

Addameer Prisoners' Support and Human Rights

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Defence for Children International – Palestine Section

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22 March 2017

## Position Paper

### Palestinian Human Rights Organizations Council (PHROC)

#### **Withdrawing ESCAW Report is Complicity: Rima Khalaf, Richard Falk and Virginia Tilley and the New Approach to End Occupation**

##### **Introduction:**

The UN Secretary General António Guterres withdrew a report presenting detailed evidence that asserts Israel is committing the crime of apartheid against the Palestinian people although it was issued by one of the UN bodies and prepared by renowned international experts. This is considered as connivance and undermines the credibility of the universal human rights system, of which the UN Secretariat is a cornerstone. The Palestinian Human Rights Organizations Council (PHROC) emphasizes that the UN Secretary General's decision to withdraw this report contributes to impunity of Israel from sanctions in relation to crimes against humanity, whose elements were revealed in the report, and makes the Secretary General a partner in the suffering of the Palestinian people under the Israeli apartheid regime.

The report was removed from the official website of the UN Economic and Social Commission for Western Asia (ESCWA) on 17 March 2017 only after two days of its publication. This report reviews facts that have always been documented and published by international and Palestinian human rights organizations and that have been addressed in various research. PHROC stresses that the report should be commended in terms of its subject and accurate content. The Secretary General should have worked on guaranteeing application of the report's recommendations instead of withdrawing it.

The report also revealed the reality of the Israeli apartheid policy against Palestinians that has started since its establishment in 1948. It addresses the ways in which this policy divided the Palestinian people into 4 parts and subjected each part to discriminatory laws which guarantee superiority of the Jewish race over the Palestinian one. The report also explains the Israeli measures during 50 years in the occupied territory since 1967 to ensure the separation of Palestinians from Israel and its persecution against them to ensure the demographic, social and economic superiority of the Jewish race.

The resignation of ESCWA Executive Secretary Rima Khalaf in response to the withdrawal of the ESCWA report by the UN Secretary General is a monumental moment

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in the face of all pressures practiced by some international parties on the UN to maintain Israel as a state above the law and enjoying impunity. PHROC highly appreciates the efforts of those who prepared this report and are persons of position adhering to the human rights principles. This report was prepared by Professor Richard Falk, former UN Special Rapporteur on "the situation of human rights in the Palestinian territories occupied since 1967, and Professor Virginia Tilley, Professor of Political Science at Southern Illinois University-Carbondale in the USA. PHROC believes that this report founds new phase and approach of struggle to end the Israeli crimes of apartheid. PHROC also calls upon the international community, particularly the European Union (EU), UN and all relevant bodies, to apply the report's recommendations.

It should be mentioned that the ESCWA is one of the five commissions formed by the UN to achieve economic and social goals identified by the UN Charter. It was established in 1973 upon the Economic and Social Council resolution 1818 (LV) in order to promote cooperation between the Member States and encourage sustainable development.

The following is PHROC's position with regards to the report and its withdrawal it in four sections. The first section addresses the report's importance while the second one highlights the serious implications of its withdrawal. The third part briefly reviews the report content while the final part presents recommendations to decision-makers.

### **First: Importance of ESCWA Report**

The importance of the report lies in its subject, the body issuing it and the status and credibility of those who prepared the report. This report is considered the first of its kind to be issued by the UN bodies after prolonged ignorance of this crime against the Palestinian people ongoing for decades. The report's content presents a new approach in understanding the apartheid regime established by Israel to seize control over the Palestinian people through which it founds to the permanent control of the Jewish race. The report included Palestinians in all areas of historic Palestine with all its mandatory borders and diaspora not only Palestinians who live in the Palestinian territory occupied since 1967.

The importance of the report also lies in its timing as it was issued in light of the escalation of the Israeli settlement policy and the statements by the Israeli leaders, who points out to the Israeli authorities' intention to annex the West Bank. This was clear through the "Regulations Bill", which legitimatizes the confiscation of the Palestinian privately-owned lands and the settlement outposts established on Palestinian lands in the West Bank and

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allows the confiscation of new lands. This law was the final touch to complete the Israeli apartheid system in the Palestinian territory occupied since 1967. Moreover, this report was issued after few months of the 2016 UN Security Council Resolution (2334) which condemns the Israeli settlements and considered them as illegal, calling upon all countries to act on this basis. Therefore, this report was issued to set the record straight and reveal what Israel has established during the previous decades in order to make the entire international community assume their responsibilities and reveal the ugly face of those supporting the Israeli control system, which gathers between colonization and apartheid.

Moreover, this report is very important for its high credibility in terms of relying on information proved with documents and approved by all. The report re-displayed this information in highly precise arrangement to reveal frankly the image of the apartheid system. This report was also prepared by two prestigious figures well-known for their efficiency and objectivity in the field of human rights and scientific research. One of them was Professor Richard Falk, former UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 for six years from 2008-2014, making him an expert on the situation. The second researcher is Virginia Tilley who is Professor of Political Science at Southern Illinois University and one of the most prominent researchers in the field of Racial and Ethnic Conflicts. She also served as Chief Research Specialist in the Human Sciences Research Council of South Africa for more than 3 years 2007- 2010 as she led the Council's Middle East Project.

## **Second: Implications of Report Withdrawal**

The withdrawal of the report constitutes a real setback for the UN credibility, revealing its complicity and support for the impunity, of which the UN has repeatedly declared its definite refusal of, particularly for the war criminals.

