



**OPEN LETTER
ON THE OCCASION OF THE ASSOCIATION COUNCIL
BETWEEN THE EU AND ISRAEL, 13 JUNE 2006**

To:
The Foreign Ministers of Member States of the European Union
The High Representative of the European Union for the CFSP, Mr. Javier Solana
The Commissioner for External Relations, Ms. Benita Ferrero-Waldner

9 June 2006

Dear Minister,
Dear High Representative,
Dear Commissioner,

The Euro-Mediterranean Human Rights Network (EMHRN) expresses concern about the situation of human rights in Israel and the Occupied Palestinian Territories (OPT) and wishes to make recommendations aimed at improving that situation. It is our hope that the European Union will take this letter into account in view of the meeting of the Association Council between the European Union (EU) and Israel, to be held on 13 June 2006.

We wish to recall, first, that article 2 of the Association Agreement provides that "*relations between the Parties, as well as all the provisions of this Agreement itself, shall be based on respect for human rights and democratic principles, which guides their internal and international policy and constitutes an essential element of this Agreement.*" We urge that this stipulation be fully implemented in future relations between the parties.

We also wish to recall that the EU in its external relations and in its Common Foreign and Security Policy is bound by commitments to respect and promote respect for human rights in third countries. These commitments are anchored in the Treaty establishing the European Community (TEC) and the Treaty on European Union (TEU).¹

We deeply regret that the EU and Israel have agreed not to establish a sub-committee on Human Rights in the framework of the Association Agreement. **We urge that a sub-committee on human rights be established. Such a sub-committee should meet regularly and hold regular and systematic consultations with civil society in Israel, the OPT and Europe to seek its assessment of the evolution of the situation of human rights in Israel and the OPT.**

We hope that the first meeting of the informal EU-Israel Working Group on Human Rights that took place on 7 June decided to work with a clear human rights based approach. We hope that this first step will be followed by the establishment of a regular dialogue on human rights.

We urge that the following points be included in the agenda as essential issues to be discussed at the Association Council.

1) Violation of Equal Protection Rights of Palestinian Citizens of Israel

While Israeli citizens are granted the right to family reunification with their foreign spouse, the Nationality and Entry into Israel Law (Temporary Order) 5763-2003 (as amended 2004 and 2005) denies this same right to Israeli citizens married to Palestinian residents in the OPT, solely on the basis of their national group. Since the

¹ TEC Art. 181a; TEU Art. 11.

enactment of the law, it has forced thousands of affected families to separate, live outside of Israel, or live illegally within Israel under constant risk of arrest and deportation.

The new amendments to the law contain additional criteria including age and gender-related stipulations which impose a sweeping ban on applications for temporary visit permits from all Palestinian men under 35 and all Palestinian women under 25 years of age. These criteria seem to be arbitrary with questionable reliance on challengeable factual evidence. A further amendment provides that no status will be granted to Palestinians who are related to an individual whom security officials suggest *might constitute* a security threat to the State of Israel.

The law affects the life of thousands of couples, which are forced to live separately. Indeed, couples who are refused family reunification under this law, can neither live together in Israel, nor move together to the Occupied Palestinian Territories, as the spouse holding Israeli identity card would violate the military commander's order prohibiting Israelis to enter areas under Palestinian security control.

The law severely violates human rights and fundamental freedoms under domestic and international law, including the rights to equality, liberty, privacy, and family life. The law discriminates against Arab citizens of Israel, the vast majority of Israeli citizens who marry Palestinians from the OPT.

After almost three years of litigation, on 14 May 2006, an eleven justice panel of the Israeli Supreme Court in a split 6-5 decision, dismissed petitions demanding the cancellation of the law.²

Israel should revoke the ban on family unification. The EU should reiterate its concerns regarding the discriminatory nature of the law and urge Israel to cancel it.

