

**Violations of the Rights of Human Rights Defenders in  
Israel and the Occupied Palestinian Territories**

**A Call for The Netherlands to Implement the EU  
Guidelines on Human Rights Defenders**

**ICCO, Novib, Cordaid, 29<sup>th</sup> of March 2006**

## Table of Contents

<b>Executive Summary .....</b>	<b>3</b>
<b>1. Introduction .....</b>	<b>5</b>
<b>2. Analysis of Violations of the Rights of HRDs in Israel and the Occupied Palestinian Territories .....</b>	<b>6</b>
2.1 Violations Perpetrated by the Palestinian Authority.....	6
2.1.1 Denial of Freedom of Expression and Peaceful Assembly .....	6
2.1.2 Impunity .....	7
2.1.3 Restrictive Laws.....	7
2.2 Violations Committed by the Israeli Authorities.....	7
2.2.1 Torture.....	8
2.2.2 Denial of Freedom of Expression and Peaceful Assembly .....	8
2.2.3 Impunity .....	8
2.2.4 Denial of Freedom of Movement .....	9
2.2.5 Administrative Detention of HRDs.....	10
2.2.6 Denial of Humanitarian Assistance.....	10
2.2.7 Defamation and Slander Campaigns .....	11
2.2.8 Attacks on the Media .....	12
2.2.9 Attacks by Israeli Settlers.....	12
2.3 Concluding Remarks .....	13
<b>3. Dutch and EU Policies and Mechanisms for the Protection of HRDs.....</b>	<b>13</b>
<b>4. Recommendations .....</b>	<b>16</b>
4.1 Monitoring, Reporting and Assessment.....	16
4.2 Role of Dutch Representations in Supporting and Protecting HRDs .....	17
4.3 Promotion of Respect for HRDs in Relations with Third Countries and in Multilateral Fora ....	18
4.4 Support for Special Procedures of the UN Commission on Human Rights, Including the Special Representative on HRDs.....	19
4.5 Practical Support for HRDs Including Through Development Policy .....	19
4.6 Role of Council Working Parties.....	19

## Executive Summary

This report was commissioned by the Dutch co-financing organizations Novib, ICCO and Cordaid. Through financial aid, these organizations provide support to human rights defenders (HRDs) working in Israel and the Occupied Palestinian Territories (OPT). Novib, ICCO and Cordaid commissioned the report due to their concern regarding ongoing violations of the rights of HRDs in Israel and the OPT.

Novib, ICCO and Cordaid believe that the Dutch Government should increase measures to address violations against HRDs in Israel and the OPT and ensure that the EU do the same. This is not only because - at the policy level - the Dutch Government has committed itself to protect HRDs. It is also because the EU has close relations with Israel and gives crucial financial support to the PA. It therefore has the right and responsibility to require that Israel and the PA respect human rights, including those of HRDs, and significant leverage to back up this position. Tolerance of human rights violations reflects a failure to promote the key values of the Union, undermines the EU's credibility, and fuels resentment regarding its role in the region. Violation of human rights by both Israel and the PA encourages support for radical movements. That is why supporting individuals and organizations who combat such violations is so important. The EU has recognised that to help prevent radicalization, it must "promote even more vigorously good governance, human rights and democracy" outside the Union.<sup>1</sup> This must include pressing Israel and the PA to respect the rights of HRDs.

This report describes the violations against HRDs by both Israel and the PA, outlines policies and mechanisms that can be used to protect HRDs, and presents recommendations to the Dutch Government for increasing its efforts in this area.

Both the PA and the Israeli authorities should abide by their (international) obligations to enable HRDs to pursue their work, such as those outlined in the UN Declaration on Human Rights Defenders. Nevertheless, HRDs in Israel and the OPT face many obstacles and violations while conducting their work of promoting universally recognised human rights. Violations against HRDs by both the PA and the Israeli authorities obstruct the work of individual HRDs and human rights organisations. The Israeli authorities justify all restrictions on the basis of security. While some restrictions affect all Palestinians alike, not seeming to target HRDs, other violations target HRDs. In both cases, the restrictions impede the work of HRDs.

Restrictions on the freedoms of expression and peaceful assembly; violence and harassment; restrictive legislation; and especially restrictions on freedom of movement are a few of the violations to which HRDs are subjected while conducting their daily work in Israel and the OPT. Documentation and exchange of information on the situation of human rights, for example, is often frustrated due to the prevention of HRDs' field visits, access to prisons or travel to attend conferences.

Certain policies and mechanisms are relevant to the Dutch Government's efforts to protect HRDs in Israel and the OPT. Recognising the role of HRDs and supporting the principles contained in the UN Declaration on Human Rights Defenders, the EU adopted Guidelines on Human Rights Defenders in June 2004. The Guidelines provide for a set of practical suggestions to effectively work towards the promotion and protection of HRDs in third countries within the context of the Common Foreign and Security Policy. The Guidelines assist EU missions (embassies of EU member states and delegations of the European Commission) in acting appropriately in protecting HRDs, provide for interventions by the EU for HRDs at risk, and should enhance the protection and support of HRDs. As a member state of the EU, The Netherlands is committed to fully and effectively implementing these Guidelines.

In accordance with the Guidelines, political dialogue is an important mechanism for addressing violations against HRDs. The issue of HRDs should be integrated into the human rights component of political dialogues. Political dialogue between the EU and Israel and the EU and the PA is a central aspect of the association agreements between the EU and these authorities and include a human rights

component. This dialogue takes place within the structures set up to implement the association agreements, namely the Association Councils, Association Committees, sub-committees and working groups.

The report makes numerous recommendations to the Dutch Government to increase its protection of HRDs in Israel and the OPT, including the following:

- focus and improve monitoring of the situation of HRDs;
- publicise the Guidelines among HRDs and discuss with them how best to contribute to their protection;
- ensure the Guidelines, the situation of HRDs and individual cases are discussed at EU Heads of Mission meetings with a view to taking collective action;
- improve contact between Dutch diplomatic representations in Israel and the OPT and Palestinian HRDs, especially through field visits and inviting HRDs for meetings at the embassy;
- prevent and monitor violations against HRDs through physical presence at places or moments when they are vulnerable to violations (peaceful demonstrations, centres of detention, etc.);
- address the Israeli authorities' misuse of "national security" as a justification for violating the rights of HRDs and the practice of labelling HRDs as "terrorists";
- ensure EU concerns regarding the situation of HRDs and individual cases are raised during the human rights component of the political dialogue between both the EU and Israel and the EU and the PA.

ICCO, Novib, Cordaid  
29<sup>th</sup> of March 2006

# 1. Introduction

This report has been commissioned by the Dutch co-financing agencies ICCO, Novib and Cordaid. It examines the situation of human rights defenders (HRDs) in Israel and the Occupied Palestinian Territories (OPT)<sup>2</sup> and makes recommendations to the European Union (EU) governments, the Dutch Government in particular, for increasing protection for these HRDs.

HRDs are individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms.<sup>3</sup> Activities of HRDs vary from documenting violations and combating cultures of impunity that have laid the basis for repeated breaches of fundamental rights and freedoms to seeking remedies for victims of such breaches. They can be members of local and international NGOs that work to promote human rights; lawyers who assist clients in cases through which they contribute to the promotion and protection of human rights; political activists who denounce government policies resulting in human rights violations; doctors and other medical staff who treat victims of human rights violations, or journalists who report on human rights violations and bear witness to acts of violation. The character of the work instead of the title is significant for the qualification as a HRD.<sup>4</sup> Individuals or groups who commit or propagate violence to achieve their aims do not fall under the definition of HRD.

