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## The Philosophy of the Centre's Work

The Centre determined after a thorough legal assessment of the peace accords signed by the PLO and the Israeli government that the occupation would continue both physically and legally. According to these agreements Israel has redeployed its forces inside the West Bank and the Gaza Strip, while Israeli settlements and military installations maintain their presence in Palestinian territory. The major legal aspects of the Israeli occupation remain in place. Israeli military orders that safeguard Israeli control over the Palestinian people and their land remain valid in accordance with the peace agreement. The Israeli military court is still functioning and to this day thousands of Palestinians languish in Israeli prisons. The essential elements of the Palestinian issue remain unresolved - the right to self-determination, the right to an independent Palestinian state with its capital in Jerusalem, the right of return for Palestinian refugees, and the right to remove illegal Israeli settlements from the Occupied Territories. All of these constitute basic unfulfilled rights of the Palestinian people. In light of this wide-ranging disregard for Palestinian rights, the Centre concludes it must continue its work to protect Palestinian human rights from ongoing violations by the Israeli government and courts.

The peace accords and the major political changes resulting from the agreement, including the establishment of the Palestinian National Authority in part of the Occupied Territories, has led to a vital and active role for the Centre in protecting civil and political rights and in promoting the development of democratic institutions, an active civil society, and a democratic legal system in Palestine.

## Executive Summary

Israel's offensive on the Gaza Strip (27 December 2008 – 18 January 2010) was the major issue in the record of violations of human rights and international humanitarian law in the Occupied Palestinian Territory (OPT) in 2009. The year ended with the impacts of the offensive, which has been the widest and bloodiest over the 42 years of Israeli occupation and even since the Palestinian Nakba in 1948 (the uprooting of the Palestinian people from their land), were still outstanding, placing heavy burdens on the Palestinian civilian population in the Gaza Strip. Scenes of destruction caused by Israeli air, sea and land bombardment of civilian facilities, including thousands of houses, hundreds of public buildings, civil police stations, hospitals and infrastructure services, were still present. Dozens of thousands of Palestinian civilians were struggling to resume their normal lives and live with their pains and suffering, because of sustaining permanent disabilities, losing beloved ones or becoming homeless. The suffering of Palestinian civilians doubled with the continued siege imposed by Israeli Occupation Forces (IOF) on the Gaza Strip, which restricted the freedom of movement of persons and goods, and denied Palestinian civilians their right to reconstruct thousands of houses and buildings that had been destroyed during Israel's offensive on the Gaza Strip. The deteriorating humanitarian situation took priority over the Palestinian political scene, especially in the Gaza Strip, where meeting the basic needs of the Palestinian civilian population became a priority at the expense of the national cause and the political rights of the Palestinian people.

In the West Bank, the situation was not less worse than that in the Gaza Strip, as IOF continued settlement activities and attempts to perpetuate an apartheid system, turning Palestinian communities into scattered Bantustans. Additionally, IOF continued to take measures aimed at creating a Jewish majority in Jerusalem and cutting it off from the rest of the West Bank.

Over 2009, factors that led to the deterioration of the human rights situation in the past 4 years, since the January 2006 parliamentary election, were still outstanding, causing further deterioration to the human rights situation and humanitarian conditions. On one hand, IOF continued to perpetrate grave violations of human rights and international humanitarian law throughout the OPT, including willful killings and violations of the right to life; collective punishment policies represented by a tightened siege and severe restrictions on the right to freedom of movement; detention and torture of Palestinians; continued settlement activities and attacks by Israeli settlers; and continued construction of the Annexation Wall inside the West Bank territory. On the other hand, Israel continued to violate its binding legal obligations under international law. Israel would not act as a State of law unless the international community, particularly the High Contracting Parties to the Geneva Conventions and the United Nations, failed to intervene to stop violations of human rights and prosecute their alleged perpetrators. The international community even went beyond this and effectively participated in imposing sanctions on Palestinian civilians through financial boycotting of the Palestinian government, which was established following the January 2006 Palestinian parliamentary elections. Instead of punishing Israel for its crimes against Palestinian

civilians, the international community imposed sanctions on Palestinian civilians who have been under belligerent occupation for more than four decades, a measure which has been unprecedented in the history of international relations. On the other hand, the internal political conflict and separation between the West Bank and the Gaza Strip have been a major factor that led to further deterioration of the human rights situation; the vast majority of human rights violations at the internal level were attributed to the conflict between Hamas and Fatah movements, mutual reactions between the two sides and measures taken by the two governments and their security services in Gaza and Ramallah against activists of the two movements.

In 2009, IOF escalated crimes committed against Palestinian civilians in the OPT in an unprecedented manner since 1967, when IOF occupied the Palestinian territories. IOF killed 1,092 Palestinians, including 831 civilians. The civilian victims include 305 children and 101 women. Of all victims, 1,066 Palestinians (97.6% of the total number of victims) were killed in the Gaza Strip, mostly during Israel's offensive on the Gaza Strip between 27 December 2008 and 18 January 2009. During that offensive, IOF killed 1,419 Palestinians, including 1,013 ones<sup>1</sup> who were killed in the first 18 days of 2009. Additionally, 5,200 Palestinians were wounded in 2009, mostly during the offensive. Thus, the number of Palestinians killed by IOF and Israeli settlers in the West Bank and the Gaza Strip from September 2000 until the end of December 2009 has mounted to 6,520, including 4,955 civilians, and dozens of thousands of others have been wounded.

