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UNDER PROLONGED ISRAELI OCCUPATION, CHILDREN'S DEVELOPMENT 'DEFORMED BY PERVASIVE

DEPRIVATIONS' AFFECTING HEALTH, EDUCATION, SECURITY, UN EXPERT TELLS COMMITTEE

Also Hears from Experts on Human Rights While Countering Terrorism, Religious Freedom, Foreign Debt, Extrajudicial Executions, Internally Displaced

The prolonged Israeli occupation of the Palestinian territories had placed a tremendous burden on civilians, and had an even heavier impact on children, "whose development is deformed by pervasive deprivations affecting health, education and overall security," a top UN Official told the Third Committee (Social, Humanitarian, Cultural) today.

Richard Falk, the Human Rights Council's Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, said evidence suggested a pattern of increasing abuse through specific policies that systematically violated the rights of children under international humanitarian law. Further, experts on child development agreed that children suffered more from violations than adults and "the protection of their rights should be of urgent concern to the international community".

Mr. Falk, who was presenting his annual report, said that Israel had again this year refused to cooperate with his mandate and allow him access to the Territories. But, he noted that many children arrested for stone-throwing were subject to Israeli military law. That process, as documented by United Nations agencies, included arrests in the middle of the night, removal of the child from the parent for questioning and abundant anecdotal evidence of abusive treatment in detention.

Related to that had been an alarming increase in settler violence in 2011, he said, with 178 documented injuries to Palestinians during the first half of this year compared to 176 for all of 2010 and with almost daily accounts of vandalism against Palestinian agricultural land and villages.

A further dimension to those activities was frequent settler harassment of Palestinian children on their way to school, which had reportedly discouraged many children and their families from even attending. "Overall, the failure to prevent and punish settler violence remains a serious and on-going violation of Israel's most fundamental obligation under international humanitarian law to protect a civilian population living under occupation," he said.

He recommended that the Government of Israel immediately adopt the non-governmental organization B'Tselem's guidelines to protect Palestinian children who were arrested or detained, as a minimum basis for compliance with international humanitarian law. Further, Israel also needed to develop and implement appropriate detention and imprisonment policies for all Palestinians.

The Special Rapporteur also recommended allowing entry into Gaza urgently needed materials to repair water and electricity infrastructure and an immediate lifting of the unlawful blockade of Gaza. Finally, he recommended that a request be made to the International Court of Justice for an advisory opinion on the legal status of prolonged occupation.

During the question-and-answer session following his presentation, Mr. Falk expressed support for Palestine's recent request to be admitted as a Member State of the United Nations. In the new political atmosphere of revolutions in the Middle East, Palestinian statehood should be supported as an ingredient of self-determination that should not be tied to the resolution of final status issues.

"There is no credible reason to defer Palestinian statehood and membership in the United Nations, given these realities," he argued, stressing that to deny the inalienable rights of the Palestinian people was just to express the failure of the international community, and the United Nations system, to act in accordance with the global rule of law.

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Background

The Third Committee (Social, Humanitarian and Cultural) met today to continue its discussion of the promotion and protection of human rights.

The Committee had before it a note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (document [A/66/538](#)). It considers developments relevant to the obligations of Israel under international law, as well as the situation of people living in the Occupied Palestinian Territory. It gives particular attention to the right of Palestinians to self-determination, the situation of Palestinian prisoners detained by Israel, unlawful Israeli settlements in the Occupied Territories, violence by Israeli settlers against Palestinians and their properties, the vulnerable situation of children in those areas and the adverse impact of the blockade of the 1.6 million residents of Gaza.

The Special Rapporteur points out that he was unable to obtain cooperation from Israel in the discharge of his mandate and he continues to believe that Israel was not fulfilling its obligations as a United Nations Member State, in that regard. He recalled that when he made an attempt to enter Israel on 14 December 2008, he was detained in a prison facility and expelled, and there was no regularized access to the West Bank, including East Jerusalem, except by way of Ben Gurion airport in Tel Aviv and Israeli-controlled crossings from Jordan. Thus, no means existed to visit those areas. As for Gaza, the changed circumstances in Egypt had created the prospect of access and a trip had been planned for 25 April to 3 May 2011, but it was ultimately cancelled in light of the prevailing security situation at that time.