2) Culture of Impunity

A) *Civil Wrongs (Liability of the State) Law – 2005*

New amendments to the Civil Wrongs (Liability of the State) Law – 2005, which prevent Palestinians from suing for compensation from the State of Israel for damages caused to them by the Israeli military, even those inflicted outside of the context of a military operation (with minor exceptions). These new amendments, which were passed by the Knesset in July 2005, deny residents of the OPT, citizens of "Enemy States," and activists or members of "a Terrorist Organisation," the right to sue Israel in Israeli courts. The amended law grants the Minister of Defence the authority to proclaim any area outside of the state of Israel a "Conflict Zone," even if no war-related activity has taken place there. This proclamation denies those who sustain injury within the area the right to seek compensation from Israeli courts. The Law operates retroactively in cases of damages sustained since 29 September 2000, the date of the beginning of the Second Intifada, and for claims already pending before the courts.

Regarding Israeli settlers living in the OPT, the Court has recently established, in its decision regarding the Israeli government's "Disengagement Plan" from the Gaza Strip that the Basic Law applies.

There is a petition pending before the Israeli Supreme Court challenging this law filed by Adalah, HaMoked and ACRI.³

Israel should revoke the law denying compensation for Palestinians in the OPT who sustain any injury, death or property damage caused by the Israeli military. The EU should voice its concerns against this law which violates the fundamental rights to life, bodily integrity, equality, dignity and property, as well as the constitutional right of access to the courts and urge Israel to cancel it.

² Information in this section comes mainly from EMHRN members Adalah: www.adalah.org and B'Tselem: www.btselem.org. See also EMHRN member Arab Association for Human Rights: www.arabhra.org.

³ The petition was submitted by HaMoked, Adalah, ACRI, Al-Haq (West Bank), The Palestinian Centre for Human Rights (Gaza Strip), B'Tselem, Physicians for Human Rights, The Public Committee Against Torture in Israel, Rabbis for Human Rights, by Adalah Attorneys Hassan Jabareen and Orna Kohn, HaMoked Attorney Gil Gan-Mor, and ACRI Attorney Dan Yakir.

B) The Or Commission – Mahash investigations

In November 2000, the Israeli government established the official Or Commission of Inquiry - headed by former Supreme Court Justice Theodor Or - to investigate the tragic causes and circumstances of the events of October 2000 during which 12 Palestinian citizens of Israel and 1 Palestinian from Gaza were killed and hundreds more were injured by the Israeli military. The Or Commission, in its final report issued in September 2003, recommended that the Ministry of Justice Police Investigation Unit ("Mahash") investigate the killings. The Or Commission found that there was no justification for opening fire, which led to the killings, and found chief commanders of the police responsible for the unjustified use of excessive force.

In September 2005, Mahash released its final report of the investigation in which it failed to determine responsibility for the deaths: It recommended that no indictments be issued against any police officers or commanders. Mahash's report clearly contradicts and ignores the Or Commission's central findings regarding responsibility for the deaths.

In January 2006, the state reported on its decision to assign the Deputy State Attorney the responsibility of re-examining Mahash's decision to close the investigations.

In conclusion, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions wrote in a letter sent to the government in September 2005 that, "Five years after the fatal shooting of 13 Arab men by Israeli police forces and after a commission of inquiry set up by your Excellency's Government concluded that the use of force in these cases had been excessive, a decision has been taken by the Government not to hold anyone accountable for their deaths."

We note that the state's response to the Special Rapporteur fails to mention Attorney General Menachem Mazuz's inappropriate endorsement of Mahash's report, which undermines his objectivity with regard to this matter. We further note that the impartiality of the Deputy State Attorney is questionable as his supervisor, Eran Shendar, was the Director of Mahash during October 2000 and bears the main responsibility for Mahash's omissions and failures to investigate the killings of 12 Palestinian citizens of Israel and 1 Palestinian from Gaza immediately after the events.⁴

The families of the victims as well as the entire Israeli public should be entitled to an impartial, thorough investigation. Israel must hold those responsible to account for their actions and bring them to justice. The EU should be supportive in this regard.

