



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/NGO/156
10 March 2004

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 8 of the provisional agenda

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB
TERRITORIES, INCLUDING PALESTINE**

Written statement* submitted by the International Federation of Human Rights Leagues (FIDH), the Palestinian Centre for Human Rights (PCHR) and Al-Haq, Law in the Service of Man, 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.

[1 February 2004]

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

The FIDH, PCHR, and Al-Haq express their grave concern at Israel's continuing violations of international human rights and humanitarian law in the Occupied Palestinian Territories (OPT), including grave breaches of the Fourth Geneva Convention (IV GC).

The West Bank (including East Jerusalem) and Gaza Strip have been under Israeli military occupation since 1967 and the *de jure* applicability of the IV GC to these territories has been recognised by the majority of the High Contracting Parties to the Convention, the United Nations Security Council and General Assembly, and the International Committee of the Red Cross. However, during the last 37 years of occupation, Israel has repeatedly violated many of the Convention's provisions. During the last three years, there has been a serious escalation in the violence perpetrated against Palestinian civilians. In 2003, the FIDH, PCHR and Al-Haq have documented numerous grave breaches of Article 147 of the IV GC, namely war crimes, as set out below.

Wilful killings

The use of excessive and disproportionate force by Israel against the civilian population in the OPT has continued in 2003, including the use of weaponry intended for use in full combat situations. Israel's practice of "targeted killings" of "suspected terrorists" also raises grave concerns, both as wilful killings and as an extrajudicial execution. In 2003, the Israeli military committed at least 66 assassinations of Palestinians it claims had been involved in attacks against Israeli targets. These attacks continue to be conducted in circumstances which are largely indiscriminate, failing to ensure the safety of non-targeted civilians. At least 59 non-targeted civilians were killed in such attacks in 2003. As noted by the Human Rights Committee in 2003, the practice of targeted assassinations are deemed to be an arbitrary denial of the right to life, and a breach of Israel's obligation under the International Covenant on Civil and Political Rights (ICCPR). We strongly endorse the Committee's recommendation that complaints about this practice should be investigated promptly by an independent body. In addition, we express grave concern regarding the increasing number of child deaths. At least 114 Palestinian children were killed by the Israeli military in 2003.

Wilfully causing great suffering or serious injury to body or health

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 physical and mental health of the civilian population in these areas, leaving tens of thousands of Palestinians injured, many with permanent disabilities. Perhaps the most significant form of suffering faced by Palestinians is the use of curfews and closures, which have had a devastating impact on all aspects of their life. This was evidenced in the town of Hebron, which was under curfew for 29 days during the month of January 2003. Beyond their obvious violation of the right to freedom of movement, curfews and closures cause further violations of the fundamental rights to education, work, and health. They have led to a deepening humanitarian and economic crisis, which has also severely impacted the physical and mental health of Palestinian civilians.

Unlawful deportation or transfer and unlawful confinement

We condemn the unlawful transfer and deportation of Palestinians, including the transfer from the West Bank to the Gaza Strip and deportation outside the OPT. Israel's practice of "assigned residence" is considered an unlawful transfer within the meaning of Article 49 of the IV GC. In the most recent case, on 14 October 2003, Israeli authorities issued assigned residence orders against 18 Palestinians being held in administrative detention, effectively unlawfully transferring them from the West Bank to the Gaza Strip. By 31 December 2003, 17 orders had been implemented.

Military Order #378 of 1970 is used to justify Israel's ongoing practice of unlawful confinement of Palestinians. It states that, in order for arrests to be carried out, there must exist "reasonable suspicion" that a person has committed a criminal act, hence granting the military an excessive margin of discretion. Any person arrested can be held in solitary confinement, without access to a lawyer, for a maximum of eight days. Under its provisions, arrested individuals can be denied contact with a lawyer for a total of 32 days (two days following arrest and twice more for 15 days each upon renewal), and subjected to imprisonment for six months and 12 days for investigation (12 days initially and two three-month periods).

