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Sixty-fifth General Assembly
Third Committee
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SIXTY YEARS AFTER HUMAN RIGHTS DECLARATION ADOPTED CHALLENGE REMAINS SAME — BRINGING

VISION CLOSER TO GROUND, SO IT TOUCHES 'LIVES OF REAL PEOPLE', THIRD COMMITTEE TOLD

United Nations High Commissioner for Human Rights Addresses Committee; Also Hears UN Experts on Myanmar; Minority Issues; Palestinian Territories

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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.

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... the Committee had before it the Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (document [A/65/331](#)). 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. Emphasis is given to the cumulative impact of Israeli policies in the West Bank and East Jerusalem arising from prolonged occupation, which exhibits features of colonialism and apartheid, as well as transforming a de jure condition of occupation into a circumstance of de facto annexation. These developments encroach on the inalienable Palestinian right of self-determination in fundamentally detrimental ways, according to the report. Attention is also devoted to habitual concerns involving settlement growth in the West Bank and East Jerusalem, the problems posed by the continued construction of the separation wall, issues of collective punishment, and a variety of other human rights concerns, including concern over the health-related and other adverse impacts of the continuing blockade of the 1.5 million residents of Gaza, consideration of the "Freedom Flotilla" incident of 31 May 2010 and the continuing effort to assess whether Israel and the responsible Palestinian authorities have carried out adequate investigations of war crimes allegations arising from the Gaza conflict of 2008-2009.

Statement by the High Commissioner for Human Rights

NAVANETHEM PILLAY, United Nations High Commissioner for Human Rights, ...

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With regard to human rights mechanisms, she noted that the Human Rights Council "has achieved much" — holding its 15th session last month; two special sessions over the course of the year on the occupied Palestinian territories and East Jerusalem, ...

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Special Representative on Palestinian Territories

RICHARD FALK, Special Representative on Palestinian Territories, presenting his last report to the General Assembly in this term, described some of the difficulties that had faced the mandate-holder in discharging the functions of the position. The most salient of those difficulties involved the non-cooperation of the Government of Israel, which had refused to fulfil its obligations as a Member of the United Nations by its failure to allow the Special Rapporteur to enter Israel to visit the occupied territories of the West Bank, East Jerusalem and Gaza. This Israeli procedure of non-cooperation was extended to other United Nations undertakings, including the "Fact-Finding Mission on the Gaza Conflict" known as the Goldstone Report and the fact-finding panel appointed by the Human Rights Council to investigate the flotilla incident of 31 May 2010.

The United Nations must also be faulted for its failure to respond more strongly to complaints of Israeli non-cooperation, setting an unfortunate precedent and encouraging impressions of Israeli impunity, he said. This mandate had also been hampered to some extent by the Human Rights Council, which never acted upon the proposal in his initial report that the mandate be reformulated to allow for the consideration of Palestinian, as well as Israeli, violations of international law, taking account of criticisms of an impression of bias. Additionally, while the Palestinian Authority had supplied helpful information, he had felt considerable pressure from it regarding his independence as Special Rapporteur, particularly with respect to reporting on the situation within Gaza.

The report itself, he said, focused on several developments pertaining to occupation, pointing out that, due to the issues associated with the blockade of Gaza,

there had been a tendency to overlook Israeli encroachments on the rights of the Palestinian people in the West Bank and East Jerusalem. It stated that the cumulative effects of the settlements, the security wall and the extensive settler-only road network had been to convert the conditions of de jure "occupation" into circumstances of de facto "annexation". The extension of the Jewish presence in East Jerusalem by way of unlawful settlements, house demolitions and revocations of Palestinian residence rights made it difficult to envisage a Palestinian capital in East Jerusalem. "If the conditions on the West Bank and East Jerusalem are substantially irreversible for political and practical reasons, it becomes misleading and diversionary to continue adherence to the 'two-state consensus'," he said, discussing the assertion that the Israeli occupation had features of "settler colonialism" and "apartheid features" based on dual and discriminatory legal structures and restrictions.

