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The Palestinian Centre for Human Rights

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## **The EU's Failure to Act: Israeli Violations of International Human Rights and Humanitarian Law in the OPTs**

Memorandum to the Consul Generals of the European Union, April 2004



### **Palestinian Centre for Human Rights**

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Dear Sir/Madam:

26 April 2004

I would like to thank you for making the time to meet with us, particularly given your busy schedules. I appreciate your attention to the desperate and rapidly deteriorating human rights situation in the Occupied Palestinian Territories (OPT). I would also like to thank the countries of the European Union (EU) for their continuing generous financial support and humanitarian aid to the Palestinian civilians of the OPT.

Yours sincerely,

Raji Sourani  
Director  
Palestinian Centre for Human Rights

## **Executive Summary**

Since September 2000, Israel has perpetrated widespread and systematic violations of international human rights and humanitarian law, including war crimes, against Palestinian civilians throughout the Occupied Palestinian Territories (OPTs). To date, despite clear legal, political and moral obligations, the international community, including the member states of the European Union, has done little to halt this pattern of abuse. There are numerous opportunities available to the EU states in particular to take action to ensure a halt to these violations but the failure to utilize intergovernmental forum including the UN General Assembly, the UN Security Council and even the UN Commission on Human Rights, have effectively permitted the development of a culture of impunity for Israel's unlawful actions. Such high level impunity for even the gravest violations of international law has ultimately served only to encourage further abuses.

This memorandum is intended to highlight a number of key areas of abuses perpetrated by the Israeli military, to remind the EU states of their legal obligations to ensure a halt to such violations, including as High Contracting Parties to the Fourth Geneva Convention, and to recommend options available in seeking to fulfill these obligations.

## **Introduction**

In March 2001, seven months after the outbreak of the current 'Intifada', the Palestinian Centre for Human Rights (PCHR) published a document directed to the Consul Generals of European Union member states. The document recounted and recorded the horrific levels of abuse of human rights which were ongoing in the West Bank and Gaza Strip. It was the fervent hope of PCHR that the member states would have used a combination of their economic, political, diplomatic and legal might, at that time, to ensure that an end was brought to the ongoing illegal belligerent Israeli occupation of the Gaza Strip and West Bank, including East Jerusalem, and to the breaches of international human rights law and humanitarian law which the Israeli military continues to perpetrate there.

PCHR is dismayed to observe that this has not occurred. Rather, since that time PCHR has documented increasing instances of violations of international human rights and humanitarian law perpetrated by the Israeli military against Palestinian civilians throughout the OPTs. PCHR has also observed the ongoing failure of the international community to take any effective action.

The Geneva Convention Relative to the Protection of Civilian Persons in Time of War, August 1949, (the Fourth Geneva Convention) has been and continues to be the primary legal framework for activities in the Gaza Strip and West Bank, including East Jerusalem, since their occupation by Israeli forces in 1967. This has been repeatedly re-stated by the international community, including the EU states, at inter-governmental forum, by individual governments and by international organizations. International human rights law, including those treaties to which Israeli is a State party, is also clearly applicable to the OPTs, as has been repeatedly stated, including by various UN human rights treaty bodies. However, for the purposes of brevity, this report will refer primarily to the Fourth Geneva Convention.

## **The Current Intifada**

For many decades, the Israeli occupation authorities, including the military, have perpetrated a range of violations of international human rights and humanitarian law against Palestinian civilians throughout the OPTs. However, since September 2000, these violations have escalated both in frequency and gravity. Israel's activities in this period have been characterized by excessive and disproportionate use of force; destruction of civilian property and civil infrastructure; the demolition of Palestinian homes; unlawful killings and injuries, including extrajudicial executions and political assassinations; arbitrary arrest and detention; torture and ill treatment; closures and curfews; unlawful transfer of civilians; unlawful confiscation of land and property; use of human shields; large scale military attacks in civilians areas. Most of these violations have been awarded wholesale impunity at the domestic level. Few, if any, investigations have been conducted in accordance with international standards on fairness and impartiality. Fewer still are instances of indictments or other punitive measures taken against individuals found to be responsible for such violations.