Following his acceptance of Dr. Khalaf's resignation, Stephane Dujarric, spokesperson of the UN Secretary General, attempted to justify the Secretary-General's withdrawal of the report. He said that its withdrawal had not been because of its content, but because the report has not followed the required measures to publish it. On the other hand, Prof. Khalaf confirmed in her resignation presented on 17 March 2017 that she is aware of the amount of pressures and threats imposed on the UN Secretary General to order to withdraw the report. However, she added addressing the Secretary General:

*"Not by virtue of my being an international official, but simply by virtue of being a decent human being, I believe, like you, in the universal values and principles that have always*

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*been the driving force for good in human history, and on which this organization of ours, the United Nations is founded. You have seen firsthand that the people of this region are going through a period of suffering unparalleled in their modern history; and that the overwhelming flood of catastrophes today is the result of a stream of injustices that were either ignored, plastered over, or openly endorsed by powerful governments inside and outside the region. Those same governments are the ones pressuring you to silence the voice of truth and the call for justice represented in these reports."*

The resignation letter by Prof Kahalf revealed Israel's enjoying impunity and UN's direct involvement in concealing the features of the Israel crimes as long as it finds a way. Attempting to hide the ESCWA report was not UN's first precedent in protecting Israel, but this was preceded by many negative positions supporting Israel.

### **Third: Report Content**

This report marks a milestone in understanding the Palestinian-Israeli conflict, as it briefs how this conflict led to the Israeli control and success in establishing an apartheid regime that has been gradually built over decades. This report tackled all aspects of the apartheid regime established by the Israeli authorities to persecute the Palestinians. The report also confirmed that describing Israel as an apartheid state is not political but legal, as apartheid is a form of crimes against humanity as defined in Article 7 of the Rome Statute. The report also proved that all elements of the apartheid crime are present in the Israeli policies against Palestinians, and refuted the Israeli controversy in this regard.

The most prominent features of the apartheid regime, which were revealed in the report, are: dividing the Palestinians into four parts, subjecting them to different systems and laws, depriving them of ownership in Israel, and encouraging Jewish immigration while preventing the return of Palestinian refugees. In addition, many discriminatory laws have been enacted to ensure the Jewish superiority and control over the Palestinian. The report determined four domains in which Israel adopts apartheid policies against Palestinians, emphasizing that all of them form one comprehensive apartheid regime in order to ensure the control of one race over another:

Firstly, 1.7 million Palestinians who are citizens of Israel lived in the first 20 the existence of Israel under military rule and then they were forced to hold the Israeli nationality without giving them full citizenship rights. The restrictive zoning laws enacted in early 1950s form the racial basis of distinction between citizenship (ezrahut) and nationality (le'um) as all Israeli citizens enjoy the former, but only Jews enjoy the latter. Relying on this, Israel

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developed the apartheid regime as Palestinians, who hold the Israeli passport, are exposed to discrimination and persecution due to the racial laws and practices. The report pointed out the immunity of discriminatory laws, which Israel considers as a way of maintaining the so-called "Jewish nationalism ."

Secondly, the report addresses denial of citizenship rights of Palestinians who live in Jerusalem. The report explained that these Palestinians are denied their right to citizenship as Israel does not recognize them as citizens and are subjected to discrimination, persecution, expulsion and house demolitions for the interest of maintaining the Israeli superiority in the city. In addition, there are numerous other violations relevant to the discriminatory measures taken by Israel against the Palestinians in there, including violations to the right to health, education, employment and housing.

Thirdly, Palestinians in the West Bank and Gaza Strip are administered in a manner that fully meets the definition of apartheid. The report addressed the most prominent forms of persecution and maltreatment practiced by the Israeli forces against Palestinians based on race as Palestinians are governed by military law, while Jewish settlers are governed by Israeli civil law.

Fourthly, Palestinian refugees and involuntary exiles were firstly displaced and their nationality was arbitrarily stripped off. These Palestinians were subsequently denied their right to redress, including their right to return to their original lands and regain their property, and compensate them for the damage they sustained. Meanwhile, Israel encourages the Jewish immigration and defends its rejection of the Palestinians' return in frankly racist language: it is alleged that Palestinians constitute a "demographic threat" and that their return would alter the demographic character of Israel.

This report presents detailed recommendations representing a road map to work on ending the apartheid system to which the Palestinian people have been subjected for decades. The report made recommendations to the international community, UN, intentional companies, civil society and ESCWA itself. All the recommendations focused on the importance to boycott and divest this system by both countries and companies. The report also recommended the UN, its relevant bodies and different international parties to follow up Israel's application of "the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid" as criminalizing the apartheid was stipulated in all international provisions that are legally binding all and cannot be consensually violated. The report also called upon the General Assembly to restore the Special Committee against Apartheid established in 1962 and UN Centre against Apartheid (1976-1991) in order to follow the suffering of the Palestinian people under the Israeli apartheid regime.

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#### **Fourth: PHROC Recommendations**

1. PHROC calls upon the UN Secretary General to retreat from withdrawing the report, republish it, adopt its recommendations, and apply them.
2. PHROC demands forming a commission of inquiry to examine and frame the facts in the report and then refer the results to the council to pave the way for presenting them to the UN Security Council and General Assembly.
3. PHROC calls upon the Palestinian Authority to take immediate action in order to republish the report and resort to the General Assembly for widely adopting the report recommendations.
4. PHROC calls upon the ICC Public Prosecutor to open an investigation into Israel's commission of the crime of apartheid against the Palestinian people and to bring those responsible into justice.

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