

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

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Executive Summary

From November 17-23, 2003, a delegation of three visited Israel and the Occupied Palestinian Territories (OPTs). This was a collaborative initiative organized 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.

The delegation's goals were to advance the principles laid out in the 1998 *United Nations Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, and to support the work of the UN Secretary-General's Special Representative on Human Rights Defenders. The delegation aimed to document the conditions and challenges faced by local human rights defenders in Israel and the OPTs, i.e. a region crucial to world peace and security which has experienced armed conflict and terrorism for many years, and where there further exist specific circumstances of separation of territory and people, including by a highly-guarded wall with a "seam zone". The delegation also aimed, where appropriate, to explore possible recommendations for improvement of the situation and work conditions of human rights defenders.

The delegation's on-site findings show how complex, challenging and risky the work of human rights NGOs is in such a conflict-filled environment where all human rights are at risk, and the extent to which human rights defenders themselves may be exposed to violations of their human rights.

The report highlights the considerable differences between the challenge of defending and protecting human rights in the OPTs, on the one hand, and in Israel, a State with binding legal obligations under international human rights law and international humanitarian law, on the other. Palestinian organisations work in the context of a fight for independence and statehood military occupation, strict territorial closure, limitations on freedom of movement that can be described as asphyxiating, and constant, multiple and serious attacks on human dignity by the occupying force. Israeli organisations work in a democratic environment, but exposed to armed resistance, with the risk of abhorrent suicide attacks that create a climate of insecurity and a level of anxiety that eventually erode people's capacity to be concerned about the plight of the other. Yet, against these two different backgrounds and sets of circumstances, the work of all these organisations appears equally important as the efforts of each serves to complement and reinforce the efforts of the others.

This report exposes at the grave impact that a purely military approach to security has on the enjoyment of human rights. The wide range of activities that have to be carried out by those human rights NGOs concerned with the situation of the Palestinian people provides clear evidence of the negative impact of such a traditional approach to security on almost the entire gamut of human rights, especially where international humanitarian law is not respected.

This report addresses issues of registration and funding for human rights NGOs in Israel on one side and the Palestine National Authority (PNA) on the other. It also addresses the different ways in which human rights NGOs monitor human rights practices. Attention is also paid to the way the work of human rights defenders is perceived by the authorities and within their own communities.

Against such a background, the report shows that the dividing line is not between Israelis and Palestinians. It is rather between those who, on the one hand, are concerned about human dignity above and over any other considerations and who attempt to promote transparency and accountability to international human rights standards by whoever violates them, and by those who, on the other hand, trust that security may be achieved at the cost of sacrificing the human rights of those perceived as a threat. The first group is embodied by the local human rights organisations, which represent a variety of approaches to the conflict. The other group tries to exert control through increasingly repressive measures that eventually turn into an indiscriminate punishment for an entire community, with a boomerang effect on their own community. Opposed to them are people who have no concern for human rights and perpetuate suicide bombings that indiscriminately harm the civilian population.

Finally, the report addresses the crucial contribution that, in such a context, civil society and especially human rights NGOs are able to make to peace efforts. It advocates for bridge-building among those who defend the cause of human rights - both local NGOs and the international human rights community - as the best way to counter and prevent armed violence and terrorism, to generate mutual respect and confidence, and to ensure security and a lasting peace. This report concludes that there cannot be any peace or security where human dignity is being suppressed by force and international public law is being violated with impunity, and underlines that it is thus crucial to place respect for human rights and international humanitarian law at the centre of all peace efforts.

A. Mission's rationale and objectives

1. The delegation was the result of a joint effort by the three mandating organisations – 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 - to further the 1998 *United Nations Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, and to provide first-hand substantive evidence and recommendations in support to the work of the UN Secretary-General's Special Representative on Human Rights Defenders.
2. For this first and pioneering on-site mission, the three organisations decided to document the conditions and challenges experienced by human rights NGOs and human rights defenders working in an environment of armed conflict and acts of terrorism. The three organisations further decided to conduct the mission in a region that is crucial to world peace and security and has experienced armed conflict and terrorism for many years. Additionally, there are specific circumstances that include separation of territory and people, and a highly-guarded wall with a "seam zone"¹.
3. The three organisations believe that, in promoting transparency and accountability to international human rights standards, non-governmental organisations are critical to moving beyond conflict. However, especially in circumstances of armed conflict and acts of terrorism the voices of local human rights groups tend to be shut down despite their attempts to raise awareness of human rights standards in order to prevent further violence and promote humane alternatives. These groups often go unheard despite their daily struggle against enormous odds and risks to monitor the conflict by documenting and reporting abuses, gathering data, interviewing victims and witnesses and promoting justice for victims of abuses. An even more serious concern is that, as a result of an artificially created opposition between human rights protection and national security concerns, human rights organisations and defenders may be viewed as opponents and, as a result, become direct targets of hostile action.
4. Therefore, the delegation's work was guided by the following goals:
 - To document obstacles that inhibit the work of human rights defenders in Israel and the Occupied Palestinian Territories, according to the rights laid out, notably, in the *United Nations Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, and other sources of international human rights law and in international humanitarian law.
 - To document the role that human rights defenders, working as independent monitors, can play in bringing peace and justice to the region.
 - To explore specific and achievable recommendations to improve the ability of human rights groups to carry out their work safely and effectively. As appropriate, these recommendations will be channeled to the Government of Israel, the Palestinian National Authority (hereafter PNA), the UN Secretary-General's Special Representative on Human Rights Defenders and others.

B. The delegation's composition and activities

Composition

5. The delegation included:
 - For Forefront²: Ms. Oona Chatterjee (United States of America), co-founder and co-Director of Make the Road by Walking, a grassroots human rights organisation based in Brooklyn, New York (see www.maketheroad.org), and Mr. Miguel-Angel de los Santos (Mexico), founder and director of the Red de Defensores Comunitarios por los Derechos Humanos, a grassroots human rights organisation based in the State of Chiapas, Mexico (see www.defensorescomunitarios.org). Both are members of the Forefront network and recipients of the Reebok Human Rights Award;
 - For the OMCT and the FIDH (Observatory for the Protection of Human Rights Defenders)³:

¹ "Seam zone" is the official wording used by the Israeli Ministry of Defence regarding the security area alongside the separation wall between Israel and the West Bank.

² **Forefront** is a global network of grassroots human rights defenders and is based in New York. It provides expertise and develops strategies to help human rights defenders perform their work safely and efficiently and offers emergency response to protect defenders facing risks or whose lives are endangered. Further details may be found in www.forefrontleaders.org.

³ The **World Organisation Against Torture, OMCT**, is the largest coalition of NGOs fighting against torture, summary executions, forced disappearances and all other forms of cruel, inhuman or degrading treatment. . It is based in Geneva and has

Ms. Christine Pintat (France), independent consultant, former Assistant Secretary General of the Inter-Parliamentary Union.

Programme

6. The delegation visited Israel (West Jerusalem and Tel Aviv) and the OPTs (East Jerusalem, West Bank and Gaza Strip) from 17 to 23 November 2003.