3) Threat to Land Rights and Official Racism on the Rise

Over the last three years, the Israeli government has reinforced efforts to alter the demographic reality on the ground in the Naqab (Negev) for the benefit of the Jewish majority. The Arab populations in these areas who have continually been referred to as a 'demographic threat'. This "new generation" of policies developed and being implemented by the state presents a strategic innovation in Israel's attempts to minimise the amount of land held by Palestinian citizens of Israel. Whereas over the years the state applied indirect pressure on the community by simply failing to provide basic infrastructure and services to the unrecognized Arab villages in the Naqab (and continues to do so), today, the government also seeks to directly and collectively re-locate and concentrate the Arab Bedouin living in the unrecognised villages within a select number of recognised towns, and to encourage intensive Jewish settlement of the area. Whilst increasing Jewish settlement in the Naqab has also long been on the agenda of Israeli governments, policy changes elsewhere (e.g., the "Disengagement" from Gaza and parts of the northern West Bank, the Barrier/Wall, etc.) are likely to be contributing to the intensification of current efforts (e.g., increasing home demolitions, evacuation orders, etc). In this climate of transition, the land rights of Arab Bedouin citizens of Israel are especially vulnerable.

Racist statements made by politicians and other state officials about the Arab minority being a 'demographic threat' have been on the increase (seen especially during the recent elections), thereby legitimising calls for the minority population's transfer out of Israel. This troubling development also highlights the failure of the Attorney

⁴ Information in this section comes mainly from EMHRN member Adalah: www.adalah.org.

General's protection mechanisms for the minority, thereby increasing overt public hostility towards Arabs and public calls for encouraging Arabs to emigrate out of Israel.⁵

In light of the effects of Israel's systematic discriminatory treatment of its Arab citizens on their opportunities for participation in the range of EU-Israel cooperation instruments, the EU should take steps to ensure that its cooperation with Israel is conditioned on concrete and effective steps to end all discriminatory state practice and rectify its effects.

4) Torture and ill treatment of detainees and prisoners

At least 9,000 Palestinians, including about 300 minors and 200 women, are in Israeli custody in detention facilities and prisons throughout Israel and in the OPT. Towards the end of 2005, the Israeli military carried out massive arrest campaigns in the West Bank. Hundreds of Palestinians, especially supporters of Hamas and Islamic Jihad were arrested. The largest of these arrest campaigns took place at the end of September, when the Israeli military arrested at least 300 Palestinian civilians, including religious, political, academic, media figures, members of university student councils, and candidates for the third stage of the local council elections, which were held on 29 September 2005. Arrest campaigns continue in the West Bank, often resulting in injuries and fatalities as a result of confrontations between the Israeli armed forces and Palestinians.

The Israeli military has transferred most of these prisoners out of the OPT to prisons and detention centres inside Israel in violation of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949. Article 76 of the Convention provides that "Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein".

Detention conditions for Palestinians in Israeli custody continue to violate the fundamental rights of detainees. Palestinian prisoners have reported poor ventilation, overcrowding, lack of adequate sanitation facilities, poor food and water supplies and denial of appropriate medical care. The Israeli armed forces have also continued to deny or delay access to legal counsel and relatives, in violation of the minimum standard rules for the treatment of prisoners.

EMHRN member organisations continue to receive reports regarding various methods of interrogation used against Palestinian detainees, including minors, held in Israeli prisons and detentions centres, which constitute torture and ill treatment as defined both in the Convention against Torture and other international instruments. These methods include: Position abuse including, *Shabeh*⁶ for long periods (often up to 48 hours); tightened handcuffing; tying the hands and legs with plastic chains that cause severe pain; blindfolding and slapping; sleep deprivation for long periods; solitary confinement; compulsory standing for long periods; and verbally abusive behaviour. In addition, there is a pattern of use of excessive violence (when the detainee presents no threat to arresting authorities) by Israeli armed forces at the time of arrest of Palestinians and in the transfer of detainees to interrogation. Torture and ill-treatment, including inhumane conditions of detention, constitute violations of international human rights and humanitarian law, including the Fourth Geneva Convention. Torture is a war crime and a grave breach of international humanitarian law.⁷

Israel should immediately stop the use of torture and ill treatment. The EU should urge Israel to respect and protect detainees' fundamental rights according to international law.

