

**ITEM 8: QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED
ARAB TERRITORIES, INCLUDING PALESTINE**

Written Intervention Jointly Submitted by the International Federation for Human Rights
(FIDH), the Palestinian Centre for Human Rights (PCHR) and Al-Haq
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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.

The West Bank (including East Jerusalem) and Gaza Strip have been under Israeli military occupation since 1967 and the *de jure* applicability of the Fourth Geneva Convention 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 Fourth Geneva Convention, 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 Fourth Geneva Convention. 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 (teachers, doctors) 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.

In the West Bank, the construction of Israel's so-called "security fence" has resulted in annexation of substantial amounts of Palestinian land and extensive destruction to and expropriation of civilian property, homes, agricultural land and other natural resources. Approximately 14.5% of the West Bank will be isolated between the Wall and the Green Line and *de facto* annexed to Israel. Plans for the secondary Wall to extend into the Jordan Valley appear suggest that over 50% of the West Bank will be annexed by the construction of the Wall.

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.

This culture of impunity extends beyond Israeli institutions. Article 146 of the Fourth Geneva Convention expressly confers an obligation on all the High Contracting Parties to the Convention to search for and prosecute individuals who have committed, or have ordered to be committed, grave breaches of the Convention, regardless of their nationality. However, we have no evidence to suggest that any High Contracting Party to the Convention has made any sincere attempt to fulfil this obligation in respect to Palestinian civilians. We call on the international community to uphold this obligation and ensure that the basic rights of the Palestinian people are protected.

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