

## HUMAN RIGHTS WATCH

350 Fifth Ave, 34th Floor  
New York, NY 10118  
Phone: 212.290.4700  
Fax: 212.736.1300  
hrwnyc@hrw.org

### MIDDLE EAST AND NORTH AFRICA DIVISION

Sarah Leah Whitson  
*Executive Director*  
Joe Stork  
*Deputy Director*  
Fadi al-Qadi  
*Regional Advocate*  
Eric Goldstein  
*Research Director*  
Hania Mufti  
*London Office Director*  
Lucy Mair  
*Researcher*  
**Hadi Ghaemi**  
*Researcher*  
Christoph Wilcke  
*Researcher*  
Leila Hull  
Tarek Radwan  
*Associates*

### ADVISORY COMMITTEE

Gary G. Sick  
*Chair*  
Bruce Rabb  
Shibley Telhami  
Kathleen Peratis  
*Vice Chair*  
Khaled Abou El-Fadl  
Lisa Anderson  
Steve Apkon  
Shaul Bakhash  
Richard Bartlett  
Warren Bass  
M. Cherif Bassiouni  
Martin Blumenthal  
Paul Chevigny  
Helena Cobban  
Edith Everett  
Mansour Farhang  
Christopher E. George  
Rita E. Hauser  
Rev. J. Bryan Hehir  
Robert James  
Edy Kaufman  
Marina Pinto Kaufman  
Samir Khalaf  
Judith Kipper  
Ann M. Lesch  
Robert Malley  
Stephen P. Marks  
Hassan El Masri  
Rolando Matalon  
Philip Mattar  
Sheila Nemazee  
Nader Mousavizadeh  
Trevor Pears  
Jane Schaller  
Jean-Francois Seznec  
Charles Shamas  
Mustapha Tlili  
Andrew Whitley  
Napoleon B. Williams, Jr.  
James J. Zogby

### HUMAN RIGHTS WATCH

Kenneth Roth  
*Executive Director*  
Allison Adoradio  
*Operations Director*  
Michele Alexander  
*Development & Outreach Director*  
Carroll Bogert  
*Associate Director*  
Widney Brown  
*Deputy Program Director*  
Peggy Hicks  
*Global Advocacy Director*  
Iain Levine  
*Program Director*  
Dinah PoKempner  
*General Counsel*  
James Ross  
*Senior Legal Advisor*  
Joe Saunders  
*Deputy Program Director*  
Wilder Tayler  
*Legal and Policy Director*  
Joanna Weschler  
*UN Representative*  
Jane Olson  
*Chair, Board of Directors*

## For Immediate Release

### For more information, please contact:

In Jerusalem, Lucy Mair: +972-548-167775  
In Cairo, Sarah Leah Whitson: +20-212-509-5798  
In London, Urmi Shah: +44-20-7713-2788  
In Brussels, Vanessa Saenen (French, German, Dutch): +32-2-2732-2009

## Israel: Bill Would Deny Compensation for Rights Abuses *Palestinians Would Be Excluded from Seeking Remedies in Israeli Courts*

(Jerusalem, June 26, 2005)—Members of the Israeli Knesset are debating a bill that would prohibit residents in the Occupied Palestinian Territories from seeking compensation for death or injury at the hands of Israeli soldiers, even if the soldiers are found to have acted unlawfully.

Human Rights Watch said that Israel has not upheld its obligation under international law to provide an effective remedy to victims of human rights abuses in the Territories, and this bill is yet further evidence of that.

On Thursday, Human Rights Watch attended the hearing of the Knesset's Constitution, Law and Justice Committee in which members of parliament debated an amendment to the Civil Wrongs (Liability of State) Law, 5712-1952. The proposed amendment would prohibit "a national of an enemy state or a resident of a conflict zone" from bringing claims for compensation against the state in an Israeli court for harm inflicted by Israeli forces. This would apply even if Israeli forces have clearly acted wrongfully and regardless of whether the harm occurs in the Occupied Palestinian Territories or beyond.

The bill would give the minister of defense the authority to define all of the Occupied Palestinian Territories as a "conflict zone," thus precluding compensation for all Palestinians in the territories. The government has stated that it will exclude settlements from "the conflict zone," thus preserving compensation rights for Israeli citizens.