7. The programme for the visit was coordinated by two local organisations: B'Tselem, an Israeli organisation based in West Jerusalem, and Al-Haq, a Palestinian organisation based in Ramallah, in the West Bank. It included meetings with local non governmental human rights organisations which are listed hereafter as per the sequence of meetings:

- *Israeli NGOs:* B'Tselem, HaMoked, Public Committee Against Torture in Israel, New Israeli Fund, Adalah, Palestinian Human Rights Monitoring Group, The Association of Forty, Rabbis for Human Rights, Physicians for Human Rights;
- *Palestinian NGOs:* (i) In East Jerusalem and the West Bank: Al-Haq, Addameer, Jerusalem Centre for Legal Aid, Women's Centre for Legal Aid and Counselling, Defence for Children International (DCI) – Palestine section, Democracy and Workers' Rights Centre in Palestine, Independent Commission for Citizens Rights, Palestinian Red Crescent Society, and the Apartheid Wall Campaign/Campaign Emergency Centre in Jayous, Qalqiliya; and (ii) In the Gaza Strip: Al-Mezan Human Rights Centre and the Palestinian Centre for Human Rights.

Owing to scheduling constraints, the delegation regrets that it was unable to meet representatives of the Israeli Coalition Against Housing Demolition (ICAHN) and of the Magen David Adom or other relevant Israeli and Palestinian non-governmental organisations which could have provided useful additional information.

8. As may be seen from the brief profile of the organisations presented in annex 1, some human rights NGOs in Israel exclusively address issues of human rights violations affecting the Palestinian people in the OPTs and in Israeli detention centres and prisons while the others work on human rights issues in Israel as well. Those concentrating both on human rights issues in Israel and the OPTs include B'Tselem, Rabbis for Human Rights, Physicians for Human Rights, Public Committee Against Torture in Israel, and HaMoked. In the OPTs, all human rights NGOs concentrate on human rights violations by Israel in the OPTs and against the Palestinian people at large. At varying degrees, some of them (e.g. Al-Haq, Palestinian Centre for Human Rights, Al-Mezan Centre for Human Rights) also raise issues of human rights violations by the PNA. One Palestinian organisation based in Jerusalem, the Palestinian Human Rights Monitoring Group, is concentrating on human rights violations committed by the PNA.

9. The visit included on-site visits, especially at checkpoints, areas in the West Bank where the State of Israel is building the "Wall"⁴ and in the vicinity of Gaza City where major recent house demolitions took place.

10. The delegation also met representatives of two international organisations active in Israel and the OPTs: The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) - Humanitarian Information Centre in the Occupied Palestinian Territories, and UNA International Service (UNAIS). For the same reasons as stated above, the delegation was unable to meet representatives of the United Nations Relief and Works Agency (UNRWA), Oxfam and other relevant international organisations which could have

consultative status with ECOSOC, the ILO, the African Commission on Human and People's Rights and the Council of Europe. Further details may be found in www.omct.org. The **International Federation of Human Rights, FIDH**, is a federation of 142 organisations with the mandate to act effectively and practically to ensure the respect of all the rights laid down in the Universal Declaration of Human Rights and in all other international human rights instruments. It is based in Paris and has consultative status with ECOSOC, the African Commission on Human and People's Rights, the Council of Europe, UNESCO and ILO. Further details may be found in www.fidh.org. The two organisations jointly established in 1997 the **Observatory for the Protection of Human Rights Defenders** whose mission is to afford concrete protection to human rights defenders who are harassed for the sole reason that they are actively engaged in promoting universally recognised fundamental freedoms and to reinforce the action capability of the local NGOs, firmly establishing their indispensable role in promoting peace, the rule of law, and democracy in all parts of the world. .

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The **Wall** : At the time of publishing, the International Court of Justice is seized with complaints regarding the legality of the Wall. As observed by Mr. John Dugard, the United Nations Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian Territories occupied by Israel since 1967, "*Language is a powerful instrument. This explains why words that accurately describe a particular situation are often avoided out of fear that they will too vividly portray the situation which they seek to depict. In politics, euphemism is often preferred to accuracy in language. So it is with the Wall that Israel is presently constructing within the territory of the West Bank. The word "annexation" is avoided as it is too accurate a description and too unconcerned about the need to obfuscate the truth in the interests of anti-terrorism measures. However, the fact must be faced that what we are presently witnessing in the West Bank is a visible and clear act of territorial annexation under the guise of security. There may have been no official act of annexation of the Palestinian territory in effect transferred to Israel by the construction of the Wall, but it is impossible to avoid the conclusion that we are here faced with annexation of Palestinian territory*" (para. 6 of document E/CN.4/2004/6, dated 8 September 2003, presented to the 60th Session of the UN Human Rights Commission). Based on Mr. Dugard's report, this report will use the words "the Wall".

provided the delegation with useful additional information. It however had informal discussions with staffers from various international human rights organisations

11. The delegation was further invited for a discussion at the Ministry for Foreign Affairs of the State of Israel. Prior to its departure, the Deputy Permanent Representative of the Permanent Mission of Israel to the United Nations in Geneva had requested a meeting with the OMCT Director, Mr. Sottas, and Ms. Pintat. The Embassy of Israel in Mexico had requested to meet with Mr. De Los Santos. The delegation was then informed that, in the wake of the discussion on Israel's periodic report to the UN Human Rights Committee, in 2003, the Ministry had just set up a small section entrusted with relations with the NGOs community. The delegation was suggested to be in touch with its chief, Ms. Gill Orly and was able to meet her together with the Director of the General Law Division, Mr. Daniel Taub, and a senior officer of the Office of the Legal Adviser, Ms. Ady Schönmann: see section entitled "The NGOs section of the Ministry of Foreign Affairs of the State of Israel".

12. Much to its regret, the delegation was unable to perform an important aspect of its mission as it could not secure an authorization to visit Mr. Daoud Dirawi, lawyer and head of the Programme on Juvenile Justice of Defence for Children International (DCI) - Palestine section. Mr. Dirawi was under administrative detention at Ketziot prison, in the Negev: see section entitled "The case of Mr. Daoud Dirawi".

Working method

13. The delegation agreed to collect data on the period since the adoption of the UN Declaration on Human Rights Defenders, at the end of 1998, while being particularly attentive to developments since the beginning of the second Intifada on 28 September 2000.

14. Some time prior to the visit, the delegation, with the assistance of B'Tselem and Al-Haq, provided all the human rights organisations it intended to visit with a list of topics on which it particularly wanted to collect data. The list, which ultimately served as a guide for the discussions with representatives of the organisations visited, was based on the UN Declaration and the work of the UN Special Representative on Human Rights Defenders. It prompted some organisations to present written responses. The list is found in annex 2.

C. The environment in which human rights NGOs operate

Upholding human rights in a context of armed conflict and terrorism

15. While the Israeli Government seems to keep a close eye on them, Israeli human rights NGO unanimously stated that they enjoyed full freedom in their work and did not normally face specific obstacles or threats in their activities.