Instances of reparation for victims, including provision of compensation, are extremely rare.

The ongoing illegal belligerent occupation and the policies and practices implemented to maintain and expand this occupation, impact on every area of daily life for Palestinians in the OPTs. The following statistics attempt to give a general overview of the ongoing violence perpetrated by the Israeli military in the OPTs in this context. These statistics refer to the period from September 29th 2000 up to and including the 10 April 2004.

### *Unlawful Killings and Injuries*

In this period, 2551 Palestinian civilians were killed by the Israeli military or settlers. Palestinian civilians have been killed in a range of contexts; in excessive and disproportionate use of force, including in extrajudicial execution attacks, during demonstrations, at checkpoints and during incursions. Many deaths were targeted killings, including through use of sniper fire, often during times of quiet. Many have also died as a result of delays or denials of access to medical care, including passage through checkpoints. The majority of deaths of Palestinian civilians have resulted from Israeli military actions and methods which disregard the distinction between combatant and civilian, failing to ensure limitations on civilian casualties. At least 494 Palestinian children have been killed since the start of the Intifada, 244 in the West Bank and 250 in the Gaza Strip. Children consistently constitute approximately 25-30% of all deaths in the OPTs. To date, five internationals have been killed by the Israeli military in the OPTs. In addition, the Palestinian Red Crescent Society estimates that approximately 25,000 civilians have been injured during this period.

PCHR is particularly concerned at the increasing reliance of the Israeli government on the policy of extrajudicial execution. This government-sanctioned policy is used to eliminate Palestinians whom the Israeli authorities claim have ordered, facilitated, or carried out attacks against Israeli targets. Since June 2003, the policy has been escalated and the target group has been focused predominantly on political leaders of Palestinian groups, in particular the Islamic group, Hamas. Deaths resulting from this policy constitute at least 13% of all killings of civilians by the Israeli military in the OPTs. These assassinations have been carried out in different ways, but are generally conducted as aerial attacks against moving vehicles in which the targeted individual is traveling, or against residential buildings or offices. Some assassinations have also been conducted using explosives, sniper fire, tank shells and armed ambushes.

This policy continues to be implemented in violation of a range of articles of the Fourth Geneva Convention and international human rights law, including the rights to life and a fair trial. At least 172 such attacks have been conducted in this period resulting in deaths of 215 targeted individuals. Of particular concern is the impact of this policy on the wider civilian population; the nature, timing and location of the assassination attacks; aerial attacks, often in the daytime, targeting moving vehicles or buildings located in densely populated civilian areas; display an increasing disregard for civilian life. In this same period, 144 non-targeted bystanders were killed. At least 95% of all injured in these attacks were non-targeted bystanders.

### *Arbitrary Arrest and Detentions and Torture and Ill Treatment*

The Israeli military continue to arbitrarily arrest and detain thousands of Palestinians. Approximately, 6000 Palestinians, including 200 children, were being held in Israeli custody as at the end of 2003. Many of these are held under administrative detention orders, indefinitely renewable for periods of up to 6 months. Palestinians held under such orders have no recourse to judicial remedies and are generally held without charge or trial and little or no access to legal counsel. Many of those Palestinians detained by the Israeli authorities report being subjected to torture and/or ill treatment. It has been estimated that approximately 58% of Palestinian detainees in prisons under Israeli control have been subjected to direct physical violence. The Public Committee Against Torture in Israel has estimated that a further 79% were subjected to verbal abuse and threats and 52% to sleep deprivation.

### *Destruction of Civilian Property*

During this same period, at least 1664 Palestinian homes have been completely demolished by the Israeli military in the Gaza Strip alone. At least 1002, 60% of the total, were in Rafah. A further 1465 homes have been damaged in the Gaza Strip, including 771 in Rafah. At least 29,000 people have been affected by Israel's ongoing policy of destruction of Palestinian homes. Most of those affected are refugees and many have now been made homeless for the third or fourth time. Destruction of civilian property has also become a primary feature of Israeli military incursions into Palestinian towns, refugee camps and villages throughout the OPTs. During such incursions, the Israeli military have often repeatedly destroyed electric, communications, water, and sewage networks, and destroyed roads and bridges. Civilian institutions, including government offices, police departments, prisons, banks, NGOs, hospitals, clinics, and schools have also been damaged or destroyed in such incursions throughout the OPTs.

