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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
TORTURE AND DETENTION

Written statement* submitted by Palestinian Centre for Human Rights,
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.

[5 February 2003]

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

The Palestinian Centre for Human Rights (PCHR) notes with grave concern the continued torture and ill-treatment of Palestinians in the Occupied Palestinian Territories (OPTs) by the Israeli military and security services. In addition to customary international law, Israel is a State party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Torture Convention) and the International Covenant on Civil and Political Rights, and, as such, has a number of absolute obligations; to prevent torture and cruel, inhuman or degrading treatment or punishment (ill-treatment), to enact a clear legislative prohibition on torture, to fully and impartially investigate allegations of such treatment, to bring to justice those responsible for the perpetration of violations and to provide effective and adequate remedies to victims. PCHR condemns the ongoing failure of the State of Israel to fulfill its obligations in respect of the Palestinian population of the OPTs.

PCHR wishes to highlight the ongoing use of torture and ill treatment in detention by the Israeli military and security services; and the use of practices by the Israeli military which intentionally inflict a level of pain and suffering on the Palestinian population which PCHR asserts may amount to torture.

Torture and Ill Treatment in Detention

The ongoing use of interrogation methods banned by the Israeli Supreme Court in 1991, against Palestinian detainees has been documented by PCHR and other human rights organizations, particularly in the last year. Although most physical methods were outlawed, the ruling effectively permitted the use of sleep deprivation and painful shackling. Despite concerns expressed by the UN Committee Against Torture (UNCAT) in 2001, these methods of interrogation, and others which may constitute torture or ill treatment, have become routinely used by the General Security Services (GSS) and other Israeli security institutions since the ruling. The year 2002 has witnessed an unprecedented increase in the use of administrative detention, denying the basic rights of Palestinian detainees. In 2002 more than 1500 Palestinians were administratively detained by the Israeli military under military orders which are valid for periods of six months, renewable indefinitely and which are not subject to any judicial procedures, including an effective review mechanism. Incommunicado detention has also again become a routine feature of detention of Palestinians; detainees are regularly denied the right to legal counsel, family visits and all other communication. These forms of detention increase the danger of torture and ill treatment of detainees; PCHR and other human rights NGOs have received increasing reports of such treatment, particularly in 2002, from Palestinian detainees.

As noted by the UNCAT in 2001, further strengthening the framework for torture and ill-treatment is the limited means of redress for victims, including the ineffectual investigation process for violations. Despite repeated submission of individual legal complaints by PCHR, PCHR is not aware of any victims of torture and ill treatment in

1 The Supreme Court of Israel, sitting as High Court of Justice, published its decision in the case of *HCJ 5100/94 The Public Committee Against Torture in Israel v The Government of Israel et al.* on the 6 September 1999. The ruling banned certain physical methods of interrogation used by the General Security Service, which had previously been legitimized in the Landau Report of 1987.

detention having been provided with any form of reparation by the Israeli authorities. Furthermore, the Intifada Compensation Law, passed on 24 July 2002, prevents most claims by Palestinians harmed by the Israeli forces.² Such factors ensure that members of the GSS and other institutions enjoy impunity for torture and ill-treatment while victims are denied fair and adequate remedies in accordance with international standards.

House Demolitions

PCHR to bring to the attention of this Commission the Israeli military policy of house demolition. Since September 2000, the Israeli military has demolished 1142 Palestinian homes throughout the OPTs (491 in the West Bank and 651 in the Gaza Strip). As a result approximately 11,000 Palestinian civilians have been made homeless. As the UNCAT concluded in 2001, the Israeli policy of house demolitions in certain circumstances may amount to cruel, inhuman or degrading treatment or punishment in violation of article 16 of the Torture Convention.³ However, PCHR asserts that in the intensification of this policy throughout 2002, the circumstances in which this policy is now generally conducted intentionally inflict a level of severe pain and suffering reaching the standard required for torture as defined in article 1 of the Torture Convention. These demolitions continue to be conducted largely at night, without prior warning, and using military bulldozers accompanied by tanks, and other heavy military vehicles. Often live ammunition, including heavy machine gunfire and tank shells, is fired during the operation. In particular, the escalating use of excessive force in these operations has resulted in an increasing number of injuries and even deaths of Palestinian residents. At least 10 Palestinians have been killed during demolition operations in since the beginning of 2002.