1 This number does not include 8 Palestinians who died in the first 18 days of 2009 of wounds they had sustained before Israel's offensive on the Gaza Strip.

In spite of the end of Israeli military operations in Gaza on 18 January 2009, and the complete calm down by Palestinian resistance groups in Gaza, IOF continued to commit crimes against the population of the Gaza Strip; they killed 47 Palestinians, including 26 civilians, 7 of whom are children. Twelve of these civilians were killed at time of complete quietness by Israeli snipers in buffer zones in the east and north of the Gaza Strip, and 5 others were killed when IOF targeted and bombarded tunnels along the border between the Gaza Strip and Egypt.

In the West Bank, IOF killed 18 Palestinians, including 15 civilians, 6 of whom are children. Israeli settlers killed 3 Palestinian civilians, including two children. All civilian victims were killed at times when they did not pose any threat to the lives of Israeli soldiers, including in protests against the confiscation of Palestinian land or incursions into Palestinian communities.

According to investigations conducted by PCHR, IOF undoubtedly used excessive and disproportionate force against Palestinian civilians, who are protected persons under international humanitarian law. They disregarded the principles of distinction and proportionality. There is also evidence that IOF carried out retaliatory actions against Palestinian civilians. These facts are reflected in the high number of Palestinian civilians killed by IOF over the year. These civilians were killed when they did not pose any threats to the lives of Israeli soldiers. There were killed when IOF bombarded houses, civilians facilities and vehicles; extra judicially executed Palestinian activists; and moved into Palestinian communities.

In 2009, IOF continued to impose a tightened siege on the OPT, especially on the Gaza Strip where Palestinian civilians

were denied access to their basic needs of food, medicines, fuels, electricity and other necessary commodities. IOF continued to impose severe restrictions on the movement of Palestinian civilians and goods. The total siege imposed by IOF on the Gaza Strip has left disastrous impacts on the humanitarian situation and has violated the economic and social rights of the Palestinian civilian population. It has also paralyzed most economic sectors. The international community, especially the High Contracting Parties to the 1949 Geneva Convention Relative of the Protection of Civilian Persons in Time of War, has shamefully failed to take necessary action to ensure Israel's respect for the Convention in the OPT, including lifting the siege and stopping such policy which violates economic, social, civil and political rights of the Palestinian civilian population.

IOF continued to prevent the Palestinian civilian population from entering Israel, including even patients and people with emergency humanitarian needs. They also continued prevent thousands of Palestinian civilian who study or work abroad from traveling. Over the year, IOF imposed additional restrictions on internal movement in the West Bank, including Jerusalem, through at least 600 military checkpoints and barriers. They turned Palestinian communities into isolated Bantustans. IOF also imposed further restrictions on traveling through al-Karama International Crossing Point on the Jordanian border. They decreased working hours at the crossing point and practiced inhuman and degrading treatment against Palestinian civilians.

The humanitarian crisis in the OPT, especially in the Gaza Strip, aggravated. Unemployment rates in the OPT mounted to nearly 40%, while in the Gaza Strip alone it mounted to at least 55%. In the Gaza Strip also, poverty rates exceeded 80%. Various estimations indicate that at least 1.3 million

Palestinians in the OPT live in destitution. Such situation has impacted the incomes of the Palestinian labor force, as the individual income per annum in the first three years of the al-Aqsa Intifada dropped by 32%, and such decrease peaked by the end of 2009 as it reached 45%. Additionally, the Palestinian gross national product has sharply decreased, which has impacted all economic sectors.

By the end of 2009, at least 9,381 Palestinians, including 310 children and 34 women, were still in Israeli custody in detention facilities mostly inside Israel, in violation of article 76 of the Fourth Geneva Convention which obligates the occupying power to detain persons from occupied territory in that territory. The number of prisoners from the Gaza Strip is at least 855. Additionally, IOF have continued to detain hundreds of Palestinians from Jerusalem and those who live inside Israel.

In 2009, IOF continued to arrest Palestinians during house raids, especially in the West Bank, and Israeli incursions into Palestinian towns, villages and refugee camps throughout the West Bank and Gaza Strip. Hundreds of Palestinians were also arrested at Israeli military checkpoints and roadblocks erected on roads and at entrances to Palestinian communities and at border crossings, especially in the West Bank. In 2009, IOF arrested at least 5,000 Palestinians, including 1,000 ones from the Gaza Strip.

In addition, arrest campaigns continued to target political leaders and representatives of the Palestinian people. By the end of 2009, IOF continued to detain at least 26 members of the Palestinian Legislative Council (PLC), the majority of whom are of the Change and Reform parliamentary bloc of Hamas, even though they released Dr. 'Aziz al-Dweik, Speaker of the PLC.

IOF also arrested a number of human rights defenders for their activities in defending human rights.

Palestinian prisoners are detained under severe conditions, including the denial of their access to medical care which have contributed to deterioration of their health conditions, especially those who suffer from chronic and serious diseases. They are also denied family visitation; prisoners from the Gaza Strip have been denied family visitation for four years and prisoners from the West Bank have been offered family visitation sporadically. Many prisoners are detained in solitary confinement for long periods.