Israel's policy of confiscation of Palestinian land has also continued, both for the purposes of collective punishment and for the purposes of annexation. Approximately, 22,820 dunums of land have been razed and/or confiscated by the Israeli military in the Gaza Strip. Thousands of olive, citrus and other trees and crops have been destroyed.

Accurate figures are difficult to obtain from the Israeli government but up to a possible 58% of Palestinian land in the West Bank has been or is scheduled to be razed and confiscated in the construction of the "Annexation Wall" by Israel. At least 700,000 Palestinian civilians will be directly affected by the construction of the Wall; economic, social and agricultural life in those communities located directly adjacent to, or surrounded by, the Wall will be suffocated. The "Annexation Wall" is the largest manifestation of Israel's ongoing policy of annexation of Palestinian lands. Its completion will impose a Bantustan system on the Palestinians in the remainder of the West Bank, segregating communities, making life largely unbearable and resulting in "voluntary" transfer of Palestinian communities further eastwards or abroad.

### *Closures and Curfews*

Restrictions on freedom of movement of all Palestinians have continued to be imposed through an expanding system of permits, and construction of physical barriers, including sand mounds, trenches, gates, checkpoints, barbed wire, on most major roads throughout the OPTs. This matrix of controls on freedom of movement of people and goods have effectively precipitated the prevailing economic crisis, and have resulted in widespread unemployment and severe disruption to education, healthcare services, work, trade, family and political life. The resulting poverty and delayed access to adequate foodstuffs, including through restrictions imposed on delivery of humanitarian aid, have also resulted in increasing rates of chronic malnutrition amongst the most vulnerable; children, pregnant and nursing mothers and the elderly.

### *Unlawful Transfers*

Since spring 2002, the Israeli military have re-instituted a policy of forcible transfer within occupied territory in violation of articles 49 and 147 of the Fourth Geneva Convention. At least 26 Palestinians were unlawfully transferred within the OPTs by the Israeli authorities in 2003, including under assigned residence orders. As of the end of 2003, at least 52 Palestinians have been unlawfully transferred by the Israeli occupying forces since 29 September 2000. Most of these have been transferred from the West Bank to the Gaza Strip following periods of detention in Israeli prison facilities in Israel and the West Bank. Those transferred under assigned residence orders have been subject to periods of up to two years in the Gaza Strip.

These violations, including those which constitute grave breaches of the Fourth Geneva Convention, namely war crimes, are continuing. The current political discussion surrounding the alleged proposed withdrawal from the Gaza Strip should not be understood to indicate any possible alleviation of the current situation. The recent extrajudicial executions or assassinations of political leaders of Hamas and other armed Palestinian groups indicate the increasing disregard of the Israeli authorities for international human rights and humanitarian law.

## The Fourth Geneva Convention

Throughout this period these abuses, many of which constitute war crimes, have drawn little more than verbal condemnation from the international community, including the European states. PCHR is deeply concerned that the EU has consistently failed to adhere to its specific legal obligations in respect of the situation in the OPTs. The following section serves to remind these states of their legal obligations and to make recommendations for possible action in the fulfillment of these obligations.

### High Contracting Parties

All of the High Contracting Parties to the Fourth Geneva Convention, including those not directly involved in the current conflict, have both general and specific obligations with respect to the implementation and enforcement of the Convention in the OPTs. The ongoing failure to act, to hold Israel accountable according to its obligations as the Occupying Power, constitutes a breach of these obligations.