Despite his inability to visit the Occupied Territories, he had proceeded with the mission to Egypt and Jordan, where he met with a wide range of people familiar with the conditions in the territories. Although the visit covered the full range of human rights issues raised by the occupation, his particular focus was on how the prolonged occupation, the blockade of Gaza and long-term refugee status encroach on the rights of children. Those concerns were given special emphasis in the current report, he states.

The report recommends the Government of Israel to immediately adopt the guidelines of Israeli human rights organization B'Tselem for the protection of Palestinian children living under occupation who are arrested or detained, as a minimum basis for compliance under international humanitarian law; to lift the unlawful blockade on Gaza, immediately allowing entry of urgent materials to repair water and electricity infrastructure to further avoid deterioration of health of the civilian population; and to implement appropriate detention and imprisonment practices for Palestinians. It also recommends the General Assembly request the International Court of Justice issue an advisory opinion on the legal status of prolonged occupation.

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Statement by Special Rapporteur on Situation in Palestinian Territories

RICHARD FALK, Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, said it was troubling that he again began his report by noting his inability to fulfil his duties due to non-cooperation of the Government of Israel, which continued to deny access to assess the situation. Despite that disappointment, many useful meetings were arranged in Cairo and Amman with United Nations officials, non-governmental organizations and representatives from Palestine, as well as personalities who travelled from the Occupied Territories, to discuss the human rights situation in the West Bank, East Jerusalem and Gaza. Helpful discussions were also held with the Foreign Ministers of both Egypt and Jordan, he said. A mission to Gaza was planned for next year, after this year's visit was deferred due to the security situation.

After the deadline for submission of his report, several notable developments had taken place, he said. The Palmer Report to investigate the flotilla incident of 31 May 2010 was released and adopted by the Government of Israel. But, it was strongly criticized by the Government of Turkey, especially the claim that the blockade of Gaza was lawful, and that Israel enjoyed the right to enforce the blockade under international law. "The Palmer Report seems seriously deficient from an international humanitarian law standpoint due to its failure to assess the contention that this blockade, that also applies to Israeli crossings, had lasted for more than four years, and seems in its essence to be a form of collective punishment of the civilian population of Gaza prohibited by Article 33 of the Fourth Geneva Convention," he said. Unfortunately, the Palmer Report provided a formal justification for the continuing denial of fundamental human rights to the people of Gaza by a process of reasoning that was not consistent with the weight of expert opinion among international law specialists.

Also after submission of the report, the President of the Palestinian Authority, Mahmoud Abbas, formally requested Palestine be admitted as a Member State of the United Nations. Statehood, even without membership, would enlarge the potential institutional options for Palestine to fulfil its rights under international law, and participate in peace negotiations on the basis of sovereign equality, he said. Also, serious concerns had also been raised recently about an Israeli plan to forcibly displace Bedouin communities in Area C of the West Bank. The traditional Bedouin way of life was under increasing threat from Israeli settlement plans, which resulted in a disturbing increase in the number of house demolitions and related efforts to displace Bedouin communities against their will. Such policies were contrary to the human rights of the Bedouin communities to maintain their way of life while living under occupation, he said.

There was also an alarming increase in settler violence in 2011, he said, with 178 documented injuries to Palestinians during the first half of this year compared to 176 for all of 2010. "These specific injuries resulted from stone throwing, assaults and shootings by Israeli settlers. Yet these incidents only tell part of the story," he said. There were almost daily accounts of settler vandalism against Palestinian agricultural land and villages, while there was a pattern of passive support for those activities by Israeli security forces and border police who did nothing to stop settler violence. "A further dimension of these activities is frequent settler harassment of Palestinian children on their way to school, also not prevented by Israeli forces, which has reportedly discouraged many children and their families from attending school, thereby obstructing their right to education," he said. "Overall, the failure to prevent and punish settler violence remains a serious and on-going violation of Israel's most fundamental obligation under international humanitarian law to protect a civilian population living under occupation."

