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**Human rights situation in Palestine and other
occupied Arab territories**

Written statement* submitted by the 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.

[24 August 2011]

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

The longstanding collective punishment of the Gaza strip

Introduction

Recent events in Israel and the occupied Palestinian territory have highlighted the state of lawlessness and disregard for international law that is the direct consequence of pervasive impunity. In the absence of enforcement and judicial accountability, the fundamental protections of international human rights law and international humanitarian law have been disregarded at the expense of innocent civilians.

This disregard for the law is perhaps most graphically illustrated by Israel's longstanding policy of collective punishment. It is noted that the prohibition of collective punishment is absolute, and is codified both in Article 50 of the Hague Regulations, and Article 33 of the Fourth Geneva Convention, and forms part of customary international law.¹ This prohibition is also reflected in international human rights law.²

The most glaring example of Israel's collective punishment policy is the absolute closure of the Gaza Strip, discussed below. However, Israel's reaction to the armed attacks carried out on 18 August 2011 near Eilat, southern Israel, illustrate the pervasiveness of this illegal policy, and its perceived acceptability within Israeli government and military circles.

Illegal reprisals and collective punishment

In the aftermath of the Eilat attacks, Israeli forces launched intense armed attacks on locations throughout the Gaza Strip. As of Saturday morning, 20 August 2011, 13 individuals had been killed, including 2 children. A further 32 individuals were injured, among them 9 children and 8 women. Public and private infrastructure, including a sewage treatment plant, has also been targeted and damaged or destroyed.

The attacks near Eilat must be investigated in accordance with the rule of law. However, the Israeli Minister of Defence, and senior government and military figures, immediately apportioned responsibility to Palestinian factions based in the Gaza Strip. No evidence was presented in support of this claim – made in the immediate aftermath of the attack – and no Palestinian armed group issued a claim of responsibility.

Certain of the retaliatory attacks, in particular the initial attack on the house of Khaled Sha'at in Rafah refugee camp, which killed 5 members of the Popular Resistance Committee and a 2 year old child, appear to constitute extrajudicial executions. In the aftermath of this attack Israeli Prime Minister Netanyahu stated that the (alleged) "leaders of the organization responsible for the attack are no longer alive."

It defies belief that those responsible for planning, ordering, and executing the Eilat attack could have been accurately identified within such a short period of time.

The Palestinian Center for Human Rights (PCHR) believes that the attacks on Gaza were committed as illegal belligerent reprisals,³ amounting to the collective punishment of the civilian population of the Gaza Strip. That these attacks were indeed intended as belligerent

¹ See, for example, Rule 103, International Committee of the Red Cross Study on Customary International Humanitarian Law.

² See, UN Human Rights Committee, General Comment No. 29 (Article 4 of the International Covenant on Civil and Political Rights).

³ See, Rules 145, 146 and 147, International Committee of the Red Cross Study on Customary International Humanitarian Law.

reprisals was indicated by Avichai Adraee, spokesperson for the Israeli forces, who noted that attacks on Gaza were conducted “as a first step in response to the attack in Eilat.”

Such actions are unambiguously prohibited under international law. It is completely unacceptable that innocent civilians are held responsible, and punished, for actions in which they took no part.

The absolute closure of the Gaza strip

As noted above, collective punishment is a longstanding policy of the Occupying Power. Since June 2007 Israel has subject the entire Gaza Strip to an absolute closure, collectively punishing its 1.7 million inhabitants.⁴ The illegal closure violates and undermines Gazan’s entire spectrum of human rights. Civilians are denied access to their basic needs, including medicine and electricity, while Gaza’s economy has been strangled, resulting in widespread – and increasing – unemployment and poverty. The all too predictable consequence has been increasing dependency on international aid and direct food provision.

In June 2010, following the attack on the Gaza flotilla, Israel announced a so-called ‘easing’ of the closure. However, as the following statistics demonstrate, the closure remains firmly in place.

PCHR emphasise that international law is unambiguously clear: the collective punishment of Gaza’s civilian population is straightforwardly illegal. By accepting Israel’s unfounded claims, the international community risks institutionalising the closure, and effectively endorsing the collective punishment of Gaza.

The following figures reflect the supplies of goods permitted to enter Gaza. It is noted that the estimate required amount is based on pre-closure figures, collated in 2006. Given the natural growth of the population, and the extensive destruction caused by armed attacks – in particular the 27 December 2008 - 18 January 2009 offensive – these are minimum figures, and not reflective of the true need.

All figures below cover the seven month period from 1 January 2011 – 31 July 2011:

- Cooking Gas: 36.59% of the estimated need received (658.6 tonnes).
- Benzene: 0.08% of the estimated need received (7,105 litres).
- Diesel: 1.65% of estimated need received (40,354 litres).
- Cement: 4.52% of estimated need received (636,000 tonnes).
- Gravel: 37.99% of estimated need received (530,000 tonnes).
- Construction Iron: 1.28% of estimated need received (424,000 tonnes).

As is dramatically evident from these statistics, virtually no fuel is entering Gaza from Israel. This has evident repercussions for a wide variety of electricity-based services, including the running of hospitals and the operation of water, sewage and sanitation facilities.

The ‘Buffer Zone’

A further element of Israel’s closure and collective punishment policy is the unilateral establishment of a so-called ‘buffer zone’ in the Gaza Strip. The ‘buffer zone’ is an illegal no-go area enforced by Israel along the borders of the Gaza Strip. The precise boundaries of

⁴ See, Palestinian Center for Human Rights, *The Illegal Closure of the Gaza Strip: Collective Punishment of the Civilian Population*, December 2010.

the 'buffer zone' are unclear and variable, but extend from a minimum of 300 meters to 2,000 meters in some areas. 17% of Gaza's territory, and 35% of its agricultural land, is thus illegally denied to the civilian population.

The boundaries of the 'buffer zone' are routinely enforced with live fire, and it is the scene of frequent incursions by the Israeli military.

Attacks

Israel consistently launches attacks in the occupied Palestinian territory, resulting in death and injury to civilians. PCHR affirm that many of these attacks constitute violations of international law, on the basis of, *inter alia*, their indiscriminate nature, a lack of distinction, and a lack of required precautions when launching attacks. Many of the incidents amount to the crime of wilful killing, a grave breach of the Geneva Conventions.

The following figures cover the period from 1 January 2011 to 23 August 2011:

- 60 civilians were killed, including 14 children and 3 women. 48 of the civilians were killed in the Gaza Strip.
- 423 civilians were injured, including 110 children, and 27 women. 268 of the civilian injured were in the Gaza Strip.
- 24 fighters were killed, and 9 injured.

Conclusion

This brief illustration serves to highlight Israel's fundamentally illegal policy of collective punishment. The decision to collectively punish the civilians of the Gaza Strip entails individual criminal responsibility for those involved in the planning, organizing, and active implementation of this illegal policy.

PCHR call upon the Human Rights Council:

- Not to accept the institutionalisation of the closure of the Gaza Strip, and to demand its full lifting in accordance with the requirements of international law;
- To re-affirm its recommendation, contained in A/HRC/Res/16/32, that the General Assembly submit the report of the UN Fact-Finding Mission on the Gaza Conflict to the Security Council, for referral of the situation in Israel and the occupied Palestinian territory to the International Criminal Court, in accordance with article 13(b) of the Rome Statute;
- To call upon Switzerland, as the repository of the Geneva Conventions, to hasten its efforts to convene a conference of the High Contracting Parties with a view to ensuring respect for the Fourth Geneva Convention in Israel and the occupied Palestinian territory.