Common article 1 of the Geneva Conventions confers not a right to “*respect and ensure respect...in all circumstances*”, but an absolute obligation<sup>1</sup>. The article 1 obligation can be separated into the obligation to “respect” the Convention and the obligation to “ensure respect” of the Convention. This first obligation corresponds to the specific responsibilities conferred directly on the High Contracting Parties, as non-parties to the conflict, such as the obligation to search for and prosecute those responsible for grave breaches of the Convention contained in article 146. The second category would include the responsibility to ensure that the Convention is respected by others. In this context, the Convention does not provide further detail but the obligation should be interpreted to prohibit not only *active* participation or encouragement of violations of the Convention,<sup>2</sup> but also *inaction* on the part of the High Contracting Parties. Article 1 therefore imposes an obligation to *actively* ensure respect for the Convention in all circumstances, thereby rendering a failure to act a breach of the obligation. Thus, article 1 makes the protection of civilians the responsibility of all states, irrespective of their participation or non-participation in the conflict.

The article 1 obligation is also supported further by article 146 in that it not only obligates High Contracting Parties in respect of grave breaches of the Convention, but also requires that they “*take measures necessary for the suppression of all acts contrary to the provisions of the present Convention*”.

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<sup>1</sup> The obligatory nature of common article 1 was also reaffirmed by the 1986 ruling of the International Court of Justice in *Nicaragua v. US*. The ruling further affirmed that the obligation stems not only from article 1 itself but also as a general principle of customary international law. See *Military and Paramilitary Activities in and against Nicaragua Case (Nicaragua v. US, Merits, [1986] ICJ Rep. 14 at para. 220*.

<sup>2</sup> In *Nicaragua v. US*<sup>2</sup>, the International Court of Justice ruled the US in breach of the customary article 1 obligation for encouraging violations of the Convention.

Clearly, Israel has unequivocally and consistently failed to adhere to its obligations as the Occupying Power *vis a vis* the Palestinian civilian population. This situation has prevailed for the last 36 years but has been particularly acute since September 2000. The High Contracting Parties are fully aware of these facts, including through provision of information by PCHR and other human rights organizations operating in the region, as well as UN agencies and other governmental organizations. In the full knowledge of Israel's consistent disregard for the Convention, responsibility for ensuring Israel's implementation of the Convention falls with the remaining High Contracting Parties.

In the culture of impunity developed by the failure to act on the part of the international community, including the EU states, the Israeli military has continued to commit grave breaches of the Convention, namely war crimes, which include but are not restricted to: willful killings; torture or inhuman treatment; willfully causing great suffering or serious injury to body or health; unlawful confinement; unlawful transfer; willful deprivation of rights to a fair trial; extensive destruction and appropriation of property not justified by military necessity and carried out wantonly and unlawfully. All High Contracting Parties then have a clear obligation under article 146 and the suppression of grave breaches. Article 146 obligates the High Contracting Parties to enact legislation to provide penal measures for those responsible for grave breaches of the Convention and specifically obligates all High Contracting Parties to search for and to prosecute those who have committed, or have ordered to be committed, grave breaches of the Convention.

#### *Funding the Occupation*

For decades the international community has been supplying humanitarian aid and assistance to the Palestinian people under occupation to the value of millions of dollars. This aid, including through contributions to UN agencies, particularly UNRWA, has been essential in maintaining a minimum standard of living in the OPTs. However, this massive focus on provision of humanitarian assistance raises the question of the donor community funding the Israeli occupation and its expansion.<sup>3</sup> Whilst these donations are essential to alleviate the immediate humanitarian impact of the policies and practices imposed by the Israeli military in the maintenance and expansion of the occupation, they are in effect temporary measures which can not constitute a long-term solution to the situation. The provision of humanitarian aid by the international community, in particular by the EU states, cannot in anyway replace the clear legal obligation on these states as High Contracting Parties to ensure an end to the violations of the Fourth Geneva Convention perpetrated by Israel. Humanitarian assistance is essential and must continue, but without simultaneous concrete political or legal action to halt the violations which directly cause the deteriorating humanitarian situation, such measures may prove largely counterproductive.

