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COMMISSION ON HUMAN RIGHTS
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Item 8 of the provisional agendaQUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Joint written statement* submitted by International Federation of Human Rights Leagues
and Palestinian Centre for Human Rights, non-governmental organizations
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.

[7 February 2003]

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

PCHR, the FIDH and LAW express their grave concern at Israel's continuing violations of international human rights and humanitarian law in the Occupied Palestinian Territories (OPTs), including grave breaches.

The Gaza Strip, the West Bank, including Jerusalem, have been under Israeli military occupation since 1967 and the de jure applicability of the Fourth Geneva Convention to these territories has been recognized by all of the High Contracting Parties to the Convention, including through resolutions of the United Nations Security Council and General Assembly and by the International Committee of the Red Cross (ICRC). Israel alone has consistently refused to accept its applicability to the OPTs.

During the last thirty-six years of this occupation, Israel has repeatedly violated many of the provisions of the Convention. However, over the last two years there has been a serious escalation in violence perpetrated against Palestinian civilians. In 2002, in particular, the FIDH, PCHR and LAW documented an unprecedented number of grave breaches of article 147 of the Fourth Geneva Convention, namely war crimes, as set out below.

Wilful Killings

Between 29 September 2000 and 13 January 2003, 1730 Palestinians were killed by the Israeli occupying forces and settlers. 320 of those killed were under the age of 18. In March and April 2002 alone, 485 Palestinian were killed by Israeli security forces. The use of excessive and disproportionate force against the civilian population in the OPTs, has continued, and has included the use of weaponry intended for use in full combat situations. Other possible wilful killings include deaths following the denial of access to medical care in cases where such denial would clearly result in death. Since the beginning of the Intifada, more than 200 on-duty medical staff have been injured. At least 43 Palestinian have died at Israeli checkpoints due to delayed or obstructed access to medical care.

Torture and Inhuman Treatment, and Unlawful Confinement

PCHR, and LAW remain concerned at the continuing prevalence of torture and other forms of ill treatment of Palestinian prisoners in detention, which can amount to cruel, inhuman or degrading treatment or punishment. PCHR, the FIDH and LAW have repeatedly expressed concerns that Israel continues to practice ill treatment of Palestinian detainees in its application of incommunicado and administrative detention. The detention of a Palestinian without charge or trial, without prompt notification and access to family members, without access to legal counsel and without sufficient evidence, is also unlawful confinement under article 147 of the Fourth Geneva Convention. House demolitions and closures also constitute a form of ill treatment and torture.

Wilfully Causing Great Suffering

The continued and regular use of excessive and disproportionate force against a civilian population, including aerial bombardment of civilian residential areas has an increasingly negative impact on the mental health of the civilian population in these areas and is a form of state terrorism.

Closures have had a devastating impact on all areas of Palestinian life; economic, social and political life has been crippled. The rights to education, work, and health, as guaranteed by international human rights standards, are routinely violated.

Wilfully Causing Serious Injury to Body and Health

The disproportionate and excessive use of force by Israel during this Intifada has left thousands of Palestinians injured, many with permanent disabilities. The continuing physical and mental trauma inflicted by these systematic attacks on civilians and civilian infrastructure, and by the deepening economic and humanitarian crisis resulting from the closure policy has negatively impacted the mental and physical health of Palestinian civilians. This impact is worsened still further by the impact of closures on available health care.

Unlawful Deportations and Transfer, arbitrary detention

The FIDH, PCHR and LAW note with particular alarm the dramatic escalation in the arbitrary detention of Palestinians during the last year. In 2002, more than 1500 were subjected to administrative detention by the Israeli military. These Palestinians were detained without charge or trial, without recourse to judicial procedures,

without access to an effective appeal mechanism, and often without adequate access to legal counsel or communication with family members.

FIDH, PCHR and LAW also express their condemnation of the unlawful transfer and deportation of Palestinians, including the transfer from the West Bank to the Gaza Strip, and deportation outside the OPTs. Approximately 3000 Palestinians from the OPTs are currently being detained in jails inside Israel. The movement of prisoners to detention facilities outside of the OPTs constitutes unlawful deportation outside the occupied territory. The movement of detainees to Israel also effectively ensures these prisoners are denied access to legal counsel, and family visits.

