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HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES

**Written statement^{*} submitted by the International Federation of Human rights Leagues
(FIDH), a non-governmental organization 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.

[19 February 2009]

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

Human rights situation in Gaza¹

On 6 January 2009, 23 members of the al-Daia family were killed inside their home in the Zaytoun district of east Gaza city when the house was destroyed by a bomb fired from an F-16. One member of the family, 28 year old Amer al-Daia, survived the attack. The family had previously evacuated the house, as they feared that a house down the street was going to be destroyed. They returned the day before the attack.

On 4 January 2009, 1 ½ year old Farah il-Helo died in the Zaytoun district of east Gaza city after being shot by the Israeli Occupation Forces (IOF); her grandfather, 62 year old Fouad il-Helo, was also shot dead on the same night. The family had been sheltering in their house, but were forced to leave when it was occupied by IOF. They were initially reluctant to go outside given the number of tanks and soldiers in the street, but were given assurances by IOF, before being forced out of the building. Approximately 500 meters from the house, two soldiers in an upstairs window of a building they were approaching began shooting directly at the family. The soldiers shot at the family for several minutes, hitting Farah, Abdullah, and Islam il-Helo. The dead and injured were left in the street for 12 hours, while the family were forced to shelter in a nearby ditch.

These testimonies, from one specific area of Gaza city, are indicative of the scale of the suffering of Gaza's civilian population. Over the 22 days of 'Operation Cast Lead' – the Israeli assault on the Gaza Strip – approximately 1,285 Palestinians were killed. The Palestinian Centre for Human Rights (PCHR) initial investigations reveal that, of the dead, 895 were civilians, including 280 children and 111 women. 4,336 Palestinians were also injured in the attacks, including 1,133 children and 735 women. Entire families were killed or wounded.

Beyond the intense human suffering, the damage to the infrastructure of the Gaza Strip has been near-catastrophic. Preliminary investigations indicate that 2,400 homes were completely destroyed, while another 12,000 were damaged. Other damaged and destroyed buildings include mosques, ministries, municipalities, governorates, charitable societies, warehouses, shops, university campuses, schools, a phone communications office, electricity grids, water and sanitation infrastructure, animal farms, fishing harbours, and so on. Additionally, thousands of donums of agricultural land were razed, while 121 industrial and commercial workshops were destroyed, and at least 200 others damaged.

From the beginning of the attack on 27th December 2008, until the ceasefire on 18th of January 2009, PCHR documented a number of violations of international law, committed by Israeli Occupation Forces (IOF), which amount to grave breaches of the Geneva Conventions, war crimes, and potentially crimes against humanity. Many of the IOF attacks on the Gaza Strip were conducted with disproportionate force, and often – having been directed against densely populated residential areas – were conducted in an indiscriminate, and therefore illegal, manner.

The principle of distinction in warfare forms an important rule of both customary, and conventional, international humanitarian law. This basic rule requires that parties to the conflict must at all times, "distinguish between the civilian population and combatants and between

¹ PALESTINIAN CENTRE FOR HUMAN RIGHTS (PCHR) also share(s) the views expressed in this statement

civilian objects and military objectives”. PCHR have documented many cases in which the IOF, either purposefully or negligently, violated the principle of distinction. This included the killing of civilians – including children – and attacks against protected persons, such as medical personnel. Aside from strikes against individuals, the IOF also attacked protected civilian objects with wanton regularity. The needless and unjustified attack on the UNRWA compound is an example of such conduct.

During the war PCHR documented many examples of IOF contacting home owners throughout the Gaza Strip – often via telephone – ordering them to evacuate their houses, as they were to be attacked. These measures were not taken in order to clear civilians from an area in preparation for a legitimate military bombardment, but rather to remove them from specific houses so that they may be destroyed. Clearly, the destruction of such houses did not offer a ‘definite military advantage’. Rather, PCHR proposes that these attacks are punitive or retributive measures, and thus flagrant violations of the laws of war. Such attacks constitute grave breaches of the Geneva Conventions.

The prohibition of indiscriminate attacks is a norm of customary international law. The Rome Statute of the International Criminal Court classifies attacks of this nature as war crimes. International law holds that “an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.” The use of phosphorous bombs by IOF in densely populated civilian areas is a clear example of indiscriminate and illegal military conduct.

The extent of the outrages committed against the civilian population of the Gaza Strip indicates that such attacks were not isolated or sporadic events. Rather, it appears that they formed part of a policy, or at least, were evidence of a widespread and systematic disregard for the laws of war by the Israeli administration. As such, PCHR believe that the campaign against civilians and civilian objects may constitute a crime against humanity, as defined by the Rome Statute.

All border crossings to the Gaza Strip are restricted; a situation that has persisted for more than two years. The steady tightening of the siege, combined with the unprecedented escalation in hostilities, has had a disastrous humanitarian impact on the civilian population. 1.5 million people are being denied their basic rights, including freedom of movement, and their rights to appropriate living conditions, work, health and education. Standards of living across Gaza have seriously deteriorated, whilst poverty and unemployment levels have sharply increased. The majority of the civilian population lack continual access to safe drinking water. OCHA reports a total power deficit of 19 percent throughout the Gaza Strip, meaning that hundreds of thousands of civilians continue to endure power cuts; due to localized damage, certain areas still do not receive any electricity, notably Al Qurem, Izbet Abed Rabbo and Al Atatra. Petrol and diesel were last allowed into Gaza for public use on 2 November 2008. OCHA estimate that 35 percent of goods allowed into Gaza were for aid agencies, 83 percent of which are food supplies. No education/ stationary material, livestock or construction materials were allowed into Gaza during the said period. The Israeli Coordinator of Government Activities in the Territories has confirmed that there is as yet no intention to revise the policy prohibiting reconstruction materials which would enable aid agencies working in Gaza to begin rehabilitation and

reconstruction. Aid workers continue to face difficulty in obtaining access to the Gaza Strip to carry out humanitarian work.

The situation in the Gaza Strip is dire; the siege continues to this day. Current aid levels are only suitable for basic survival. If the Gaza Strip is to recover, and if civilians are to rebuild their homes and resume their lives, construction material will be needed. The borders must be opened.

PCHR and FIDH have repeatedly called on the international community, as High Contracting Parties to the Geneva Conventions of 1949, to honour its legal obligations to ensure respect for the Conventions in the Occupied Palestinian Territory. Additionally, PCHR and FIDH call on the international community to fulfil its obligation in accordance with Article 146 of the Fourth Geneva Convention, to bring persons alleged of committing grave breaches of the Geneva Conventions to justice. The rule of law must be upheld. Failure to act in this regard will be seen as complicity on the part of the international community. Such inaction encourages the perception that some States are above the law, undermining both the credibility and utility of international human rights and humanitarian law: the basic principles of humanity. In the absence of accountability, States such as Israel will continue to act in violation of international human rights and humanitarian law; civilians will continue to suffer the consequences.

PCHR and FIDH also reiterate that any political settlement not based upon international human rights law and international humanitarian law cannot lead to a peaceful and just future for the Palestinian people. Rather, such an agreement can only lead to further suffering and instability in the region. Any peace agreement or conditional ceasefire must be based on a respect for international law, including international human rights and humanitarian law.

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