Like other individuals, HRDs should enjoy the rights contained in international human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR). There is also an international instrument related specifically to HRDs. The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (commonly known as the Declaration on Human Rights Defenders) is the international standard regarding the rights of HRDs and the duties of states to towards HRDs. These include the rights to seek the protection and realisation of human rights at the national and international level, to meet and assemble peacefully, to offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights, and to benefit from an effective remedy. Under the Declaration, states are responsible for ensuring that all persons under their jurisdiction are able to enjoy all social, economic, political and other rights and freedoms in practice and to adopt such legislative, administrative and other steps as may be necessary to ensure effective implementation of rights and freedoms. According to the Declaration, they should conduct prompt and impartial investigations of alleged violations of human rights and take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

ICCO, Novib and Cordaid support HRDs in Israel and the OPT. The main activities of these HRDs include promoting the rights of the Arab minority in Israel, monitoring the human rights situation in the OPT, promoting the rights of Palestinian refugees and the rights of Palestinian women, defending the rights of Palestinian prisoners in Israeli jails (including those in administrative detention), promoting human rights awareness, land and housing rights, the right to health, and children's rights (including Palestinian children detained by Israel). ICCO, Novib and Cordaid are concerned that these HRDs are not able to pursue their work due to governmental restrictions and harassment. As the UN Special Representative on HRDs stated at the end of her official visit to Israel and the OPT in October 2005, HRDs in the OPT operate in an "environment that is totally non-conducive...to conduct their work with facility or safety."<sup>5</sup> In section two, this report presents an analysis of the violations faced by HRDs.

Section three of the report describes policies and mechanisms of the EU that can and should be used to protect HRDs in third countries. These include the EU Guidelines on Human Rights Defenders and political dialogue in the context of the EU-Israel Association Agreement and Barcelona Process. ICCO, Novib and Cordaid believe that the Dutch Government in particular can play an important role in giving support to and protecting HRDs in Israel and the OPT by implementing EU policies related to

the protection of HRDs and promoting the use of EU mechanisms for the same purpose. Recommendations for doing so are presented in the fourth and final section of the report.

Besides its commitment as an EU member state to the full and effective implementation of the EU Guidelines on HRDs, there are other reasons why the Dutch Government should address violations of the rights of HRDs by Israel and the PA and ensure that the EU does the same. The EU has close relations with Israel and gives crucial financial support to the PA. This position gives it the right and responsibility to demand that Israel and the PA respect human rights, including those of HRDs, and significant leverage to back up this demand. Tolerance of human rights violations reflects a failure to promote the key values of the Union, undermines the EU's credibility, and fuels resentment regarding its role in the region. The EU has stated that efforts to fight terrorism should respect fundamental human rights.<sup>6</sup> The EU should therefore take to task partner countries who use the "war on terror" as a justification for violating human rights. Violations of human rights by both Israel and the PA encourage support for radical movements. That is why supporting individuals and organizations who combat such violations is so important. The EU has recognised that to help prevent radicalization, it must "promote even more vigorously good governance, human rights and democracy" outside the Union.<sup>7</sup> This must include pressing Israel and the PA to respect the rights of HRDs.

The research for this report was carried out in two phases. The first phase, May-September 2005, consisted of desk research and consultation with Dutch co-financing organisations and the Netherlands Section of Amnesty International. The second phase consisted of a mission to Israel and the OPT from 26 September to 4 October 2005. During this visit, interviews were held with the Dutch Embassy in Tel Aviv, the Dutch representative office in Ramallah, and human rights defenders in both Israel and the OPT, including partners of the Dutch Government and of ICCO, Cordaid and Novib.

## **2. Analysis of Violations of the Rights of HRDs in Israel and the Occupied Palestinian Territories**

### **2.1 Violations Perpetrated by the Palestinian Authority**

While most of the OPT is under exclusive Israeli control, the PA exercises civil authority in some areas and in other areas is responsible for both civil administration and internal security (through a Palestinian police force). These last areas are Gaza and a number of main cities in the West Bank. To the extent of its power, the PA bears the responsibility of facilitating the work of HRDs working in the areas which it administers. Before the outbreak of the second Intifada in September 2000, HRDs did not have much space in which to carry out their work because of numerous, arbitrary restrictions on their rights and freedoms. HRDs were harassed, beaten, tortured and (administratively) detained. During the second Intifada from 2000-2003, however, the PA's authority was undermined and weakened. This resulted in decreasing restrictions placed on HRD work by the PA. However, this change of policy towards HRDs has not been institutionalised. HRDs are therefore concerned that the PA will resume its restrictive policy towards HRDs as soon as circumstances allow.

#### **2.1.1 Denial of Freedom of Expression and Peaceful Assembly**

Although the freedom of expression is guaranteed in international law,<sup>8</sup> until the beginning of the second intifada, the PA attempted to prevent HRDs, including journalists, from investigating and publishing accounts of human rights violations. A variety of means, including arrests, detentions and abusive methods, were used to silence HRDs and deny them freedom of expression. The PA censored criticism with respect to some political issues and its own functioning. Certain press organisations were even forced to shut down after criticising the PA. The PA persecuted media who made political statements, such as condemnations of the occupation, when such criticism was not politically convenient.

Palestinian Law (12) of 1998 on public meetings recognises the right to peaceful assembly in the OPT. However, this law is undermined by its executive bylaw and police orders, which put unnecessary restrictions on the right to peaceful assembly.<sup>9</sup> The PA has adopted several legal measures prohibiting or restricting peaceful demonstrations and marches or any other form of mass expression. Before the second Intifada, the PA violated the freedom of assembly by arresting and assaulting HRDs and other participants in peaceful demonstrations and marches, public meetings and conferences.<sup>10</sup> Since the second Intifada, violations by the PA of the freedoms of expression and peaceful assembly have not formed a major obstacle for HRDs due to the PA's weakened capacity, although repressive legislation remains in place.

### **2.1.2 Impunity**

The lack of justice and investigation of human rights violations by the PA creates a culture of impunity. The President of the PA, Mahmoud Abbas, stated in August 2005 that "The PA must spare no efforts to put an end to the increasing lawlessness and to put in place concrete mechanisms to ensure the protection of the Palestinian civilian population, as well as foreign human rights and relief workers and journalists."<sup>11</sup> However, the PA has been unable to put these words into action. For example, perpetrators of recent kidnappings of international HRDs in the Gaza Strip have not yet been brought to justice.<sup>12</sup>

On 28 December 2005, the Al-Aqsa Martyrs Brigades attacked offices of the Palestinian Central Election Commission at various locations in Gaza.<sup>13</sup> Although the PA should provide protection for the CEC's offices, investigate these attacks and bring the perpetrators to justice, to date no action has been taken.

### **2.1.3 Restrictive Laws**

The independence of NGOs was endangered by the claim of the Palestinian Ministry of the Interior (through Law 1 of 2000) to co-governance of NGOs. The Ministry puts this into practice by assigning itself the right to be present at assembly meetings. In case its presence is rejected, the Ministry can refuse approval of annual statements and reports.<sup>14</sup> Attempts to restrict the operational space of NGOs and to effect their independence are constantly made but do not always succeed. NGOs managed to stop the draft amendments to the law of Charitable Associations and Community Organisations from being accepted. The amendments would have allowed a governmental institution to supervise and monitor NGOs and to develop non-governmental activity in accordance with the public policy of the PA.<sup>15</sup>

## **2.2 Violations Committed by the Israeli Authorities**

Under international law, Israel, as an occupying power, has duties and responsibilities in the areas under its control. In July 2004, in its advisory opinion regarding Israel's construction of the Wall, the International Court of Justice stated that both international humanitarian law (Fourth Geneva Convention) and international human rights law (the ICCPR and the ICESCR, both ratified by Israel in 1992) are applicable in the OPT.<sup>16</sup> However, repressive policies, which result in extra-judicial killings of alleged terrorists, restrictions on the freedoms of movement, association and expression, are carried out and justified on the basis of concern for national security.<sup>17</sup> The Israeli authorities are increasingly using courts and restrictive legislation, including security legislation, as a means to deter HRDs from carrying out their activities and to persecute them for trying to perform their work. The Israeli authorities claim that the restrictions they put on the work and rights of HRDs are a necessary element of the War on Terror. The Israeli authorities use broad and unclear definitions of "terrorism," "terrorist" and "national security" to criminalise legitimate activities to investigate, expose and protest human rights violations.

