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**ECONOMIC, SOCIAL AND CULTURAL RIGHTS
EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS**

**Written statement* submitted by UN Watch,
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2005]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

ABUSE OF MANDATE BY THE SPECIAL RAPPORTEUR ON FOOD

It is an elementary principle of international law that “[the appointment of] a special Rapporteur [...] or the fact that he has been entrusted with a mission by the United Nations does not of itself allow him to operate outside his mandate.”¹ The position of the Special Rapporteur on the right to food was created by the Commission, and its mandate defined, in Resolution 2000/10. This mandate includes seeking and responding to information on the “urgent necessity of eradicating hunger.” The mandate was expanded by Resolution 2001/25 to include specific attention to issues such as drinking water, and renewed by Resolution 2003/25.

Regrettably, Mr. Ziegler has repeatedly abused this mandate. The most recent overreach by Mr. Ziegler came in a letter that he sent to Caterpillar, Inc. (“Caterpillar”), dated 28 May 2004, cautioning that company against doing business with Israel on the basis of alleged human rights concerns (“the Boycott Letter”). Notwithstanding nominal invocations of the right to food, *the pith and substance of the Boycott Letter is plainly not food*, but rather Mr. Ziegler’s well-known radical political opposition to Israel, whom he has publicly accused of “state terror”, “war crimes” and of acting like Nazi Germany.²

The Boycott Letter purports to treat Israeli actions that, Mr. Ziegler alleges, “destroy [...] homes and sometimes human lives”, and that concern “homelessness” and “loss of livelihood.” Grave as these allegations are, they are simply *not about food*. If the Commission’s thematic mandates are to have any meaning whatsoever – or any credibility – their interpretation *ad absurdum*, as exemplified by Mr. Ziegler’s actions, cannot be tolerated.

Mr. Ziegler’s actions violate express rules of international law as emphasized in recent jurisprudence. Special Rapporteurs have a “duty...to ensure that whatever actions they take or statements they make are always within the limits of the performance of their duties.”³

Yet not only does the *substance* of Mr. Ziegler’s Boycott Letter testify to its concern with non-food issues, rendering his action outside “the limits and performance of [his] duties,” so too does its *context*. Over the past two years there has been a political campaign orchestrated against Caterpillar demanding that it impose a boycott against Israel. Proponents of this boycott have invoked several grounds – but never the right to food. Mr. Ziegler evidently wishes to enlist in this campaign. Yet he has no legal basis to do so with the full imprint and authority of his specialized UN mandate merely by uttering three magic words, “right to food.”

Mr. Ziegler’s exercise of his right-to-food powers for the purpose of joining a political boycott campaign not concerning a food matter constitutes an *abuse of the power conferred on him by the Commission*, and is illegal under international and generally-recognized principles of administrative law. A recent case by the Inter-American Commission on Human Rights makes this clear: “An administrative act may have been performed by the competent official with all the appearances of legality and yet this discretionary act, which the qualified official had the strict right to perform, may be rendered illegal if its author has used his powers for a purpose other than that for which they were conferred on him [...]”⁴ Moreover, as Judge Koroma of the International Court of Justice recently opined, “[h]aving contact with the media cannot be regarded as a licence for a special rapporteur to operate outside his mandate.”⁵

Mr. Ziegler’s demand that Caterpillar boycott Israel in turn precipitated an identical demand to the corporation from the Arab League Boycott Office based in Damascus,

Syria.⁶ By encouraging the Arab League's boycott of companies that trade with Israel, Mr. Ziegler could be liable not only for encouraging a breach of international law principles prohibiting economic coercion (flowing from Article 2(4) of the UN Charter), but also for inciting the commission of a felony under the law of the United States, specifically, the Export Administration Act's anti-boycott provisions. It is important to note that by acting outside his mandate Mr. Ziegler does not benefit from the immunity granted by the Convention on the Privileges and Immunities of the United Nations.

Whatever genuine problems do exist in the West Bank and Gaza, starvation is simply not one of them. In fact, by any comparative measure, Palestinians are eating far better than neighboring populations. If one looks at the percentage of underweight children — the most meaningful cross-country comparable indicator — the UN's 2003 Human Development Report reports that the West Bank and Gaza has *the lowest rate* (3%) compared with any state in the Arab Middle East, East Asia, the Pacific, South Asia, Sub-Saharan Africa, and Latin America (except Chile). Yet a country like North Korea (60%) has never been targeted by a single Ziegler boycott letter.