PCHR documented testimonies given by a number of released detainees, who were arrested by IOF during the military offensive against the Gaza Strip, affirming that they had gone through all kinds of physical and mental torture during detention, such as being handcuffed and blindfolded near tanks in areas of clashes, in disregard for international humanitarian law. Others were quoted as saying that they suffered from thrilling cold, starvation, sleeping in the open, insults and beating by gun butts. Others tackled Israeli extortion and pressure against detainees to force them to collaborate with IOF in exchange of being released.

In the course of Israel's offensive on the Gaza Strip, IOF wantonly and extensively destroyed Palestinian civilian property, including houses, agricultural lands, and health, educational, religious and economic facilities. During the offensive, IOF attacked some property several times. IOF intended to destroy most civilian facilities of the Palestinian National Authority (PNA), located in densely-populated areas. PCHR documented many aerial and land attacks

that targeted medical facilities, including hospitals, clinics and civil defense centers, and medical personnel. Dozens of medical facilities were destroyed or heavily damaged when they were directly attacked by IOF or when nearby targets were attacked.

Destroying houses and residential buildings, during Israel's offensive on the Gaza Strip, created an unprecedented state of forcible migration of thousands of Palestinian civilians. Thousands of Palestinians had to leave homes escaping from inevitable death. PCHR field workers reported that around 450,000 individuals had to leave their homes looking for secure shelters, recalling scenes of the mass forcible migration of the Palestinian people in 1948.

According to PCHR's documentation, 2,116 houses were completely destroyed, including 2,881 housing units, in which 3,253 families counting 18,750 individuals used to live, were partially destroyed. Additionally, 3,277 houses were partially destroyed, including 4,925 housing units, in which 5,483 families counting 32,703 individuals live. Furthermore, at least 16,000 houses were damaged and 51,453 civilians suffered from fear and forcible migration.

In the West Bank, IOF continued to demolish Palestinian houses in Area «C» (under full Israeli control) under the Oslo Accords. In 2009, this policy was focused on occupied Arab Jerusalem, where IOF demolish Palestinian houses under various pretexts, including the lack of building licenses.

In 2009, IOF demolished 134 houses in the West Bank, including 83 ones in East Jerusalem. They further forced 23 Palestinian civilians in East Jerusalem to demolish their houses. Thus, the number of houses destroyed in the West Bank amounted to 157.

The Israeli government, its occupation forces and settlers living in the OPT in violation of international law have continued activities of settlement expansion in the West Bank. Armed Israeli settlers, protected by IOF, have also continued to commit crimes against Palestinian civilians and property. In 2009, Israeli settlers escalated their attacks against Palestinian civilians and property, especially following the inauguration of a new Israeli government led by Benjamin Netanyahu.

Over the year, Israeli occupation authorities and their civil wings, such as the Municipality of Jerusalem, Ministry of Housing, Ministry of Interior and the Higher Council of Organization, invited bids for the construction of 3,400 housing units in the OPT. They also started to establish a new settlement neighborhood in the south of Jerusalem, a new settlement between «Ma'ale Adomim» settlement and Jerusalem and new housing units in Jabal al-Mukabber neighborhood in Jerusalem. They further expanded «Gilo» settlement and completed the infrastructure of E1 Project.<sup>2</sup>

Over the year, IOF confiscated and/or leveled at least 6,540 donums of land throughout the West Bank; this figure includes areas of land annexed by Israeli settlers. These figures do not include closed areas, such as the Jordan Valley along the eastern border of the West Bank.

In 2009, attacks by Israeli settlers against Palestinian civilians and property continued. Such attacks included shootings, running down civilians with vehicles and

2 In March 2005, a settlement plan was unveiled. Under the plan, 3,500 housing unit would be built in the area known as E1 to create a geographical contiguity between Jerusalem and «Ma'ale Admoim» settlement, the largest in the West Bank. The implementation of the plan would divide the West Bank into two separate parts without geographical contiguity.

destruction of or damage to civilian property. In 2009, PCHR documented 233 attacks by Israeli settlers against Palestinian civilians and property, in which 3 Palestinian civilians, including two children, were killed.

IOF have continued to construct the Annexation Wall inside the West Bank territory in violation of international humanitarian law and the Advisory Opinion issued by the International Court of Justice in the Hague on 9 July 2004. Over the past 8 years, IOF have completed the construction of a large portion of the Wall, which is being constructed in most of the West Bank territory rather than along the Green Line.<sup>3</sup> Facts on the ground demonstrate that Israel, which uphold security claims to create unilateral facts on the ground, has made the wall a border to be negotiated with Palestinians who aspire to establish their state within the pre-1967 war borders.

The Israeli judiciary has continued its traditional role in serving policies of Israeli occupation authorities. In this context, the Israeli High Court rejected a number of petitions submitted by Palestinian civilians against the confiscation of their lands for the purpose of the construction of the Wall. In very rare cases, the court ordered slight changes to routes of the Wall, but such changes have not been applied.

IOF have imposed severe restrictions on the movement of Palestinians on both sides of the Wall. In 2009, IOF imposed additional restrictions on the movement of Palestinians.

3 The Green Line is the line separating between Palestinian territories and Israel, established by the United Nations under the 1949 truce following the 1948 war between Arab countries and Israel.