16. The delegation understood that Israeli human rights defenders were generally able to perform their work without major difficulties when this work had to do with human rights issues in Israel proper such as the rights of refugees and asylum seekers, migrant workers, religious and other minorities, health rights of Israeli citizens and residents or gender equality. Indeed, the NGOs concerned underlined that this work – as challenging and complex as it may be, especially with regard to refugees and asylum seekers and to minorities - was part and parcel of Israel's democratic development and they made constant efforts to mainstream their findings and recommendations by, *inter alia*, contributing to the work of the Knesset (the Parliament of Israel) or its interested individual members.

17. The organisations stated that the situation was quite different regarding their work on the human rights situation in the OPTs. One serious accusation they face is that their work plays into the hands of anti-Semites and anti-Zionists. This accusation gathered force after the 2001 World Conference Against Racism in Durban, South Africa, during which the debate on Zionism brought the conference to the brink of failure. Israeli human rights organisations all emphasized that they were highly attached to the democratic values of the State of Israel. They believe it is their duty to raise their voice against any State policy and military practices affecting the human rights of the Palestinian people. Yet, in an environment of daily fears of suicide bombings perpetrated by Palestinians, they found it difficult to raise awareness at the level of the political and military leadership – with which they tried to maintain regular communication - about the short and long-term dangers of the repression and humiliations exerted on the Palestinian people in the OPTs. They believe that an important part of their mission is to try to generate public awareness about the human rights situation in the OPTs. Some Israeli human rights defenders confessed their anxiety that Israel might "*lose its soul and self-respect*" if it continues along the current road of mis-treatment of the Palestinians. However, they found it

hard to generate the kind of massive public support that could lead to policies more respectful of the human rights and fundamental freedoms of the Palestinian people. This stemmed from a general climate of insecurity and the level of individual and collective fear and anger generated by the permanent risk of abhorrent suicide attacks. They said that a large proportion of the Israeli public was so centred on its security concerns and on its own rights to live in a Jewish State that it deliberately preferred to ignore or deny the Palestinians' plight.

18. In the OPTs, all human rights NGOs clearly give high priority to the human rights violations suffered by the Palestinian people as a result of the policy of the Israeli Government and of the daily practices of the occupying force, the Israeli Defence Forces (hereafter IDF). This absorbs most of their time and resources. Yet, various organisations, especially Al-Haq, the Palestinian Centre for Human Rights and the Al-Mezan Centre for Human Rights, conduct with some degree of success programmes aimed at the development of a culture of human rights among the Palestinian people (for example, public awareness campaigns, training in the field of human rights, advocacy campaigns aimed at incorporating human rights norms in Palestinian legislation and policy) and also attempt to document human rights violations in the OPTs whose responsibility may be attributed to the PNA.

19. The PNA has a reported practice of close scrutiny of human rights defenders. The delegation gathered that when raising concerns with regard to human rights violations for which the PNA could be held accountable, or when criticizing the PNA's human rights policy, the Palestinian human rights organisations were exposed to accusations of fuelling Israeli's aggressive policy and criticisms and of damaging the PNA's reputation. In a context of open armed conflict, this made human rights defenders' work highly risky and tended to reduce their ability to be outspoken about the PNA's abuses. However, the NGOs with which the delegation met underlined that they believe that sound criticism of the PNA is an important part of their work and a democratic duty. Therefore, in the context of a society which is trying to build its institutions against all odds and to pave the way for a future independent State, they made every possible efforts to relay their findings and recommendations to the PNA and also to contribute to the thinking and work of the Palestine Legislative Council (PLC) or its interested individual members. Some organisations even stated that they were acting as a kind of informal advisory body to the PLC, which has limited resources for legislative research and whose members generally lack the necessary technical and human support.

20. Unlike the Israeli government, the PNA does not have the ability to ratify international treaties. Therefore, even if the PNA committed itself to adhering to international human rights norms and principles, it cannot be held legally accountable in the same manner as the Government of Israel, a State which is a party to most international human rights and international humanitarian law instruments and is thus to assume binding legal obligations vis-à-vis all people under its authority or under its military control, and vis-à-vis the international community. Also, Palestinian human rights NGOs have to operate in a rather odd context from a human rights perspective: for example, while expecting Palestinian human rights NGOs to be very critical of human rights shortcomings in the PNA, Israel and the United States of America are the very States that exerted strong pressure on the PNA to establish State Security Courts⁵; yet, human rights defenders in both Israel and the OPTs believe that the ways of functioning of these courts should have been a concern to these two States from the very beginning, in 1995, as they fail to conform to human rights standards in more than one way.

21. All human rights defenders with whom the delegation met acknowledged that building a culture of human rights under the current circumstances in Israel and the OPTs was a particularly difficult task. All underlined that it was especially difficult for Palestinian NGOs because of the circumstances of military occupation and the innumerable obstacles to freedom of movement in the OPTs (see para.38-43). All also acknowledged that their work exposed them to close monitoring by the authorities and to accusations by extremists in their own communities that they are traitors.

22. For the delegation, a crucial issue in both Israel and the OPTs is the approach to security. The delegation finds it difficult to accept that Israel, a State claiming to be a democracy and which is a party to the International Covenants on Human Rights of 1966, may deny that security and the enjoyment of human rights are compatible. Indeed, as per international human rights standards, security, far from being above human rights and a precondition to them, is only one component of the enjoyment of human rights. The delegation holds the view that, by viewing human rights enjoyment by the Palestinian people as incompatible with its citizen's security needs and by developing policies accordingly, Israel reverses principles so as to support a purely military approach to security and render tolerable its violations of international human rights norms and of International Humanitarian Law (thereafter IHL) affecting the Palestinian people. Such belief is reinforced by the fact that, when it comes to its non-Arab citizens, Israel appears to generally adhere to the

⁵ The State security courts, standing outside the Palestinian civil and military court system, were established pursuant to a presidential decree issued on 7 February 1995. On 27 July 2002, The Palestinian Minister of Justice issued a decree abolishing the State security courts, transferring the authority to regular courts and the Attorney General.

concept of human security, which goes much beyond military considerations, and states its firm attachment to human rights. In other words, there is a human rights double standard in Israel. Under the circumstances of the conflict, the tension maintained between human rights and security seen from a military perspective seems to be aimed at discouraging the monitoring of human rights and IHL abuses by the IDF in the OPTs and at discrediting vis-à-vis public opinion the human rights defenders involved in such monitoring.

23. In a context of Occupation and of struggle for the right of Palestinian people to self-determination and for an independent State the PNA also has a military approach to security as opposed to a human security approach⁶. Without losing sight of the many differences in the situation in Israel and the OPTs, including with regard to international legal obligations, and without downplaying the dramatic asymmetry of resources and capacities between the State of Israel and the PNA, the delegation believes that this military approach leads to policies that make human rights enjoyment in the OPTs dependent upon the resolution of the conflict. This inevitably diminishes the impact of the promotional work done by human rights NGOs which trust, as the delegation does, that human rights are a key component in the building of democratic governance in the OPTs and of a future independent State, and also of mutual confidence and peace.

Freedom of association: Issues relating to the human rights NGOs' registration and funding

24. There exists no specific status for human rights organisations in either Israel or the OPTs. They all are registered and operate under the respective laws for non-profit organisations.