### 2.2.1 Torture

According to reports of human rights organizations, the Israeli security forces often subject detainees to ill-treatment and torture. They are tied up against chairs, abused, prevented from sleep and beaten. HRDs in prison are often ill-treated and sometimes tortured, particularly during interrogation. Cases of torture cannot always be identified due to the denial of access to prisons and detention centres. HRDs are usually imprisoned in isolation. Furthermore, the security forces obstruct the right to due process by denying HRDs access to lawyers and by denying that HRDs are being detained.<sup>18</sup>

On 21 February 2003 Daoud Dirawi, a Defence for Children International child rights lawyer and co-ordinator for the Juvenile Justice Program of Defence for Children International (Palestine section) was arrested by Israeli soldiers in Jerusalem while seeking medical treatment for his two-year-old daughter. He reports that he was beaten and tortured and was then given an administrative detention order for six months in an Israeli military prison, without specific charges or even a trial. The twelve days he had spent on remand prior to his detention were not taken into consideration. The order was renewed for a further six months, again without charges or trial, in August 2003, days before Daoud was due to be released.<sup>19</sup> (He was finally released on 29 January 2004.)

This case illustrates the ill-treatment to which HRDs in administrative detention are often subjected. The case also shows the practice in Israeli prisons of the arbitrary renewal of administrative detention orders and the announcement of these orders days or hours before a prisoner is due to be released.<sup>20</sup>

### 2.2.2 Denial of Freedom of Expression and Peaceful Assembly

The Israeli Supreme Court has recognised the freedom of assembly as a “fundamental right” and in 1984, Israel’s Attorney General issued legally binding directives to define the framework of this right.<sup>21</sup> However, Jewish and Arab citizens of Israel do not enjoy this right on an equal basis, and HRDs who demonstrate or protest against human rights violations are often denied this right. The freedom of assembly cannot be exercised without prior permission of the local police.<sup>22</sup> The “security and public order” argument is regularly used to prevent HRDs from exercising their right to freedom of assembly. The following cases illustrate Israel’s violation of HRDs’ freedom of expression and assembly:

Israeli security forces have been using excessive force against Palestinian villagers and Israeli peace activists peacefully protesting against the construction of the Wall in Bil’in. “Palestinian and Israeli protestors are assaulted and beaten every week by Israeli troops, who also use tear gas, stun grenades and rubber-coated metal bullets against the demonstrators...As well as using unwarranted force during the demonstrations, Israeli troops have increasingly prevented protestors from reaching the site of the demonstrations, near where the fence/wall is being built.” The fence/wall is cutting villagers off from their land and depriving them of their livelihood.<sup>23</sup>

Zochrot, an Israeli human rights organisation and partner of the Dutch co-financing organisations that work to raise awareness on the Naqba (Arabic for “catastrophe,” referring the expulsion of Palestinians from Israel in 1948), regularly organises seminars and activities for groups, such as visiting demolished Palestinian villages. Over the past three years, Zochrot has received several instructions from the Israeli police ordering the cancellation of their activities. The director of Zochrot was even interrogated because of his awareness raising-activities in Ramla City in December 2004.<sup>24</sup>

### 2.2.3 Impunity

Impunity constitutes a great obstacle for defenders of human rights. The use of excessive force against HRDs is often left unpunished and not independently investigated. In its report “Promoting Impunity: The Israeli Military’s Failure to Investigate Wrongdoing,” Human Rights Watch concluded that the “...Israeli Military’s investigative practices and procedures are not impartial, thorough or timely. The Military rarely has brought wrongdoers to justice, and existing practices have exerted little deterrent effect.”<sup>25</sup>

Impunity and the limitations on seeking an effective remedy for human rights violations obstruct the ability of local HRDs to defend human rights. An Israeli policy of impunity was institutionalised on

27 July 2005 with the amendment of the Civil Wrongs/Civil Torts (Liability of the State) Law, which limits possibilities for Palestinians from the OPT to claim damages through the Israeli legal system for offences committed by Israeli agents.<sup>26</sup> Such policies of institutionalised discrimination prevent HRDs from obtaining judicial redress for victims of human rights violations.

#### **2.2.4 Denial of Freedom of Movement**

In the OPT, HRDs continue to sustain the repercussions of the Israeli-Palestinian conflict, notably the repeated obstacles to their freedom of movement by the Israeli authorities. HRDs experience these obstacles like other Palestinians under occupation, and they are also sometimes specifically targeted. Roadblocks, checkpoints and other physical obstacles endanger and delay the work of HRDs. Partner organisations of Novib, ICCO and Cordaid and other HRDs experience the restrictions on their freedom of movement as the main obstacle in the conduct of their work. HRDs working for organisations situated in the OPT, such as Al-Haq, Addameer, the Palestinian Centre for Human Rights (PCHR) and the Palestinian Centre for Peace and Democracy, have occasionally been refused a travel permit to attend seminars or conferences abroad. Similarly, staff of human rights organisations situated in Israel, such as B'tselem, Zochrot, Adalah and the Public Committee against Torture, are not allowed to travel to the OPT to cooperate with partner organisations or field staff. The Israeli military internal closure policy implemented within the OPT ensures little or no access to colleagues located in different areas of the OPT and effectively limits the cooperation with Israeli HRDs. Moreover, this closure policy serves to effectively restrict the activities of HRDs, preventing access to sites for documentation and verification, and to clients and other victims.

For those HRDs based in the field, movement restrictions prevent them from being able to transfer documentation and evidence to their organisation's headquarters, further complicating the ability to document human rights concerns. Furthermore, the rights of HRDs are breached under the Wall's<sup>27</sup> associated regime of closed zones, hindering and effectively blocking entrance and passage. The construction of the Wall by Israel has been accompanied by the creation of a new administrative regime for the OPT. In October 2003, the Israeli army issued orders establishing the part of the West Bank lying between the Green Line and the Wall as a "closed area".<sup>28</sup> Besides the restrictions on the freedom of movement faced by Palestinian residents and non-residents of this area, this regime constitutes a great obstacle to HRDs in effectively pursuing their work. This is further exacerbated by the consistent denial of access of Israeli and Palestinian HRDs to the Gaza Strip in particular. One of the greatest obstructions to the promotion and protection of human rights of Palestinians in the Gaza Strip is the hindrance and delay that Palestinian lawyers from the Gaza Strip face when trying to travel to Israel and the West Bank. Currently, only those Palestinian lawyers who are trained and licensed in Israel are permitted access to the Israeli judicial system, other than the military courts. This remains a serious problem for Palestinian lawyers considering the fact that most Palestinian prisoners are detained in Israeli prisons.

The following examples are cases in which the freedom of movement of HRDs has been restricted in order to prevent the exchange of information regarding the human rights situation in Palestine:

Mr. Khalil Abu Shammala, Director of Addameer, a Palestinian human rights NGO working on prisoners' issues and partner of the Dutch co-financing organisations, has been repeatedly obstructed by the Israeli Defence Forces from leaving the Gaza Strip.<sup>29</sup> On 11 and 13 March 2005, Israeli security at Rafah crossing point prevented him from attending a workshop on human rights in Jordan. After enquiries among the Knesset members, he was told by Mr. Ramadan Bar, Assistant of the Defence Minister, that he was not allowed to travel for security reasons. Again, on 23 June 2005, Mr. Shammala was denied passage through the Rafah international crossing point and held for seven hours by the Israeli Defence Forces. Mr. Shammala was on his way to Cairo to provide testimony before the United Nations Special Committee to Investigate Israeli Practices. Without providing an explanation, the Israeli authorities finally told him that he was not allowed to travel.

On 9 November 2004, Ms. Jacqueline de Bruijn, a Dutch academic who works to promote human rights, was denied entry to Israel. She had been invited by the Palestinian Youth Association for Leadership and Rights Activation (PYALARA) to participate in a conference in Ramallah on the image of Palestinians in the media.

After being searched for almost four hours at the Ben Gurion airport she was transferred to a prison. During the entire period at the airport and in prison she was not allowed to make any phone calls, not even to the Dutch Embassy. PYALARA learned of Jacqueline's detention and informed the Dutch Embassy about her situation. The Embassy called her and informed her that it might take some time before she could be represented by a lawyer. The next day Ms. De Bruijn was told by Israeli officials that she was not allowed to enter Israel and that she would be flown back to The Netherlands due to her "aggressive behaviour". Back in The Netherlands, Ms. De Bruijn contacted the Dutch Embassy, the Dutch Ministry of Foreign Affairs and the Israeli Embassy. The Israeli Embassy informed her in a letter of 18 January 2005 that she would not be allowed to enter Israel until 31 December 2009. Up to the present, neither letters, phone calls, nor meetings with the Dutch Government and the Israeli Embassy have resulted in a proper explanation of the denial of entry or a change in this decision. During 2005, this affected her productiveness as the campaigns co-ordinator for United Civilians for Peace, a Dutch coalition in which ICCO, Novib and Cordaid participate.

