

Check against delivery



**Statement by Richard Falk**  
**SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN**  
**RIGHTS IN THE PALESTINIAN TERRITORIES**  
**OCCUPIED SINCE 1967**

Human Rights Council  
25<sup>th</sup> session  
Item # 7  
Interactive dialogue

24 March 2014  
Geneva



Guide: 1200 words / 10 minutes

Mr. President,

Distinguished Members of the Human Rights Council,

Excellencies,

Ladies and Gentlemen,

This is the final presentation that I shall make to this Council as Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.

It has been a privilege, and sometimes a challenge, during the last 6 years to give a voice in the Human Rights Council and the General Assembly to those suffering daily human rights violations under the Israeli occupation in Palestine.

It would have been my strongest wish to report with pride on the improvements in Israel's observance of its obligations under international humanitarian law and international human rights standards that had been achieved during my period as Special Rapporteur. Unfortunately, the reality is exactly the opposite. The life circumstances of Palestinians living under military occupation for an incredible period of almost 47 years has continued to deteriorate. Sadly, it is my duty to tell the assembled distinguished delegates that the situation facing the Palestinians on the ground has steadily worsened during these years, and that Israel has consistently refused to fulfil its most fundamental duties under international law. This pattern of defiance must not be allowed to continue.

In this final report I have sought to call attention of this body to the most agonizing human rights issues affecting the Palestinian people. These are issues that during my term have arisen over and over again, often with a sense of urgency, and are deserving of attention and action from this Council, and indeed from the world.

First and foremost there remains unanswered the overarching question of how to achieve under present conditions the inalienable right of self-determination that belongs to the Palestinian people, those under occupation and those living as refugees and in involuntary exile. In this report, I depict the cruelties of this occupation one last time, underlining the humanitarian urgency of challenging, in particular, the legal implications of prolonged occupation. It is my judgment that the existing international law framework, although indispensable for the assessment of specific violations by a *foreign* Occupying Power, fails to provide adequate protection to an Occupied people if such a “belligerent occupation” lasts longer than five years. To endure an occupation regime of harsh military administration that is entering its 48<sup>th</sup> year stretches the moral imagination to its outermost limits. Something must be done beyond the periodic utterance of words of regret and censure to ensure that Palestinians enjoy the protection of the rule of law, and above all, to bring this unlawful occupation to an end.

In light of the relentless stream of settlement expansions in the West Bank, including East Jerusalem, it is undeniable that the territorial integrity and scope of any post-occupation Palestinian State is being steadily diminished as a realistic prospect. It is notable that in 2013, during the course of direct negotiations between the parties, the number of settlement housing units built in the West Bank doubled, according to Israel’s own official data. With each further accumulation of facts on the ground the project of securing Palestinian rights through the establishment of an independent Palestinian sovereign state becomes more and more fanciful. It should be recalled that the World Court and this body have repeatedly confirmed the conclusion that all Israeli settlements and outposts in Occupied Palestine violate Article 49(6) of the 4<sup>th</sup> Geneva

Convention. Members of the Council should realize that each additional housing unit in these settlements compounds the illegality of the enterprise.

One encouraging development has been the increasing awareness by corporations and financial institutions of their responsibilities to refrain from commercial transactions with the settlements. I can report upon an increasing momentum in the private economic sector to refrain from contributing to human rights violations through an engagement with illegal Israeli settlements. My reports in the last two years have sought to highlight the potential liabilities under international law that businesses risk if they act to profit from the settlements. I hope that my successor will continue this effort, and enjoy the support of the Council in so doing. This agenda relating to corporate responsibility is an important tangible step beyond mere words of condemnation, which Israel has consistently ignored, and also creates a bond between UN activities and global solidarity initiatives along similar lines in civil society.

Settlement expansion has been accompanied by intensifying violence against Palestinians, mainly perpetrated by a small minority of ideologically motivated settlers, and also exhibited by a rise in the number of house demolitions, an unlawful Israeli practice that inflicts collective punishment on Palestinian families. Between January and October 2013 nearly 1000 people, including more than 400 children were displaced, due to these demolitions.

