with the EU's participation in and its responsibilities in the Quartet, is confirmed in several areas. One can quote, for examples, the renewed calls by the European Council for the release of a corporal of the Israeli detained army militants of the Hamas and the absence of any mention of the thousands of Palestinian prisoners or any calls for the release of Palestinian ministers and delegates imprisoned by Israel. As the NGOs point out (Amnesty International, Oxfam, international Pax Christi, REMDH and others...) in their report referred to above on these questions, "only in December 2008 did the Council address the broader issue by stating that....."Palestinian prisoners should be released in greater numbers, with priority being given to minors ". The NGOs which quote the statistics drawn up by Israeli organisations, point out in their report referred to above that more than 7,800 Palestinian prisoners are detained by Israel, of which more than 387 are in military administrative detention without charge or trial. According to these NGOs and to Amnesty International's 1989 annual report, "fall far short of due process and fair trial standards".

According to the facts reported by these NGOs, it can be affirmed that "the Israeli military courts do not comply with the rules of international law ". (See in particular the proceedings of the United Nations Committee against torture, fourth periodic report of the Israeli government, particularly the Israeli and international NGOs' contributions.)

This discriminatory behaviour, already in itself contrary to international law, is incompatible with the responsibilities that the EU accepted as a member of the Quartet. These discriminations are reflected finally in a cover-up of the violations of international law perpetrated by Israel and even by encouragement to persevere in the denial of the Palestinian people's right to self-determination. This interpretation is clearly corroborated by the proposals of the Ministers of Foreign Affairs of the EU to "upgrade" the EU-Israeli relations and status. This proposal is added to the "advanced status" from which Israel already benefits in the EU and which demonstrates that, despite the Council Resolutions favouring respect of international law and despite all the violations of international law signalled by the United Nations, by numerous states and human rights NGOs, the European Union is satisfied and is pleased with the behaviour of this state. Much more, the proposal to "upgrade" the Israel relations with the EU constitutes an encouragement to continue to act in the same way and to resort to force. Thus a few months after this proposal to "upgrade" the relations with Europe, Israel felt secure in its position of a state able to act above international law and decided to start, on 30 December 2008, a war against the people of Gaza. The reaction of the EU were in the usual direction of the policies of this organisation, that is, refusing to take the measures likely to stop and sanction the violence of the Israeli army, despite the horror of the massacres of civilians and destruction of the public services most essential for the population. The Goldstone report, carried out under the aegis of the United Nations, found evidence on the part of the protagonists of the conflict and

particularly on the part of the Israeli army, of serious crimes that amount to war crimes and crimes against humanity. Europe supported the adoption of the report by the United Nations General Assembly without drawing any consequences with regard to reparations or other sanctions which should consequently be decided against Israel. General international law requires various integral reparations or equivalent to rectify the violations of international law on foreign territories. However in the case of Israeli crimes and destruction, neither the EU nor its Member States have ever tried to put on the agenda the issue of Israeli reparations in conformity with international law. In such cases as this, as in other circumstances, no initiative has been seriously put forward by the EU, nor by France nor the United Kingdom, as permanent members of the Security Council and as influential member of the Quartet, to rule on sanctions against the aggressions perpetrated against the Palestinian people.

RAW MACHINE TRANSLATION