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HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

**Written statement* submitted by the Cairo Institute for Human Rights Studies (CIHRS),
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.

[13 February 2009]

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

Accountability and Civilian Protection within Armed Conflicts of the Middle East

The Cairo Institute for Human Rights Studies would like to express its concern over disregard for the protection of civilians demonstrated by governments and armed militias involved in armed conflicts within the Arab region.

1. Parties to conflicts in Iraq, the Occupied Palestinian Territories (OPTs), the Darfur region of Sudan and the Sa'dah region of Yemen have demonstrated a severe disregard for international standards of civilian protection. In all of these conflicts wide-spread human rights violations, including genocide, war crimes and grave breaches of the four Geneva Conventions (1949) and their Additional Protocols, are carried out against unarmed civilians on a regular basis by government forces and/or government affiliated militias.
2. In Iraq, despite reports of a relative decrease in the levels of violence, between September 2008 and February 2009, some **2183** Iraqis were killed within the ongoing conflict, of which **138** were reportedly killed in January 2009 alone. Continuing confrontations between governmental troops and resistance groups, as well as between Sunni and Shiite militias remain a key challenge to human rights promotion in the country.
3. The killing of civilians continued during air raids or pursuit and inspection operations undertaken by Iraqi and United States (US) forces. The Iraqi judiciary and other authorities have failed to bring members of the Iraqi security forces and foreign forces perpetrating war crimes to justice. Moreover, despite the fact that US soldiers have repeatedly been accused or convicted of committing war crimes since 2003, the Security Bilateral Force Agreement denies Iraqi courts jurisdiction over members of US Forces and civilians in several circumstances, and gives the US the ability to override Iraq's primary right to jurisdiction in particular cases.¹ According to the UN, post-February 2006 figures indicate the internal displacement of some **1.596** million individuals,² and some **800,000** that have fled to neighboring countries.
4. While both the Israeli occupation forces and Palestinian armed groups have not taken the necessary precautions to prevent the loss of civilian life, the most recent attacks by Israel on the Gaza Strip that began on December 27, 2008 demonstrate a wanton disregard for humanitarian and human rights standards on an unprecedented level in recent times. As of February 6, 2009, **14** Israelis have been killed during this conflict. Figures compiled by the Palestinian Ministry of Health shows that, some **1,300** Palestinians were killed including **900** civilians, of whom **410** were children.
5. According to Richard Falk, UN Special Rapporteur to the OPTs, Israel's behavior constitutes a war crime.³ With total immunity, the Israeli government is unwilling to cooperate with the international community, and has severely hampered the work of relief agencies and UN workers. Furthermore, during combat operations Israeli forces raided several UN compounds destroying them and killing UN staff members. The Israeli government also denied foreign

¹ the Security Bilateral Force Agreement of 2008, at Article 12 (Parag. 3-6).

² Internally Displaced Persons Working Group, *Internally Displaced Persons in Iraq*, June 2008

³ Statement of Special Rapporteur for the Palestinian Territories Occupied Since 1967 for presentation to the Special Session of the Human Rights Council on the situation in the Gaza Strip, 9 January 2009.

journalists and media representatives access to the Gaza Strip. Requests by the International Committee of the Red Cross (ICRC) to investigate scenes of humanitarian abuse were rejected.

6. Hamas militias have also perpetrated a wide range of human rights violations in the Gaza Strip during the latest Israeli attacks. Reports gathered from the field indicate that Hamas is responsible for the unlawful killing of some **32** Palestinians including fugitives, prisoners and political detainees. Dozens of other violations were recorded throughout the strip including severe physical violence and torture. Furthermore, Hamas' indiscriminate use of missiles has claimed the life of at least **three** Israeli civilians during this three week period. Hamas continues to act with complete impunity and disregard of human rights and international humanitarian law.
7. The ever-deteriorating situation in Darfur as a result of the armed conflict between the Sudanese government and rebel groups continues to pose a serious threat to millions of unarmed civilians. In what UN Secretary-General Ban Ki-moon recently described as "a devastating humanitarian situation," the situation in Darfur continues to be characterized by ongoing hostilities and widespread human rights abuses. Since the fighting began in 2003, UN official statements estimate the number of civilian deaths in Darfur to have reached **300,000**. It is estimated that the conflict has resulted in the displacement of over **2.5 million** people.⁴ Hostilities between the months of July and October 2008 alone have resulted in the displacement of some **90,000** people in Darfur.⁵ Despite increased attention and condemnation of the atrocities committed against civilians in Darfur, the human rights situation in Sudan remains dire. The Sudanese armed forces continue to conduct indiscriminate attacks against civilian population and infrastructure in violation of basic laws of war and UN resolution 1591. In October 2008, government and rebel forces carried out indiscriminate attacks on at least **13** villages in South Darfur reportedly killing **44** civilians.⁶ Despite announcing a unilateral, unconditional ceasefire on November 12, 2008, sources confirm that government forces have continued to bomb villages in North and West Darfur, most notably Kurbia in North Darfur. On January 15, 2009 and in what was described as the "worst violence in a year,"⁷ fighting erupted in Muhajiriya between the government supported militias and rebel groups. As reported on February 4, 2009, the fighting has claimed the lives of at least **30** people and uprooted some **30,000**.⁸

⁴ UN NEWS SERVICE, *SECRETARY-GENERAL SPEAKS OUT AGAINST CLASHES IN NORTH DARFUR*, 26 JANUARY 2009, UNHCR REFWORLD, AVAILABLE AT [HTTP://WWW.UNHCR.ORG/REFWORLD/DOCID/4982D0AE7.HTML](http://www.unhcr.org/refworld/docid/4982d0ae7.html), (ACCESSED 11 FEBRUARY 2009).

