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Russell Tribunal on Palestine

The first session of The Russell Tribunal on Palestine (RTP) took place in Barcelona from 1 to 3 March 2010. It found European Union member states in breach of international and internal European Union law with respect to the protection of human rights of Palestinians. We will publish the session's full findings in a special Spokesman pamphlet. Meanwhile, here is a preliminary report of proceedings.

The session jury comprised eminent legal experts and human rights activists*. It heard testimony from international experts and witnesses on a range of issues. They include:

- the principle of respect for the right of the Palestinian people to self-determination;
- the settlements and the plundering of natural resources;
- the annexation of East Jerusalem;
- the blockade of Gaza and Operation Cast Lead;
- the construction of the Wall in the Occupied Palestinian Territory;
- the European Union/Israel Association Agreement.

The Tribunal found that Israel was violating the right of Palestinians to self-determination as enshrined in **The Declaration on the granting of independence to colonial countries and peoples** and all **United Nations General Assembly (NGA) resolutions** that have reaffirmed the right of the Palestinian people to self-determination since 1969. Furthermore, by occupying Palestinian territories since June 1967 and refusing to leave them, Israel violates the **Security Council resolutions** that demand its withdrawal from the territories concerned.

The Tribunal also found Israel's discriminatory acts towards Palestinian

*Jury members were Mairead Corrigan Maguire, Cynthia McKinney, Gisèle Halimi, Aminata Traore, Ronnie Kasrils, Alberto San Juan, Michael Mansfield, Arcadi Oliveres, Jose Antonio Martin Pallin.

populations inside Israeli territory and occupied Palestinian territory to be in violation of the **Convention on the Suppression and Punishment of the Crime of Apartheid of 18 July 1976**, which is not binding on Israel, though this does not exonerate Israel in such regard. The acts include closure of the borders of the Gaza Strip and restrictions on the freedom of movement of its inhabitants; preventing the return of Palestinian refugees to their home or land of origin; prohibition on the free use by Palestinians of certain natural resources such as watercourses within their land.

By annexing Jerusalem in July 1980, and maintaining the annexation, Israel violates the prohibition of the acquisition of territory by force, as stated by the **Security Council Resolution 478 of 20 August 1980**.

By constructing a Wall in the West Bank on Palestinian territory that it occupies, Israel denies the Palestinians access to their own land, violates their property rights, and seriously restricts the freedom of movement of the Palestinian population, thereby violating **article 12 of the International Covenant on Civil and Political rights** to which Israel became a party on 3 October 1991; the illegality of the construction of the Wall was confirmed by the **International Court of Justice in its Advisory Opinion of 9 July 2004**, which was endorsed by the **UN General Assembly**.

By systematically building settlements in Jerusalem and the West Bank, Israel breaches the rules of international humanitarian law governing occupation, in particular **article 49 of the Fourth General Convention of 12 August 1949**, by which Israel has been bound since **6 July 1951**. This point was noted by the International Court of Justice in the above-mentioned Advisory Opinion.

By pursuing a policy of targeted killings against Palestinians whom it describes as ‘terrorists’, without first attempting to arrest them, Israel violates the right to life of the persons concerned, a right enshrined in **article 6 of the Covenant on Civil and Political Rights 1966**.

By maintaining a blockade on the Gaza Strip, Israel breaches the provisions of the **Fourth Geneva Convention of 12 August 1949 (art. 33)**, which prohibits collective punishment.

By inflicting extensive and serious damage, especially on persons and civilian property, and by using prohibited methods of combat during operation ‘Cast Lead’ in Gaza (December 2008 – January 2009) it committed further breaches.

European Union member states were found to be violating provisions of the **Lisbon Treaty (2010)** including foundational principles of the EU itself as set down in article 2, which confirms attachment ‘to the values of

respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights’.

European Union member states, as high contracting parties to the **Geneva Conventions 1949**, were found to be breaching elementary obligations of due diligence and ensurance of peremptory legal norms which cannot be derogated from, by failing to react to and remedy violations of the convention committed by Israel. As such they were found to be assisting Israel in its breaches of international law.

Article 146 compels EU member states ‘to undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article’.

Grave breaches include wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

International Law Commission articles on state responsibility for wrongful acts were found to apply to EU member states, as is the **1966 Covenant on Civil and Political Rights**, which states:

‘Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.’

