



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME
الشبكة الأوروبية - المتوسطية لحقوق الإنسان



NOTE ON THE HUMAN RIGHTS SITUATION IN ISRAEL AND THE OPT

In view of the Sub-committee on political dialogue and cooperation between the EU and Israel 22 October 2007

18 October 2007

Dear Sir/Madam,

The Euro-Mediterranean Human Rights Network (EMHRN) and its members in Israel and the Occupied Palestinian Territories are deeply concerned about the state of human rights in Israel and the Occupied Palestinian Territories (OPT) and wish to make recommendations aimed at improving the current situation. It is our hope that the European Union will take our recommendations into account in view of the meeting of the sub-committee on political dialogue and cooperation between the EU and Israel, to be held on 22 October 2007.

As part of the evaluation process of the EU/Israel Action Plan within the framework of the European Neighbourhood Policy which is due to expire in early 2008, the EU should strengthen its work for the respect of democratic principles and human rights.

The EMHRN believes that:

- The implementation of the Action Plan with Israel should be based on a clear acknowledgement by Israel of its status and duties as an occupying power. The EU should press for the establishment of technical dialogue and practical cooperation aimed at promoting implementation of international human rights and humanitarian law in the territories occupied by Israel since 1967 while the EU and its member states should renew their efforts to end occupation.
- The EU should make increased and regular public reference to illegal actions carried out by the armed forces of Israel that are causing the humanitarian crisis in the occupied Palestinian territory. The EU should call on Israel to stop these illegal actions, reverse their effects to the fullest extent possible, and make correct reparation for the harm they have wrongfully caused.

- The EU should also make it clear to Israel that the EU's provision of humanitarian assistance is being carried out in the context of the continuing application of the law of occupation and implies no release of Israel from its responsibilities as an occupying power. The EU should demand reimbursement from Israel for all additional costs incurred on the provision of humanitarian relief deliveries as a consequence of access and mobility restrictions imposed unlawfully by Israel's military authorities. It should resume publicly calling on Israel to respect and perform its responsibilities to the Palestinian civilian population.
- 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.
- Human rights and civil society organizations should be consulted and involved in the implementation stage of the ENP EU-Israel Action Plan currently underway, as part of a review and evaluation process of the Action Plan, which will expire in early 2008. In order for the consultation and evaluation to be useful, a public review mechanism with a clear timetable and working process should also be set up.

The EMHRN would like to draw its attention to its reports that deal with human rights in EU-Israeli relations : *“The third annual Review on human rights in EU-Israel Relations 2005-2006”* and *“The EU-Israel Action plan within the ENP: What is the impact of the EU-Israel Action Plan on Human rights in Israel and the OPT ?”*¹.

We also urge that the following points be included in the agenda as essential issues to be discussed at the subcommittee meeting:

- I. The deterioration of the human rights situation in Gaza**
- II. The violation of human rights defenders' rights in the West bank, the Gaza Strip, and East Jerusalem**
- III. The wilful killings**
- IV. The movement restrictions**
- V. The land confiscation in the West Bank**
- VI. The rights of Arab citizens in Israel**

I- DETERIORATION OF THE HUMAN RIGHTS SITUATION IN GAZA

The human rights situation in the Gaza Strip is constantly deteriorating. Serious violations of human rights and international humanitarian law have been and continue to be committed by the parties to the internal Palestinian conflict. The main reason however are serious violations of human rights perpetrated by Israel, the occupying power, including extra-judicial executions. The

¹ www.euromedrights.net

EMHRN believes that Israeli bombardment of civilian areas and other attacks on civilians and civilian objects, as well as the policy of isolation and collective punishment may constitute war crimes. While Israel justifies these measures as responses to rocket attacks by Palestinian armed groups on Israeli population centres, they are disproportionate and regularly fail to distinguish civilians and combatants.

The EMHRN calls upon EU members states to withdraw support of the economic and civil blockade of the Gaza Strip, which has led to an unprecedented humanitarian situation for the Palestinian people and entrenches the violation of rights of people under occupation.

The EMHRN condemns the ongoing Israeli actions in the Gaza strip that reflect disregard for civilian lives, and call upon the international community to act immediately to stop these violations in accordance with their obligations under the Fourth Geneva Convention, international human rights mechanisms and United Nations resolutions.

The EMHRN also call on the Palestinian leadership in the Gaza Strip to put a stop to the ongoing rocket attacks against Israeli civilian population centres.