25. In Israel, until 1981, all non-profit organisations were registered under Ottoman law with the Ministry of Interior. Registration requirements were minimal as was governmental supervision. After a period of operation under a law of 1990, a new legislation was introduced in 1996 and became effective as of 1997. This requires organisations to identify their donors, establish the status of their staff and present to the Registrar of Non-Profit Organisations (established at the Ministry of the Interior in 1981) a substantive annual report on their work, financial assets and management. With the Registrar functioning within the Ministry of the Interior, in the last few years human rights NGOs, and more specifically Arab NGOs in Israel, have reportedly assessed that the government was attempting to monitor their programmes. Groups' concerns were heightened when the Registrar took steps to control organisational names. For example, the Registrar barred inclusion of the words "Palestine" or "Palestinian" in the name of organisations and refused to register an group of conscientious objectors under the name originally chosen by them: ("The Courage to Refuse"). The registration process of new organisations has become very long and complex and, quite often, administrative delays increase difficulties with regard to securing funding. While no human rights organisations were recently barred or closed by the Registrar, the NGOs were faced with the challenge that they had to dedicate a great deal of their time and resources to respond to the Registrar's detailed requests and requirements. One organisational representative described the current situation in the following terms: *"When you look at Israel's policy towards the Third Sector, you will see a sort of schizophrenia: On the one hand, with the growth of privatization, third sector organisations are taking over many of the roles that government otherwise plays; on the other hand, when non-profits do activities such as human rights monitoring and act as a watchdog, the government becomes very anxious."*

26. In the OPTs, the situation is also complex. In the West Bank, non-profit organisations were initially registered under Jordanian Law or Israeli military orders while in the Gaza Strip they were registered under Egyptian Law or Israeli Law (Israeli military orders). However, following the establishment of the PNA, a law was eventually passed in 2000 to register all non-profit organisations. This was the result of pressure on the part of, *inter alia*, the human rights NGOs themselves. While praising the important work they had performed since 1967 and especially during the 1980s, with the advent of the PNA, Yasser Arafat felt that NGOs had become superfluous. Palestinian NGOs, however, saw their role as crucial to the development of a democratic state State with a vibrant civil society. This controversy marked the first few years of existence of the PNA and a level of power struggle existed between the human rights NGOs and the PNA, especially as there was some competition with regard to the foreign sources of funding. The delegation understood that the situation was now more or less clarified, especially further to a 2000 law regarding NGOs, even though there remained problems of implementation of the law. Mr. Arafat wanted the NGOs to be under the Ministry of the Interior while the NGOs claimed that they had to be under the Ministry of Justice. Also, the PNA

⁶ In the last decade, the United Nations have evolved the concept of **human security** which represents a shift in focus and a broadening of the security concept beyond strictly military considerations. According to this concept, security should be approached in a comprehensive manner, by also taking non military factors into account, e.g.: (a) political threats such as internal political instability, failed States, terrorism and human rights abuses; (b) economic threats such as poverty, the growing gap between rich and poor countries, international financial recession, the impact of an economically powerful or instable neighbouring State, and piracy; (c) environmental or man-made threats such as nuclear disasters, global ecological changes, degradation of land or water, lack of food and other resources; (d) social threats such as minority/majority conflicts, overpopulation, organised crime, transitional drug-trafficking, illegal trade, uncontrolled mass immigration and disease. In this connection, please refer, *inter alia*, to Box N° 1, page 16, in *"Parliamentary Oversight of the Security Sector – Principles, Mechanisms and Practices"*, a Handbook for Parliamentarians (N° 5) issued jointly by the Inter-Parliamentary Union and the Democratic Centre for Armed Forces, 2003.

wanted all organisations to be considered as dissolved and to have the duty to re-register under the new law. This presented the NGO's with challenges and difficulties, especially as no uniform criteria and procedures were being applied to deal with registration requests. Eventually, the PNA planned to set up a ministry for NGOs, an initiative that all NGOs rejected. At the time of the delegation's visit, the PNA looked into setting up a committee for NGOs. Human rights organisations expressed fears that the PNA was still trying to curtail their independence, so as to prevent them from raising issues that could embarrass it: e.g. exposing government corruption or the Judiciary's lack of independence. The human rights NGOs and their umbrella organisation, PNGO, had just decided to go to the High Court so as to obtain clear guidelines about ways in which the law should be applied and to ensure that a certificate of registration were issued to them in order to prevent situations such as the one the Jerusalem Centre for Human Rights (JCHR) had faced. Initially registered under Israeli Law, in 2000 the JCHR was provided with a Palestinian registration number but not a certificate. When complying with an administrative formality, some two years later, they were told by the Ministry of Interior that they were not legally established and had to register from scratch.

27. All of the Israeli and Palestinian organisations visited by the delegation receive the majority of their funding from abroad, and stated that they had very little, if any, local or regional funding. Most operate with support from funding institutions in the United States of America and Europe. The European Union, USAID, a major US based foundation, and institutions in the Nordic countries assume a major share of the support to human rights organisations in Israel and/or the OPTs. This may be analysed as a strength in so far as it leaves human rights NGOs independent from any public funding and thus from possible direct interference in their programmes, but it may also be seen as a weakness because it may isolate groups from their local environment and leave them vulnerable to changes in their donors' priorities.

28. In Israel, a level of lack of transparency and of corruption with regard to the amount of governmental funding of religious organisations had raised some concerns among human rights NGOs. As a result, there was great reluctance among human rights NGOs to agree to a monitoring of their assets and activities. Those concerns had increased when the Ministry had attempted to arrange for Israeli settlements in the OPTs to benefit from tax exemption (the matter was eventually brought to court and ruled out). Environmental organisations were recognized as being of public interest and, as a result, obtain a level of governmental funding. Human rights NGOs were generally reluctant to receive any such State funding through tax exemption for fear of losing their independence. A private member bill, presented in 2003 to the Israeli Knesset by an MP representing the settlers, had aimed at restricting the foreign funding (especially European) for all human rights NGOs but, at the time of the delegation's visit, the bill had raised broad opposition within the Knesset and had disappeared from the floor; human rights defenders interviewed indicated that they believed it did not have the broad support required to pass in the foreseeable future.

29. In the OPTs, the PNA was under strong international pressure to control the assets of Islamic charity organisations suspected to channel funding to Hamas, the Al-Aqsa Martyrs Brigade, or the Jihad es-Islami. Since September 2001, United States Government policy has attempted to ensure that US aid is not used to further terrorism or support terrorist activity: USAID, which provides millions of dollars worth of support in the OPTs, now requires organisations to sign a statement that ensures ensuring none of the aid will be used "*in support of terror.*" Because this statement is vague, some organisations have become reluctant to accept USAID funding: "*If an orphan or a widow of a suicide bomber happens to receive some humanitarian food, along with hundreds of Palestinians, does that put us in violation of this requirement?*" asked one human rights worker.