⁵ Information in this section comes from EMHRN members Adalah: www.adalah.org, and Arab Association for Human Rights: www.arabhra.org.

⁶ *Shabeh* entails shackling the detainee's hands and legs to a small chair, angled to slant forward so that the detainee cannot sit in a stable position.

⁷ Information in this section comes mainly from EMHRN member Palestinian Centre for Human Rights: www.pchrgaza.org. See also EMHRN member, Public Committee Against Torture in Israel: www.stoptorture.org.il.

5) Settler violence and denial of law enforcement for Palestinians

The Israeli military generally fail to prevent, halt or redress instances of settler violence, which constitutes a threat to Palestinian limb, life and land. These cases of private violence include killings, beatings and shooting of Palestinians, and also destruction of their crops and trees.

The most conspicuous example is the long string of violent incidents perpetrated on almost daily basis by extremist settlers in the Old City of Hebron, often against children.

The crimes perpetrated by Israeli settlers, who can freely bear arms and enjoy the protection of the Israeli military forces, remain unpunished. The investigations in such cases are not pursued promptly, in an effective, independent and impartial manner. The lack of investigation in such incidents amounts to a systematic refusal to prevent or punish criminal behaviour, therefore effectively encouraging it. Settlers are rarely held accountable for their acts. When they are, the punishment is usually lenient. This phenomenon, coupled with the failure to hold those who committed violations of international law accountable before the law, has perpetuated a culture of impunity.

Israel is not taking adequate and necessary measures to prevent settler violence and ensuring the safety of the Palestinian population hence it finds itself in breach of its obligation under international humanitarian law. Israel, as an Occupying Power, is responsible for the safety of the local population under customary international humanitarian law, as reflected in Art. 43 of the Hague Regulations and Art. 32 of the Fourth Geneva Convention.

Since it exercises effective jurisdiction over the OPT, Israel is also responsible for ensuring the respect of international human rights law. Under international human rights law, Palestinians have a right to life (Art. 6 of the International Covenant on Civil and Political Rights of 1966 - ICCPR), to security of person (Art. 9 of ICCPR) and to property (customary law as reflected in Art. 17 of the Universal Declaration of Human Rights). Israel is also responsible for the protection of children under the Convention on the Right of the Child, of which it is a State Party.

Israel's inaction or lack of effective action in preventing or repairing instances of settler violence therefore constitutes violations of these rights. In addition, the different treatment given to Israeli settlers who are victims of private Palestinian violence, on the one hand, and Palestinians who are victims of settler violence, on the other hand, amounts to a violation of Israel's obligation not to discriminate between people on the basis of their nationality. This right is of an absolutely fundamental nature and is therefore enshrined in numerous international instruments and in customary international law. A particularly relevant example can be found in Art. 5(b) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in which, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.⁸

Israel should take adequate and necessary measures to prevent settler violence and ensuring the safety of the Palestinian population, in accordance with international humanitarian law. The EU has raised its "concerns about collective punishments, and called on Israel to ensure that any abuses by members of the Israeli Defence Forces, settlers and others are properly investigated and perpetrators are prosecuted."⁹ The EU should reiterate its concerns clearly in this regard.

