



## **EU-ISRAEL Association Council Meeting, 13 June 2006**

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Briefing paper on Amnesty International's key human rights concerns

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On the occasion of the forthcoming EU-Israel Working Group meeting on human rights and the subsequent EU-Israel Association Council meeting, Amnesty International draws your attention to some key concerns, which it hopes the European Union will address with its Israeli counterparts during these meetings.

## **I. Expansion and construction of Israeli settlements and roads for construction of the fence/wall in the West Bank**

The construction and expansion of Israeli settlements continues unabated. The international community has long recognised the unlawfulness of the Israeli settlements in the Occupied Territories. UN Security Council Resolution 465 (of 1 March 1980) called on Israel "... to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem". However, the international community failed to take any measure to implement this resolution. Most Israeli settlements in the Occupied Territories were built after this resolution was passed, with the greatest expansion having taken place in the past decade. The establishment and expansion of settlements and related infrastructure in the West Bank is continuing on a daily basis, contrary to Israel's commitment under the UN-sponsored 2003 Roadmap peace plan. This week the Israeli government confirmed its plan to build 3,500 new settlement houses in the East Jerusalem area of the West Bank.

As well as violating international humanitarian law per se, the implementation of Israel's settlement policy in the Occupied Territories violates fundamental human rights provisions, including the prohibition of discrimination. The seizure and appropriation of land for Israeli settlements, bypass roads and related infrastructure and discriminatory allocation of other vital resources, including water, have had a devastating impact on the fundamental rights of the local Palestinian population, including their rights to an adequate standard of living, housing, health, education, and work, and freedom of movement within the Occupied Territories.

The ongoing construction by Israel of a fence/wall through the West Bank has exacerbated the problems of access for Palestinians to crucial services in the affected areas. These problems and the resulting deterioration in the humanitarian situation have been well documented by several UN agencies and by the UN Special Rapporteur on the situation of human rights in the Palestinian Occupied Territories since 1967. The International Court of Justice, in its Advisory Opinion of July 2004, declared that the construction of the fence/wall inside the West Bank is illegal under international law and called for it to be dismantled.

Amnesty International acknowledges Israel's right to take reasonable, necessary and proportionate measures to protect the security of its citizens and its borders. These include measures to prevent the entry into Israel of Palestinians and others who are reasonably suspected of intending to carry out suicide bombings or other attacks. Therefore, it is not unlawful for Israel to establish fences or other structures on its own territory to control access to its territory. The fact that for the most part the fence/wall runs and is planned to run deep *inside* the West Bank, and not *between* Israel and the Occupied Territories, indicates that it is not, as claimed by the Israeli authorities, designed only "...to block the passage of terrorists, weapons and explosives into the State of Israel".<sup>1</sup>

Such measures violate international law and impact negatively on the lives of hundreds of thousands of Palestinians. Notably they deprive Palestinians of crucial natural resources, such as land and water, and result in the imposition of disproportionate and restrictions on the movements of the Palestinian population, hindering the functioning of Palestinian economy, causing increased poverty and unemployment and ultimately preventing Palestinians from living normal lives.

### Recommended action by the EU

*Amnesty International calls on the EU to urge Israeli authorities to put an immediate end to the building and expansion of its settlements and to the construction of the fence/wall inside the West Bank, including in and around East Jerusalem, and to take measures to remove Israeli settlers living in the Occupied Territories and to dismantle those sections of the fence/wall already built there. In addition to the undertakings according to Article 2 of the Euro-Mediterranean Association Agreement, EU Member States, as High Contracting Parties*

<sup>1</sup> Israeli Ministry of Defence on 31 July 2003. News briefs on: <http://www.seamzone.mod.gov.il/Pages/ENG/news.htm>

*to the Fourth Geneva Convention, also have an obligation to ensure that Israel abides by the provisions of the Convention, which the above measures violate.*

*Amnesty International urges the EU to take the opportunity of the EU-Israel Association Council to encourage Israel to comply with their obligations to abide by international law and respect fundamental rights.*

## **II. Disproportionate and excessive use of force by Israeli forces against densely-populated residential areas in the Gaza Strip**

Since the beginning of this year Israeli forces have killed more than 110 Palestinians, including more than 20 children. In the same period Palestinian armed groups have killed 16 Israelis, including 2 children. In the past two months Israel has launched into Gaza more than 5,000 artillery shells and more than 80 missiles killing and injuring several Palestinians, including children.