HRDs' freedom of movement is also restricted in the Israeli-occupied Golan Heights. Organizations who try to report on human rights violations are intimidated by the Israeli authorities. HRDs such as journalists are prevented from investigating and reporting on human rights violations in the village of Ghajar, which has been virtually sealed off by the Israeli authorities.

### **2.2.5 Administrative Detention of HRDs**

Israel's practice of administrative detention involves detention of individuals without charge or trial. Detainees are not informed about the reasons for their arrest. They often undergo interrogation, torture and/or other forms of ill-treatment. They are usually denied access to a lawyer. In the OPT, individuals are administratively detained on the orders of regional military commanders. Israel defends its use of administrative detention, claiming that it is necessary for national security. However, Israel has not defined the meaning of "national security", giving itself wide scope for detaining Palestinians, including HRDs.<sup>30</sup> Furthermore, Israel maintains that it can derogate from certain international human rights obligations on the basis that Israel has been in a state of emergency since it was established as a state in 1948.

Administrative detention, as practiced by Israel, constitutes a violation of both international law (International Covenant on Civil and Political Rights, ratified by Israel in 1992) and international humanitarian law (Fourth Geneva Convention and First Additional Protocol).<sup>31</sup> The following case is an example of the use of administrative detention by the Israeli authorities to repress Palestinian HRDs:

On 23 May 2005, Mr. Ziyad Muhammad Shehadeh Hmeidan, a fieldworker of the Palestinian NGO *Al-Haq*, was arrested and handcuffed at the Qalandiya checkpoint between Ramallah and Jerusalem. On 27 May 2005, he was transferred to the Moscobiyya detention centre, in Jerusalem, and on 30 May 2005, the judge of the military court of the detention centre ordered that he be held for another 18 days for investigation. Furthermore, on the same day, an "Order Prohibiting Meeting with Counsel," based on Military Order 378 of 1970, was issued in his case. Mr. Hmeidan was thereby banned from meeting with legal counsel for eight days. On 16 June 2005, Mr. Hmeidan had a hearing before the Moscobiya Military Court, as his detention period was due to expire that day. During the hearing, the prosecutor referred to a "secret file" of classified information about him, allegedly held by the Israeli authorities. On this basis the judge then issued a six-month administrative detention order, due to expire on 23 November 2005. The evidence supporting his detention was not made available to his lawyer.<sup>32</sup> His administrative detention order was subsequently renewed and is now due to expire on 23 May 2006.<sup>33</sup>

### **2.2.6 Denial of Humanitarian Assistance**

The Fourth Geneva Convention, applicable in the OPT, provides for the free passage of medical supplies (Articles 23 and 59), the freedom of medical personnel to carry out their duties (Article 56), and respect and protection of personnel engaged in "the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases" (Article 20).

In spite of this, it is increasingly difficult for members of humanitarian and development agencies operating in the OPT to carry out their work effectively because of an intensification of unprecedented Israeli military restrictions on humanitarian access to the civilian populations affected by conflict. On a daily basis, aid workers are experiencing unacceptable delays at checkpoints, inconsistent and sometimes complete refusal to access project sites and beneficiaries, and harassment of and severe restrictions on the movements of local staff. As a result, humanitarian agencies are no longer able to effectively reach the populations in immediate need of basic assistance, and the capacity to provide sustained and quality support in the long-term is severely undermined.<sup>34</sup>

Israeli authorities justify these actions with the claim that ambulances are used to transport weapons and explosives. However, the Fourth Geneva Convention (Article 59) establishes that although consignments of medical supplies can be searched, they cannot be blocked. The transport of sick and wounded civilians should also not be delayed or blocked.

The following case illustrates the hindrances that medical staff face while trying to fulfil their humanitarian duties:

On 24 August 2005, an ambulance of the Palestinian Red Crescent Society was stopped and denied access by Israeli soldiers at Sarra checkpoint while en route to Sarra village to transport a sick person to hospital. The soldiers ignored the ambulance at the check point. The driver switched on the siren to get the soldiers' attention, after waiting 15 minutes without any response from the soldiers. The soldiers ordered the driver to turn off the engine and to step out of the ambulance. The crew tried to explain the urgency to transport the sick person to hospital, but the soldiers ignored their request and said "let him die". The soldiers prevented the crew from using their communication equipment and were not permitted to answer calls. Then, one of the soldiers started shouting verbal abuses at them. A second soldier hit one of the crew members with his weapon. Denied access to pass, the crew was obliged to take an alternative route.<sup>35</sup>

Numerous other examples of such violations of international humanitarian law have been documented elsewhere.<sup>36</sup>

### **2.2.7 Defamation and Slander Campaigns**

HRDs who denounce human rights violations perpetrated by the Israeli authorities risk facing breaches of their own rights. HRDs that express their solidarity with the Palestinians, particularly those who promote the right of return of Palestinian refugees and the right of self-determination, risk accusations of being anti-Semitic or even terrorists by Israeli authorities.

HRDs in Israel confront many obstacles in the course of their work to protect and promote the rights of political prisoners, including attempts to limit their ability to meet prisoners and to discredit and denigrate them. For example, during hearings in the Israeli parliament over a bill to restrict lawyers' rights to visit their clients, in particular political prisoners, representatives of the Israeli Prison Service presented a memo alleging that lawyers working for human rights organizations had misused visits to their clients in order to support the prisoners' political struggle. The allegations were all baseless and, after facing heavy criticism, the Prison Service attempted to withdraw the memo.<sup>37</sup>

HRDs are also at times accused by the Israeli authorities of representing "a threat to security in the region." Government officials have made statements linking defenders to rebel groups, likening them to terrorists, labelling them as "enemies of the State and the people", and questioning their morals. The statement of Foreign Minister Shalom on 21 May 2003 is yet another example of the slandering of HRDs by the Israeli Government: "... Most human rights offices in the West Bank and Gaza strip provide shelter for Palestinian terrorists."

Adalah, a partner organisation of the Dutch co-financing organisations, is an example of a human rights organisation that has been subjected to bureaucratic harassment and defamation by the Israeli Registrar Office:

Adalah is regularly requested to submit documents and irrelevant information from many years before. In August 2002, the Registrar of Associations went further, deciding to appoint a legal investigator into Adalah's activities alleging that Adalah provided legal consultation beyond the scope of its mandate, used money in connection with certain political figures and on the basis of its relationship with an Arab NGO in Israel. The entire case was published in the media without previously informing Adalah. Adalah appealed against the decision in September 2002, arguing that the Registrar's decision was illegal, discriminatory, and politically motivated, and part of an ongoing effort to harass, intimidate and weaken the political leadership, civil society institutions, and grassroots of the Palestinian minority. In January 2004, the Israeli Interior Minister accepted Adalah's appeal and cancelled the Registrar's decision to appoint an investigator into Adalah's activities. Attempts by the Registrar to interfere with Adalah's work continued. Al-Haq and the Arab Association for Human Rights have both been subjected to bureaucratic harassment.<sup>38</sup>

### **2.2.8 Attacks on the Media**

HRDs in Israel and the OPT include individuals who work in the media, seeking to investigate and expose human rights violations. In the OPT, the Israeli army obstructs the work of local and foreign journalists on a daily basis. The Government Press Office (GPO) continues its longstanding campaign to curb the activities of foreign journalists, whom it accuses of sympathising with the Palestinians, opposing Israel and of being anti-Semitic. Border and airport controls are becoming stricter for foreign journalists. Palestinian journalists, who have not been allowed official press cards since Israel stopped renewing them on 1 January 2002, remain the most exposed to danger in covering events in the West Bank and Gaza and are harassed, threatened, insulted, physically attacked and wounded by the Israeli army.<sup>39</sup>

The following case illustrates the violations committed by the Israeli authorities against a HRD in their attempt to prevent the HRD from exposing or distributing information on the situation of human rights in Israel and the OPT:

In early June 2004, Saqar Muhammad Abu Sa'aluq, a journalist and executive director of the *Naba* news agency, was beaten by police officers, who also broke his camera, while he documented the demolition of homes belonging to the Abu Dhi'an family in the village of Um Al-Hiran in the Negev Desert. He told *I'lam*: "I was the only reporter who was covering attacks by the police on women in the house about to be demolished. They removed me forcibly, and when I attempted to draw near [again] a policeman came and pushed me and hit my camera hard with his wireless telephone. The policeman did not even look at me, but simply turned to his colleagues and told them about his 'act of heroism'."<sup>40</sup>

### **2.2.9 Attacks by Israeli Settlers**

Violence by Israeli settlers is another obstacle faced by HRDs while carrying out their work. Settler violence occurs across the West Bank and Gaza, with Israeli authorities rarely intervening or investigating complaints. Violence by settlers constitutes a threat to Palestinian, Israeli and international HRDs.

