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**HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER
OCCUPIED ARAB TERRITORIES**

Joint written statement* submitted by the Union of Arab Jurists, the International Organization for the Elimination of All forms of Racial Discrimination (EAFORD), the General Arab Women Federation, Nord-Sud XXI, the Arab Lawyers Union, the Indian Movement Tupaj Amaru (IMTA), the General Federation of Iraqi Women (GFIW), the United Towns Agency for the North-South Cooperation, the International Association of Democratic Lawyers, International Educational Development - Humanitarian Law Project, the Women International Democratic Federation (WIDF), the Association of Humanitarian Lawyers, 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.

[18 February 2009]

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

Human rights situation in Palestine and other occupied Arab territories*

Throughout the occupied Palestinian territories, Palestinian people continue to face hardship and to live in a violent environment where Israel's military occupation is having a devastating impact on Palestinians living both in the West Bank and the Gaza Strip.

For decades, the occupying war machine continues its killing of Palestinian civilians, children, women, and elderly people. It is destroying civilian infrastructures, houses, facilities, public buildings, schools, mosques, press offices and other properties. Such actions are considered under international law and conventions as war crimes and crimes against humanity. Moreover, it has not complied in the past or today with any of the its obligation under international law, nor has abided by any obligations set forth in or established by international norms and conventions. the systematic Israel's contempt for all UN Resolutions, the international law, and Palestinian human life in general have lead to a situation where Palestinians are denied basic human rights and humiliated on a daily basis.

More significantly, the economic and humanitarian situation has been dramatically deteriorating. Poverty and hardship have increased despite significant amounts of emergency and humanitarian assistance. For the year 2009, the UN increased its humanitarian appeal for USD\$ 462 million to fund humanitarian assistance and programmes in response to the deteriorating humanitarian situation, in particular in the Gaza Strip¹. This ranks the Palestinians amongst the largest per capita recipients of aid. Yet, all economic analyses performed by the World Bank stresse that increasing donor assistance will not be sufficient to turn around the economic downturn in the occupied Palestinian territories and acknowledges that "any sustained Palestinian economic recovery will ultimately require the dismantling of the closure system"².

West Bank

One of the major causes of the deteriorating situation is the severe restrictions on movement and access which the occupying power claims is geared to enhance the security of its citizens. Since the outbreak of the second *Intifada* in September 2000, the number of checkpoints in the West Bank increased to over 600. The closure system consists of a complex array of physical and administrative obstacles that "have a severe and detrimental impact on the rights of Palestinians as guaranteed in article 12 of the International Covenant on Civil and Political Rights (ICCPR), and more specifically the individual's right to freedom of movement"³. As well, such restrictions undermine the enjoyment of others basic rights guaranteed under international human rights law by impeding access to health care, education and employment.

* - Association of Arab Lawyers (UK), Monitoring Net of Human Rights in Iraq, Association of Iraqi Diplomats, Women Solidarity for an Independent and Unified Iraq, Women Will Association (WWA), Organization for Widows and Orphans, (OWO), The United Prisoners of Iraq, Association of Victims of American Occupation Prisons, Association of Iraqi intellectual and Academics, Conservation Centre of Environmental & Reserves in Iraq (CCERF), NGOs without consultative status also share the views expressed in this statement.

¹ OCHA, <http://www.ochaopt.org>

² World Bank, Disengagement, the Palestinian Economy and the Settlements, June 2004. p. 1

³ Richard falk, Report on Israeli practices affecting the human rights of the Palestinian people in the occupied Palestinian territory, including East Jerusalem, November 2008, by the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967.

Furthermore, since 2002, the construction of the separation wall on occupied land has also involved the confiscation of Palestinian agricultural lands and has had a severe humanitarian impact. The wall fragments Palestinian communities and isolates the West Bank residents from social support networks. As a result, Palestinians face economic hardship due to restrictions of access to their land, harvest crops, and graze animals. They have also been cut off from schools, universities and specialized medical care by the Barrier⁴. In its advisory opinion of 9 July 2004, the International Court of Justice (ICJ) found that the Barrier constructed in the West Bank is illegal under international humanitarian and human rights law, since its route within the West Bank appears to protect the presence of major settlement blocs in the West Bank rather than the security of Israel. The Israeli human rights group B'tselem estimates that upon completion, 87% of the Wall will be located inside the West Bank, thus annexing more than 9% of its territory, while East-Jerusalem will be cut off from the rest of the West Bank as a result.⁵