II- VIOLATIONS OF HUMAN RIGHTS DEFENDERS' RIGHTS IN THE WEST BANK, THE GAZA STRIP AND EAST JERUSALEM

Employees and activists of all human rights organizations in the West Bank, the Gaza Strip and East Jerusalem suffer from the Israeli restrictions on movement, not only on the personal level, like the rest of the Palestinians in the OPT, but also as regarding their ability to carry out their work. The restriction on movements made it difficult for many of the Human Rights Defender (HRD) to document human rights violations committed by the Israeli forces in the OPT, such as the restrictions on movement in the Jordan Valley, as well as in areas which are affected by the Wall.

The restrictions on movement placed on Palestinians in general prevent Palestinian HRDs from travelling both internally and internationally to carry out their work. At the internal level these movement restriction prevent HRDs from accessing different areas of the West Bank, including East Jerusalem, without the necessary permits. These permits are rarely, if ever, granted. This has forced many HRDs to limit their work to their various local areas, which in turn impacts the functioning of their respective human rights organizations. Israeli HRD's also have problems regarding movement in and out of the OPT because permits from the Israeli authorities are needed to enter and are often not given.

At the international level, travel bans are arbitrarily imposed and can last for months or years. Further, a HRD that has in the past been permitted to travel internationally may suddenly be banned. If reasons are given, they inevitably are formulated in terms of generic threats to security or activity hostile to the state of Israel with no specific details forthcoming. A HRD may only become aware of a travel ban once they reach a border crossing. These travel bans and their unpredictable and arbitrary nature, make the work of HRDs all the more difficult in an already arduous environment and further prevent Palestinians from articulating their legitimate demands for the respect of their human rights in the international arena.

By virtue of their work HRDs in the OPT are often subjected to insults and mistreatment by Israeli soldiers, especially where house demolitions, land confiscation or the construction of the Wall is taking place. HRDs are also at risk of being beaten and having their documentation tools, such as cameras, confiscated.

The EMHRN urges that all forms of harassment and intimidation against human rights defenders be brought to an end and that the Israeli authorities respect the freedom of movement of all human rights defenders. The EMHRN asks the EU to address the question of HRD in accordance with the EU Guidelines on the Protection of Human Rights defenders.

III- WILFUL KILLINGS

Human rights organizations documented numerous incidents of wilful killings of Palestinians by Israeli occupying forces in the year 2007. While a number of the killings occurred during exchanges of gunfire between Israeli occupying forces and Palestinian gunmen, most instances of wilful killing occurred in the total absence of armed clashes.

A large number of killings, including targeted assassinations, were carried out by Israeli undercover units. In one particularly disturbing incident on 17 April 2007, an unarmed 25-year-old Palestinian was shot dead by an Israeli undercover unit that stopped the car he was driving at the Al-Shuhadda junction on the Jenin-Nablus road. According to eye-witnesses, as soon as the man had got out of the car and lain down on the ground as ordered, members of the undercover unit, without any warning or justification, opened fire on him from close range. In another incident, on 21 April 2007, three Palestinian men were shot dead in Jenin, when an Israeli undercover unit opened fire at the car they were travelling in. The members of the undercover unit made no attempt to arrest and detain the men, but instead opened fire on their vehicle without providing any warning.

There were continued instances of Palestinians being killed by Israeli occupying forces in the course of search and arrest raids. On 6 June 2007, an unarmed 72-year-old Palestinian man was shot dead in his home in Hebron by an Israeli soldier while attempting to protect his son, who was being physically assaulted by soldiers during an arrest raid.. On 21 April 2007, a 17-year-old Palestinian girl, Bushra Naji Barjis, was shot in the head and killed by an Israeli sniper while studying for exams in her house located at the north-west entrance of the Jenin camp. The Israeli forces called upon the family members to leave their house only after Bushra had been shot.²

The wilful killing of unarmed civilians may amount to grave breaches of the Fourth Geneva Convention, establishing the individual criminal responsibility of those carrying out, ordering or knowingly allowing the killings. Further, all examples listed above form extra-judicial executions in violation of the fundamental rights to life, and due process of law.

² For details of these cases please see *Al-Haq's April-June 2007 Field Report*, found at: <http://www.alhaq.org/pdfs/MDD%20report%20April-June%202007.pdf>

Israel should immediately stop wilful killings of Palestinian civilians. The EU should urge Israel to respect and protect Palestinians' fundamental rights according to international law.