There has also been a consistent failure to provide any form of reparation to the victims of this policy; PCHR is not aware of any instance in which the Israeli authorities have conducted a thorough and impartial investigation into the demolition of Palestinian homes, including following complaints submitted to the Israeli authorities by PCHR. PCHR is also not aware of any compensation granted to any victim of this policy. This in itself constitutes a violation of Israel's international obligations to provide reparation to victims of torture and ill treatment. Even further, despite repeated petitions to the High Court of Justice of Israel, the judiciary has failed to outlaw the practice of house demolition or even to place adequate safeguards or limitations on its implementation.

Closures

PCHR also notes with grave concern the continuing and increasingly restrictive Israeli policy of closure. Closures have been applied externally and internally throughout the OPT and have ensured increasingly tight restrictions on the freedom of movement of

2 The Torts (State Liability) - Amendment Claims Arising from Activity of Security Forces in Judea and Samaria and the Gaza Strip Law, 5761/2001.

3 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. (CAT/C/XXVII/Concl.5) – paragraph 6 (j).

4 In one example, on 3 August 2002, 9 members of the Abu Hussein family were injured by falling debris as the Israeli military began demolishing their home in Rafah without warning in the early hours of the morning.

Palestinians. The UNCAT in 2001 recognised that in certain circumstances this policy amounted to ill treatment as defined in article 16 of the Torture Convention⁵. Since that time, the restrictions imposed on movement have intensified, despite repeated assertions by various intergovernmental agencies, the UN and local and international NGOs that this policy is directly contributing to the collapse of the Palestinian economy and the deepening humanitarian crisis, including malnutrition. The movement restrictions are imposed through Israeli military checkpoints, road closures and travel permits. They control all areas of Palestinian life, routinely imposing severe delays or denial of access to work, school, family, commerce. Delays in access to medical care, including emergency services have resulted in 84 deaths, and unnecessary suffering for many patients. In addition, the treatment of Palestinians at checkpoints often violates international prohibition on torture and ill treatment; Palestinians are routinely beaten, harassed, verbally abused and even killed by the Israeli military at checkpoints.

The justification provided for these restrictions is that of security, specifically to halt the attacks against Israeli targets within the State of Israel. However, after more than two years of such restrictions, attacks inside Israel have not ceased, and these restrictive measures have been proven ineffective. The continued use, indeed the intensification of these restrictions, despite complaints by international agencies and governments regarding the resulting humanitarian suffering, together with increasing arbitrary imposition of closures, indicates that this policy is being used as a form of collective punishment.

PCHR asserts that there is an intent to cause suffering by this policy, that there has been an intensification of the suffering inflicted by the Israeli military, and that consequently this policy now amounts to the severity of suffering of torture. In addition, again, PCHR is unaware of any reparation granted to any Palestinian victim of this policy, including relatives of those who have died as a direct result of denial of access to medical care. It is important to note that this policy is also carried out in a discriminatory manner – the Israeli settler population residing in the OPTs, in violation of international humanitarian law, are not subject to any of these restrictions of movement.

PCHR calls upon this Commission

- to condemn the ongoing use by the Israeli military and security services of ill treatment and torture.
- to further condemn the failure of the State of Israel to take adequate measures to investigate allegations of such treatment, to bring perpetrators to justice and to provide effective reparation to the victims of torture and ill treatment.
- to condemn the Israeli military policies of house demolition and closure as amounting to not only a form of ill treatment but also torture.

⁵ Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. (CAT/C/XXVII/Concl.5) – paragraph 6 (i).