IOF decreased hours of opening gates established along the Wall, restricting access of Palestinian farmers to their agricultural lands which are isolated behind the Wall. During the season of olive cultivation, IOF imposed a strict system of restrictions on the movement of Palestinian farmers. The IOF "Civil Administration" requests Palestinian farmers to obtain permits to be allowed to reach their agricultural land beyond the Wall. To be able to obtain a permit, a farmer must be a registered owner of a tract of land, which is almost unavailable as most of agricultural land are registered to deceased people and the heirs do not all live in the West Bank.

The construction of the Wall has brought new restrictions on movement of Palestinians living near the Wall's route, in addition to the widespread restrictions that have been in place since the outbreak of the current Palestinian Intifada. Thousands of Palestinians have difficulties going to their fields and marketing their produce in other areas of the West Bank. Farming is a primary source of income in the Palestinian communities situated along the Wall's route. The harm to the farming sector is liable to have drastic economic effects on the residents – whose economic situation is already very difficult – and drive many families into poverty.

The impacts of restrictions on the movement of Palestinians have not been limited to the agricultural sector, rather they have included other aspects of life. Access of Palestinian to medical care, education and relatives has been restricted, as Palestinians are required to obtain permits to move through gates established on the Wall, which are operated under a strict security system. IOF often close those gates for no apparent reasons.

The Israeli legal system is fundamentally biased against Palestinians. The system itself, including mechanisms of investigation adopted by the Israeli military, are biased and partial. While Israel has initiated investigations into the events of Operation Cast Lead, the number of investigations initiated comprises only a fraction of the overall complaints submitted.

Additionally, these investigations fall far short of accepted international standards. In accordance with its obligations under international law, Israel must investigate and bring to justice and punish those responsible for crimes, provide an effective remedy for victims, provide fair and adequate compensation, and establish the truth. Israeli investigations fail to meet these five basic requirements. Investigations also fail to meet international standards as regards independence of the judiciary – based on the separation of powers principle – the need for timely investigation and prosecution, and the need for investigations to be conducted outside the military hierarchy in order to ensure a fair and independent investigation and prosecution. Simply put, justice for Palestinians is unattainable in this biased and partial system.

In light of this reality, PCHR, in cooperation with a number of international legal and human rights organizations, has turned to the pursuit of universal jurisdiction. This legal principle empowers national courts, acting as agents of the international community, to try and prosecute those accused of international crimes – which include grave breaches of the Geneva Conventions, crimes against humanity, genocide and torture – no matter where these crimes occurred. The pursuit of universal jurisdiction forms

a longstanding component of PCHR's legal strategy. In 2009 a number of lawsuits were pursued, and the existing legal network strengthened and extended.

The international community, particularly the High Contracting Parties to the Geneva Conventions of 1949 and the United Nations, bear the responsibility of Israel's continued crimes against Palestinian civilians and its chronic denial of the international law and failure to meet its binding legal obligations. Even through the report of the United Nations Fact-Finding Mission on Gaza Conflict, headed by Justice Richard Goldstone, which included recommendations, mechanisms of work and timetables, provided an opportunity that might not be available again, to enforce the law and prosecute Israel for the crimes it committed during its offensive on the Gaza Strip, political considerations and interests were placed above the rule of law, which made justice unattainable and deprived victims of their rights.

The United Nations Fact Finding Mission was established by the Human Rights Council, in accordance with Resolution S-91/. The mission conducted comprehensive investigations into violations of international humanitarian law and international human rights law perpetrated by Israel and Palestinian armed groups and authorities in the Gaza Strip and the West Bank, including East Jerusalem. The Mission's conclusions confirmed the conclusions of investigations conducted by Palestinian, Israeli and international human rights organizations, and refuted Israel's claims that its military and political operations were conducted in accordance with international law. The Mission concluded that Israel was responsible for perpetrating grave breaches of the Geneva Conventions,

war crimes and serious violations of international human rights law and humanitarian law. It also found enough evidence to indicate that crimes against humanity might have been committed.

Over the last quarter of 2009, persistent efforts were made to diminish the report in the UN Human Rights Council, General Assembly and Security Council. The first of such attempts was in the Human Rights Council in September, and it gained momentum due to the political hesitation of Palestine Liberation Organization, the agendas of some influential States in the United Nations, which oppose accountability, and the insistence to ignore victims of Israel's offensive in the Gaza Strip. Surrendering to international pressure, on 2 October 2009, the Palestinian leadership requested delaying voting over a draft resolution in the Human Rights Council endorsing the recommendations of the report prepared by the UN Fact-Finding Mission (the Goldstone Report).

PCHR and other human rights organizations condemned such delay, which denies the Palestinian people their right to effective judicial remedy, equality in the protection of law, places politics above human rights and humiliate victims and their rights.

Under community pressure, the Palestinian leadership sought for convening a special session for the Human Rights Council to consider the report. On 16 October 2009, the 12th Special Session of the UN Human Rights Council issued a Resolution condemning illegal acts of Israel, as an occupying power, especially its illegal annexation of East Jerusalem, and endorsing the conclusions and recommendations of the Goldstone Report. This

Resolution constituted a victory for human rights and the rule of law, and a first step towards achieving justice and accountability, supporting victims' rights and holding those responsible for perpetrating serious violations of international law accountable.