IV- MOVEMENT RESTRICTIONS

Movement restrictions, in the form of checkpoints and various types of roadblocks, remained one of the most widespread forms of human rights violation. Palestinian access to the Jordan Valley, which constitutes around 25% of the land area of the West Bank, continued to be controlled through four Israeli checkpoints – Tayasir, Hamra, Ma'ale Efraim and Yitav. At two of the checkpoints, Ma'ale Efraim and Yitav, only Palestinians who possessed special permits to work inside Israeli settlements in the Jordan Valley could pass. In late April, the Israeli authorities announced that non-residents of the Jordan Valley no longer required special permits in order to pass through Tayasir and Hamra checkpoints. According to the new regulations, however, non-residents would not be permitted to enter the Jordan Valley in Palestinian licensed private vehicles; rather, they would only be able to do so by means of public transportation. Despite the formal easing of restrictions, access to the Jordan Valley through Tayasir and Hamra checkpoints continued to be denied to Palestinians who are not registered residents therein. Movement restrictions were also particularly severe in the northern West Bank, as well as in and around East Jerusalem, which is cut off from the rest of the West Bank. These restrictions greatly hindered Palestinians' access to family, education, health, places of employment or worship, agricultural lands and markets.

The manned checkpoints located throughout the West Bank not only prevent Palestinians from moving freely, but they also constitute a recurrent setting for ill-treatment. EMHRN has received new reports of Palestinians being subjected to delays, abuse and humiliating treatment by Israeli soldiers at checkpoints. This included a number of cases of ambulances being delayed at checkpoints, and of ambulance personnel being verbally and physically abused by soldiers.

Israel must ensure the freedom of movement of Palestinians and that their access to health, education, work and an adequate standard of living in the OPT is respected, as required by international human rights instruments. We urge that all forms of harassment and intimidation against Palestinians be brought to an end in accordance with international human rights law.

V- LAND CONFISCATION IN THE WEST BANK

The Israeli military authorities recently issued a military order to confiscate more than 1100 Dunums of Palestinian land in and around occupied East Jerusalem and the surrounding West Bank. The military order states that this land confiscation is for military purposes, in order to open a road for the settlement of Ma'aleh Adumim, built on occupied Palestinian land. This settlement expansion and land confiscation will cut the West Bank in two, destroying any geographic continuity in the OPT. It also entrenches the isolation of East Jerusalem and consolidates the control of Israel illegal settlements in and around the city. In addition to the illegality of Israel's action, any opportunity of developing the city as the capital of the future Palestinian State is severely jeopardized by this move.

At the same time the ongoing construction of the Wall is a salient feature of the human rights situation in the West Bank and East Jerusalem. More than 500,000 Palestinians live near the Wall. There is reason to believe that an even larger number of people are seriously affected by the Wall and are subject to permit restrictions if desiring to cross the Wall. The Wall impacts on access to work, health, education, etc., particularly with regard to Palestinians whose centre of life used to be in Jerusalem.

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 not transfer Israeli civilians to the OPT and to dismantle the existing settlements.

In accordance with the ICJ Advisory Opinion the EU should make clear to Israel that the Barrier/Wall violates applicable international humanitarian and human rights law.

VI- THE RIGHTS OF ARAB CITIZENS OF ISRAEL

1. The Citizenship and Entry into Israel Law: Ban on family unification. The Citizenship and Entry into Israel Law (Temporary Order) (2003), denies Palestinian citizens of Israel the right to acquire residency or citizenship status in Israel for their Palestinian spouses from the OPT solely on the basis of their nationality, thereby preventing them from living as a family in Israel. As a result, thousands of families have been forced to separate, live outside Israel or live illegally in Israel under constant risk of arrest and deportation. Israel used security concerns—sweepingly applied to *all Palestinians*—to justify the law’s constitutionality. In March 2007, the Knesset expanded the law to exclude spouses from “enemy states”, defined in the new law as Syria, Lebanon, Iraq and Iran, and extended the ban to “anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out,” according to the security services. The newly-amended law, which has no parallel in any democratic nation, is valid until 31 July 2008.³

The EMHRN believes 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 in the police and armed forces: The need for accountability.

(i) *The Or Commission.* In November 2000, Israel established the official Or Commission of Inquiry to investigate the circumstances of the killing of 13 unarmed Arab citizens by the security forces and injury of hundreds of others during protest demonstrations in October 2000. The commission recommended that the Police Investigations Unit (Mahash) investigate the killings; it found the security forces’ opening of fire unjustified and deemed the use of live ammunition and snipers unjustified in every instance; and finally it found police commanders responsible for the

³ Adalah filed a petition to the Supreme Court of Israel against the new law: See H.C. 830/07, *Adalah v. The Minister of the Interior, et al.* (pending). The first hearing on the case is scheduled for 24 October 2007. For more information, please see the website of Adalah – The Legal Center for Arab Minority Rights in Israel <http://www.adalah.org> (Special Reports: Family Unification).

use of excessive force. In September 2005 Mahash released a report on the investigation *recommending no indictments against police officers and commanders*. In fact, the Attorney General (AG) filed indictments regarding the October 2000 events only against Arab citizens, including relatives of the deceased.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 for these killings and injuries to account for their actions and bring them to justice. The EU should be supportive in this regard.