The following case illustrates the risks that HRDs face while trying to protect Palestinians from settler violence:

On Wednesday, 16 February 2005, a group of international peace activists were attacked by settlers while accompanying Palestinian shepherds as they allowed their flocks to graze on Israeli-settled land, which lies near the Havat Maon settlement outpost at the southernmost tip of the West Bank. Two masked men demanded they hand over their video camera, which one of the HRDs had been using to film an incident several minutes earlier in which settlers pointed a gun at the head of a woman activist from Christian Peacemaker Teams (CPT). After the HRDs refused, one of the settlers attacked the two activists, breaking an activist's jaw with a kick. In October, two CPT activists were badly beaten by settlers from the outpost as they were accompanying a group of children to school. A seven-year-old Palestinian girl was also hit on the head with a stick.<sup>41</sup>

Violations by Israeli settlers are usually carried out with impunity. As Human Rights Watch recently reported,

“...Israeli settlers in the OPT continue to be allowed to carry weapons and the Israeli authorities have taken no concrete measures to prevent the daily harassment and attacks against Palestinians and their property by Israeli settlers throughout the West Bank. The consistent failure of the Israeli authorities to prevent attacks by Israeli settlers against Palestinians in the OPT and to investigate such attacks and bring settlers to justice has created an atmosphere of impunity, which has ultimately encouraged further attacks.”<sup>42</sup>

### **2.3 Concluding Remarks**

The above-mentioned violations perpetrated by the PA and Israel hinder HRDs in effectively carrying out their work. HRDs in Israel and the OPT incur the risks of being imprisoned, tortured, harassed and falsely accused of being terrorists or anti-Semitic. Restrictions are imposed on the freedoms of expression, assembly and movement, the restriction of the latter constituting the greatest obstacle to HRDs in conducting their daily activities. HRDs are administratively detained and tortured or ill-treated because they investigate, expose or protest against violations of universally-recognised fundamental rights and freedoms. These violations are justified in the name of the “war on terror” and on unclear and undefined national security grounds. Furthermore, a large number of perpetrators of violations against HRDs go unpunished. While some restrictions affect all Palestinians alike, not seeming to target HRDs, other violations target HRDs. In both cases, these restrictions impede the work of HRDs. From 5 to 12 October 2005, Ms. Hina Jilani, UN Special Representative on Human Rights Defenders, conducted a visit to Israel and the West Bank. Her findings confirmed the severe difficulties and obstacles faced by HRDs in Israel and the OPT. She noted that restrictions on the freedom of movement and daily harassment, intimidation and humiliation obstruct the activities of HRDs. She also reported on the total lack of respect for the freedom of assembly and the right to peaceful protest in the OPT. Other obstacles to the work of HRDs included violence by non-state actors and the denial of access to information, places of detention or reported sites of information. The Special Rapporteur called upon Israel “to devise initiatives that would urgently relieve the conditions that are causing serious obstructions to the defence of human rights” and urged the PA to “recognise their responsibility to alleviate the distress and actively provide protection to the population to the extent of their ability and authority”. She stated that “...HRDs in the Occupied Palestinian Territories operate under conditions that are absolutely incompatible with international norms and standards of human rights or principles set forth in the (UN) Declaration (on Human Rights Defenders).”<sup>43</sup> A detailed report of Ms. Jilani’s report will be submitted to the United Nations Commission on Human Rights at its next session in April 2006.

## **3. Dutch and EU Policies and Mechanisms for the Protection of HRDs**

As a member of the international community, the Dutch Government should contribute to the implementation of the UN Declaration on Human Rights Defenders. The UN suggests that ministries of foreign affairs of UN member states “could ensure that the concerns of HRDs working in other countries are reflected in the government’s foreign policy and international trade actions; and provide support to defenders fleeing to other countries to escape persecution by facilitating their entry into the State and temporary residence.”<sup>44</sup> The UN observes that “some governments have adopted official policies on HDRs and instructed their embassies to provide special support to them.”<sup>45</sup>

The Dutch Government has indeed developed bilateral policies in relation to supporting and protecting HRDs.<sup>46</sup> The Dutch Government states that it makes a special effort to support HRDs by providing financial support to human rights organisations and maintaining close contact with human rights

organisations and individual activists as a means for monitoring the human rights situation and of expressing support for their work. If an organisation or activist is harassed or its work otherwise made difficult or impossible by its own government, the Dutch Government, sometimes as part of EU action, will take this up with the local authorities. In some cases, representatives of the Dutch Government will observe the trial of an activist or group of activists in order to assist in ensuring its fairness.

Although the Dutch Government has bilateral policies, of even greater importance is that, as an EU Member State, the Dutch Government is committed to the full and effective implementation of the EU policy in this area, *Ensuring Protection: European Union Guidelines on Human Rights Defenders*. These Guidelines were adopted by the Council of the European Union at its meeting on 15 June 2004. Recognising the role of HRDs and supporting the principles contained in the UN Declaration on Human Rights Defenders, the Guidelines provide for a set of practical suggestions to effectively work towards the promotion and protection of HRDs in third countries within the context of the Common Foreign and Security Policy. The Guidelines are an integral part of the process of further strengthening the EU's human rights policy in external relations and should enhance protection of and support to HRDs. The Guidelines provide for interventions by the EU for HRDs at risk. They also assist EU missions (embassies and consulates of EU member states and European Commission delegations) in acting appropriately in protecting HRDs.

The Guidelines provide for an important role for EU missions, which are requested to address the situation of HRDs in their reporting, noting in particular the occurrence of any threats or attacks against HRDs. Heads of Mission should communicate recommendations for possible EU action, including condemnation of threats and attacks against HRDs and démarches and public statements where HRDs are at immediate or serious risk. EU missions should seek to adopt a proactive policy towards HRDs. Furthermore, the Guidelines provide for:

- the maintenance of "suitable contacts with HRDs, including by receiving them in missions, and visiting their areas of work" and the appointment of specific liaison officers, where necessary on a burden sharing basis, for this purpose;
- the inclusion of HRDs in "the human rights component of political dialogues between the EU and third countries and regional organisations. The EU will underline its support for HRDs and their work, and raise individual cases of concern whenever necessary";
- seeking to ensure that HRDs in third countries can access resources, including financial, from abroad.

During the Dutch Presidency of the EU in the second half of 2004, the Dutch Minister of Foreign Affairs, Ben Bot, emphasised the importance of the work of HRDs and the necessity of protecting them:

"Human rights activists deserve all possible support from EU countries to strengthen their position. Support can take many forms such as making statements and attending court proceedings. But especially confidential démarches of which around 70 have been made over the last five months – from Swaziland to India, from Cuba to Japan. Démarches by which the EU stands up for human rights activists who face execution or torture. Although I have said that I am not dissatisfied with the last six months, I feel that there is still room for improvement in the overall EU approach to promoting human rights. For example, The Netherlands believes that EU policy is still not visible enough, and that coherence with other policy areas can be improved; and that there is need for more continuity. Discussion with the Council Secretariat and the Commission about these issues is still ongoing."<sup>47</sup>

The Minister referred to the EU Guidelines on Human Rights as being an important tool for EU diplomatic missions in third countries.