⁵ *Rhetoric vs. Reality: The Situation in Darfur*, SaveDarfur, Human Rights First, Human Rights Watch, at 2, available at <http://www.humanrightsfirst.org/pdf/081201-HRF-rhetoric-vs-reality.pdf>.

⁶ *Rights Groups Say Government is Lying About Darfur*, SudanTribune, 3 December 2008, available at http://www.sudantribune.com/spip.php?page=imprimable&id_article=29465.

⁷ Integrated Regional Information Networks (IRIN), *Sudan: Darfur suffers "worst violence in a year"*, 28 January 2009. Online. UNHCR Refworld, available at <http://www.unhcr.org/refworld/docid/4981788ca.html>, (accessed 11 February 2009).

⁸ INTEGRATED REGIONAL INFORMATION NETWORKS (IRIN), *SUDAN: CONDITIONS GETTING WORSE FOR DARFUR CIVILIANS*, 4 FEBRUARY 2009, UNHCR REFWORLD, AVAILABLE AT [HTTP://WWW.UNHCR.ORG/REFWORLD/DOCID/498AB63E17.HTML](http://www.unhcr.org/refworld/docid/498ab63e17.html), (ACCESSED 11 FEBRUARY 2009).

8. In what was referred to as Yemen's "Forgotten War", the so-called Sa'dah conflict that erupted in 2004 between the Yemeni government and the Huthis in northern Yemen resulted in the death of thousands of civilians and "has displaced up to **130,000** people, a great many of whom remained out of the reach of humanitarian agencies as of October 2008."⁹ Both Parties to the conflict have reportedly committed violations against civilians and civilian infrastructure. As estimated by the ICRC in May 2008, **100,000** civilians were reportedly "directly affected" by the war, 40% of whom were estimated to be in Sa'da town.¹⁰ As reported by Human Rights Watch (HRW), humanitarian access to Sa'da has been severely restricted by the Yemeni government.¹¹ In addition, the Yemeni government has imposed an information blackout starting from February 2007, leading to a lack of information on the needs of war-affected civilians.¹²

The Cairo Institute for Human Rights Studies would like to call¹³ the attention of the Human Rights Council and UN member states to the insufficient and highly selective manner in which the international community has carried out their Article 1 obligation to "ensure respect" for the Geneva Conventions and the protection of civilians during armed conflicts throughout the Arab region.

1. Regarding Iraq, as consistently advocated by CIHRS and other Arab NGOs since the beginning of the Iraq conflict,¹⁴ strengthening security and respect for international humanitarian law is an imperative. In this regard the bilateral Force Agreement between the US and Iraq which legalizes impunity is a major setback to the achievement of stability, peace and justice in Iraq. The expected withdrawal of foreign forces requires the international community, including the UN, to ensure Iraqi civilians are afforded humanitarian relief and human rights protections.
2. Concerning war crimes and crimes against humanity against Palestinian civilians in the OPTs, the international community has failed to apply significant and concerted pressure on the Israeli government to halt such abuses and end the occupation. The US and European Union (EU) states continue to shield Israel from criticism and abort any binding UN resolutions condemning war crimes committed in the OPTs..
3. A pronounced, a concerted double-standard exists among the US, EU and the League of Arab States (LAS) concerning humanitarian law violations and human rights abuses in the OPTs and Darfur. The US and the EU have forcefully applied diplomatic pressure and created the framework for internal sanctions regimes against the government of Sudan. Yet, they fail to apply to same type of mechanisms and pressure towards Israel. Arab League states in turn apply pressure on Israel to halt abuses against Palestinians, but shield the Sudanese government. These double-standards encourage governments in the region to ignore humanitarian law, undermine all international civilian protection standards and

⁹ Human Rights Watch, *Invisible Civilians: The challenge of humanitarian access in Yemen's Forgotten War*, November 2008, at 2.

¹⁰ *Id.*, at 21-2.

¹¹ *Id.*, at 2.

¹² *Id.*, at 13.

¹³ See CIHRS written intervention A/HRC/4/NGO/59, March 7, 2007.

¹⁴ See Rabat Declaration (8/12/2004), Second Independence Declaration (22/3/2004), available at www.cihrs.org.

increase the suffering of conflict affected civilians in the Arab region. In this sense, the International Criminal Court (ICC)'s decision to issue a warrant of arrest for Sudanese President Omar al-Bashir is indeed a major step towards combating impunity in Darfur, and the wider region.

The Cairo Institute for Human Rights Studies proposes the following recommendations to the Human Rights Council:

- To pass a resolution denouncing the deteriorating respect for international humanitarian law in the Arab region, including in Iraq, the OPTs, Darfur and Yemen; and call on the international community to increase efforts to ensure that full and unconditional protection to civilians is provided.
- To enforce its resolution A/HRC/S-9/L.1 concerning the dispatching of a fact-finding mission to the OPTs to assess human rights and humanitarian law violations in the Gaza Strip in the aftermath of the Israeli attacks.
- To call upon the Security Council to reject any attempt to invoke Article 16 of the Rome Statute which would halt prosecution of crimes under international law in Darfur; and for Arab League states to remain committed to the independence of the ICC.
- To send a commission of inquiry to Yemen to investigate violations committed against civilians.
- To call on the US, Iraqi government and the UN to ensure that the humanitarian needs and resettlement of all displaced Iraqis are provided for.
- To call on the ICC to recognize the ability of the Palestinian Authority to authorize the Court to investigate war crimes committed in Gaza and to begin investigations immediately.
- To call on the US, EU and Arab League states to reconsider the selective approach toward their obligation to ensure respect of international humanitarian and human rights law.

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