Nevertheless, such efforts continued in order to diminish the report in the UN General Assembly. In mid November 2009, the General Assembly convened to discuss the report, as a draft resolution to consider the report was approved. It was clear that the draft resolution was an attempt to ensure enough support for a meaningless resolution that fails to protect the rights of victims and achieve accountability. While the draft resolution addresses some of these demands, it does not include any effective steps to implement the recommendations of the Goldstone Report, and does not ensure effective judicial remedy for victims.

Impunity must not be allowed to prevail, and it is unacceptable to subject the international law to the will of super powers with an aim to deprive people over the world of their basic rights that are ensured under international human rights instruments. We, as Palestinians and representatives of victims, call for achieving justice and creating an appropriate environment to achieve peace in the future. In light of the failure to hold Israel accountable for human rights violations it perpetrates in the West Bank and the Gaza Strip, and the indecisive international position towards the Goldstone Report, we believe that the human rights situation in the OPT will deteriorate further.

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Political division and conflict in the Palestinian National Authority constituted a major motive for human rights violations and the obstruction of democratic reform. Efforts to reach a national reconciliation, which PCHR supports and contributes to, have failed to end political division and restore the national unity. The political division has been manifested in having two Palestinian governments, separate police and security services, two judiciaries and a paralyzed Palestinian Legislative Council.

Over the year, the state of political fragmentation imposed a heavy burden on the work and performance of the PLC, which was completely paralyzed and made unable to carry out its major role in legislation, monitoring and accountability over the executive. In Gaza, the Change and Reform Bloc of Hamas had continued to hold sessions for the PLC since November 2007 claiming that such sessions are legal. Since then, the Change and Reform Bloc has discussed, ratified and issued a number of laws, without ratification by the PNA President. In Ramallah, Palestinian President Mahmoud Abbas has continued to issue decrees that have the power of laws without presenting them to the PLC. PCHR has expressed reservations regarding the adoption of regulations by the PNA under the ongoing state of fragmentation as they are beyond current needs and unnecessary.

Over the year, a number of PLC Members in the West Bank and the Gaza Strip were subjected to attacks by Palestinian security services, including beating and restrictions on their movement in violation of the Basic Law.

On 23 June 2009 IOF released Dr. Aziz al-Dwaik, PLC Speaker. However, Dr. al-Dwaik was unexpectedly prevented by

a Palestinian decision from resuming his work and even entering offices of the PLC in Ramallah.

The political fragmentation and conflict in the PNA impacted the judiciary, as two separate judicial systems have been enforced in the West Bank and the Gaza Strip. The government in Gaza established a separate system, to which the Gaza Strip population is subject, in violation of the Basic Law. On the other hand, the judicial system in the West Bank applies only to those who live in the West Bank. In 2009, the government in Gaza dismissed the acting Attorney General in Gaza and appointed a new one, in violation of the Basic Law.

In the West Bank, the executive has continued to control the judiciary, which undermines its dignity and independence. The military prosecution has continued to usurp the authorities of the Attorney General, and the executive has continued to disobey court rulings, especially with regard to the release of political prisoners.

The political split and conflict in the PNA impacted the process of democratic reform in 2009, including the obstruction of holding general and local elections. The year 2009 ended without any signs or preparations for holding presidential, legislative and local elections according to the legal timetables, or even an agreement between the parties of the conflicts on dates for holding such elections. With the end of 2009 and the beginning of 2010, the public authorization offered by the Palestinian people to their representatives expires, and no one can then claim democracy or the representation of the public will.

On 23 October 2009, Palestinian President Mahmoud Abbas announced that he was issuing a decree calling for free and fair presidential and parliamentary elections in the PNA to be held on Sunday, 24 January 2010. PCHR issued a position paper on the aforementioned presidential decree,<sup>4</sup> in which it stressed that elections are a demand of all national powers and civil society groups, but they are not possible without reaching a comprehensive national reconciliation that can end fragmentation and restore the dignity of the legislative, executive and judicial institutions of the Palestinian government, which have been impacted by the crisis and have become reflective of the ensuing fragmentation. PCHR further pointed out that holding elections requires an appropriate electoral environment, including allowing public freedoms; releasing political prisoners; lifting the ban imposed on political activities (those imposed on Hamas in the West Bank and on the Fatah movement in the Gaza Strip); reopening hundreds of closed associations; respecting press freedoms and free expression; and allowing all print, visual and audio mass media to work freely.

In light of Hamas' rejection for holding elections before reaching a national reconciliation, on 12 November 2009, the Central Elections Commission met to discuss all aspects of the situation. It found that «it cannot hold elections nationwide on the assigned date.»

Elections of local council has constituted another setback in the process of democratic reform in the PNA. By the end of 2009, the PNA had failed to organize elections for local councils, whose term in office had expired.

4 «Reconciliation Is a Prerequisite for Elections; Presidential Decree is Constitutionally Sound, But Inappropriate and Impossible without Reconciliation,» Position Paper, 25 October 2009.

In 2009, the two governments in Ramallah and Gaza continued to appoint local councils. In Gaza, the government appointed local councils for major towns, where elections had not been held, such as those of Gaza City, Khan Yunis and al-Nussairat. It appointed new councils to replace those whose legal term expired. In the West Bank, the PNA appointed continued to appoint local councils in areas where elections had not been held, and replaced some local councils with ones which are affiliated to it, in violation of the law.