The legal obligations of each of the High Contracting Parties to the Convention, including EU states, are, therefore, clear. In failing to take action in respect of articles

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<sup>3</sup> See UN doc. E/CN.4/2003/30, 17 December 2002.

1 and 146 these states stand in clear breach of their specific legal obligations under the Convention.

### **Recommendations**

With these comments in mind PCHR urges the High Contracting Parties to take the following steps to ensure compliance with the Convention;

- immediately convene a conference to discuss steps to be taken immediately to enforce Israel, as occupying power, to apply *de jure* the Convention;
- immediately dispatch an international protection force whose mandate is to oversee implementation of the Convention and other international law relating to the Occupation;
- take further necessary steps, to ensure Israeli compliance with the Convention and international human rights and humanitarian law;
- comply with the obligations under Article 146 of the Convention to actively search for and prosecute those responsible for grave breaches of the Convention.

## **Trade and the Protection of Human Rights**

### **The EU – Israel Association Agreement**

The EU-Israel Association Agreement entered into force in May 2000. Five months later the 'Intifada' began. Since this point a number of EU bodies have called for the suspension of the agreement based on the condition detailed in article 2 of the Agreement regarding respect for human rights;

*“Relations between the Parties, as well as all the provisions of the 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.”*

The PCHR welcomes the position taken by the European Parliament in April 2002 which called for the suspension of the Agreement. Later the same month the Council of Europe also demanded the suspension of the Agreement. Both of these bodies concluded that Israel's actions in the OPTs were contradictory to article 2. Article 2 imposes a condition on the enjoyment of the trade benefits enjoyed by the parties. Failure to comply with the condition would effectively demand the retraction of those benefits, ultimately through the suspension of the Agreement. Suspension of the Agreement in response to gross human rights violations, rather it is an action which follows from the failure to fulfill the article 2 condition.

However, the Council of Ministers, including under the Irish Presidency, has failed thus far to reach a consensus on the necessary action to be taken in this respect. Certain member states of the EU have preferred to shy behind the notion that a decision to suspend the Agreement, in response to a breach of article 2, will lead to a hardening of the Israeli position. PCHR rejects this notion first and foremost as part of the consistent pattern of subordinating the rule of law to political considerations. PCHR would also further suggest that the penalties imposed on the total €72 billion EU-Israel trade could not be considered an insignificant loss to the Israeli economy and may well therefore prove to be a mechanism that could be utilized in the context of the obligations as High Contracting Parties to the Fourth Geneva Convention to ensure Israel's respect for the Convention. As a matter of course, the EU must act within the framework of binding legal obligations in the pursuit of all trading activities.

### **Export of Military Equipment and Components**

States are obliged, within the context of their legal obligations and the EU Code of Conduct for Arms Exports to ensure that they comply with certain standards on the export and trade of military related products. The EU Code of Conduct specifies a number of conditions which States must comply with to the highest standard of practice in issuing licenses for export. This includes Criterion Two which requires respect for human rights in the country of origin, and prohibits the possibility of use

of equipment and components for purposes of “internal repression”; Criterion Three prohibits the potential to “provoke or prolong armed conflicts” in the country of origin and the “clear risk” of the equipment being used to assert a territorial claim; Criterion Six (b) requires compliance with international commitments, particularly the mechanisms of international humanitarian law. PCHR welcomes the progress, under the Irish Presidency, and previous Presidents, of the EU Council towards a treaty on the control of export of military equipment. However, PCHR asserts that each state must take immediate action to ensure that it is in compliance with these criteria in respect of licenses for military equipment and components with final destination in Israel.