In this report, I consider the question of whether Israeli policies and practices implemented in occupied Palestine amount to apartheid, embodying systematic discrimination. The analysis is made with reference to the prohibition of apartheid and segregation under international law, and by considering the facts

of the occupation as confirmed by United Nations and civil society reports. The core contention is that the maintenance of administrative structures that accords the protection of the rule of law to settlers and their communities, while subjecting Palestinians to the rightless regime of unaccountable military rule is intrinsically discriminatory. The apartheid nature of this regulatory structure is revealed by the reliance on ethnic yardsticks to determine privilege and inflict abuse, as exhibited by the selective availability of law, the separation wall, settler only roads, and the overall regime of discriminatory separate treatment.

In East Jerusalem, Palestinians continue to face Israeli policies and bureaucracy aimed at increasing the Jewish presence, while diminishing that of resident Palestinians. Among other things, this has resulted in the loss of the Israeli determined residency status in East Jerusalem for an estimated 11,000 Palestinians since 1996. In addition, the provocative E-1 settlement plan would completely separate East Jerusalem from the West Bank and seems designed to extinguish any lingering hopes of East Jerusalem becoming the capital of an unoccupied Palestine.

In July 2014, 10 years will have passed since the International Court of Justice categorically stated the illegality of the Israel's construction of the wall in the West Bank and East Jerusalem, and called for its dismantling and the payment of reparations for harm done to the Palestinians. The huge material and psychological costs borne by the villages and families living in enforced isolation as a result of the wall should not be forgotten, nor should the Israeli refusal to implement the international law findings of the highest judicial body in the United Nations. It is also appropriate to remind the world of the bravery of Palestinian communities situated near the wall that continue their peaceful

resistance year after year in the face of excessive uses of force by Israeli security forces.

I have frequently commented on the lamentable situation in Gaza, including the devastation resulting from Israeli military incursions, especially, Operation Cast Lead and Pillar of Defence. The unlawful blockade established in 2007 continues to undermine the international rights of Gaza residents to health, education and work. Tragically, it is necessary to stress again that the humanitarian situation in Gaza is dire and worsening, partly due to changes in neighbouring Egypt. The United Nations has suggested in an official report that the viability of Gaza is at risk, especially in relation to food and water, and it is an emergency challenge to take appropriate action to ensure a sustainable future for the civilian population long entrapped in the Gaza Strip.

I wish the best of results to the next Special Rapporteur for Palestine, accompanied by the hope that during his or her years item 7 will disappear from the agenda of the Council for the right reason, namely through the resolution of the underlying conflict by way of a just and sustainable peace of benefit to both peoples. In the interim it is my hope that my successor will enjoy both strong support from this Council and the cooperation of the Government of Israel. It is also my wish that the Council and Office of the High Commissioner will be vigilant in protecting the next Special Rapporteur for Palestine, and indeed all Special Rapporteurs, from harassment by NGOs that abuse their privileged access to this body by engaging in defamatory and hurtful personal attacks, and that those associated with the UN as officials or diplomats will not give credence to such attacks, and certainly not before checking out the story with the targeted individual.

I wish also to take this opportunity to thank the High Commissioner of the Office of Human Rights for her support throughout these years, and especially to thank Frej Fenniche and his talented MENA team for their invaluable assistance

Excellencies,

Ladies and Gentlemen,

Let me conclude by summarising the recommendations of my last report, and call upon you in this hall to do your best to ensure their implementation:

1. That tangible steps be taken to ensure respect for Palestinian human rights, including the right to self-determination, until formal arrangements ending the occupation are agreed upon;
2. That the General Assembly request International Court of Justice to issue an advisory opinion on the legal status of prolonged occupation of Palestinian Territories and assess allegations of whether this occupation has the characteristics of “apartheid” and “ethnic cleansing”;
3. That this Council appoint an expert group to determine the legal regime for any occupation lasting more than five years;
4. That the international community investigate businesses and financial institutions under their national jurisdiction that profit from settlements and that Member States consider imposing a ban on settlement produce;
5. That future investigations consider the corporate social responsibility of businesses engaged with other elements of the occupation, such as house demolitions and the building of the wall;
6. That Israel cease settlement expansion, protect Palestinians from settler violence, and start the work of dismantling unlawful settlements;

7. That Israel forthwith lift the unlawful blockade of Gaza and take account of the deepening humanitarian emergency there;
8. That this Council pay increased attention to, the non-cooperation of Israel with this mandate and to the improving the protection of Special Rapporteurs from defamatory attacks.

I have made several of these recommendations in some of my prior reports, and hope that these recommendations will be considered seriously by the Council, and that appropriate action will be taken.

Thank you.