Wilfully Depriving a Protected Person of the Rights of Fair and Regular Trial

Palestinians in the OPTs are subject to Israeli military orders and those arrested are processed in the Israeli military court system, rather than the civil judicial system in Israel to which Israeli citizens arrested in the OPTs are subject. Many of the military orders violate international human rights standards, including the classification of a child as under the age of 16 and the military courts regularly and routinely violate international standards on the right to a fair trial, including with respect to access to lawyers from the OPTs, rules of evidence, disproportionate sentencing, family access to trial.

Extensive Destruction and appropriation of property

As of June 3, 2002, the Israeli military had demolished 603 Palestinian homes in the Gaza Strip, and over 120 in the West Bank, including East Jerusalem, since the beginning of the Intifada. At least 2000 more have sustained serious damage. There has been a sharp increase in the number of house demolitions since the beginning of the current Intifada, most constitute collective punishment against Palestinian civilians. Israel has four main categories of house demolitions: first, the 'administrative' demolitions (lack of permits); secondly, so-called punitive demolitions of homes of family members of suicide bombers and of those alleged to be involved in security risk incidents, thirdly, homes destroyed in the course of mostly unnecessary military operations; fourthly, the destruction of homes, for the purposes of expanded the area of Palestinian territory under effective Israeli control; this is particular prevalent in areas around borders and settlements. Both the first and fourth category in particular are used to facilitate the expansion of land available for incorporation into settlements and settlement infrastructure, including roads. We wish to remind this Commission that settlements and all settlement infrastructure constitutes a grave breach of the Fourth Geneva Convention.

In the light of increasing grave breaches of the Fourth Geneva Convention perpetrated by Israel against Palestinian civilians, PCHR, the FIDH and LAW call upon: The Government of Israel

- To recognize the de jure and de facto applicability of the Fourth Geneva Convention to the OPTs,
- To distinguish, in all circumstances, between military objectives and civilian persons and objects.
- To implement and respect the provisions of the Convention regarding the protection of Palestinian civilians in the OPTs.
- To implement the recommendations of all UN bodies, including the CAT and the Committee on Economic, Social and Cultural Rights.

The UN Human Rights Commission and General Assembly

- To condemn the systematic perpetration of serious breaches and other violations of the Fourth Geneva Convention by Israel in the OPTs, and the refusal to facilitate visits of UN Special Rapporteurs to the OPTs.
- To call upon the High Contracting Parties to the Convention to take concrete measures, in respect of their obligation, to ensure Israel's respect of the Convention.
- To recommend the immediate provision of independent international protection for Palestinian civilians,
- To reaffirm the illegality of Israel's continuing belligerent military occupation of the Gaza Strip and the West Bank, including Jerusalem.
- To recommend and facilitate visits and reporting of the UN Special Rapporteurs to the OPTs

The High Contracting Parties

- To take immediate steps to ensure Israel's implementation and respect for the provisions of the Convention in the OPTs.
- To immediately deploy independent international protection to protect Palestinian civilians.
- To establish a war crimes tribunal to bring to trial those responsible for the perpetration of grave breaches of the Convention and other war crimes in the OPTs.
- To recognize and implement their obligations under Article 146 to:
 1. enact legislation to provide effective penal sanctions for persons responsible for grave breaches of the Convention.
 2. search for and bring to trial, in accordance with international standards, persons responsible for grave breaches of the Convention, regardless of their nationality, in conformity with the universal jurisdiction over grave breaches recognized by the Convention.
- To immediately end all transfers of arms and military equipment to Israel.
- To immediately implement all signed agreements and domestic legislation that are contingent upon Israel's compliance with international human rights standards,
- To implement sanctions, including economic and diplomatic, which would ensure Israel's respect of its obligations under the Convention.
- To restrict bilateral trade relations with Israel regarding the import of products made in Israeli settlements in the OPTs.