## **Recommendations**

In light of these comments, PCHR calls on the European Union and each individual member state to:

- Immediately suspend the EU-Israel Association Agreement in accordance with Article 2, in compliance with recommendations made by the European Parliament and the Council of Europe;
- To ensure that the firmest of measures are taken against Israeli products which originate from inside Israeli settlements in the OPTs and which seek to benefit from preferential-trade tariffs;
- Deny Israel the possibility of participating in any further Framework Programme for Research and Development and to end the anomaly of Israeli-EU scientific affiliation until there is a drastic and measurable improvement in the human rights situation in areas occupied by Israel;
- Apply, in the strictest terms, the criteria of the EU Code of Conduct for Arms Exports;
- Advance on the conditions of Operative Clause 8 of the Code and to make public, available and accessible each case where weapon sales have been denied to the Israeli government and the reasons behind the decision;
- Further act upon steps, already taken, for an International Treaty on Arms Controls and to apply this treaty in its fullest respects to the activities of the Israeli government;
- Act in good conscience in order to uphold international humanitarian law and respect for human rights mechanisms.

## International Political/Legal Fora

### UN Forum

Throughout the course of the current Intifada the EU member states have individually, and collectively through the High Representative of the Common Foreign and Security Policy (CFSP), issued verbal condemnations of actions of the Israeli military and government in respect of the OPTs. There has been a clear disparity, however, between these verbal statements and political and legal action taken. EU behaviour in UN forum is particularly indicative of this disparity.

In this context, PCHR draws particular attention to the annual UN Commission on Human Rights. The Commission itself has no real enforcement powers, and aims primarily to set broad standards on respect for human rights among the member states of the UN. However, the EU has consistently failed to support non-binding resolutions presented by non-EU members which call upon the Commission to condemn specific and general violations of international human rights law perpetrated by Israel in the OPTs. In the latest such example, the EU states abstained from voting on a brief resolution condemning the extrajudicial execution of Sheikh Ahmed Yassin (E/CN.4/2004/L.4 24/03/04). Reasons for such action on the part of the member states of the EU are difficult to understand. This action is clearly inconsistent with various statements made by individual states on the incident; UK Foreign Secretary, Jack Straw, described the targeted assassination of Yassin as, "unlawful, unacceptable and unjustified." Javier Solana expressed the sentiment that "these types of actions do not contribute to dialogue and peace in the region. Neither will they bring less violence."<sup>4</sup> EU foreign ministers, meeting in Brussels at the time of the assassination to discuss the threat of international terrorism acknowledged that "Israel is not...entitled to carry out extra-judicial killings." Notably the EU External Affairs Council also concluded at the time that "not only are extra-judicial killings contrary to international law, they undermine the concept of the rule of law which is a key element in the fight against terrorism."

However, this same pattern of obstruction of, or failure to support, initiatives has also continued in the Security Council and the General Assembly.

Perhaps the most serious example of active obstruction of initiatives proposed by non-EU states in these fora is the resolution requesting an advisory opinion from the International Court of Justice on the legal consequences of the construction of the "Annexation Wall" in the OPTs (UNGA Res ES-10/14, 8 December 2003).

Despite some strongly worded statements against the building of the "Annexation Wall"<sup>5</sup> the EU states abstained from voting on this resolution (with the exception of

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<sup>4</sup> The full text of this statement and that of the External Affairs Council is available on { HYPERLINK "http://www.eu-del.org.il" } .

<sup>5</sup> November 2003, after the 'Association' meeting, at the ICJ itself and in the GA.

Germany who voted against the resolution) and has since urged the court to utilize its discretion in refusing to hear the case. Again, such obstructionist action is difficult to understand and again indicates a position entirely contrary to that indicated in statements made by various EU and individual government representatives; speaking at the European Parliament on behalf of the EU Council of Ministers, Minister of State, Dick Roche T.D. (IRL), argued that Israeli actions in this context are “in departure of the armistice line of 1949 and...in contradiction to the relevant provisions of international law.”

PCHR considers that the International Court of Justice, established under the Charter of the United Nations in 1945 as the principal judicial organ of the UN, is the appropriate body to make an assessment on the legality of the Wall. In referring this issue to the International Court of Justice, the GA resolution reflects a commitment to the rule of law. As such, in abstaining in this resolution and further steps taken in urging the Court to refrain from issuing its advisory opinion, this action by the EU serves clearly to undermine international law in general and attempts to secure respect for the rule of law in this region in particular.