The fragmentation of the West Bank is further aggravated by Israeli settlements and its bypass roads system. Jewish settlements in the West Bank are illegal and violate article 49, paragraph 6, of the Fourth Geneva Convention and clearly attempt to impose realities on the ground to undermine final status issues. These settlements further restrict Palestinian access to areas of the West Bank, since many roads that used to connect Palestinian villages to nearby cities are now closed off by concrete blocks, ditches, earth mounds or iron gates. These obstacles not only separate Palestinians from their lands and their water sources, but again divide one community from another, villages from cities, and districts from each other.

The occupying power's policies and practices in the West Bank seriously impinge upon the human rights of Palestinians. The apartheid wall established inside the Palestinian territory, checkpoints and roadblocks, settlements, the arbitrary permit system, the pervasive practice of house demolitions, targeted assassinations, and arrests and imprisonment violate a wide range of civil and political rights. Economic and social rights have also suffered from the humanitarian crisis resulting from occupation.

Gaza Strip

Gaza has suffered from a long-term pattern of economic stagnation and plummeting development indicators. Although Israel continues to claim the Gaza Strip is not anymore an occupied territory since August 2005, the occupying power has retained effective control over the Gaza Strip. It maintains sole control of Gaza's airspace and territorial waters and does not allow any movement of people or goods in or out of Gaza via air or sea. As well, it continues to exercise a degree of control over Gaza's border with Egypt, and since 2006 the Israeli Defense Forces (IDF) have been regularly conducting raids in the Strip.⁶

The severity of the situation has increased exponentially since the occupying power imposed- in June 2007- extreme restrictions on the movement of goods and people. The closure of Rafah Crossing and the illegal blockade has effectively sealed off the Gaza Strip, as the crossing has remained closed ever since. Whereas leaving the Gaza Strip was previously difficult most of the

⁴ OCHA Special Focus, Humanitarian Impact of the West Bank Barrier. Crossing the Barrier: Palestinian Access to Agricultural Land, January 2006, www.ochaopt.org

⁵ B'tselem

⁶ Amnesty International

time, now it became totally impossible. Palestinians imprisoned in the most heavily populated area in the world have been unable to leave the Gaza Strip for over two years.

Furthermore, in September 2007, the occupying power officially begins the policy of collective punishment against the people of Gaza by issuing a declaration naming the entire Gaza Strip a “hostile territory” and calling to block the transfer of electricity, fuel, and other supplies into Gaza. Israeli’s goal in using such terminology was to reduce its responsibility for the safety and well-being of the Palestinians living in Gaza; although this assertion was promptly rejected by the UN and others in the international community. Yet, it clearly constitutes a massive form of collective punishment, which is expressly prohibited by international humanitarian law.

The collective punishment of the Palestinian population in Gaza has resulted in a dire humanitarian crisis. Food, fuel and water have been in short supply and the public health system has been under severe pressure. The impact of the closure of its borders has been devastating for the Gaza occupied territory. The partial, and often complete, closure of the crossings has meant that basic goods have not been getting into the territory in sufficient quantities and people, including those in need of medical attention, have not been able to get out. Today, over 80% of the population live below the official poverty line. While food aid considerably increased to meet the needs of this increasingly impoverished population, hardship continues to be rife among Palestinian people living in the Gaza Strip. In 2008, over 1.1 million people – some three-quarters of Gaza’s population – received food assistance from the United Nations Relief and Works Agency for Palestine refugees in the Near East (UNRWA) and the World Food Programme (WFP).⁷

In March 2008 a group of international NGOs⁸ published a report which stressed that the severity of the situation in Gaza has rapidly deteriorated since Israel imposed its total economic siege. The report went on to outline in detail the gravity of the situation in terms of the rise of unemployment, the lack of basic medical supplies, blackouts, and the denial of emergency treatment outside Gaza. It referred to the situation in Gaza as a “humanitarian implosion” [...], where the Gaza economy was no longer on the brink of collapse – it has collapsed”.⁹

The massive Israeli attacks

The harsh living conditions in the Strip culminated in the launch of a massive Israeli air raid on Gaza 27 December 2008 and ground incursion 3 January 2009. During its 22-day military assault, the Israeli army killed hundreds of Palestinian civilians, devastated the territory’s infrastructure and created a huge humanitarian catastrophe.