The bill seeks to expand an already problematic Israeli law that prohibits compensation for "war operations," which are defined to include "any action combating terror, hostile acts or insurrection, and also an action intended to prevent terror, hostile acts, or insurrection that is taken in a situation endangering life or limb." This would prohibit all residents of a "conflict zone" from seeking compensation whether or not the harm they have suffered is related to any specific operation.

"If implemented, this bill would prohibit Palestinians under occupation from seeking compensation even if an Israeli soldier is found guilty of killing a



civilian without any justification at all,” said Sarah Leah Whitson, Middle East director at Human Rights Watch. “It sends the message that Israel will offer no remedy to certain victims, no matter how wrong or unlawful the conduct of its soldiers.”

Under international human rights law, every state is obliged to provide effective remedies to victims of human rights violations. That requirement includes the obligation to provide victims and their relatives with fair and adequate compensation. In addition, Israel is obligated to investigate, prosecute and punish those responsible for the abuses.

Although Israel disputes that its international human rights obligations apply to the Occupied Territories, this view has been rejected definitively by the international bodies responsible for monitoring state compliance under these treaties. Israel is a party to five international human rights treaties that require the state to ensure a remedy to persons whose human rights are violated. (See [http://www.hrw.org/reports/2005/iopt0605/4.htm#\\_Toc106249172](http://www.hrw.org/reports/2005/iopt0605/4.htm#_Toc106249172).)

“The Knesset should respect Israel’s international legal obligation to provide victims of human rights abuses with compensation,” said Whitson.

The Israeli government maintains that it has no duty under international law to pay compensation to civilians during a time of armed conflict. The government also claims that there is a permanent state of armed conflict in the Occupied Palestinian Territories. However, as the occupying power, much of the time Israel is policing and performing law enforcement duties instead, Human Rights Watch said.

More than 1,600 civilians have been killed in the territories in situations outside of armed conflict since September 2000. But if implemented as the government has suggested, this bill would preclude compensation for any of the victims of unlawful conduct even in cases outside armed conflict.

“Even a situation of actual armed conflict does not preempt all human rights obligations,” Whitson said. “Israel still has an obligation to ensure remedies for serious violations.”

In addition, the Israeli government has claimed that lawsuits filed by Palestinians for compensation would place an undue burden on the state and on reservists who would have to testify. The government also argued that such cases may require it to disclose classified military intelligence regarding the conduct of military operations. Inconvenience to state agencies and actors, however, is no justification for denying certain victims their rights under international law, Human Rights Watch said.

Furthermore, claims for compensation raise no greater need for disclosure of sensitive information than already exists when courts investigate misconduct by the Israeli military. Israeli courts can determine on a case-by-case basis whether and how to disclose sensitive information in a manner that does not compromise national security.

Several Israeli legal scholars have testified that the proposed amendment would contravene not only international law, but Israeli law as well. Mordechai Kremnitzer, professor of constitutional

and criminal law at Hebrew University, testified at the hearing that the bill “contradicts Israel’s Basic Law: Human Dignity and Liberty and ... will not withstand judicial scrutiny.... The bill contributes to and reflects the process of the demonization of the Palestinians.” Kremnitzer also pointed out that the amendment would enable plaintiffs to successfully seek redress in foreign courts based on their lack of remedy in Israeli courts.

Orna Kohn, a staff attorney at the domestic human rights organization Adalah, also testified in opposition to the bill. She said that “approving this bill would not only deprive Palestinians from the right to obtain a basic form of justice — compensation for the wrongs they have suffered — it would also further contribute to the military’s lack of accountability by taking away an important form of sanction for human rights violations committed under its command.”

Human Rights Watch on Wednesday released a report, “Promoting Impunity: The Israeli Military’s Failure to Investigate Wrongdoing,” documenting how the Israeli government has failed in its legal obligation to investigate whether soldiers have killed or injured Palestinian civilians unlawfully or failed to protect them from harm.

The report found that Israeli authorities have investigated fewer than five percent of fatal incidents to determine whether soldiers were responsible for using force unlawfully. When investigations were undertaken, they frequently fell far short of international standards for an independent and impartial inquiry. Human Rights Watch called on Israel to establish an independent, civilian commission authorized to receive complaints and investigate human rights violations by Israeli forces.

*Promoting Impunity: The Israeli Military’s Failure to Investigate Wrongdoing* is available at: <http://hrw.org/reports/2005/iopt0605/>.