Furthermore, concerning assumptions that material conditions in the West Bank were acceptable, he said that the actual living realities of people there were not sufficiently noticed and, according to Save the Children UK, human necessities like food and water had reached a "crisis point" in an area totally under Israeli military administration. Another important issue concerned the surge of settler violence directed against Palestinians, including attacks on mosques and burning of olive trees.

The situation in Gaza remained disturbing from the perspective of human rights and international law, despite the welcome partial-easing of the comprehensive blockade in the aftermath of the 31 May attack on the six-ship flotilla carrying humanitarian assistance, he said. According to the latest information, the entry of basic necessities to Gaza remained at one third the level that existed prior to when the blockade was established in June 2007. He called the blockade "a form of collective punishment", adding that the fact-finding mission report also found that the attacks on the flotilla in international waters were contrary to international law and reliant on excessive force.

He concluded by calling attention to two of the recommendations in his report that arose from the legal analysis of the occupation. "In particular, it is time, after 43 years, to acknowledge the intolerable burdens of 'prolonged occupation' on a civilian population," he said, urging a formal study of the human rights aspects of prolonged occupation under either the auspices of the Human Rights Council or another respected organization. The other recommendation was to encourage United Nations support for both the effort to send humanitarian assistance direct to the people of Gaza in defiance of the unlawful blockade, and the Boycott, Divestment, and Sanctions Campaign, which sought to respond to Israel's failure to uphold its international law obligations.

Question and Answer

The Special Rapporteur then took comments and questions from a number of representatives. They included the Observer of Palestine, who said there was no sign that Israel was ceasing its violation of human rights in the occupied territories, and that a "culture of impunity" existed because the international community had failed to act. She asked the Special Rapporteur to share his views on how the international community, including the United Nations, could ensure that 43 years of violations could be brought to an end and Israel held accountable.

The representative of Israel also spoke, saying that the report of the Special Rapporteur had been based on a one-sided and imbalanced mandate that did not conform to reality, prejudged key issues, contained errors of omissions and distortions of fact and law, and advanced a one-sided political agenda. Israel was committed to complying with the core human rights instruments that it had ratified, but it could not cooperate with a Rapporteur whose mandate was inherently biased and unbalanced.

In response, the Special Rapporteur said he wished he had time to respond adequately to all that had been said, and welcomed the support that several representatives had expressed for the efforts of a mandate "beset by a variety of difficulties" not confronted by other mandates.

The central issue confronting the General Assembly, and well-expressed by the Syrian ambassador, was the degree to which responsibility would be taken for the realities of the situation in the occupied territories, he said. When would the United Nations regard its own Charter, international criminal law and human rights law as significant enough to merit the political courage to act upon them? The suffering of the Palestinian people persists, and had persisted ever since 1945 in one way, but certainly since occupation in 1967. It had never been conceived that occupation would be more than a temporary reality. Children living their entire lives under an oppressive occupation regime was something not experienced in modern times. If the United Nations was to live up the values embedded in its Charter, it must act. It must not be a passive spectator to the continuing abused of human rights. As the delegate of the Palestinian Authority said, one of the challenges was putting into reality the recommendations of the very independent flotilla and Goldstone reports. It would be a test of the credibility of the United Nations for it to take its own reports seriously enough to do something about them. Unless States took their findings seriously, how can one expect the United Nations to be respected as a conflict-resolving and problem-solving mechanism?

"I have been accused of being one-sided, but the reality is one-sided and that is the essential insight," he said. He would welcome an opportunity for a debate about the substance of his report, the accuracy of which was beyond serious question. So stark was the situation that it was not a matter of reasonable controversy. It was disappointing that the United States did not recognize that what was happening in the occupied territories could not be reconciled with international law. The United States had been critical of the expansion of settlements, but settlement in itself was unlawful under the Geneva Conventions. It seemed important and central that the United Nations show the will to act on its own reports in addressing "this great symbolic and substantive struggle".

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