6) Extra-judicial killings committed by the State of Israel

The Israeli armed forces commit wilful killings against wanted Palestinians, predetermined and approved by the Israeli political and judiciary establishments. The policy was briefly suspended from February of 2005, but was officially resumed in June of the same year, and has been significantly intensified since early 2006. Following some recent targeted assassinations, Prime Minister Ehud Olmert's announced that, "There are no restraints on security forces to use any means necessary to stop terror attacks." This policy has been challenged in the High Court of Justice where a judgment is pending¹⁰.

⁸ Information in this section comes mainly from EMHRN member Al-Haq: www.alhaq.org.

⁹ EU Annual Report on Human Rights - 2005, p. 150.

¹⁰ See Public Committee Against Torture in Israel & Law v The Government of Israel (HCJ case 769/02).

Israel uses the term "targeted killing" to describe this type of crime. It claims that it targets wanted persons, who pose a threat to the security of the State of Israel, when it fails to arrest them from inside areas controlled by the Palestinian National Authority. Extra-judicial killings involve executing a person without trial and without allowing him/her to defend him/herself and as such constitute a grave breach under the Fourth Geneva Convention. This policy also violates international human rights law, including the ICCPR. Also assassinations are a blatant violation of the right to a fair trial as recognised under Art.10 of the UDHR and Art.14 of ICCPR, as the suspect is denied the possibility of a meaningful defence against the accusations.

The Israeli extra-judicial killings are committed without taking into consideration that they will likely cause death and harm to non-targeted Palestinian civilians. There are many instances in which the Israeli military forces targeted and executed a person or a number of persons, without taking into consideration the lives of other people who were present at the scene.

Since the beginning of the second Intifada in September 2000, 377 targeted persons and 183 non-targeted civilian bystanders have been killed during Israeli military forces' extra-judicial killing operations. Many more have been injured during these operations. Recently such incidents occurred in the Bethlehem area, causing the death of three people. In the Gaza Strip, 154 targeted persons and 114 civilian bystanders have been killed during these operations since the beginning of the second Intifada. In the most recent operation on 20 May 2006 in Gaza City, which targeted a member of Islamic Jihad, three civilians from the same family, who were travelling in the car behind the targeted vehicle, were also killed. A grandmother, her daughter-in-law and her 5-year-old grandson were killed by shrapnel. Four other members of this family were also injured, including the 3-year-old daughter of the family, who doctors have said will never walk again or be able to breathe without the aid of a respirator.¹¹

Under the European Neighbourhood Policy (ENP) Action Plan the EU and Israel agree to "Promote co-operation on issues such as fight against impunity of authors of genocide, war crimes and any other crime against humanity."¹² This should be respected and implemented.

7) The killing of civilians during military operations and actions in the Occupied Territories

Since September 2000, a total of 3,405 Palestinians were killed in the OPT, out of which 693 were minors under the age of 18. At least 1,625 of the people killed were civilians who did not take part in fighting while they were killed. In the recent shelling campaign of the northern Gaza Strip, which began in February 2006, 11 civilians have been killed and many more injured by shrapnel. Shelling continues on a daily basis with estimates of 300 shells per day being fired during the most intense periods of the campaign. The Israeli military recently reduced the "safety zone" according to which shelling was permissible in proximity to civilian areas from 300 to 100 meters. A High Court of Justice petition was recently filed by six Israeli and Palestinian human rights organisations against this change of policy which presents an obvious threat to the lives of civilians.¹³

The Israeli military forces regularly carry out incursions into the major West Bank urban centres resulting in the death of civilians. Recently incidents of this nature occurred in the area of Jenin (al-Yamoun village), where a 7 year-old child was killed, and in the Balata refugee camp, near Nablus. The latter occurrence resulted in the death of two children who were drinking tea on a roof, and a third boy was shot and wounded while assisting his hit brother.

The actions of the Israeli armed forces in the OPT involve the use of unnecessary, disproportionate and often lethal force against Palestinian civilians, including children. **Israel must respect the customary international legal principles of distinction and proportionality while carrying out these military operations. We would**

¹¹ Information in this section comes mainly from EMHRN members, Palestinian Centre for Human Rights: www.pchrgaza.org, Al-Haq: www.al-haq.org, and Public Committee Against Torture: www.stoptorture.org.il.

