



## PALESTINIAN CENTRE FOR HUMAN RIGHTS

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Commission on Human Rights  
60<sup>th</sup> Session  
17 March - 25 April 2004

### **Item 11(b): Civil and Political Rights, including the Question of Disappearances and Summary Executions**

#### **Written intervention submitted by the *Palestinian Centre for Human Rights* February 2004**

The Palestinian Centre for Human Rights (PCHR) expresses its grave concern at the increasing use of extrajudicial, summary, and arbitrary executions of Palestinians by the Israeli military and settlers in the Gaza Strip and West Bank, including Jerusalem. Since September 2000, 2092 Palestinian civilians, including 466 children, have been killed by the Israeli military or settlers in the Occupied Palestinian Territories (OPT). Palestinian deaths have largely resulted from excessive/indiscriminate use of force by the Israeli occupying forces, using such methods as sniper fire; tank-fire (including the use of flechette tank shells) during demolition operations; aerial attacks (including missiles or machine gunfire fired from helicopter gunships) and F16 fighter jets. In some instances, Palestinians have been killed by Israeli occupying forces after their capture. We believe that the extent and prevalence of these practices in the OPT reflect an Israeli policy which is in violation of the Palestinians' fundamental right to life.

Israel's policy also constitutes a grave violation of international human rights and humanitarian law in relation to the civilian population. This policy constitutes a flagrant violation of fundamental provisions of international human rights law, in particular the rights to life and a fair trial, including an effective appeal. These rights are upheld in numerous international standards, *inter alia*, the International Covenant on Civil and Political Rights (ICCPR), to which Israel is a State Party. Whilst the death penalty is not prohibited under international human rights and humanitarian law, it is restricted in accordance with these principles. Summary executions are meted out by the Israeli authorities without recourse to any form of judicial procedure, and no evidence is presented, before or after the attacks, of the alleged imminent threat posed by the individual targeted. In many instances, the targeted individual could have been arrested by the Israeli authorities at checkpoints or border controls, or during the increasingly regular Israeli military incursions into Palestinian cities, towns, villages and refugee camps. By implementing this policy of extrajudicial execution, Israel continues to breach its legal obligations as a State Party to the ICCPR and numerous other international human rights treaties.

Further, as a civilian population under occupation, Palestinian civilians are afforded protected status under the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949 (the Fourth Geneva Convention). Article 3 (1) of the Convention states that violence to life and person, in particular murder, is prohibited at any time and in any place whatsoever. Additionally, Article 32 prohibits, "taking any measure of such a character as to cause the physical suffering or extermination of protected persons." Perhaps most fundamentally, the killing of Palestinian civilians in such a manner constitutes a wilful killing within the meaning of the Convention, and as such is a grave breach according to Article 147, namely a war crime. While the killing of civilians incidental to a justifiable



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military action is not illegal under the Fourth Geneva Convention, such military actions must be subject to the principle of proportionality. It is clear that such attacks by the Israeli military fail to uphold the fundamental principle of proportionality.

### **Israel's Policy of Targeted Assassinations**

We wish, in particular, to highlight the Israeli government-affirmed policy of extrajudicial executions of Palestinians it accuses of involvement in attacks against Israeli targets. This policy of state-sanctioned murder has been implemented since the beginning of the current *Intifada* and has become a prominent feature of Israeli military operations throughout the OPT. Again, these extrajudicial executions are carried out without recourse to due legal process and no evidence of the immediate threat posed by the individuals targeted is presented before or after the attack. The type of force used to carry out these executions continues to demonstrate a wilful disregard for the lives of Palestinian civilians.

Extrajudicial executions have been carried out using rockets fired from helicopter gunships, missiles fired from tanks, sniper fire, planted explosives and more recently, missiles fired from F16 fighter jets. There were at least 52 such attacks in 2003.

In addition, to the increasingly excessive use of force used in such attacks, the timing and location of attacks have further increased the threat to non-targeted civilians: attacks are often conducted in crowded civilian residential or commercial areas, against moving vehicles, and often during the day time. At least 63 non-targeted Palestinians were killed in extrajudicial assassination attacks during 2003. Of particular concern is the increasing threat to Palestinian children, 12 of whom have been killed in such attacks in 2003. Many Palestinian civilians have also been injured in such attacks - 426 were injured in 2003.

This wilful disregard for civilian life was demonstrated recently in an attempted extrajudicial execution in the Nusseirat Refugee Camp, Central Gaza Strip, on 20 October 2003. As a result of this attack, 12 non-targeted civilians were killed and over 50 injured. Like Israel's other forms of extrajudicial, summary, and arbitrary executions, such targeted assassinations are in blatant violation of international human rights and humanitarian law.

### **No Means of Redress**

PCHR also notes with extreme concern the ongoing impunity afforded to those responsible for unlawful killings of Palestinians. Few investigations have been conducted into the deaths of Palestinians, and fewer still individuals have been subjected to any form of disciplinary action for such incidents. According to information reportedly presented by the Israeli Military Attorney General in 2003, only 6 indictments have been issued in relation to Palestinian deaths during this Intifada<sup>1</sup>. The right to reparation, including prosecution of those responsible and compensation, for victims of human rights violations has been consistently denied to Palestinians in the OPT. Israeli authorities are also violating their own obligation under Article 146 of the Fourth Geneva Convention to bring those responsible for grave breaches of the Convention before its courts.

PCHR is further concerned at the consistent failure of the State of Israel to provide effective reparation

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<sup>1</sup> Gideon Alon and Amos Harel, "Soldier Charged with Making Palestinian Woman Drink Poison", *Ha'aretz* Newspaper, [www.haaretzdaily.com](http://www.haaretzdaily.com), 23 June 2003.



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to victims of this policy, including to those non-targeted civilians injured or the families of those killed in such attacks. The passage of the Torts Law (State Liability) (Amendment - Claims Arising from Activity of Security Forces in the OPT) in 2001 has further limited the ability of victims to obtain any redress for violations committed against them.

### **Wilful Killings: Invoking Mandatory Universal Jurisdiction**

As noted earlier, wilful killings such as targeted assassinations constitute a grave breach, namely a war crime, under Article 147 of the Fourth Geneva Convention. Grave breaches are automatically subject to the principle of universal jurisdiction and incur individual criminal responsibility. Article 146 of the Convention obligates all High Contracting Parties to the Convention “to search for and prosecute those alleged to have committed or to have ordered to be committed such grave breaches.” Further, Article 1 calls for all High Contracting Parties to respect and ensure respect for the Convention’s provisions. We are disturbed by the failure of the international community to take any effective steps to ensure a halt to Israel’s policy of wilful killings, or to search for and prosecute those responsible for its implementation.

PCHR condemns this policy of extrajudicial execution as a grave violation of Israel’s obligations under international human rights and humanitarian law. PCHR calls upon this Commission:

- to condemn Israel’s policy of extrajudicial executions as a violation of fundamental human rights, including the rights to life and a fair trial, including an effective appeal.
- to remind the High Contracting Parties to the Geneva Conventions of their obligations under Article 1 of the Fourth Geneva Convention, to take the necessary measures to hold Israel accountable for war crimes it has committed, including the particular obligation under Article 146 to search for and prosecute those responsible for grave breaches.
- to request that the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions conduct a mission to the OPT and report