In 2009, violations of the right of life and attacks on personal security in the OPT continued. In 2009, 115 Palestinians, including 13 children and 14 women, were killed and at least 280 others were wounded. The majority of victims were killed in the Gaza Strip, where 94 Palestinians were killed.

In 2009, 37 Palestinians (28 ones in the Gaza Strip and 9 ones in the West Bank), including 7 security officers and two children, were killed during law enforcement operations carried out by Palestinian security services against armed groups in the West Bank and the Gaza Strip. Excessive force was used by law enforcement officials during those operations. Regrettably, no investigation was conducted into such incidents, especially in serious attacks such as the killing of 3 wounded persons while being evacuated in ambulances, and no legal action was taken against shooters.

In 2009, 40 Palestinians, including 9 children and 4 women, were killed and at least 140 others were wounded as a result of the misuse of weapons by known and unknown armed groups, in the context of the state of lawlessness plaguing the OPT.

Weapons continued to be employed in personal and clan disputes in the context of the state of lawlessness plaguing the OPT. In 2009, 11 Palestinians, including a child and a woman, were killed, and 25 others were wounded in personal and clan disputes.

In 2009, 13 Palestinians, including 9 women and one child, were killed “to protect family honor.”

In the early days of 2009, unidentified gunmen killed 5 detainees who fled Gaza Central Prison, which lies in the Palestinian security compound (al-Saraya) in the center of Gaza City, after the IOF had bombarded the compound on 28 December, 2008. A sixth person was killed by unknown persons for alleged collaboration with IOF. The prisoners who fled included persons sentenced to death for collaboration with Israeli Security Services or convicted of committing other criminal offenses.

In 2009, there was a notable increase in the detonation of bombs in cars, shops and institutions. In the last quarter of the year, such bombings notably escalated and targeted internet cafés, shops and charitable organizations.

Illegal arrests and crimes of torture continued in 2009 under the state of political fragmentation in the PNA. Some political and field leaders of Fatah and Hamas movements were arrested in mutual reactions between the two sides, who did not admit that such arrests were political and claimed that they were based on security or criminal offenses.

In many cases, arrests are not carried out in accordance with appropriate legal procedures. Sometimes, arrests are conducted by parties that are not authorized of law

enforcement, in violation of the Palestinian law, under which arrests fall under the mandate of judicial officials, including the civil police, who are under the supervision of the Attorney-General. Other times, arrests are conducted by law enforcement officials, but without following necessary legal procedures, including having arrest warrants issued by the Attorney-General. Additionally, detainees are held in illegal detention centers, which lack the minimum standards of appropriate detention conditions, in violation of the Law of Reform and Rehabilitation Centers of 1998. In 2009, detention conditions further deteriorated after IOF had bombarded Gaza Central Prison, which forced the prisons authority to transfer detainees to other prisons that lack appropriate detention conditions.

In the Gaza Strip, hundreds of Palestinians, especially supporters and members of Fatah movement, were arrested by security services of the Gaza government. Mostly, such arrests were based on security or criminal allegations, such as accusations of involvement in explosions against security officials in Gaza or public places,<sup>5</sup> or having contacts with the Ramallah government. Security services in Gaza waged a wide scale campaign of arrests against members of an armed group known as «Soliders of Allah» Supporters,» following armed clashes between members of the group on one side and members of security services and the «Izziddin al-Qassam Brigades (the armed wing of Hamas) on the other side in Rafah town in the southern Gaza Strip, which took the lives of 28 persons, including the group's leader.

In the West Bank, Palestinian security services waged arrest campaigns against activists and supporters of Hamas,

5 This does not include those who were convicted and tried before courts.

including senior leaders and PLC members. Such arrests were based on allegations of possession of weapons, forming armed groups, establishing an executive force aiming at disrupting public order, or having contacts with the Gaza government. In the second week of May 2009, security services in the West Bank waged an arrest campaign against supporters of Islamic movements, especially of Hamas, in the West Bank. According to a number of released detainees, they were subjected to torture by interrogators.

In the majority of cases of detention in the West Bank and the Gaza Strip against members of Hamas and Fatah movements respectively, detainees were subjected to methods of torture and ill-treatment. Such methods included: insulting; beating using batons, sharp tools, feet and hands; and tying the feet and hands to a chair and beating with batons or wires of feet; and other methods. PCHR received many complaints from Palestinians who had been detained by the two governments in Gaza and Ramallah that they were subjected to various methods of torture and ill-treatment. In many occasions, detainees were taken to hospitals as they had been subjected to extreme torture in detention centers.

In 2009, 9 detainees died in prisons and detention centers in the West Bank and the Gaza Strip; 5 detainees died in the Gaza Strip and 4 others died in the West Bank. PCHR is concerned that those people died as a result of being tortured during their detention by security services. PCHR calls for investigating these deaths and publishing the results of investigations, and if the results conclude a crime was committed, or that there was a failure to protect detainees whilst in custody, prosecuting those responsible according to the law.

In 2009, violations of the right to peaceful assembly were reported, the majority of which were against activists of Fatah movement in the Gaza Strip and activists of Hamas in the West Bank, in a reflection of political fragmentation in the PNA. The two governments in Gaza and Ramallah, through their security services, imposed severe restrictions on the right to peaceful assembly.