30. The NGOs with which the delegation met stated that they receive almost no funding from institutions and/or foundations in the Arab world, which primarily concentrate on religious organisations. A number of Palestinian organisations stated that they are "competing" with the PNA for funding and that this creates tensions between NGOs and the PNA, particularly because there is also some conflict regarding overlapping mission. Despite positive developments in the PNA's recognition of human rights organisations, the relationship between some organisations and the PNA continues to be troublesome. For example, when the PNA established a Ministry of Prisons, Addameer, a long-standing prisoners' rights organisation, described the Ministry's behaviour as "territorial." Yet, Addameer stated that it maintained a commitment to its work, framed in terms of international human rights standards only.

31. Various organisations further stated that the discovery of financial mismanagement and embezzlement at LAW – an important Palestinian human rights organisation -- had had a very negative impact on all of them because it fuelled criticism and similar allegations from both the Israeli side and the PNA.

32. At the time of the delegation's visit, one Arab organisation based in Israel, Adalah, was under investigation by the Registrar of Associations, a governmental agency based in the Israeli Ministry of Interior. The investigation was launched in August 2002, at a time in which Adalah was litigating several important high-profile cases. In particular, the investigation was opened soon after the organisation had filed numerous

petitions before the Supreme Court of Israel challenging the Israeli army's heavy military invasions of Palestinian cities in the Occupied Territories; had represented Sheikh Ra'ed Salah, the head of the Islamic Movement in Israel, who was banned from leaving Israel for a period of six months based on "secret evidence"; and was also defending Dr. Azmi Bishara, an Arab Member of Knesset, on criminal charges stemming from political speeches he had made criticizing Israeli government policy in South Lebanon and in the OPTs as well as for assisting in organizing a much-publicized series of visits by Arab citizens of Israel to Syria to meet with their refugee relatives. Further, in August 2002, Adalah lawyers were cross-examining high-ranking police commanders before the government-established official Or Commission of Inquiry, representing the family members of 13 Arab citizens of Israel who were killed by the Israeli police as well as three Arab elected leaders, who received warnings from the Commission. In July 2002, the premises of the organisation were burglarised and some of the hard disks of its computers were removed. At the time of the delegation's visit, it had not yet proved possible to establish beyond a doubt who was responsible for the break-in. The Registrar opened an inquiry on three different grounds, alleging that: The organisation provides legal aid and legal services to Arab organisations and institutions on issues of discrimination, beyond its registered mandate; a review uncovered that an organisation named the Galilee Society transferred considerable funds to Adalah in order to finance salaries for Adalah employees prior to Adalah's registration; and suspicions arose as to financial irregularities due to the use of money for the benefit of certain political figures. It is important to also note that, prior to the opening of the investigation, Adalah had represented various Arab NGOs in legal actions against the Registrar involving his its decisions concerning their registration as not-for-profit organisations. At the time of the delegation's visit, Adalah representatives expressed confidence in their ability to defend the organisation against what they qualified as the Registrar's "politically-motivated" accusations". They highlighted the immense amount of time that dealing with the investigation had absorbed from their priority work of defending and promoting human rights. It is worth noting that on 7 February 2004, Interior Minister Avraham Poraz accepted Adalah's appeal, filed in September 2002, against the Registrar's decision to appoint a legal investigator to inquire into its activities. The Interior Minister decided that: *"after reviewing all documents which were provided by Attorney Goldstein (representative of the Registrar of Associations) and by Adalah, and after consulting with the Legal Advisor of the Ministry, Sarit Dana, Advocate and accepting her legal opinion, I hereby decide to accept the appeal."* At the time of publishing this report, the delegation had no additional information on this case.

33. On 30 March 2002, the Ramallah office of Al-Haq was raided by the IDF. The IDF reportedly broke into the building at 11.20 p.m. The offices contain over twenty years of documentation related to human rights violations in the OPTs, including confidential lawyer-client files, sworn affidavits, reports from victims of abuses and other confidential materials. Al-Haq also houses the only specialized human rights library in the OPTs. No documentation had been taken away by the IDF, but technological equipment (including computers) was removed, the office was used by the IDF for several days and office infrastructure was damaged. One staff member who was present at the time of the raid was arrested and remained detained for three months at Ofer Detention Center 3 and at Ansar 3.

34. Between March 28 and April 21, 2002, i.e. during "Defensive Shield Operation", the Israeli occupying forces led a military invasion of most Palestinian cities. During the curfew imposed on their residents, Israeli soldiers broke into the Democracy and Workers' Rights Center Centre (DWRC) headquarters in Ramallah, as was the case for many other governmental, and civil society institutions, enterprises and private homes during that time. The soldiers reportedly forced all of DWRC's external doors as well as a number of internal doors, stole some of their electronic equipment, destroyed equipment, and smashed furniture. They reportedly ripped hundreds of copies of DWRC publications into pieces, and tore down some of the hangings from the walls, among them the Universal Declaration of Human Rights.

Freedom of expression for human rights NGOs

35. The information collected by the delegation shows that freedom of expression is generally not at major risk, in either Israel or the OPTs. All organisations stated that they usually can express their views and, indeed, do so -- through publications, websites, the media, at public gatherings and marches, and also in their electronic mail. The delegation's attention was, however, drawn to an incident that is reportedly far from being an exception: on alleged security grounds, the IDF confiscated material that the Democracy and Workers' Rights Centre in Palestine planned to distribute at the 2003 World Social Forum, in Porto Alegre, Brazil. The material was confiscated at the Qalandia military checkpoint. Those carrying the material were arrested and interrogated. The reports in question, which were returned to the Centre almost a month later without further comment, may be consulted on the organisation's website (www.dwrc.org). No reference was made to the delegation about self-imposed restrictions.

36. Organisations based in the OPTs cited the effect on freedom of expression of the restrictions on freedom of movement. Inability to travel often prevents Palestinian human rights activists from attending international events at which they are invited to present information on the human rights situation in the OPTs: See para. 43.

37. The delegation members wish to report that, as far as they are concerned, none of their materials (notes and tapes of the interviews, documents handed over to them by the organisations, footage or photographs) were confiscated or even gave rise to questions either at checkpoints or when they left Israel, despite the fact that their luggage was emptied and meticulously checked piece by piece at Ben Gurion Airport in Tel Aviv.

Restrictions on freedom of movement affecting the work of human rights NGOs

38. When discussing their work in connection with the OPTs, the most serious concern of all organisations, without any exception, was that of the drastic restrictions imposed by Israel on freedom of movement to and from the OPTs and within them. These restrictions appear to have increased considerably since the beginning of the second Intifada. In addition to having serious consequences on the economy and on the social and cultural life, these restrictions cause great stress, frustration, and anger among the population of the OPTs.

39. The restrictions on freedom of movement affect the human rights organisations differently depending on whether they are based in Israel or in the OPTs.

40. Organisations based in Israel are not affected by restrictions of freedom of movement as long as they do their work in Israel. They are however affected with regard to their human rights work in the OPTs. Jewish Israeli citizens cannot travel to the West Bank or the Gaza Strip and Palestinians with an Israeli ID card have to obtain a special permit to do so. In order to gather information about the situation in the OPTs, Israeli organisations rely mainly on Palestinian field workers in the OPTs, who cannot always obtain the necessary permits to go through the checkpoints and cross into Israel, or on affidavits collected by their fellow human rights organisations in the OPTs.