Military authorities can also place arrested individuals under administrative detention without charge or trial pursuant to Military Order #1226. Administrative detention can last six months and may be renewed indefinitely by a military judge. Administrative detainees, some of whom have been detained for years, are not required to be granted a hearing.

Wilfully depriving a protected person of the right to a fair and regular trial

Between September 2000 and December 2003, over 28,000 Palestinians were incarcerated in detention centres. Israeli occupying forces disseminate very little information regarding detainees and their place of detention. Although the "Maschlat Center," a body under the authority of the Israeli Military Police, is in charge of compiling data on the prisoners, the existence of three parallel information systems - civil police, Israeli occupying forces and penitentiary administrative services - makes any viable form of consolidation difficult.

The first waves of arrest in April 2002 were aimed at the heads of Palestinian society; political and social figures as well as security officials in urban neighbourhoods and refugee camps were systematically rounded up and arrested. After the community "leaders," the Israeli army expanded their arrest campaign to target the most visible activists, including young stone-throwers. As a result, approximately 15,000 arrests - at roadblocks and checkpoints or during invasions of entire cities - took place between March 2002 and April 2003. By the time they were done, in some towns, no male over the age of 15 could be found. Recent developments have shown that the Israeli occupying forces are also arresting the female population, in particular the wives or daughters of activists so as to exert pressure on these activists.

Extensive Destruction and Appropriation of Property

Israel's policy of destruction of civilian property throughout the OPTs has continued in 2003. In 2003, in the area of Rafah in the Gaza Strip alone, at least 488 Palestinian homes have

been totally demolished and another 369 partially demolished by the Israeli military. In addition, at least 164 homes have been destroyed in part of the Israeli government's declared policy of destroying the family property of those claimed to be involved in attacks against Israeli targets.

Impunity for grave breaches

We also wish to raise concern regarding the ongoing institutionalised culture of impunity in the Israeli government and military for violations of international human rights and humanitarian law, including grave breaches. In particular, we are concerned by the consistent lack of full and fair investigations into possible violations, including in response to complaints submitted on behalf of victims by human rights organisations, and the failure to prosecute those responsible for violations in accordance with regular judicial procedures and standards. Between September 29 2000 and 20 January 2004, at least 2,092 Palestinian civilians have been killed by the Israeli military or settlers in the OPT. According to statements made by the Israeli military Attorney General in 2003, only six (6) indictments had been issued against individual soldiers in incidents in which a Palestinian civilian has died during this *Intifada*¹.

Recommendations

The FIDH, the PCHR and Al Haq call upon the Commission on Human Rights to adopt a Resolution which will, *inter alia*:

- Recommend the immediate provision of an independent international protection for Palestinian civilians and to prevent further grave breaches and other violations of the IV GC as well as of other international human rights standards in the OPT;
- Reaffirm the illegality of the occupation of the Gaza Strip and the West Bank, including East Jerusalem, as well as the illegality of Israeli settlements in the OPT. The Commission should further urge States concerned to restrict bilateral trade relations with Israel regarding the import of products made in Israeli settlements in the OPT;
- Call for the prosecution and condemnation of the perpetrators of grave breaches of the IV GC and other war crimes qualified as such in the Rome Statute in the OPT;
- Condemn all violations of international humanitarian law, in particular when committed against civilian populations and urge the competent authorities, in conformity with the prescriptions of international human rights law to prosecute, enable the most efficient judicial cooperation, try and condemn their perpetrators whether they be State actors, individuals or other non-State actors;

¹ Gideon Alon and Amos Harel, "Soldier Charged with Making Palestinian Woman Drink Poison", *Ha'aretz*, www.haaretzdaily.com, 23 June 2003.

Urge the Government of Israel to:

- Recognize the *de jure* application of the IV GC to the OPT;
- Implement and respect provisions of the IV GC regarding the protection of Palestinian civilians in the OPT;
- Implement the recommendations of the HRC, the CAT and the CESCR;
- Facilitate visits and to cooperate with the UN Commission Special Procedures, in particular the UN Special Representative of the Secretary General for Children in situations of Armed Conflict and the UN Special Rapporteur for Human Rights in the OPT.