With regard to Dutch support of HRDs in Israel and the OPT, there is certainly still room for improvement, as the Foreign Minister suggested. Partner organisations of the Dutch co-financing organisations in Israel and the OPT have expressed their desire for more cooperation with the Dutch Government on the issue of HRDs and with respect to the difficulties they face in their daily work.

For its part, the Dutch representative office in the OPT has acknowledged that addressing human rights violations in the OPT is part of its mandate and it seeks to receive systematic and documented information on violations.

### **Mechanisms for Implementing the EU Guidelines on HRDs: Political Dialogue**

As stated above, the EU Guidelines on HRDs stipulate that the human rights component of political dialogues between the EU and third countries should, where relevant, include the issue of HRDs. The circumstances of HRDs are indeed relevant in the case of Israel and the OPT. Political dialogues between the EU and Israel and the EU and the PA take place in the context of the Euro-Mediterranean Partnership and the European Neighbourhood Policy.

### **Euro-Mediterranean Partnership and European Neighbourhood Policy**

The Euro-Mediterranean Partnership (EMP) was established at a Conference of EU Ministers of Foreign Affairs held in Barcelona in November 1995. The aim of the EMP is to create peace, stability and development in a region which is of vital strategic importance to Europe. The EU aims to include human rights and democratisation in all its political dialogues and bilateral relations with third countries. In the context of the EMP, the EU has negotiated bilateral association agreements with each country. The EU-Israel Association Agreement, which was signed in 1995 and which entered into force on 1 June 2000, establishes the right to address the human-rights-related conduct of contracting parties in the course of implementing the agreement. This provides the basis for taking both positive measures to promote human rights and negative measures in reaction to policies and practises that violate human rights. In the framework of the agreement, dialogue between the EU and Israel should take place during meetings of the EU-Israel Association Council (at the ministerial level) and the EU-Israel Association Committee (at the senior official level). The political dialogues that take place can be used to raise the issue of HRDs and to incorporate their protection into the implementation of the Association Agreement.

In the context of EU enlargement, the EMP was complemented in 2004 with the European Neighbourhood Policy (ENP) to offer neighbouring countries an alternative to EU accession. The ENP offers “a privileged relationship” based on “mutual commitment to common values”, including human rights and democracy. In the long run, the ENP offers a stake in the EU’s internal market and further liberalisation to promote the movement of persons, goods, services and capital. The ENP aims to increase accountability regarding performance in the areas of democracy and human rights. Partner countries are asked to commit to jointly developing action plans with priority benchmarks which will be reviewed and determine the speed and intensity for future cooperation.<sup>48</sup> A priority of the action plans for both Israel and the PA (both adopted in December 2004) is enhancing “political dialogue and cooperation, based on shared values, including issues such as...promoting the protection of human rights.”<sup>49</sup>

The Dutch Government supports the view that there should be more progress with respect to human rights and democratisation in certain partner countries. The Netherlands therefore supported a European Commission proposal for the establishment of sub-committees on human rights and democratisation with partner countries in the framework of the association agreements. Israel has rejected this idea however. The Dutch Government maintains that dialogue on Israel’s human rights performance both in Israel and in the OPT can adequately be handled by the “sub-committee for political dialogue” established within the framework of the association agreement. A “working group on human rights” – below subcommittee level – was also recently created. In July 2005, the Dutch Government stated that it is not in favour of denying Israel the benefits it obtains through the implementation of the action plan due to violations of human rights and international law.<sup>50</sup>

## 4. Recommendations

ICCO, Cordaid and Novib believe that the objective of the improvement of the protection of HRDs can be achieved by the full and effective implementation of the EU Guidelines on Human Rights Defenders by the Dutch Government. There is awareness of the Guidelines at the Dutch representations in Israel and the OPT and relevant actions already undertaken, such as raising the case of a detained HRD with the Israeli authorities, research on the practice of administrative detention, support to training of Palestinian security forces regarding torture, and contacts with some HRDs, are acknowledged. However, much more needs to be done.

The recommendations which follow are presented using the same structure as the operational part of the EU Guidelines. In putting these recommendations into practice, the Dutch Government should prioritise HRDs' right of freedom of movement, expression and peaceful assembly, and freedom from torture and ill-treatment. Claims of "national security" should not be allowed to justify the restriction or violation of the right of HRDs to promote and protect internationally recognised human rights. Practices in violation of international human rights standards, such as impunity for violations of the rights of HRDs, torture and administrative detention, should be effectively addressed.

While the Dutch Embassy in Tel Aviv is responsible for reporting, and where necessary, reacting to the actions of the Israeli army and government, including when these acts occur in the OPT, the representative office in Ramallah should in turn address and react to violations perpetrated on the Palestinian side. Both the Embassy in Tel Aviv and the representative office should implement a proactive policy towards the defence of HRDs.

### 4.1 Monitoring, Reporting and Assessment

In line with the principal violations of the rights of HRDs mentioned above, the Dutch Government's Ministry of Foreign Affairs and representations (Embassy in Tel Aviv and representative office in Ramallah) should focus their monitoring activities with regard to:

- the environment and circumstances under which HRDs pursue their work both in Israel and the OPT;
- repressive laws and policies of both the legislative and executive authorities;
- freedom of journalists and HRDs to enter and to leave Israel and the OPT;
- Israeli arrest and detention of HRDs on the basis of evidence which, because it is declared "secret," cannot be legally challenged;
- the practice of administrative detention and arbitrary government action;
- the different laws and practices applying in Israel on the one hand and to Palestinians in the OPT on the other;
- access to humanitarian aid, which is being obstructed by the Israeli army as well as by the building of settlements and the Wall;
- the exercise of the right to freedom of peaceful assembly;
- the right to freedom from torture and ill-treatment.

Monitoring should be improved through 'on the spot' field visits (to the offices or areas of work of HRDs, or locations where violations of the rights of HRDs is reported to be taking place) and by investigating complaints of HRDs regarding the violation of their rights. Violations should be reported to the Dutch Ministry of Foreign Affairs and to other EU governments (including through the meeting of EU Heads of Mission in Israel). Monitoring of violations by settlers and by the Israeli army in the OPT should be carried out not only by the representative office, but also by representatives of the Dutch Embassy in Tel Aviv, since it is the Embassy's mandate to monitor violations of human rights by the Israeli Authorities wherever they take place. The monitoring of the circumstances of HRDs in the OPT by the Dutch Embassy in Tel Aviv should be improved by regularly inviting (Israeli) Palestinian NGOs to the Embassy for meetings or accepting the requests of Palestinian NGOs

for meetings. The Dutch Government should monitor and report on individual cases of violations of the rights of HRDs, including the following:

- Ziyad Hmeidan, Al-Haq;
- Rasim Obeidat, East Jerusalem YMCA;
- Dr Ahmed Maslamani, Health Work Committees.

The Dutch Government should appoint a human rights liaison officer to monitor the occupied Golan Heights. The occupied Golan Heights are not included in the mandate of the Embassy nor the representative office and therefore require a special human rights monitoring mechanism.