The Special Rapporteur said prolonged occupation exerted a constraining burden on civilians, with an even heavier impact on children "whose development is deformed by pervasive deprivations affecting health, education and overall security". Evidence suggested there was a pattern of increasing abuse through specific policies that systematically violated the rights of children under international humanitarian law. Further, experts on child development agreed that children suffered more from violations than adults and "the protection of their rights should be of urgent concern to the international community".

In addition, many children were arrested for stone-throwing and they were subject to Israeli military law, which did not have protective provisions regarding the presence of a parent during questioning, the hours during which it could be conducted or respect for the dignity of the child. The process, as documented by United Nations agencies, included arrests in the middle of the night, removal of the child from the parent for questioning and abundant anecdotal evidence of abusive treatment in detention. It was little wonder that both Médecins Sans Frontières and UNICEF had documented a greatly increased number of children suffering from stress disorder.

In closing, he recommended the Government of Israeli immediately adopt non-governmental organization B'Tselem's guidelines protect Palestinian children who were arrested or detained, as a minimum basis for compliance with international humanitarian law. Israel also needed to develop and implement appropriate detention and imprisonment policies for all Palestinians.

The Special Rapporteur also recommended allowing entry into Gaza urgently needed materials to repair water and electricity infrastructure and an immediate lifting of the unlawful blockade of Gaza. Finally, he recommended a request to the International Court of Justice for an advisory opinion on the legal status of prolonged occupation, as aggravated by prohibited transfers of large numbers of persons from the occupying Power and imposing a dual and discriminatory administrative and legal system in the West Bank, including Jerusalem.

Question-and-Answer Session

The representative of the Permanent Observer Mission of Palestine thanked the Special Rapporteur for his work in bringing attention to the human rights violations committed in the Occupied Palestinian Territory, including the occupying Power's obligations under the Fourth Geneva Convention. Noting the number of Palestinian prisoners still being held in Israeli detention centres, she underscored the countless violations of their rights, ranging from their arbitrary arrest, their detention in unsanitary conditions and their subjection to solitary confinement. She asked the Special Rapporteur to comment on the legal ramifications of prisoners being transported outside the Territory.

The representative of the European Union called on Israel and all Palestinian actors to adhere to international human rights and humanitarian law. All parties had a responsibility to prevent, investigate and remedy human rights violations. By calling attention to injustice and raising awareness about human rights, human rights defenders played a critical role. He asked the Special Rapporteur to describe the impact of events in the region on his work.

Syria's delegate said the Special Rapporteur had informed the Committee time and time again of the difficulties he faced in discharging his mandate owing to the actions of Israel. The paradox today lay in the fact that when it was possible for the Special Rapporteur to cross into the Occupied Palestinian Territory, the United Nations cancelled his visit because of so-called security reasons. Among other things, that action showed the absence of will of the Organization to face up to its obligations regarding the promotion and protection of the human rights of Palestinians. Despite all the facts documented in the report, abominable human rights violations continued and included such actions as attacking Palestinian families and systematically starving Palestinians through a strangulating blockade. Syria fully backed the Special Rapporteur's recommendations, although they did not meticulously cover the range of violations. Indeed, what had been mentioned, and what had not been mentioned, had been revealing.

The representative of the Maldives said that without Palestine's formal statehood, human rights could not be realized in the Occupied Palestinian Territory. Every aspect of Palestinian life had been altered by continuing occupation, including by constant harassment. There was a need for 100 new schools in the next three years, and there was lack of safe water. Dialogue must be possible. Polarized stances did not serve the common good. When an occupying Power administered justice and controlled the population, grievances could only increase. The only way forward was the recognition of Palestine as a State, so the Palestinian people could govern their own territory in peace with Israel. His Government hoped the Security Council would vote for a free and independent Palestinian State.

Lebanon's delegate expressed concern about the demolition of Palestinian homes, as well as the blockade of the Gaza Strip, which amounted to collective punishment of all Palestinians there, particularly children. Her Government was concerned about the increasing incidence of violence against Palestinian schools and students. She asked why, in this particular conflict, the United Nations had been incapable of acting on its values. Wasn't the United Nations the best positioned actor to bring a peaceful and fair settlement to the conflict?

