ISRAELI MILITARY ORDERS “IN BREACH OF INTERNATIONAL HUMAN RIGHTS LAW,” WARNS UN SPECIAL RAPPORTEUR

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GENEVA – The UN Special Rapporteur on the situation of human rights in Palestinian territories occupied since 1967, Richard Falk, warned Monday that two Israeli Defense Forces Military Orders\* may be in breach of the fourth Geneva Convention and violate the International Covenant on Civil and Political Rights.

Mr. Falk noted that “a wide range of violations of international human rights and international humanitarian law could be linked to actions carried out by the Government of Israel under these Orders, with particular gravity in the event that young persons become victims of their application.”

“The Orders appear to enable Israel to detain, prosecute, imprison and/or deport any and all persons present in the West Bank,” noted the Special Rapporteur, basing his concern on Israel’s new definition of the term ‘infiltrator:’ “A person who entered the Area unlawfully following the effective date, or a person who is present in the Area and does not lawfully hold a permit.”

“Even if this open-ended definition is not used to imprison or deport vast numbers of people, it causes unacceptable distress,” the UN independent expert said. Mr. Falk further noted that “it is not at all clear what permit, if any, will satisfy this Order.”

“Illustrative of the potential for cruel abuse,” he said, “is a provision of the Order requiring the person deported to pay the costs of his or her deportation, and suffer confiscations of property if unable to pay.”

Mr. Falk warned that deportations under the two new Orders could take place without judicial review, and that detained persons can be imprisoned for 7 years, unless able to prove that their entry was lawful, in which case they would be imprisoned for 3 years.

The UN Special Rapporteur recalled that Israel is party to the fourth Geneva Convention, which outlines its obligations as the Occupying Power in the West Bank. Article 49 of this Convention states that “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.”

Mr. Falk also noted that, despite the fact that Israel is party to the International Covenant on Civil and Political Rights, “the Orders establish a system that allows Israel to deport people without having their right to judicial review properly fulfilled, or possibly not reviewed at all.” He stressed that “the Orders do not even ensure that detainees will be informed in their own language that a deportation order has been issued against them.”

The independent expert, who is mandated by the UN Human Rights Council to monitor the situation of human rights and international humanitarian law in Palestinian territories occupied since 1967, also expressed his serious concern regarding “whether a military committee, as the one established by one of the Orders, is the kind of mechanism appropriate to satisfy requirements of judicial review, in the case that detained persons are not deported before having their situation reviewed.”

(\*) Israel Defense Forces, Order No. 1650, Order regarding Prevention of Infiltration (Amendment No. 2) (13 October 2009); and Israel Defense Forces, Order No. 1649, Order regarding Security Provisions (Amendment No. 112) (13 October 2009).

In 2008, the UN Human Rights Council designated Richard Falk (United States of America) as the fifth Special Rapporteur on the situation of human rights in Palestinian territories occupied since 1967. The mandate was originally established in 1993 by the then UN Human Rights Council.