41. Human rights NGOs based in the West Bank and the Gaza Strip face a triple challenge:

- Like the rest of the Palestinian population in the OPTs, NGO members (especially those between the age of 17 and 35) cannot travel from the West Bank to the Gaza Strip or vice versa, unless they obtain a special permit which is always on a one visit basis and may not be renewed. Even with an official invitation, it is difficult to secure these permits. As a result, NGOs communicate among themselves primarily by telephone, fax or e-mail.
- Freedom of movement is further inhibited and complicated by the construction of the Wall (see para. 76-78, annex 5 and footnote N° 3). The many closures existing throughout the OPTs in the form of checkpoints, road gates and fences, trenches and ditches, earth mounds or road cement blocks under IDF's guard (see the UN-OCHA map in annex 3), the curfews, and decisions that may be taken at any time by the IDF to close certain access for a few hours or days without prior notice, all greatly inhibit the freedom of movement. The access to most cities and villages is further limited to one heavily guarded road and permits delivered by the IDF are indispensable to move from one district and city to the other. As a result, and with great impact on their resources, some organisations have been compelled to open subsidiary offices so as to offer a response to the public and to be able to document human rights violations. Yet, they have to communicate with these local offices by e-mail, telephone or fax.
- Representatives of human rights organisations in the OPTs have to overcome tremendous difficulties to obtain the necessary permits to travel abroad and attend international events to which they are invited.

42. The following examples illustrate the type of difficulties that NGO representatives face:

- Physicians for Human Rights (PHR): PHR attempts to host "Mobile Clinics" in Palestinian villages every Saturday. Beyond offering basic healthcare to the population of the West Bank - where the health services are very poor and have almost collapsed as a result of the bombarding of medical facilities during "Operation Defensive Shield" and as a consequence of the restrictions on freedom of movement - the "Mobile Clinics" stand at checkpoints to witness movements there. PHR also organizes "medical days" with Palestinian organisations. PHR stated that its staff and volunteer physicians and other medical workers are regularly refused entry into the West Bank and that access to the Gaza Strip has been denied for the last three years. In addition, they are only authorized to operate in area C, have no access to zone A and cannot move in area B. In the West Bank, those areas most difficult of access by PHR are those closest to the Jordanian border (see map in annex 3).
- Palestine Red Crescent Society (PRCS): Probably the most dramatic impact of restriction of movement is that it impedes the provision of emergency health services. The PRCS reported that from 29 September 2000 to 27 June 2003, there were 966 recorded cases of the Israeli Army delaying

PRCS ambulances, and 288 Israeli attacks on Emergency Teams. Ambulances and other relief vehicles are not permitted to travel freely between cities in the West Bank and Gaza. This has had a tremendous and often disastrous impact on emergency medical care in the OPTs. Rates of infant vaccinations have plummeted, the number of Palestinian women giving birth outside of hospitals and losing their life or their baby upon birth has risen tremendously, and significant numbers of Palestinians are regularly dying or suffering preventable repercussions of disease as they wait in ambulances at road blocks or check points. Detailed documentation of those instances is available from several of the groups visited by the delegation.

- Palestinian Centre for Human Rights: No staff from the Centre has been permitted access to Israel or the West Bank, including Jerusalem, since the beginning of the second Intifada. Before then, they were almost systematically refused the necessary permit. The Centre's Director was again denied the authorisation to travel to Tel Aviv in early November 2003 for an official interview at which he had been invited by the US Embassy. Reportedly, this is only one example of a situation that regularly affects all organisations in the OPTs.
- The Apartheid Wall Campaign/Campaign Emergency Centre in Jayous, Qalqiliya: One Campaign supporter, who also participates as a trained engineer in humanitarian water-harvesting efforts in the West Bank, was prohibited on at least five occasions from entering a walled village where he was supposed to supervise a water-harvesting project – despite the fact that the Mayor of the town had officially invited the engineer and specified that his presence was essential to the project.

43. Israeli and Palestinian defenders are unable to meet with each other to discuss common issues around the same table. Therefore, they must resort to communicating by email, fax or phone. If they wish to discuss face to face, they will have to take advantage of a meeting abroad. NGO's in the OPTs, however, must overcome significant challenges to travel internationally, as the following examples illustrate:

- Palestinian Centre for Human Rights: A staffer was prevented from travelling to Strasbourg, France to attend a course held at the International Institute for Human Rights in June/July 2003 on the grounds that he is was under the age of 35. It should be noted that all the staff of the Centre is in fact regularly exposed to arbitrary delays or denials of access through the Rafah Terminal to attend events abroad. Travel through that Terminal is reportedly dangerous owing to the huge Israeli military build-up there and to action by the Israeli military, including shooting at and destruction of facilities on the Palestinian side of the Terminal.
- Democracy and Workers' Rights Centre Society in Palestine: On 15 October 2003, the organisation's Director General was prevented from travelling to Brussels, Belgium, where he planned to attend an international meeting. He was stopped for more than 7 hours at the border crossing with Jordan and was asked to report to the Israeli intelligence services in Ramallah on 21 October. On the said date, he was kept waiting for hours in the sun, without receiving any information, and was eventually asked to come back a week later. When he did so, the matter was suspended without any information being provided to the organisation. On 28 October, he went to a further appointment with the intelligence services without result. DWRC's lawyer filed a petition with the Israeli High Court of Justice on the grounds that no reason was provided for the ban on travel. The Israeli High Court asked the involved Israeli services to state their reasons for the travel prohibition within 30 days. At the same time, international partner organisations and members of the labour community sent letters of protest to the Israeli government in response to a DWRC appeal. At the end of November 2003, the office of the Israeli Attorney General contacted the lawyer and asked him to drop all legal action against governmental bodies. In return, they affirmed that they had no objection to allowing Hassan Barghouthi to travel abroad. An agreement was signed between all parties on 2 December 2003 and DWRC dropped the petition submitted to the Israeli High Court of Justice. After the signature of the agreement, Mr. Barghouthi was able to resume his regional and international activities on behalf of the Centre.
- Al-Haq: Al Haq's staff has experienced several travel restrictions in recent years. Most recently, in October 2002, the Israeli government refused to grant staff Ziad Hamidan the authorization necessary for travel to a conference convened in Madrid. Similarly, Shawan Jabarin, the Head of Legal Research and Advocacy, was prohibited from leaving the OPTs, and therefore could not travel abroad via Israel. As a result of a court decision in 1999, this travel ban was lifted. However, Mr. Jabarin must still apply for travel authorization whenever he needs to travel, which requires tedious proceedings with the Israeli authorities, and he is permitted to travel only via Jordan. To complicate matters even further, Jordanian authorities have refused to grant authorization to Mr. Jabarin to travel via its territories; efforts to establish the reasons behind this decision with the Jordanian embassy have proven futile. Another case involves Naser Rayyes, a Legal Researcher at Al-Haq, who lost his ID while completing postgraduate studies abroad. Seven years ago he returned to the OPTs on a visitor's permit and has been residing with his family in Ramallah ever since. He has applied numerous times for family reunification and for IDs for himself and his family members, all of which have been turned down. As a

result, it has been virtually impossible for him to travel outside of Ramallah, not even for the purpose of attending workshops or other events related to his work at Al-Haq. Al Haq staff Yousef Qawariq has been stopped several times by the Israeli authorities. In one instance, while traveling to Nablus along with hundreds of others, the Israeli forces began shooting at people, killing a Palestinian who was a few metres meters behind Mr. Qawariq.