¹² COM(2004) 790, p.14.

¹³ The petitioners, Physicians for Human Rights-Israel, Al Mezan Center for Human Rights in Gaza, Btselem, Gaza Community Mental Health Programme, Association for Civil Rights in Israel, and the Public Committee against Torture in Israel, are represented by attorney Micha'el Sfard.

like to emphasise that the European Union is legally obligated to ensure Israel's respect for the Fourth Geneva Convention. Some cases, in which a person posing no threat is wilfully killed, constitute grave breaches under Art. 147 of the Fourth Geneva Convention. In addition, human rights law enshrines the right to life in Art. 3 of the UDHR, Art. 6 of the ICCPR and Art. 6 of the CRC.¹⁴

8) Administrative detention

As applied by the Israeli authorities, administrative detention refers to the imprisonment of Palestinians, without charge or trial, through the use of administrative rather than judicial procedures. The reason given by the state for administrative detention is that the Palestinians so detained pose a threat to "the security of the area or public security." However, these terms are not defined.

Administrative detention has been used by the Israeli military to arrest and detain Palestinians without charge or trial for long periods. Current administrative detention orders permit for periods of detention of up to 6 months that are indefinitely renewable. These orders are issued by Israeli military commanders in the West Bank and Gaza Strip.¹⁵ At least 700 Palestinians (including human rights defenders representing Palestinian and Israeli human rights NGOs such as Al-Haq, The Public Committee Against Torture in Israel – both EMHRN members – and the Alternative Information Centre) are in custody under administrative detention orders issued by Israeli military. The Israeli practice of administrative detention violates the Fourth Geneva Convention, Art. 78 of which only allows such detention as an exceptional measure for "imperative reasons of security".

Over the years, Israel held Palestinians in prolonged detention without trying them and without informing them of the charges against them. While detainees may appeal the detention, neither they nor their attorneys are allowed to see the evidence.¹⁶

The EU should call on Israel to immediately release all administrative detainees or bring them to trial for any criminal offences they are suspected of having committed. In addition, the EU should call upon the Israeli government to direct the military commanders to amend the military orders pursuant to which administrative detention is made, so that it conforms to international legal standards.

9) Foreclosing the establishment of a viable Palestinian state side by side with Israel

We believe that Israeli policies of settlement expansion, movement restrictions, house demolitions and the construction of the Barrier/Wall inside the West Bank, are rapidly foreclosing the establishment of a viable independent Palestinian state co-existing side by side with Israel – an indispensable component for any durable solution of this conflict.

The currently approved route of the Barrier/Wall leaves fifty-five settlements, twelve of them in East Jerusalem, separated from the rest of the West Bank and contiguous with the State of Israel. Study of a map of the route indicates that in many cases, the Barrier/Wall's route was set hundreds, and even thousands, of meters from the houses at the edge of the settlement. The route of the Barrier/Wall running near a significant number of settlements more or less follows the borders of the outline development plan for the particular settlements, making it impossible to argue there is no connection between the route and the plan. Thus it is clear that contrary to the picture portrayed by the state, the settlement expansion plans played a substantial role in the planning of the Barrier/Wall's route. Not only were security related reasons of secondary importance in certain locations, in cases when they conflicted with settlement expansion, the planners opted for expansion, even at the expense of compromised security. This desire for settlement expansion led to an increase in the violation of Palestinians' human rights.

¹⁴ Information in this section comes mainly from EMHRN members Al-Haq: www.al-haq.org, B'Tselem: www.btselem.org, and Palestinian Centre for Human Rights: www.pchrgaza.org.

¹⁵ This excludes East Jerusalem, where the orders are issued by the Israeli Defense Minister, as in Israeli cities.