The truth about Ziegler, as a simple Google search will reveal, is that his "right to food" activities are in fact initiated as part of orchestrated political campaigns. Not coincidentally, Ziegler, who resides in Switzerland, sent his May 2004 Boycott Letter to Caterpillar three days after a political "action" notice was issued against this corporation by "Collectif Urgence Palestine" — a Swiss group, dedicated to boycotting Israel, with which Mr. Ziegler has been active.⁷ Mr. Ziegler then passed his letter directly to the group, which promptly posted it on the website of its boycott campaign.⁸

Mr. Ziegler has also written to the European Commission to demand suspension of its trade accord with Israel. How many other boycott letters Ziegler has sent is a mystery. Their target is not.

Recommendations

- The Commission on Human Rights should replace Jean Ziegler for blatantly violating his obligations to act with impartiality, non-selectivity and objectivity.
- The High Commissioner for Human Rights should instruct her staff to cease providing support related to Mr. Ziegler's unauthorized activities, including his boycott campaign.
- The High Commissioner for Human Rights should clarify that while Mr. Ziegler sends his boycott letters under the letterhead of "United Nations High Commissioner for Human Rights," he in fact speaks for himself only.

¹ *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights (Advisory Opinion)* [1999] ICJ 3 (29 April 1999) (Koroma, J., dissenting on other grounds).

² Neglecting many of the world's recognized food emergencies, Jean Ziegler has instead zealously pursued the demonization of Israel in every available medium and forum. See, e.g., *UN Information Service*, May 28, 2004

(Ziegler issuing joint press release with Special Rapporteur on adequate housing to “urgently” condemn Israel for its “massive military operation” against Palestinian weapons-smuggling tunnels in Rafah, and to “welcome the outpouring of condemnations”); (*Swiss*) *SDA – Basisdienst Deutsch*, May 21, 2004 (citing *Swiss Blick*) (“the Gaza Strip resembles a huge concentration camp”; the Israeli army tortures and kills civilians; Prime Minister Ariel Sharon commits “state terror” supported by the U.S. for strategic reasons; the E.U. must temporarily suspend its free trade agreements with Israel to “impress Sharon”); (*Swiss*) *SDA – Basisdienst Deutsch*, April 15, 2004 (Ziegler coming to UN Palestinian Committee Conference to inveigh against Israel’s barrier, accuse Israel of “Apartheid” and boast of his letter to E.U. that demanded it break trade agreements with Israel); *M2 Presswire*, November 12, 2003 (Ziegler testifying before UN Third Committee that “the most important [2003] country mission was the one conducted to the occupied Palestinian territories,” and denying that Palestinian terrorism plays any role in region’s difficulties); *United Press International*, November 12, 2003 (Israel is responsible for inflicting upon Palestinian children “some form of brain damage”); *Swiss Info* (*swissinfo.org*), July 8, 2003 (“Mr. Bush – the White House Pinochet – [...] covers for Sharon’s crimes in Palestine [by referring] to the so-called war on terror”); *Al Siyassa-Al Dawliya* (Egyptian quarterly on international politics) January, 2003 (“[t]he policies of colonial repression followed by Ariel Sharon and other Israeli generals are criminal and classifiable as crimes against humanity”; and “the most pressing task” is for the international community to send armed forces “to protect the people of Palestine against the massacres of the occupying forces”); *Report on Mission to the Occupied Territories*, October 21, 2003 (25-page report excoriating Israel for numerous alleged crimes and exculpating Palestinian terrorist groups from any responsibility); *Voice of America*, July 18, 2003 (announcing that situation in territories is “appalling”); *United Nations Seminar on Assistance to Palestinian People*, July 16, 2003 (condemning Israel’s “violation of the right to food”); *Preliminary Report on the Right to Food to 56th Session of the General Assembly*, July 23, 2001 (devoting singular scrutiny to Israel and accusing it of policies that “created hunger and threaten starvation of the most destitute”; announcing his intent to embark on special country mission to the region).

³ *Advisory Opinion, supra*, note 1 (Weeramantry, V.P., separate opinion).

⁴ *Rodolfo Robles Espinoza and Sons v. Peru*, Case 11.317, Report No. 20/99, Inter-Am. C.H.R., OEA/Ser.L/V/II.95 Doc. 7 rev. at 787, par. 109 (1998), citing Alibert, “Le contrôle juridictionnel de l’Administration,” Paris 1926, at 236.

⁵ *Advisory Opinion, supra*, note 1 (Koroma, J., dissenting on other grounds).

⁶ *Associated Press Worldstream*, June 24, 2004.

⁷ See http://www.urgencepalestine.ch/caterpillar_manif/index.htm

⁸ See http://www.urgencepalestine.ch/caterpillar_manif/index.htm