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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
DISAPPEARANCES AND SUMMARY EXECUTIONS**

Joint written statement* submitted by the Palestinian Centre for Human Rights (PCHR), and Al-Haq, 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.

[10 February 2005]

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

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF DISAPPEARANCES AND SUMMARY EXECUTIONS

The Palestinian Centre for Human Rights (PCHR) and Al-Haq are deeply disturbed by the escalating Israeli practice of the extrajudicial, summary or arbitrary execution of Palestinian civilians in the Occupied Palestinian Territories (OPT). In 2004, Israeli authorities have extrajudicially killed 104 Palestinians, including 58 in the West Bank and 46 in the Gaza Strip. Of these killings, 76 were targeted assassinations, during which Palestinian political activists are deliberately killed as a deterrent or punishment in the name of counter-terrorism. Such targeted assassinations regularly result in the killing of non-targeted individuals; 29 bystanders were killed during such assassinations in 2004.

Extrajudicial, summary or arbitrary executions are not new: Israeli authorities have killed 446 Palestinians, including 38 children, since the outbreak of the *intifada* in September 2000. The policy of targeted assassinations, described by one Israeli officer as "pre-emptive operations," was developed during this period as well, and it has become an integral part of Israeli military culture. It was expanded in July 2001, when the Israeli security cabinet gave the green light to killing anyone on Israel's "wanted" list, and not just those individuals who were on their way to carrying out an attack on Israeli targets, without recourse to judicial procedure.

Israel's policy of extrajudicially killing Palestinians have placed all Palestinians at risk. Those killed range from two-month-old Biana Rami Matar to 67-year-old Sheikh Ahmad Yassin, the spiritual leader of Hamas. In one well-publicised incident, 13-year-old Iman Hamms was shot at by Israeli security forces as she was walking away from a military post near her school; the captain then repeatedly shot her from point-blank range. Israeli authorities have failed to respect the right to life and the principle of distinction as they have used sniper fire, tank fire, planted explosives, missiles fired from helicopters, and F16 fighter jets to extrajudicially execute Palestinians. In some instances, undercover Israeli units are responsible for killing "wanted" individuals. Such tactics have resulted in the deaths of Palestinians from all walks of life - including schoolchildren, merchants, teachers, and political activists from all affiliations - suggesting that the Israeli intent is not to address an imminent danger, but rather the use of military tactics to obtain political and military ends.

Israeli Obligations

Israel is obligated under international law to protect the fundamental right to life of all those within its jurisdiction and under its effective control. Although Israeli authorities claim that they are not responsible for the application of international human rights law to the OPT, this point has been consistently rejected by the UN and international legal scholars, as was most recently seen in July 2004, in the International Court of Justice's *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the OPT*. It is unquestionable that the policy of extrajudicially killing Palestinians is a severe breach of Israel's obligations under international human rights law, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). The ICCPR states that the right to life cannot be derogated from even "[i]n time of public emergency which threatens the life of the nation...." This point was emphasised by the United Nations (UN) Human Rights Committee, which stated that the right to life "is the supreme right" from which no derogation is allowed.

Further, even if "wanted" individuals are suspected of being involved in criminal activity, Israel must exhaust all other available measures to charge them and bring them to trial. In practice, however, such exhaustion of measures is not implemented, and no scrutiny given to evidence that those individuals who were killed could instead have been arrested. As such, Israeli authorities are in breach of the right to a fair trial, including an effective appeal.

As an Occupying Power, Israel is also legally obligated to respect the provisions of international humanitarian law, including the Regulations Annexed to the Fourth Hague Convention Regarding the Laws and Customs of War, and the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War. These standards also uphold the right to life of civilians and prohibit arbitrary or wilful killings. As such, Israeli authorities are in breach of their obligations under international humanitarian law. Wilful killings are considered a grave breach of the Fourth Geneva Convention, and thus invoke mandatory universal jurisdiction. Further, the Israeli policy of extrajudicial killings is a breach of the most fundamental principles of proportionality, distinction, and military necessity.

International humanitarian law also includes provisions regarding the right to a fair trial. Article 3(1)(d) of the Fourth Geneva Convention prohibits "the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

Despite the clear illegality of Israel's extrajudicial killings policy, Israeli authorities have provided full impunity for its perpetrators and no means of redress for its victims. The manner in which Israeli governmental and military officials have responded confirms their official endorsement, if not direction, of this policy. In January 2005, the Deutsche Presse Agentur reported Israeli Minister of Defence Shaul Mofaz as stating that Israeli security forces could resume the targeted killings of Palestinian suspects, regardless of whether the individuals involved were believed to be about to launch attacks on Israeli targets. In contrast, Palestinians continue to be restricted by the Torts Law (State Liability)(Amendment - Claims Arising from Activity of Security Forces in the OPT), which has further limited the ability of victims to obtain any redress for violations committed against them. Respect for human rights must be an integral part of any political solution, including accountability for past violations.

Obligations of the International Community

While some members of the international community have condemned Israel's extrajudicial killings of Palestinians in the OPT, PCHR and Al-Haq are unaware of any concrete steps taken to stop these illegal acts. States must recall that international legal obligations do not stop at national borders. International humanitarian law, in particular the Fourth Geneva Convention, outlines the duty of third-party states to ensure respect for the provisions of the Convention. All High Contracting Parties thereto are under the positive obligation to seek out and prosecute those who are responsible for the commission of grave breaches, for which there is no statute of limitations, including wilful killing. The importance of the obligation to ensure respect for the Convention is highlighted in the Commentary by the International Committee of the Red Cross, which states:

It follows, therefore, that in the event of a Power failing to fulfil its obligations, the other Contracting Parties (neutral, allied or enemy) may, and should, endeavour to bring it back to an attitude of respect for the Convention. The proper working of the system of

protection provided by the Convention demands in fact that the Contracting Parties should not be content merely to apply its provisions themselves, but should do everything in their power to ensure that the humanitarian principles underlying the Conventions are applied universally.

It should be noted that the obligation of the High Contracting Parties to ensure that the requirements of the Fourth Geneva Convention are complied with was upheld in the ICJ's Advisory Opinion on the Wall. However, inaction by the international community vis-à-vis Israeli policy of extrajudicial, summary or arbitrary execution of Palestinians is not merely a breach of their own obligations. This inaction is interpreted by Israeli authorities as a *carte blanche* for them to continue such actions, in contravention of international human rights legal norms. PCHR and Al-Haq submit that the international community, including Commission members, can influence Israel to change its policy if the political will is there.

Lastly, PCHR and Al-Haq would like to urge the Commission on Human Rights to call on the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to urgently conduct a mission to the OPT, to see firsthand the ongoing violations of the right to life to which Palestinians are subjected. Such a mission would be an important step in reflecting the concern of the international community, and reminding Israeli authorities that they cannot continue their policy unabated.

Over four years and 446 Palestinian lives later, it is time for the Commission on Human Rights, one of the most prominent UN human rights bodies, to take action to stop the escalating killing of Palestinians. As the international community continues to refrain from active intervention, Palestinian men, women and children continue to pay the price.