Palestinian Ministry of Health (MoH) figures as of 5 February are 1,440 Palestinians killed, of whom 431 are children and 114 are women¹⁰, i.e. 65% of civilians¹¹. The number of injuries stands at 5,380, of whom 1,870 are children and 800 are women.

⁷ OCHA field update on Gaza, 3 – 5 February 2009

⁸ Among them Oxfam, Amnesty International, Care, Save the Children..etc. *The Gaza Strip : a humanitarian implosion*, March 2008

⁹ Ibid.

¹⁰ This number does not include those who have died due to lack of access to regular health care, including obstetric care and treatment for chronic diseases.

Furthermore, the brutal and clearly indiscriminate Israeli attacks on the Palestinian population in Gaza have entailed numerous violations of basic norms of international law, such as the principles of proportionality and distinction between civilians and combatants. Military acts such as dropping bombs from the air and sea on unarmed civilians, many women and children, destroying mosques, hospitals, homes, and infrastructure, are considered a violation of international humanitarian law in relation to which the occupying power bears responsibility; but they also constitute serious crimes under international law, e.g. war crimes and eventually crimes against humanity, since attacks were directed at civilians or civilian buildings in the Gaza Strip.

As well, Israel's bombardments deliberately targeted medical personnel, including the Red Cross and the United Nations relief facilities. The UN and many human rights organizations (Amnesty International, Human Rights Watch...) reported undisputable evidence of widespread use of the chemical white phosphorus against Palestinian civilians in densely populated areas in Gaza. According to the New Weapons Research Committee (NWRC), based in Genoa, Italy, the Israeli Occupation Forces (IOF) were "experimenting with new non-conventional weapons on the civilian population in Gaza, similar to those Israel used during its 34-day war on Lebanon in 2006". The NWRC reached the conclusion that Israel has used "white phosphorous, dense inert metal explosive (DIME), thermobaric bomb, cluster bombs and uranium ammunitions, and experimented novel weapons and delivery modalities".¹²

The UN Special Rapporteur for the Occupied Palestinian Territories, Richard Falk, stated that there was evidence that Israel committed war crimes and that there should be an independent inquiry. As well, the UN Secretary General, Ban Ki-moon, called for those responsible for the bombing of UN-run buildings and schools in Gaza to be held accountable: "There must be a full investigation, [...] and make those responsible people accountable."

Israel has recently taken active measures to locate and forcibly remove Palestinians from the West Bank and to the Gaza Strip on several pretexts.

¹¹ OCHA field Update, January 2009

¹² Using white phosphorous as an incendiary weapon, i.e. to set fire to military targets, is subject to further restrictions. The use of such white phosphorous weapons against any military objective within concentrations of civilians is prohibited unless the military objective is clearly separated from the civilians. The use of air-dropped incendiary weapons against military objectives within a concentration of civilians is simply prohibited. These prohibitions are contained in Protocol III of the Convention on Certain Conventional Weapons.

‘Palestinian right of return’

Palestinian refugees – like all refugees – have rights, regardless of where they live. In particular, they have the right of return, which includes the right to the restitution of their property or to compensation for its loss.

The occupying power is also trying to force Palestinian citizen living inside what called (green line), to force them to leave their places to the West Bank or Gaza or even outside Palestine. And for this reason a tremendous pressure are being put on those civilians, confiscating their lands and other properties. All these acts are in a clear violation of international humanitarian law.

The NGOs signatory to this statement, urge the Council to hold the perpetrators of these war crimes accountable under applicable jurisdictions in order to ensure respect for international law and implementation of international humanitarian law as well as protection and promotion of the principles and provisions of the Universal Declaration of Human Rights, peace, and justice as set out in the Charter. It also add its voice to the call from many international Jurists, Human rights Organizations, and individuals, asking for the suspension of Israel throughout the entirety of the United Nations System, including the General Assembly and all U.N. subsidiary organs and bodies. As well, the UN General Assembly should seriously consider establishing an International Criminal Tribunal for Israel (ICTI) as a "subsidiary organ" under article 22 of the UN Charter. The purpose of the ICTI would be to investigate and Prosecute suspected Israeli war criminals for offences against the Palestinian people.