- **Addameer:** The organisation's Director, Mrs. Khalida Jarrar, was prevented from traveling abroad on several occasions for '*security reason*', based on a secret file. In July 2001, she was invited for a speaking tour organized by Global Exchange at various university campuses around the United States but was denied travel. In mid 2002, she was invited by Amnesty International to take part in an Amnesty International Human Rights Tour and Campaign in Europe and was denied travel again. In November 2003, she was invited to take part in meetings at the European Social Forum in Paris and was again denied travel. She eventually filed a petition against the Military Commander of Judea and Samaria⁷ regarding the Paris conference and on 10 November 2003, the High Court decided that, for security reasons, and for reasons of information included in a secret file supporting the case, Mrs. Jarrar was not allowed to travel to France.

Conditions experienced by international human rights organisations

44. While concentrating mainly on local NGOs, the delegation was also able to collect limited information regarding the conditions experienced by international human rights organisations and workers operating in Israel and the OPTs.

45. As the delegation experienced, internationals entering Israel in order to conduct human rights work must undergo lengthy security checks before being allowed to enter or leave the country. For those who wish to live for an extended period in Jerusalem, the security checks are said to be even more in-depth, amounting almost to harassment. International workers appear to be suspected *a priori* by Israeli officials of supporting the Palestinian cause. The staff of UNRWA, for example, reportedly experiences this constant and general suspicion, which takes a toll on their work. Some international human rights defenders are further suspected of belonging to the International Solidarity Movement (hereafter ISM), or of supporting their activities. Since "Operation Defensive Shield" of April 2002, the Israeli government has been particularly keen to bar ISM members from entering the country. At the time of writing, two ISM activists in the OPTs have been killed, and one critically wounded by the IDF. So far, the Israeli authorities have reportedly failed to hold accountable those responsible as per international legal standards.

46. As outlined above, closures, curfews, and other restrictions on freedom of movement all impair or complicate the work of the local and international staff of human rights and humanitarian organisations, including the International Committee of the Red Cross (ICRC) which is severely limited in its ability to deliver assistance to the affected population in the OPTs, about 30% of which is entirely dependent upon international humanitarian aid. The delegation learned that international human rights workers do not enjoy any special privileges with regard to going back and forth through the heavily-manned checkpoints that command entry to and exit from the West Bank or the Gaza Strip. When moving around the OPTs, they also appear to experience the same difficulties as ordinary Palestinians and Palestinian human rights defenders. As a result, many working hours each day may simply be spent waiting at checkpoints and going through security checks, and undergoing lengthy and repetitive series of questions and searches from the IDF. Significant time is spent trying to reach villages which may only be short distances away but are rendered difficult to access because of curfews, security checks, and physical obstacles, including the Wall, on the way to the single allowed road of access. The delegation was informed that there are documented instances in which international human rights workers were physically or verbally threatened or abused and their equipment damaged or confiscated by the IDF. The delegation's attention was also drawn to the case of a staff member of UNRWA who was shot dead in Jenin refugee camp on 22 November 2002.

The NGOs Section of the Ministry of Foreign Affairs of the State of Israel

47. According to the information provided to the delegation by the officers it met at the Ministry of Foreign Affairs (see paragraph 11) this Section was opened in November 2003. The officers stated that the Government of Israel encourages the development of a vibrant civil society as part of Israel's democratic development and that the Ministry intends to sustain a continuing dialogue with NGOs.

48. At the time of the visit, the definition of the NGOs Section's detailed mission and resources, and even its name, remained to be finalized. The officers with whom the delegation met stated that the Section was created following the presentation in July/August 2003 of Israel's report to the United Nations Committee on

⁷ The Israeli military officer responsible for the West Bank military region. « Judea and Samaria » is the official wording used by the IDF to designate the West Bank region.

Human Rights. The Ministry then realized the important role played by local human rights NGOs through their shadow reports to treaty monitoring bodies. It understood the importance of being aware of the NGOs' views at the time of preparing the national report rather than at the time of discussing the report publicly at the Committee's level. The officers also stated that NGOs made the Ministry's life difficult because of what one of them qualified as a "*distorted vision of international law*." However, they also acknowledged that NGOs' petitions had led to a number of crucial legal changes in Israel and that they are important players and represent a voice that must be taken into account.

49. The officers of the Ministry stated that the Ministry's NGOs Section intends to help those international NGOs trying to come to Israel. Having experienced over four hours of repeated and detailed security checks and questioning, both on entering and on leaving Israel, the delegation welcomes the Ministry's stated intention and wishes to encourage it to follow-up on it as a matter of confidence - and dialogue-building between Israel and the international organisations concerned.

50. The delegation appreciated the Section's assistance in obtaining an authorisation to visit the Gaza Strip and regards this as a tangible expression of the positive role which the Section could play. The delegation believes that the establishment of a focal point for NGOs within the Ministry of Foreign Affairs is a positive step that will promote a highly-necessary dialogue, especially with a view to concerted and effective follow-up to the recommendations of international bodies such as the United Nations Human Rights Committee and the United Nations Committee Against Torture.

Main issues that human rights NGOs address in their work

51. The following paragraphs only reflect part of the daily work of the human rights NGOs in either Israel or the OPTs and are referred to below because they were central to the discussions during the delegation's visit. However, it should be kept in mind that many other issues than those referred to below form part of the human rights NGOs' mission and routine activities: e.g. the issue of Palestinian refugees and persons displaced by the conflict; the issue of Jewish immigrants in Israel; the issue of minorities in Israel; the issue of migrant workers in Israel; gender issues; children rights; violence and abuse against women, health issues, etc. To avoid lengthening this report while providing additional background information to readers on issues that strongly mobilize the human NGOs, three specific subjects are being addressed in annex 5: the issue of the Wall, the issue of forced family division, and the issue of Palestinian unrecognised villages in Israel.

Upholding international humanitarian law and human rights in a context of occupation

52. All of the organisations, on both sides of the Green Line, with which the delegation met expressed grave concern about the extent and level of violations of international humanitarian law (especially the *Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War*) in the OPTs. As the occupying power and a party to the Convention, Israel is bound to ensure the well-being and security of the residents of the OPTs. However, all organisations stated that the IDF, which define the current situation as "*an armed conflict short of war*", do not acknowledge civilian casualties, generally refuse to investigate them, and are not held accountable for them. The entire OPTs were considered by Israel as a "*conflict zone*". Despite the constant pressure from NGOs, the IDF do not differentiate between Palestinian combatants and non-combatants. Civilian casualties are officially considered by the Israeli Government as one of the inevitable consequences of military operations, including those operations conducted as part of its acknowledged policy of "*targeted killing*" of Palestinians suspected of being involved in terrorist activities. The delegation was also told that, despite the unanimous protest of human rights NGOs, civilian casualties in highly populated areas are generally considered by the IDF as inevitable and acceptable⁸, and also that the level of impunity had further deteriorated since the beginning of the second Intifada and, even more so, since "Operation Defensive Shield" in April 2002.