Reports from experts brought to light passive and active forms of assistance in the alleged commission of breaches by the European Union and its member states particularly through:

- exports of weapons and components of weapons by EU states to Israel, some of which were used during the conflict in Gaza in December 2008 and January 2009;
- exports of produce from settlements in occupied territories to the European Union;
- participation by the settlements in European research programmes;
- failure of the European Union to complain about the destruction by Israel of infrastructure in Gaza during Operation Cast Lead;
- failure of the European Union to demand Israeli compliance with clauses concerning respect for human rights contained in the various association agreements concluded by the EU with Israel;

- the decision by the European Union to upgrade its relations with Israel under the Euro-Mediterranean Partnership Agreement;
- tolerance by the European Union and its member states of certain economic relations between European companies and Israel involving commercial projects in the occupied territories, such as the management of the Tovlan landfill site in the Jordan valley and the construction of a tramline in East Jerusalem.

**In conclusion of its first Barcelona session,
the Russell Tribunal on Palestine calls on:**

(i) the European Union and its member states to fulfil their obligations forthwith by rectifying the breaches specified in the final ruling;

(ii) the European Union in particular to implement the EU Parliament resolution requiring the suspension of the EU-Israel Association Agreement and thereby putting an end to the impunity that Israel has benefited from until now;

(iii) European Union member states to implement the recommendation at para 1975 (a) of the UN Fact Finding Mission Report on the Gaza Conflict (Goldstone Report) regarding the collection of evidence and the exercise of universal jurisdiction against Israeli and Palestinian suspects;

(iv) European Union Member states to repeal any requirements in any member state that a suspect must be a resident of that member state or of any impediments to the compliance with the duty to prosecute or extradite for trial all suspected war criminals sought out by member states.

(v) European Union member states to ensure that universal jurisdiction laws and procedures are made as effective as possible in practice, including through co-ordination and the implementation of agreements on the mutual co-operation of states on criminal matters, through the EU contact points on cross-border and international crime, EUROPOL and INTERPOL, etc.

(vi) European Union member states to make no regressive changes that would blunt the effect of existing Universal Jurisdiction laws, so as to ensure that no EU member state becomes a safe haven for suspected war criminals;

(vii) The Parliaments of Austria, France, Greece and Italy to pass laws providing the penal legislation required by article 146 of the Fourth Geneva Convention to enable universal jurisdiction to be exercised in those countries.

(viii) individuals, groups and organisations to take all avenues open to them to achieve compliance by EU member states and the European Union

of their aforementioned obligations, as exemplified by the use of universal jurisdiction over individual criminal suspects, domestic civil proceedings against individual governments and/or their departments or agencies and private companies, in respect of which it is the intention of the Russell Tribunal on Palestine to commission and/or encourage others to commission research into which countries and jurisdictions these matters can most effectively be pursued; and

(ix) the existing legal actions and campaigns in the context of boycott, divestment and sanctions (BDS) to be stepped up and widened within the European Union and globally.

The Russell Tribunal on Palestine calls on the European Union and on each of its member states to impose the necessary sanctions on its partner Israel through diplomatic, trade and cultural measures in order to end the impunity that it has enjoyed for decades. Should the European Union lack the necessary courage to do so, the Tribunal counts on the citizens of Europe to bring the necessary pressure to bear on it by all appropriate means.

More information: www.russelltribunalonpalestine.net

<p style="text-align: center;">GALLOWS AND OTHER TALES OF SUSPICION AND OBSESSION</p>  <p style="text-align: right;"><i>John Arden</i></p>	<p style="text-align: center;"><i>Gallows</i> <i>and Other Tales of Suspicion and Obsession</i> <i>by John Arden</i></p> <p>John Arden has produced another glorious collection of stories, set in Yorkshire, London and Ireland. <i>Gallows</i> mingles black comedy with melodrama to probe the underside of Irish and English history from the 17th century to the 21st. The title-piece is a ghost story set in contemporary Galway: a nightmare of ghastly slaughter resurfacing from the era of the Penal Laws. Described in <i>The Guardian</i> newspaper as 'the British Brecht', John Arden was born in Barnsley. He has lived in Ireland for four decades. He is the author of plays such as <i>All Fall Down</i>, which appeared in 1955, <i>Serjeant Musgrave's Dance</i> (1959), <i>Live Like Pigs</i>, and <i>The Non-Stop Connolly Show</i>, co-authored and co-produced in 1975 with Margaretta D'Arcy. Added to all this, there are novels and short stories.</p>
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