Hadeel Ghaban, a seven-year-old girl, was killed on 10 April 2006 when Israeli troops fired artillery shells at her home in the northern Gaza Strip town of Beit Lahia. The child's mother and a dozen of her siblings and other relatives, including several children, were injured in the attack. Three days earlier, a five-year-old boy, Bilal Abu al-'Einein, was killed in an Israeli air strike as he was standing near a car with his 14-year-old brother and their father. The boy's father and three other men were also killed and several other bystanders, including two children, were injured in the attack. The four men who were killed in the attack were reported to be members of a Palestinian armed group but not to have been involved in any armed confrontation at the time when they were targeted by the air strike.

On 19 May Israeli forces fired missiles at a car traveling on a busy road in Gaza City to assassinate an Islamic Jihad member. The missiles also hit a car in which seven members of the Aman family were traveling. The blast killed Na'ima Mahmud Hamdi Aman, aged 28, her son Muhand, aged 7, and the child's grandmother, Hanan Muhammad Hussein Aman, aged 47. The others in the car were injured, two of them severely. One of the two – Mariya Aman, aged 5, had her spinal cord severed; she is paralyzed from the neck down and will remain on a respirator until she dies.

The Israeli authorities have long pursued a policy of extra-judicial executions as a substitute for arrest and prosecution of Palestinians involved in attacks against Israelis. Hundreds of bystanders have been killed in such attacks, in addition to the targets of the attacks. Since Israel withdrew its troops from inside the Gaza Strip in September 2005, Israeli forces have stepped up air strikes and artillery attacks against different areas of the Gaza Strip. The Israeli authorities contend that such attacks are in response to frequent mortar and rocket attacks by Palestinian armed groups launched from the Gaza Strip against Israeli towns and villages near the Gaza Strip. Although they have rarely caused Israeli fatalities or casualties, these Palestinian attacks are also unlawful and should stop immediately.

### Recommended action by the EU

*Amnesty International calls on the EU to ask Israel to refrain from using disproportionate and excessive force. Israeli forces, for their part, must put an immediate end to the frequent, disproportionate and excessive use of force against Palestinians. Such attacks continue to cause death and injury to Palestinian children and other bystanders, and violate international law.*

## **III. Humanitarian Crisis**

Amnesty International is concerned that the recent decisions by the EU and the United States (US) to sever financial support to the Palestinian Authority (PA) could have very serious consequences impacting on the health, education and other economic and social rights of Palestinians living under Israeli occupation. According to a World Bank study published in March, the Palestinian economy, already critically weakened by years of conflict and continuing Israeli controls, is expected to shrink by a further 27 percent by the end of 2006 as a result of the termination of EU and US funding to the PA. The withdrawal of aid has left the Palestinian Authority unable to pay its 160,000 workers, hospitals running dangerously short of medicines and the economy plunging into recession.

For more than a decade, such funding from the EU and the US has been crucial to enabling the PA to deliver health, education and most other key services to the Palestinian population of the West Bank and Gaza Strip.

These governments assumed this responsibility in light of Israel's failure to do so although, as the occupying power, it is Israel that has the primary responsibility under international law "to ensure that the basic needs of the population in the occupied territories are met." Reiterating this on 11 April, the International Committee of the Red Cross (ICRC) warned "... there should be no illusion that humanitarian organisations are able to replace the Palestinian authority in its role as a provider of public services".<sup>2</sup>

Similarly, in its recent *Assessment of the future humanitarian risks in the occupied Palestinian territory*, the United Nations Office of the Coordinator of Humanitarian Affairs (UN OCHA), noted: "Under the Fourth Geneva Convention, Israel as the occupying power bears the responsibility for the welfare of the Palestinian population. In recent years, international donors and the Palestinian Authority have in practical terms taken on this role. If the PA is unable to provide basic services to the Palestinian population and donors withhold assistance, the emphasis will shift back to Israel to resume its legal obligation".<sup>3</sup>