Restrictions on the right to peaceful assembly peaked in the last three weeks of the year, as Hamas and Fatah movement were celebrating the anniversaries of their establishment. On the eve of the 22nd anniversary of the establishment of Hamas, Palestinian security services in the West Bank waged a campaign of arrests, during which they arrested dozens of members and supporters of Hamas. The Preventive Security Service and the General Intelligence Service arrested members of Hamas in numerous locations throughout the West Bank.

During the last week of December 2009, security services in Gaza took a series of measures against activists of Fatah Movement in the Gaza Strip to prevent them from commemorating the 45th anniversary of the establishment on the movement on the 1st of January. They arrested dozens of activists of Fatah movement during the last week of December 2009. A number of detainees were violently beaten and were subjected to inhuman and degrading treatment.

Over the year, restrictions and assaults against the right to freedom of association continued at various levels in disregard for relevant legislations, and even pursuant to the political agendas of both parties of the ongoing conflict. Such restrictions and assaults included interference into the internal affairs of associations through substituting

their boards with appointed ones in violation of the law, especially those affiliated to the other party of the conflict, and attacks by security services, including raids and searches of offices.

In 2009, the issue of application of the death penalty in the PNA witnessed a negative development, as an increasing number of death sentences; Palestinian military courts in the West Bank and the Gaza Strip issued 17 death sentences (14 in the Gaza Strip and 3 in the West Bank. Thus, the year 2009 has been the worst since the establishment of the PNA with regard to the application of the death penalty; 17% of death sentences issued since the establishment of the PNA in 1994 were issued in 2009. However, PCHR feels comfortable that the Palestinian President has not ratified any of these sentences and hopes that his abstention from ratification will be a step towards stopping the application of the death penalty. PCHR is extremely concerned over repeated statements by officials in the Gaza government with regard to the application of the death penalty, and calls upon the government not to approve death sentences.

The political crisis in the PNA and the authorities conflict between the two Palestinian governments in Gaza and Ramallah have negatively impacted the already deteriorated economic and social conditions of the Palestinian population in the Gaza Strip. In January 2009, the Ramallah Ministry of Health ceased referring Palestinian patients to Israeli hospitals. This decision was taken in light of the requirement – imposed by Israeli occupation authorities – that the Palestinian Authority cover all treatment expenses. As a result, hundreds of Palestinian patients, especially cancer patients who are in need of chemotherapy, radiology and bone marrow transplants, found their treatments

interrupted without any suitable medical alternatives. On the afternoon of 22 March 2009, the Ministry of Health in Gaza took control of the Department of External Medical Treatment. Officials from the Gaza Ministry of Health demanded that the director of the Department relinquish control of all offices in the Gaza Strip. Such measures, and the suspension of work in the Department led to the deaths of a number of patients, and the deterioration of health conditions of others.

## Recommendations

This section details PCHR's recommendations to the international community and the PNA. PCHR hopes that the international community will take PCHR's recommendations into consideration and take effective steps to enforce international law. PCHR also hopes that the PNA, including both governments in Gaza and Ramallah, will work towards realizing these recommendations in the context of its responsibilities.

### Recommendations to the International Community

1. PCHR calls for implementing all recommendations of the report of the UN Fact-Finding Mission on Gaza Conflict (the Goldstone Report) through:
  - A- Urging the UN Security Council to endorse the report and immediately implement all accountability mechanisms included in it, particularly referring the situation to the International Criminal Court according to Chapter 7 of the UN Charter if the

Israeli and Palestinian sides failed to conduct impartial investigations; and

- B- Demanding the Swiss Government, the Depository of the Geneva Conventions, to call for a conference of the High Contracting Parties to the Conventions.
2. While PCHR condemns the mechanisms in which the Goldstone Report was endorsed, it calls for dealing positively with the UN Human Rights Council's session in March, and calls upon the Council to address whether relevant parties conducted investigations.
  3. PCHR calls upon the Quartet (the United Nations, the United States, the European Union and the Russian Federation) to take a clear position and effective steps to lift the siege imposed on the Gaza Strip.
  4. PCHR calls for taking effective steps to stop collective punishment measures against Palestinian civilians, who are protected under international law, and to lift the strict siege imposed by IOF on the Gaza Strip since June 2006, and was still ongoing in 2009.
  5. PCHR calls upon the High Contracting Parties to the Fourth Geneva Convention to fulfill their legal and moral obligations, including to ensure Israel's respect for the Convention in the OPT in accordance with Article 1. PCHR believes that the international silence towards grave breaches of the Convention perpetrated by IOF in the OPT serves to encourage Israel to act as a state above law and results in the perpetration of more grave breaches.
  6. PCHR demands the international community to assume its responsibilities with regard to the process of reconstruction in the Gaza Strip following Israel's offensive, including funding this process, and to

pressurize Israel to open border crossings of the Gaza Strip to allow the entry of necessary construction materials.