(ii) Liability of the State. In July 2005, the Knesset passed new amendments to the Civil Wrongs (Liability of the State) Law (2005) that prevented Palestinians in the OPT from obtaining compensation from Israel for deaths, injuries and other damages caused by the Israeli security forces, *even those inflicted outside the context of a military operation*, since September 2000. In December 2006, a nine-justice Supreme Court panel unanimously ruled that Israel cannot exempt itself from compensating Palestinians harmed by the Israeli military. However, in June 2007, the Justice Minister ordered the re-drafting of the law to overturn the Supreme Court's ruling.⁵

The EMHRN believes that Israel should refrain from re-enacting the annulled law denying compensation to 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 proposal, which threatens to violate the fundamental rights to life, bodily integrity, equality, dignity and property, and urge Israel to refrain from enacting legislation to overturn the Supreme Court's decision.

3. Discrimination in land allocation: The Israel Land Administration and the Jewish National Fund (JNF). Today, 93% of all land in Israel is under direct state control. The Israel Land Administration (ILA), a governmental body, administers "Israel lands," including JNF-controlled land, which accounts for 13% of land in Israel. The JNF's main objectives are to purchase or otherwise obtain land and properties "*for the purpose of settling Jews on such lands and properties*". JNF-controlled land includes land expropriated by the state from Palestinian refugees under the Absentees' Property Law (1950) and transferred to the JNF. Crucially, *80% of JNF-controlled land was transferred to it by the state in 1949 and 1953.*

In September 2007, the Supreme Court approved a proposal made by the JNF and the state according to which all citizens will be allowed to bid for JNF-controlled lands. However, when a "non-Jewish" citizen wins a bid the state will transfer alternative state lands to the JNF, thus allowing it to maintain its hold over 13% of the land exclusively for Jews. In parallel, in July 2007, a bill passed preliminary Knesset reading stipulating that JNF land is to be allocated exclusively to Jews and that the leasing of JNF lands in order to settle Jews on these lands will not be seen as improper discrimination.⁶

⁴ See <http://www.adalah.org>

⁵ In September 2007, Adalah, HaMoked and ACRI issued a position paper against the Justice Minister's suggested amendment. More: <http://www.adalah.org/newsletter/eng/sep07/positionpaper.pdf>.

⁶ For more info: <http://www.adalah.org/eng/jnf.php>.

4. Land Dispossession: Home demolitions in the unrecognized villages in the Naqab. Around 75,000 Palestinian Bedouin citizens of Israel live in the ‘unrecognized villages’ in the Naqab (Negev) in southern Israel. Israel aims to minimize the already limited amount of land held by Arab Bedouin, half of whom live in around forty ‘unrecognized’ villages. Denied official status, the unrecognized villages are excluded from state planning, have no local governing bodies, and receive little-to-no basic services, including electricity, water, telephone lines, or education and health facilities. Israel views their inhabitants as “trespassers on state land,” although many were living on these ancestral lands prior to 1948, and seeks their direct, collective re-location. One of the major tools used by the state to evacuate the unrecognized villages is filing evacuation orders against entire villages and *ex parte* home demolition order requests to the courts, which are perfunctorily approved. *Israel provides no compensation or accommodation to families following a home demolition.*

5. Religious discrimination. Arab citizens, Muslims, Christians and Druze, face various forms of discrimination regarding religious rights.

(i) No protection for Muslim holy sites in Israel. Under the Protection of Holy Sites Law (1967), the Minister of Religious Affairs is authorized to issue regulations for the protection of holy sites in general in Israel. So far, however, around 135 places have been declared holy sites, *all* of which are Jewish. The result of this discrimination is the neglect and desecration of Muslim holy sites: many mosques and holy sites in Israel have been converted, e.g., into bars, stores and restaurants.

(ii) The closure of the only mosque in Beer el-Sabe. The ‘Big Mosque’ in Beer el-Sabe (Beer Sheva) was used as a mosque from 1906-1948. In 1948, however, it was converted into a court until 1953, and then a museum until 1991, when it was closed. Today it lies dilapidated and unprotected. There is currently no place of worship for the 5,000 Muslims living in the town and the Beer el-Sabe Municipality refuses to open the building as a mosque.

In light of the effects of Israel’s systematic discriminatory treatment of its Palestinian citizens, the EU should ensure that the commitments included in the ENP EU/Israel Action Plan in this regard are respected. It should therefore take steps to ensure that its cooperation with Israel is conditioned on concrete and effective steps to end all discriminatory state practices and rectify its effects.

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

Yours faithfully,

Kamel Jendoubi,
EMHRN
President

For further information, please contact:

Marc Schade-Poulsen, EMHRN Executive Director,
+45 51 20 55 15

msp@euromedrights.net