#### **4.2 Role of Dutch Representations in Supporting and Protecting HRDs**

- Dutch representations should publicise the EU Guidelines on HRDs among HRDs in Israel and the OPT. Through this activity, the Dutch representations should ensure the awareness of the HRDs community of this new EU policy.
- The Dutch representations should adopt a pro-active policy towards HRDs. This should include discussing with them the best possible ways in which their work of promoting human rights could be protected. This information should be communicated to other EU Missions, in particular the EU Presidency in Israel and the OPT.
- The Dutch Government should propose that the implementation of the Guidelines be a permanent agenda item at Head of Mission meetings. This is a crucial EU forum for sharing information on HRDs with a view to undertaking collective action.
- Contact between Dutch representations and HRDs should be improved—in particular, contact between the Dutch Embassy in Tel Aviv and Israeli Palestinian and Palestinian HRDs. Such contact is crucial for monitoring the circumstances of HRDs in the OPT, especially their treatment by Israeli authorities and settlers. Accessibility of the Dutch Embassy to Palestinian HRDs should be increased through invitations and the granting of requests for meetings. Dutch representations should increase their visits to the areas of work of Palestinian HRDs. Regardless of the presence of a connection with the Dutch Government, HRDs should have access to the Dutch representations and the Dutch Ministry of Foreign Affairs.
- The representations should take measures to observe and prevent violations against HRDs. They should be present at events such as demonstrations and protests, at which the rights of HRDs are likely to be violated. The Dutch Embassy should visit HRDs who are in prison, especially in administrative detention, as a means of preventing ill-treatment of HRDs and exerting pressure for their release. The Dutch Embassy should also lobby Israeli authorities to respect detainees' right to access to legal counsel (both the right of detainees to a Palestinian lawyer in Israel and the right to an Israeli lawyer in the OPT). Visits should also be made to camps, unrecognised villages, Israeli Palestinian neighbourhoods and other places where HRDs are vulnerable for on-the-spot monitoring.
- The Dutch Government should monitor and report on trials of HRDs, or ensure that the EU does this.
- In July 2004, the International Court of Justice ruled the building of the Wall in violation of international law, stating that Israel cannot justify the Wall's construction as exercising the right to self defence or a state of necessity.<sup>51</sup> Similarly, Israel should not be allowed to justify administrative detention and other human rights violations on this basis. In its relations with the Israeli Government, the Dutch Government should clearly express its concern that "national security" is being misused as a justification to violate the rights of HRDs in the OPT. The Dutch Government should take steps to ensure the EU does the same.

- In its relations with Israel, the Dutch Government should, in general and with respect to individual cases, express its concern regarding the Israeli Government's practice of labelling HRDs as "terrorists." The Dutch Government should take steps to ensure the EU does the same.
- Where possible, the Dutch Government should facilitate the freedom of movement in and out of Israel and the OPT by providing or assisting in the application for entry permits and escorts. The Dutch Government should lobby for greater access of HRDs to certain locations (such as prisons) in order to report on human rights conditions.
- In order to address impunity, the Dutch Government – both bilaterally and through the EU - should urge both Israel and the PA to order impartial investigations into serious acts of violence against HRDs. The Dutch Government – either bilaterally or through the EU - should monitor the conduct of these investigations.
- The Dutch Government should not feel reluctant to openly raise the issue of the Arab minority in Israel, nor should it accept the marginalisation of Jerusalem, which makes it more difficult for HRDs from Jerusalem to pursue their work. The non-conducive environment in which HRDs work in Gaza should constantly be addressed. The Dutch Government should call upon Israel to rise to its responsibilities in this respect and stress the fact that its responsibilities regarding Gaza should not cease with the Israeli disengagement from Gaza.

#### **4.3 Promotion of Respect for HRDs in Relations with Third Countries and in Multilateral Fora**

- The Dutch Government should utilise the possibility of initiating an EU démarche or public statement more frequently, in particular in cases where HRDs are at immediate risk. In order to express the EU's condemnation of the repression of HRDs, the Dutch Embassy and the representative office should co-ordinate with other EU Missions in the collective use of the above-mentioned political instruments.
- The Dutch Government should ensure that the human rights component of political dialogues within the framework of the EMP association agreements addresses the situation of HRDs. This includes raising the issue of HRDs and individual cases during the meetings of the EU-Israel and EU-PA Association Councils, Association Committees, sub-committees and working groups. Concrete objectives and clear, measurable benchmarks should create the framework for such dialogues. Measurable benchmarks regarding a general problem should consist of the action taken on particular cases. Transparency of the political dialogue should provide the opportunity for HRDs to be informed of the results and agreements that were reached within these dialogues so they can follow up appropriately. The embassy and the representative office should ensure that HRDs are informed of the content of these dialogues and the agreements reached and given an opportunity to express their concerns and needs through prior consultations.
- The Dutch Government should ensure that the EU presses for the creation of human rights sub-committees in the context of the implementation of the Action Plans agreed with Israel and with the PA as part of the ENP.
- The Dutch Government should ensure that the protection of HRDs and the promotion of their work are integrated in the ENP action plans. When updated, the country reports on which the action plans are based should examine the situation of HRDs in order to identify priority actions to be taken to improve their circumstances.

#### **4.4 Support for Special Procedures of the UN Commission on Human Rights, Including the Special Representative on HRDs**

- The Special Rapporteur of the Secretary-General on the situation of HRDs also plays a crucial role in reporting on the threats, violations and obstacles that HRDs have to face while carrying out their duties. With regard to answering the call of the Special Rapporteur's appeal to improve the environment in which HRDs pursue their work in Israel and the OPT, the Dutch Government should:
  - call upon the Israeli authorities and the PA to urgently and fully implement the recommendations of the Special Rapporteur;
  - use all available mechanisms (including at the EU level) to answer the call of the Special Rapporteur and to follow up the Special Rapporteur's recommendations;
  - lobby at the European level for the issuing of a public statement at the time of the publication of the Special Rapporteur's report, in which the EU expresses its concerns regarding the situation of HRDs in Israel and the OPT (as contained in the findings of the Special Rapporteur) and urges Israel and the PA to implement the Special Rapporteur's recommendations.
- The Dutch Government should contact local NGOs active in the human rights field in order to explore with them the best possible ways of following up the recommendations of the Special Rapporteur on HRDs.

#### **4.5 Practical Support for HRDs Including Through Development Policy**

- The Dutch Government's contribution to promote human rights and democratisation in Israel and the OPT through development policy should continue to include support for HRDs and their work.
- The Dutch Government should encourage the PA not to return to the restrictive practices of the past (before the second Intifada) in relation to HRDs and, where needed, promote and support improvement of the PA's laws, policies and practices.
- The Embassy and representative office should provide material and financial support to HRDs at immediate risk.

#### **4.6 Role of Council Working Parties**

- The Dutch Government should ensure (including through COHOM) that the issue of HRDs is included on the agenda of the Mashreq/Maghreb Council Working Group, the European Commission's working group for the Middle East peace process (COMEPP), and other relevant EU bodies.

<sup>1</sup> See Council of the European Union, The European Union Counter-Terrorism Strategy, Brussels, 30 November 2005, p. 9, available at [http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04\\_en05.pdf](http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04_en05.pdf)

<sup>2</sup> For the purposes of this report, the OPT consists of the West Bank and the Gaza Strip. Before 1967, these areas were governed by Jordan and Egypt respectively. However, they were occupied by Israel during the Six-Day War in June 1967. In spite of resolutions of the UN Security Council calling for Israel to withdraw from these areas, they are still occupied to this day. Israel does not consider itself to be an occupying power. However, the UN does consider Israel as an occupying power and as such, responsible for respecting and implementing international law and international human rights standards in the OPT. This paper is based on this United Nations position.

<sup>3</sup> Definition based on article 1 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms: “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels.”

<sup>4</sup> UN fact sheet No. 29, Human Rights Defenders: Protecting the Right to Defend Human Rights, April 2004, United Nations Office of the High Commissioner for Human Rights.

<sup>5</sup> Country visit from 5th-12th October 2005 following the invitation of the Government of Israel, press release of 11 October 2005 (<http://www.arabhra.org/publications/pressrel/PDF/pressrel051011.pdf>).

<sup>6</sup> See The European Union Counter-Terrorism Strategy, p. 12.

<sup>7</sup> Idem, p. 9.

<sup>8</sup> Article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights.

<sup>9</sup> Palestinian Centre for Human Rights, The right to free expression and the right to freedom of assembly: The case of the West Bank and Gaza Strip, January 1, 1999-April 30, 2000, p. 1-32, at p. 18-29. (<http://www.pchrgaza.org/files/S&r/English/pdf/Series Study 23.pdf>).

<sup>10</sup> Idem.

<sup>11</sup> Amnesty International, public statement, Israel/Occupied Territories: concerns at growing lawlessness in Gaza, 12 August 2005 (<http://www.reliefweb.int/rw/RWB.NSF/db900SID/EVIU-6FADVY?OpenDocument>).