Clearly, there has been a consistent failure to achieve a diplomatic and political consensus at the EU level in respect of Israel. This ongoing failure to reach a consensus at UN fora continues to be interpreted by the Israeli government as tacit support for actions taken outside normative legal boundaries. It is essential that EU member states act, as a matter of legal compliance and conscience, in UN fora.

### **The Roadmap Quartet**

As a human rights organization dedicated to the promotion and protection of human rights, the rule of law and democratic principles, PCHR is fully committed to the achievement of a durable and just peace in the region. PCHR is fully cognizant of the fundamental requirement that any peace initiative for this region be founded on respect for international law, specifically international human rights and humanitarian law. Any initiative which seeks to operate outside of the framework of international human rights and humanitarian law cannot constitute a positive contribution to peace in this region. Perhaps the latest illustration of this principle is the Road Map peace initiative. The Roadmap, like the Oslo Accords, fails to include key measures to ensure protection of human rights and, as predicted, has thus far failed to prove a positive contribution towards peace and stability in this region. Rather, since June 2003, Israeli violations have escalated still further. PCHR expresses sincere hope that the EU states can work towards the development of a final settlement between Israel and the Palestinians that is founded on respect for the human rights of all in the region and upholds the rule of law.

### **Anti-Terrorism Measures**

Although there is considerable divergence of opinion on the definition and nature of terrorism, be it national, international or state-sponsored, the EU has consistently

argued that the upholding the rule of law and respect for human rights are essential tools in the fight to eliminate all forms of terrorism. The fight to eliminate all forms of terrorism must be founded upon and operated within the framework of international legal rules governing times of war and/or occupation. Democratic societies can not function with an *a la carte* approach to national or international legal systems under any pretext. Israel should be no exception to this.

However, in reality, Israel's actions in the OPTs are in flagrant breach of normative legal standards and routinely constitute grave breaches of international humanitarian law, namely war crimes. Such consistent and blatant undermining of the rule of law can serve as a motivational factor in support for, and involvement in, terrorist activities. Member states of the EU, as High Contracting Parties to the Geneva Convention, and as members of the United Nations, are obliged to uphold respect for the rule of law in the international, regional and national arenas.

### **Recommendations**

In light of these assessments the PCHR calls on the European Union and individual member states, to;

- effectively use available international mechanisms, including the UN General Assembly, the Security Council, the Commission on Human Rights and the International Court of Justice to ensure global condemnation of Israel's persistent violations of international human rights and humanitarian law;
- support the action of the General Assembly in requesting an advisory opinion from the pre-eminent international legal body, the International Court of Justice;
- ensure consistency in words and actions in order to prevent the further development of the Israeli perception that it can behave with impunity;
- veto Israeli attempts to become members of the WEOG association at the UN.

## **Concluding Remarks**

It is apparent that despite the deteriorating human rights situation in the OPTs since the start of the Intifada no effective steps have been taken by the international community to compel Israel to comply with its obligations under international human rights instruments and humanitarian law.

The EU as an intergovernmental institution and the EU member states, as High Contracting Parties to the Geneva Convention, and as members of the United Nations have clear obligations to ensure Israeli compliance with international law. This paper has highlighted the obligations of the EU states as High Contracting Parties to the Fourth Geneva Convention. Thus far, these obligations have not been met.

This consistent failure to act, including as legally obligated, serves to encourage not only ongoing Israeli violations, but also further lawlessness in the region. The obstructionist attitude to the issue of the International Court of Justice Advisory Opinion on Israel's "Annexation Wall," the contradictory voting in UN fora, the failure to enact the article 2 provision of the Association Agreement, and the absence of any effective action taken in line with the obligation to ensure Israel's respect of the Fourth Geneva Convention in the OPTs, stand in clear contradiction to the perceived commitment of the EU states to the principles of democracy, the rule of law and human rights. PCHR is particularly dismayed that this intergovernmental institution which produced the most advanced and effective mechanisms for protection of human rights in the world and which has epitomized respect for the rule of law and human rights for the rest of the world, is now not only failing to uphold these principles, but may in fact be actively breaching its legal commitments to these principles in respect of this region.