Israeli authorities have kept the Strip's only cargo crossing point, the Karni/Muntar crossing between the Gaza Strip and Israel closed most of the time since the beginning of this year. The Israeli army's lengthy blockade of the crossing has also halted the export of Palestinian goods, mostly perishable products which are being wasted, depriving Palestinians of a crucial source of income and adding to the already high level of poverty in the Gaza Strip. This has already resulted in shortages of food and other necessities, including an unprecedented rationing of bread, and threatens to have a disastrous effect on the 1.3 million Palestinians who live in the Gaza Strip and their access to basic rights.

Under international law Israel, as the occupying power which retains effective control over the Gaza Strip, remains responsible for the well-being of the Palestinian population of the Gaza Strip.

#### Recommended action by the EU

*Amnesty International calls on the EU to urge Israeli authorities to meet their obligations under international humanitarian and human rights law, including by lifting any unnecessary, disproportionate and arbitrary restrictions currently placed on the movement of Palestinians and of goods in the Occupied Territories.*

#### **IV. Discriminatory law on family reunification**

On 14 May the Israeli High Court of Justice upheld a law which explicitly denies family rights on the basis of ethnicity or national origins. The "*Citizenship and Entry into Israel Law*" bars family reunification for Israelis married to Palestinians from the Occupied Territories. It specifically targets Israeli Arabs (Palestinian citizens of Israel), who make up a fifth of Israel's population, and Palestinian Jerusalemites, for it is they who marry Palestinians from the West Bank and Gaza Strip.

Thousands of couples are affected by this discriminatory law, which forces Israeli Arabs married to Palestinians to leave their country or to be separated from their spouses and children. Israeli military law forbids Israelis from entering the main population centres in the Occupied Territories and Israeli citizens cannot join their Palestinian spouses there, and at the same time Palestinian spouses staying in Israel without a permit are constantly at risk of being deported and separated from their families. Thus, Israeli-Palestinian couples would ultimately be forced to move to another country in order to live together – an option which is neither feasible nor desirable for those concerned. In addition, Palestinian Jerusalemites would lose their residency and their right to ever live in Jerusalem again if they move out of the city.

Five of the 11 High Court of Justice's judges who ruled on this law on 14 May, including the Court's President, voted against upholding the law, recognising that it infringes human rights. The Court's President, Aharon Barak, stated that the law violates the right of Israeli Arabs to equality. Indeed, the law violates the absolute prohibition on discrimination contained in international human rights law, notably several treaties which Israel has ratified and is obliged to uphold, including the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights

<sup>2</sup> <http://www.icrc.org/web/eng/siteeng0.nsf/html/israel-palestine-press-briefing-100406?opendocument>

<sup>3</sup> [http://www.humanitarianinfo.org/opt/docs/UN/OCHA/Assessment%20of%20the%20future%20humanitarian%20risks\\_oPt\\_En.pdf](http://www.humanitarianinfo.org/opt/docs/UN/OCHA/Assessment%20of%20the%20future%20humanitarian%20risks_oPt_En.pdf)

(ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC).

The Israeli authorities have sought to justify the law on security grounds but have brought no convincing evidence to substantiate such claims. Even claims that some 25 people, some of whom were born to Israeli parents and were not in Israel as a result of family reunification, have been involved in attacks in security-related offences, cannot justify denying family reunification to every Palestinian. Doing so is discriminatory and disproportionate and would constitute a form of collective punishment, prohibited under international law. Moreover, statements by Israeli officials and legislators who support the new law indicate that it is primarily motivated by demographic, rather than security, considerations - that is, a determination to reduce the percentage of Israeli Arabs among the country's population.

This law is currently in force until mid-July 2006, at which point it will likely be renewed in its current form or amended.

#### Recommended action by the EU

*Amnesty International urges the EU to call on the Israeli authorities to repeal this law in its current form and to ensure that any steps taken to address security concerns, including any amendments to the citizenship law, comply with international human rights law – notably the principle of non-discrimination.*

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