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

**Joint Written statement\* submitted by Al-Haq, the Palestinian centre for Human Rights (PCHR) and the International federation for Human Rights (FIDH), Ittijah (Union of Arab Community based Organisations), non-governmental organisations 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.

[13 February 2006]

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

Al-Haq, PCHR, and FIDH note with deep concern that the human rights situation in the Occupied Palestinian Territories (OPT) has remained grave in 2005. Much of the focus of the international community during the year was on Israel's unilateral withdrawal from the Gaza Strip and four small settlements in the northern West Bank (the "Disengagement Plan"). However, whilst the removal of settlers from these areas is significant, it should be noted that behind these well-publicised headlines, Israel remains in effective control of all of these areas and continues to be the Occupying Power over the West Bank, including East Jerusalem, and the Gaza Strip. Indeed, the number of settlers in the OPT is greater now than it was prior to the Disengagement. Further, many of Israel's policies, notably those of extrajudicial killings, movement restrictions, and the ongoing construction of the Annexation Wall, have continued at the same or an escalated level. This has laid bare the chasm between Israel's rhetoric and the reality on the ground.

### **Extrajudicial Killings**

Israel's extrajudicial killing of Palestinian civilians has continued unabated. Such killings include the targeted assassination of "wanted" individuals as well as the killing of persons during arrest raids or military operations. Although Israeli officials stated in February 2005 that they would "cease all [their] military activity against all Palestinians everywhere," we have documented 30 targeted killings in the OPT in 2005. Further, there have been at least 12 cases in which individuals were killed when already in custody of Israeli forces. In total, there have been 218 killings of Palestinians, including 52 minors, in the OPT during the year. Such killings fly in the face of the fundamental right to life and other associated rights such as that to due process, as upheld in international human rights and humanitarian law. As a signatory to such legal standards as the International Covenant on Civil and Political Rights (ICCPR) and the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Israel is in breach of the commitments it has made therein.

These killings take place against a backdrop of a series of policies that effectively result in impunity for the perpetrators. Investigations are typically meagre or nonexistent, as the Israeli military's judge advocate general's office only opens investigations in exceptional cases. The ability of Palestinians affected by such killings to seek legal remedy was further curtailed in July 2005, when the Israeli parliament passed the amended *Civil Wrongs (Liability of the State) Law (the Compensation Law)*, which proclaims that the State of Israel and its individual agents are "not civilly liable for an act done in the course of a war operation" of the Israeli military. Israel's ongoing killings of Palestinian civilians in the OPT, together with this culture of impunity, appear to have resulted in a *de facto* policy of tacit endorsement by the Israeli authorities of excessive, and often lethal, force, against Palestinians.

## **The Annexation Wall**

Despite the resounding affirmation of the International Court of Justice (ICJ) over a year ago that Israel's construction of the Wall and its associated regime in the OPT is contrary to international law, Israeli authorities have continued the construction on Palestinian land in 2005, in particular in the vicinity of illegally -annexed Jerusalem. Over a third of the Wall has been built to date; once completed, nearly 80 percent of its 670 kilometres will be located in the OPT. It is evident that the route, despite the February 2005 modifications, continues to effectively annex substantive amounts of Palestinian land on the "Israeli" side, as it weaves around to include as many Israeli settlements as possible.

Palestinian, Israeli, and international human rights organisations have repeatedly warned the international community that the Wall's construction is not merely a breach of international human rights and humanitarian law, it represents an effort to unilaterally establish a border. Israel's protests on this point rang hollow in November 2005, when Israeli Minister of Justice Tzipi Livni stated,

One does not have to be a genius to see that the fence will have implications for the future border. This is not the reason for its establishment, but it could have political implications.

Israeli authorities have been quick to point out that Palestinians affected by the Wall may petition the Israeli High Court of Justice with their claims. However, the High Court, despite the clear position adopted by the ICJ, the International Committee of the Red Cross, and local and international human rights organisations alike regarding the illegality of the Wall's construction in the OPT, found such construction to be lawful. While some decisions of the High Court have resulted in shifts in the Wall's route, the underlying illegalities of its construction remain. As such, the claim that Palestinians can obtain justice from Israel's highest judicial body appears to be empty rhetoric.

## **Movement Restrictions**

At its essence, the Wall is a physical manifestation of Israel's longstanding policy of restricting the movement of Palestinians in the OPT. Movement restrictions have a wide-sweeping daily impact on hundreds of thousands of Palestinians throughout the OPT. They may take such forms as permanent or "flying" (mobile) checkpoints, roadblocks, dirt mounds, and road gates. The UN Office for the Coordination of Humanitarian Affairs (OCHA) has noted that there were 376 movement restrictions in place as of August 2005. Israel has repeatedly claimed that the number of checkpoints in the OPT has been reduced. While it is true that some of the barriers have been dismantled, this reduction has been accompanied by an increase in the number of "flying" checkpoints; between 21 December 2006 and 3 January 2006, OCHA documented 184 "flying" checkpoints in the West Bank. Clearly, Israel's restriction mechanisms have changed while the policy has remained the same. These checkpoints, whether permanent or "flying," provide the background for regular humiliation of Palestinians crossing them.

Such constraints on the ability to travel freely restrict the ability to access work, education, healthcare, agricultural property, family, and other essential aspects of life. Physical barriers prevent Palestinians from travelling within the West Bank (in particular between East Jerusalem and the rest of the West Bank), as well as between the West Bank and Gaza Strip. Further, permanent checkpoints such as Qalandia and Bethlehem have become "terminals." When

considered in light of the comment by Livni regarding the impact of the Wall, it appears that these terminals are intended to be nascent international border crossings despite the fact that they are clearly within the OPT.

Movement restrictions are linked to and upheld by a strict Israeli policy regarding permits. Palestinians who wish to travel between the West Bank and Gaza Strip, or between East Jerusalem and the rest of the West Bank, must obtain a special permit from the Israelis to do so. No clear and consistent procedures are available to determine which requirements must be met by those seeking these permits. Moreover, no such restrictions are placed on Israeli settlers, who may travel freely throughout the OPT even though settlement construction therein is a clear violation of international law.

Physical barriers and Israel's accompanying permit system have a grave impact on Palestinians' freedom of movement. This right is clearly protected under international law, in particular by Article 12 of the ICCPR, to which Israel is a State Party. Further, movement restrictions result in a series of associated breaches of other fundamental rights, such as those to health, work, education, and protection of the family.

### **International Obligations**

Israeli authorities maintain that international human rights standards are not applicable to the current situation in the OPT, a position which has been firmly rejected by each treaty body as well as the ICJ. Thus, they must be held accountable for their violations in this area, violations which have over time been cumulative, exacerbating their impact. Further, the incumbent Palestinian National Authority must also adhere to certain fundamental tenets of international law.

As Al-Haq, PCHR and FIDH have emphasised to this body previously, international law does not stop at national borders. At a time when the practices and policies of Israeli authorities, such as the ongoing killing of Palestinian civilians and the continuing construction of the Wall, speak louder than their words, the international community must take action. Inaction will only ensure the further deterioration of the ongoing human rights and humanitarian crisis in the OPT.

We request that the Commission adopt a resolution:

- Ensuring that Israel implements its international legal obligations set forth in the Advisory Opinion of the ICJ, and calling on UN Member States to do same.
- Calling on the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to urgently conduct a mission to the OPT.
- Ensuring that Israel reports on its adherence to its obligations under international human rights treaties vis-à-vis the OPT in its periodic reports to UN treaty bodies.
- Expanding the mandate of the Office of the High Commissioner for Human Rights in the OPT to include human rights monitoring as well as training.

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