<sup>12</sup> See press releases of the Palestinian Centre for Human Rights at [www.pchrgaza.org](http://www.pchrgaza.org)

<sup>13</sup> Press release, Palestinian Center for Human Rights, 28 December 2005, available at <http://www.pchrgaza.org/files/PressR/English/2005/165-2005.htm>

<sup>14</sup> External Evaluation Report for Al-Haq, 15 September 2005, pp. 1-40, at p. 19, 20.

<sup>15</sup> Memorandum to the Palestinian Legislative Council Members from Palestinian Non-Governmental Organisations, 9 June 2005, available at <http://www.pngo.net/pngo.htm>

<sup>16</sup> See International Court of Justice, Press Release 2004/28, 9 July 2004, “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” available at [http://www.icj-cij.org/icjwww/ipresscom/ipresscom2004/ipresscom2004-28\\_mwp\\_20040709.htm](http://www.icj-cij.org/icjwww/ipresscom/ipresscom2004/ipresscom2004-28_mwp_20040709.htm)

<sup>17</sup> The ICCPR allows states to restrict the rights to liberty of movement, freedom of association, freedom of expression and of peaceful assembly in the interests of national security. See ICCPR, Articles 12, 19, 21 and 22.

<sup>18</sup> See website of Addameer: <http://www.addameer.org/detention/torture.html>

<sup>19</sup> Idem.

<sup>20</sup> Conditions and challenges experienced by human rights defenders in carrying out their work: findings and recommendations of a fact-finding mission to Israel and the Occupied Palestinian Territories carried out by Forefront and by the World Organisation against Torture (OMCT) and the International Federation for Human Rights (FIDH) in their joint programme the Observatory for the protection of human rights defenders, 17-23 November 2003.

<sup>21</sup> Neil Jarman and Dominc Bryan, Institute for Conflict Research, General Principles Governing Freedom of Assembly and Public Events, 1998 ([http://www.osce.org/documents/odihr/2004/05/3676\\_en.pdf](http://www.osce.org/documents/odihr/2004/05/3676_en.pdf)), page 2

<sup>22</sup> Idem.

<sup>23</sup> See “Israel: Fear for safety / Excessive use of force / Land Rights,” Amnesty International Urgent Action, AI index MDE 15/047/2005, 22 September 2005, available at <http://web.amnesty.org/library/index/engmde150472005>

<sup>24</sup> Interview with two staff members of Zochrot in Tel Aviv on the 3rd of October 2005.

<sup>25</sup> Human Rights Watch, Promoting Impunity: The Israeli Military’s failure to investigate wrongdoing, June 2005 Vol. 17, No. 7 (E).

<sup>26</sup> See Amnesty International Irish Section, “Public Statement on Discriminatory Laws,” 28 July 2005, available at <http://www.amnesty.ie/user/content/view/full/4292/>

- 
- 27 Israel started constructing a “security barrier,” taking the form of a fence or a concrete wall, in June 2002. The route of the barrier falls mostly within the West Bank resulting in the confiscation of large portions of West Bank land.
- 28 Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of the Wall in the OPT, 9 July 2004, paragraph 85.
- 29 See website of the International Federation for Human Rights (FIDH): [http://www.fidh.org/article.php3?id\\_article=2575](http://www.fidh.org/article.php3?id_article=2575)
- 30 See website of B'tselem: [http://www.btselem.org/English/Administrative\\_Detention/](http://www.btselem.org/English/Administrative_Detention/)
- 31 Article 75 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.
- 32 See The Observatory, Newsletter 33, May-June 2005, p. 6, available at [http://www.omct.org/pdf/observatory/2005/newsletter/newsletter\\_may\\_june\\_05.pdf](http://www.omct.org/pdf/observatory/2005/newsletter/newsletter_may_june_05.pdf)
- 33 See “Administrative Detention,” Amnesty International, updated 05/02/06, available at <http://web.amnesty.org/pages/isr-action-detention>
- 34 B'tselem and Physicians for human rights, Harm to Medical Personnel: The Delay, Abuse and Humiliation of Medical Personnel by the Israeli Security Forces, December 2003, p. 1-27, at p. 5.
- 35 Palestine Red Crescent Society. Weekly press release for the period 20-26 August 2005, 30 August 2005, ([www.palestinercs.org](http://www.palestinercs.org)).
- 36 Front Line and the Palestinian Centre for Human Rights, Front Line Palestine: Killings, Arbitrary Detention, Restrictions on Movement, Threats, Harassment and Other Forms of Intimidation of Human Rights Defenders in the Occupied Palestinian Territory, 2005, Blackrock, Ireland, p. 35-54.
- 37 Information based on an interview with a staff member of Adalah on the 28<sup>th</sup> of September.
- 38 Interview with a staff member of Adalah in Shfarram and a staff member of the Arab Association for Human Rights in Haifa on the 28<sup>th</sup> of September 2005 and interview with a staff member of Al-Haq in Ramallah on the 27<sup>th</sup> of September.
- 39 Reporters sans frontières, Israel - Annual Report 2004 (<http://www.rsf.org/>).
- 40 International Press Institute, Press Freedom Violations in Israel and Palestine, September 29, 200-September 28, 2004 ([http://www.freemedia.at/r\\_intifada/r\\_intifada\\_2004.htm](http://www.freemedia.at/r_intifada/r_intifada_2004.htm)) More cases of violations against the local and foreign media by Israeli authorities can be found on the website of the International Press Institute: <http://www.freemedia.at/wpfr/Mena/israel.htm>
- 41 Aljazeera, <http://english.aljazeera.net/NR/exeres/68D95395-42C6-447F-8A8A-7B47092A97DF.htm>
- 42 Human Rights Watch, Promoting Impunity: The Israeli Military’s failure to investigate wrongdoing, June 2005 Vol. 17, No. 7 (E).
- 43 See United Nations Office of the High Commissioner for Human Rights, Press Release, 11 October 2005, Jerusalem.
- 44 Human Rights Defenders: Protecting the Right to Defend Human Rights, Human Rights Fact Sheet No. 29, April 2004, United Nations, Geneva, p. 31.
- 45 Idem, p. 31-32.
- 46 See Dutch Human Rights Policy (undated), available at [http://www.minbuza.nl/default.asp?CMS\\_ITEM=A30603D84CAD4D1CB940FBA958E31D07X3X43744X43#TOC\\_6](http://www.minbuza.nl/default.asp?CMS_ITEM=A30603D84CAD4D1CB940FBA958E31D07X3X43744X43#TOC_6)
- 47 See website of the Dutch Presidency in 2004: [http://www.eu2004.nl/default.asp?CMS\\_ITEM=2DB8F713925C42EA9D81380416EE447AX1X43347X99](http://www.eu2004.nl/default.asp?CMS_ITEM=2DB8F713925C42EA9D81380416EE447AX1X43347X99)
- 48 Commission of the European Communities: European Neighbourhood Policy Strategy Paper, COM (2004) 373 final, Brussels 12.5.2004.
- 49 Proposed EU/Israel Action Plan, p. 3, available at [http://europa.eu.int/comm/world/enp/pdf/action\\_plans/Proposed\\_Action\\_Plan\\_EU-Israel.pdf](http://europa.eu.int/comm/world/enp/pdf/action_plans/Proposed_Action_Plan_EU-Israel.pdf). Proposed EU/Palestinian Authority Action Plan, p.3, available at [http://europa.eu.int/comm/world/enp/pdf/action\\_plans/Proposed\\_Action\\_Plan\\_EU-Palestinian\\_Authority.pdf](http://europa.eu.int/comm/world/enp/pdf/action_plans/Proposed_Action_Plan_EU-Palestinian_Authority.pdf)
- 50 Question of a member of the Parliament Vragen van het lid Van der Laan (D66) to the Minister of Foreign Affairs on the EU-Israel action plan (18 July 2005), no. 2040518450.
- 51 See International Court of Justice, Press Release 2004/28 of 9 July 2004 “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” page 4, available at [http://www.icj-cij.org/icjwww/ipresscom/ipress2004/ipresscom2004-28\\_mwp\\_20040709.htm](http://www.icj-cij.org/icjwww/ipresscom/ipress2004/ipresscom2004-28_mwp_20040709.htm)