7. PCHR emphasizes that the Israeli occupation of the Gaza Strip remains effective in its physical and legal forms in spite of the implementation of the Disengagement Plan, which is a form of redeployment of IOF rather an end to occupation in the Gaza Strip. Accordingly, the legal status of the Gaza Strip has not changed, which obligates the international community and organizations to deal with the Gaza Strip as a part of the OPT.
8. PCHR calls upon that the High Contracting Parties to the Fourth Geneva Convention to search for and prosecute Israelis responsible for grave breaches, some of which have been defined as war crimes, as the Israeli judiciary does not prosecute them and even provided legal cover for those individuals in many cases.
9. PCHR calls for stopping all efforts aimed at amending universal jurisdiction laws in European countries to block any opportunity to prosecute alleged Israeli war criminals before their judiciaries.
10. PCHR calls upon international civil society organizations, including human rights organizations, bar associations and solidarity groups, to lobby against such efforts, which impact the rights of millions of victims throughout the world who see universal jurisdiction as the only opportunity for judicial remedy and prosecution of war criminals throughout the world.
11. PCHR highly appreciates international solidarity

delegations and their stance during and after Israel's offensive on the Gaza Strip; however, PCHR stresses that IOF are the party that is responsible for denial of their access to the Gaza Strip rather than any other party.

12. PCHR calls for taking effective steps to dismantle the Annexation Wall being constructed inside the West Bank territory. PCHR particularly calls upon the United Nations to take measures that conform to the Advisory Opinion issued by the International Court of Justice, the highest international judicial body, in 2004, which considers the Wall illegal.
13. PCHR calls upon the international community to stop the crime of settlement in the OPT, and calls upon all global companies to stop all projects in Israeli settlements.
14. PCHR calls upon the European Union to activate Article 2 of the EU-Israel Association Agreement, which provides that both sides must respect human rights as a precondition for economic cooperation between the EU states and Israel. PCHR calls also upon all states to prohibit importation of goods produced in illegal Israeli settlements in the OPT.
15. As Israel and its occupation forces have continued to impose severe restrictions on access of international solidarity groups to the OPT and Israel, PCHR calls for ensuring the freedom of movement of international delegations visiting the OPT similar to the freedom enjoyed by Israeli citizens abroad.
16. PCHR calls upon the international community to support efforts to achieve Palestinian national reconciliation, and stresses that the boycott, including

refusal to deal with the national unity government that was formed following the Mecca Agreement in February 2007, was a major factor that led to internal fighting and political division in the PNA. Accordingly, the international community is required to make efforts to end such situation, to provide explicit guarantees, especially by the European Union to support efforts of reconciliation and accept its results and those of any future elections if they are transparent and fair.

17. PCHR reiterates that any political settlement not based on international human rights law and humanitarian law cannot lead to a peaceful and just solution of the Palestinian cause. Rather, such settlement can only lead to further suffering and instability in the region. PCHR calls upon governments and civil society organizations to implement the international law at the Palestinian level.

## **Recommendations to the PNA**

1. PCHR calls upon Fatah and Hamas movements to initiate dialogue to end the current political crisis and end the division in PNA, which has expanded to impact all components of the Palestinian political system and maintain the separation between the West Bank and the Gaza Strip.
2. PCHR calls for retaining the dignity of the judiciary and taking effective measures to ensure its non-politicization in the context of the existing conflict.
3. Calls for making efforts to ensure appropriate conditions to hold presidential, parliamentary and local elections.
4. PCHR calls for reactivating the legislature through

immediately allowing the Speaker of the Palestinian Legislative Council to assume the responsibilities of his post, and abstaining from issuing or freezing laws by the Change and Reform Bloc in Gaza, and presidential decrees that have the power of laws in Ramallah.

5. PCHR calls for stopping all political arrests that target activists of Fatah and Hamas movements in the Gaza Strip and the West Bank respectively, ensuring the release of political prisoners, and stopping torture and cruel treatment in detention centers administered by security services in the Gaza Strip and the West Bank.
6. PCHR calls for taking effective measures to end the state of lawlessness plaguing the OPT, which has taken the lives of hundreds of Palestinian civilians.
7. PCHR calls for investigating all crimes and attacks against people and their property, bringing the perpetrators to justice, issuing strict instructions to Palestinian law enforcement officials banning them for carrying their weapons out of duty, preventing them from using weapons to terrify and threaten people and violate their right to life, and bringing violators of such instructions to justice.
8. PCHR calls for ensuring the right of the freedom of expression, including stopping all attacks against journalists and media institutions, especially those affiliated to parties of the current internal conflict. PCHR further calls upon the PNA to refrain from imposing restrictions on political parties and to ensure pluralism in accordance with the constitution.
9. PCHR calls for ensuring the right of peaceful assembly, including peaceful demonstrations and public meetings provided that the peaceful nature of such activities is maintained.

10. PCHR calls for ensuring the right of association, stopping attacks against associations and partisan offices, abstaining from pushing civil society organizations into any conflict and reopening all associations that were closed for political reasons.
11. PCHR calls for the abolition of the death penalty and abstention from implementing death sentences that have been issued so far.
12. PCHR calls for independent and professional investigations that meet international standards and the timetable required by the Goldstone Report into violations of human rights included in the report.
13. PCHR calls for activating all possible diplomatic and political influence of the PNA and Palestine Liberation Organization in the UN General Assembly to follow up efforts to implement the recommendations of the Goldstone Report.
14. PCHR calls upon the PNA to adhere to international human rights standards and make sure that all measures it takes conform to international human rights standards and respect basic rights of citizens.