Malaysia's representative said his Government stood in unwavering support for the inalienable rights of the Palestinians. It fully supported the membership application of Palestine in the United Nations based on a two-State solution and taking into account the security concerns of both parties. The world community had made it clear that it yearned for an early resolution to the conflict, and his Government was committed to a just and peaceful resolution of the conflict. Further, the people of Malaysia were deeply anguished by the unending cycle of violence that had become a feature of the conflict. Indeed, the continuing violation of the rights of the Palestinian people had no parallel in history. However, the situation could not be solved through violence. Finally, he underlined the right of the Palestinians to an independent State.

Egypt's representative asked about the Special Rapporteur's views on how to overcome the obstacles preventing him from carrying out his mandate in full. Could the Special Rapporteur share what kind of support and efforts he would be seeking from the international community and from all parties to effectively carry out his mandate?

In response, Mr. FALK thanked delegates for their statements and questions, noting that some were very difficult and complicated. Regarding the legal implications of deporting Palestinian prisoners outside the territory where they were arrested, he said the basic principle of international humanitarian law in question was that a prisoner could not be transferred from the territory that was occupied. In that case, the issue arose in two different settings. In the first, a Palestinian was arrested in the West Bank or East Jerusalem and, after conviction, was then transported to a prison in Israel. That happened frequently and had had the effect of preventing a prisoner, possibly for decades, from having contact with his or her family.

He said the second setting applied to the dispatch of released prisoners to neighbouring countries. Here, the issue was less clear because, in the most recent prisoner release, there were claims that the prisoners consented to their deportation. In addition, Israel reportedly committed itself to allowing family reunification in whatever country the prisoners were sent to. In that context, that serious issue needed clarification, he said.

He then turned to the important, but "speculative" question by the European Union regarding the impact of the wider developments of the Arab Spring on the prospects for greater realization by Palestinians of their human rights, particularly including their right to self-determination. It could be said — somewhat optimistically — that the Palestinian struggle benefited from those regional developments. Indeed, there was no doubt that the Arab citizenry was supportive of the Palestinian quest for peace. The more democratic regional Governments became, the more attentive they would be to their citizenry, suggesting they would take a greater interest in pursuing a sustainable peace.

He further suggested that the new kind of political atmosphere would focus initially on the kinds of hardships that were produced by the condition of the blockade.

Similarly, there could be great support for the understanding that Palestinian statehood was an ingredient of self-determination that should not be tied to the resolution of final status issues. "There is no credible reason to defer Palestinian statehood and membership in the United Nations, given these realities," he argued, stressing that to deny the inalienable rights of the Palestinian people was just to express the failure of the international community, and the United Nations system, to act in accordance with the global rule of law, which should treat equals equally.

The question of not taking sufficient account of the criminality of Israel's occupation policies was, he said, a continuing issue that had accompanied the various discussions of the Goldstone Report — particularly the acceptance of the report, and the seeming inability to implement its recommendations, including referral to the International Criminal Court. Indeed, it was unfortunate that any country could have such impunity to the norms of international law.

That related, he said, to the more general question from Lebanon about the failure of the United Nations to promote the legal rights of the Palestinian people. That was a crucial question, given that a sustainable and just peace, as well as self-determination, could not be achieved unless Palestinian legal rights were upheld. It was not enough to have a bargaining situation that excluded the consideration of rights under international law, and the United Nations should use its authority to insist that any diplomatic framework must go beyond a bargaining process and must be sensitive to the legal rights, grievances and claims of the

parties. Such a framework would, he stressed, create a greater balance between the two sides.

He said Egypt's question was not just personal to his case, but should apply to all Member States, who, by becoming United Nations Members, must accept their treaty obligations. Israel had refused not only his requests for cooperation, but those of other inquiries organized by the United Nations, and that should be treated as a matter of importance. Whether that meant a clarification from the International Court of Justice, he wasn't sure. But that kind of obstruction must be treated as a matter of high-profile concern.

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