¹⁶ Information in this section comes mainly from EMHRN members Palestinian Centre for Human Rights: www.pchrgaza.org, and B'Tselem: www.btselem.org.

The settlements that Israel established in the OPT are illegal under international humanitarian law. Therefore, an act intended to perpetuate the settlements is by definition, a breach of international law. Although protecting civilians is a legitimate objective, achieving it by running the Barrier/Wall along a route that perpetuates the settlements or involves expressly forbidden acts, such as destruction of private property, is illegal. The severity of the action is aggravated insofar as the primary goal in setting the Barrier's route – expanding settlements and protecting the economic interests of Israeli real-estate developers – is itself illegal.

The construction of the Barrier/Wall has brought new restrictions on movement for Palestinians living near the Barrier/Wall's route, in addition to the widespread restrictions that have been in place since the outbreak of the current Intifada. Thousands of Palestinians have difficulty going to their fields and marketing their produce in other areas of the West Bank. Farming is a primary source of income in the Palestinian communities situated along the Barrier's route, an area that constitutes one of the most fertile areas in the West Bank. The harm to the farming sector is liable to have drastic economic effects on the residents – whose economic situation is already very difficult – and drive many families into poverty.

Israel has the right and duty to protect its citizens from attacks. However, the building of the Barrier/Wall inside the OPT as a means to prevent attacks inside Israel causes unjustifiable harm to the Palestinian population of the OPT. Israel preferred this solution over alternate options that would cause less harm to the Palestinians. Even if we accept Israel's claim that the only way to prevent attacks is to erect a barrier, it must be built along the Green Line or on Israeli territory.¹⁷

As authoritatively stated in the ICJ Advisory Opinion of 9 July 2004, Israel must cease the construction of the Barrier/Wall in occupied territory and dismantle those parts of it that are situated on occupied land. Israel must also return all lands seized for this purpose and, in addition, compensate for all material damage. Israel is also obliged under international law to cease settling Israeli civilians in occupied territory and to dismantle the existing settlements.

The EU should make clear to Israel that the Barrier/Wall violates applicable international humanitarian and human rights treaties to which Israel is a party, including the Fourth Geneva Convention, the ICCPR and the ICESCR. We would like to emphasise that the European Union is legally obligated to ensure Israel's respect for the Fourth Geneva Convention, as made clear by the ICJ Advisory Opinion on the Barrier/Wall.

Concluding remarks

Israel implements its agreements with the EU based on its rejection of its key international obligations as an occupying power and as a state of all its citizens. The EU can not knowingly allow its contractual relations with any third country to operate in this manner without itself violating EU law and international humanitarian law.

The implementation of the Action Plan for Israel under the European Neighbourhood Policy (ENP) should be based on a clear acknowledgement by Israel of its status and duties as an Occupying Power.

In keeping with the principle of human rights mainstreaming, the EU should make it clear to Israel that all the cooperation and measures taken under the ENP must be implemented by both sides in accordance with the requirements of international human rights and humanitarian law. Also the EU should give priority to ensuring that the human rights-related items currently listed in the Action Plan are translated into concrete actions and programmes within the set timeframe.

The EU should establish a public review mechanism with a clear calendar and measurable benchmarks that will enable it to assess how its agreements with third countries and ENP Action Plans are being implemented and applied with regard to respect for human rights. When carrying out periodic human rights reviews of the implementation of the EU-Israel Association Agreement and the ENP Action Plan for Israel, relevant civil society organisations should be consulted.

¹⁷ Information in this section comes mainly from EMHRN member B'Tselem: www.btselem.org.

We would like to draw your attention to our report published recently, *A Human Rights Review on the EU and Israel – Mainstreaming or Selectively Extinguishing Human Rights? 2004-2005*. Many of the recommendations proposed in this letter come from that EMHRN report.

We trust that the concerns expressed in this letter will receive the attention they deserve.

Yours faithfully,

Kamel Jendoubi,
EMHRN President

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