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On this issue, please also refer to Section V, "Loss of life and the killing of civilians" (para. 22-28) in document E/CN.4/2004/6, report to the Sixtieth Session of the UN Human Rights Commission by Mr. John Dugard, Special Rapporteur on the Situation of human rights in the Palestinian territories occupied by Israel since 1967. See also the Concluding Observations of the Human Rights Committee: Israel, 21/08/2003, CCPR/CO/78/ISR: "15. The Committee is concerned by what the State party calls "targeted killings" of those identified by the State party as suspected terrorists in the Occupied Territories. This practice would appear to be at least in part as a deterrent or punishment, thus raising issues under article 6. While noting the delegation's observations about respect for the principle of proportionality in any response to terrorist activities against civilians and its affirmation that only persons taking direct part in hostilities have been targeted, the Committee remains concerned about the nature and extent of the responses by the Israeli Defence Forces (IDF) to Palestinian terrorist attacks. The State party should not use "targeted killings" as a deterrent or punishment. The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. State policy in this respect should be spelled out clearly in guidelines to regional military commanders, and complaints about disproportionate use of force should be investigated promptly by an independent body. Before resorting to the use of deadly force, all measures to arrest a person suspected of being in the process of committing acts of terror must be exhausted."

53. According to data compiled by B'Tselem in mid-October 2003, since the beginning of the second Intifada, on 28 September 2000, 2,171 Palestinians, including 410 minors, have been killed by the IDF. Figures compiled for the same period by the Palestine Centre for Human Rights refer to 2,235 civilians killed and among them 432 children (212 in the Gaza Strip, allegedly representing an increase of 13 per cent in one year, and 220 in the West Bank). The IDF itself admitted in March 2003 that 235 Palestinians who were not participating in fighting were killed. B'Tselem stated that despite this, between October 2000 and July 2003, only 55 military police investigations were opened regarding gunfire-related offences (of a total of 365 military police investigations related to harm to Palestinians). It was unclear how many of these investigations dealt with Palestinian deaths. Despite pressure exerted by human rights NGOs, these investigations led to only eight indictments. The Military Judge Advocate General of Israel determined that investigations would only be opened in cases in which the soldiers involved were suspected of criminal behaviour. B'Tselem and others stressed that decisions about whether to open investigations are made following internal investigations carried out by people who are not professionally trained to conduct such investigations. Various NGOs further expressed dismay at the reportedly routine IDF procedure of using Palestinian civilians as human shields in operations such as house searching. The delegation was struck by a former IDF serviceman's testimony about his three-year experience in the Gaza Strip. The testimony, which was published at the time of the delegation's visit in the weekend supplement to Haaretz (a leading daily Israeli newspaper)⁹, illustrated the level of violence and cruelty perpetrated by IDF personnel in their interactions with Palestinian civilians and showed that these acts receive passive or active encouragement from superiors; they happen at checkpoints and military positions, or in connection with military operations, enforcement of curfews, and dispersing of demonstrations in the OPTs.

54. Various human rights NGOs rightly referred to Article 51 (5) (b) of the Fourth Geneva Convention which prohibits any attacks on a military target "*which may be expected to cause incidental loss of civilian life, injury to civilians, (or) damage to civilian objects... which would be excessive in relation to the concrete and direct military advantage anticipated*". It may be recalled that the High Contracting Parties to the Convention confirmed that this principle applies both to Israelis and Palestinians when, in a declaration issued on 5 December 2001, they called upon both parties to the conflict to: "*...ensure respect for and protection of the civilian population and civilians objects and to distinguish at all times between the civilian population and combatants and between civilian objects and military objectives.*" Within this context, groups also referred to Article 51 (5) of the Protocol Additional of the Geneva Conventions. It may further be recalled that in July 2003 the United Nations Human Rights Committee firmly underlined that, during an armed conflict, the applicability of the regime of IHL in no way precludes respect for human rights international law, including Article 4 of the International Covenant on Civil and Political Rights which covers "*situations of public emergency which threaten the life of the nation*", and also the accountability of States parties under Article 2 of the Covenant for actions of their authorities outside their own territories - including the OPTs in the case in point.

55. On the other hand, an interesting step was registered in the OPTs where, in September 2003, Yasser Arafat eventually signed a decree establishing a Palestinian National Committee for International Humanitarian Law, comprised of representatives from the Ministry of Justice, the Ministry of Education, the Palestine Legislative Council and the Palestine Red Crescent Society (PRCS) together with international humanitarian law and human rights defenders. While formally presided over by Mr. Arafat, the Committee is intended to function as "*an independent and autonomous entity*". Its mandate includes promotion of and education about the rules of IHL, reporting and documenting violations of IHL in the OPTs, presenting suggestions (including for the development of national legislation consistent with the rules of IHL) to appropriate authorities, and capacity building to further the national implementation of IHL. As opposed to the positive development just described, cooperation between aid societies in Palestine and Israel was suspended almost three years ago (as a result of Israeli attempts to have an emblem with the "red shield of David" being recognized – and because of the renaming of the former Israeli Red Cross Society into Magen David Adom (MDA)). The MDA operates in the Israeli settlements in the OPTs and reportedly bars any action there by the PRCS on grounds that settlements constitute "*Israeli land*", even though the PRCS reports that it documented many instances in which it saved settlers lives (following car accidents, etc).

Taking up the challenge of protecting persons in administrative detention and opposing any forms of torture and ill-treatment

56. The issue of persons administratively detained by Israel was inevitably prominent in many discussions. According to figures compiled by Al-Haq, some 28,000 Palestinians have been arrested since the outbreak of the second Intifada on 28 September 2000. Most of them have been detained administratively, without ever having access to a legal counsel and due process of law. Defence for Children International–Palestine Section stated that the number of administrative detainees, including children aged between 12-14, arrested

⁹ See « Twilight Zone » by Gideon Levy : « I punched an Arab in the face », a testimony by serviceman Liran Ron Furer, in the Haaretz Magazine of Friday 21 November, 2003.

as per Military Order N° 32, had dramatically increased since the beginning of the second Intifada. In the OPTs, human rights organisations also stated they were active on behalf of persons arrested by the PNA. The number of individuals involved in such cases is, however, incomparable: for instance, Al-Mezan has taken up 200 cases in Israeli prisons and 8 in PNA prisons.

57. Contrary to the provision of the Fourth Geneva Convention, those arrested by the IDF in the OPTs are being detained in Israel. Citing on security considerations, since 1948 the State of Israel has put in place a series of laws and regulations – the military orders - that enable it to detain without charge or trial, for periods that are indefinitely renewable, people who are suspected of being a threat to national security (see the information sheet on emergency regulations prepared by Adalah and dated 22 July 2003, for presentation to the UN Human Rights Committee¹⁰). These laws and regulations are supplemented with a series of military orders (reportedly there are over 2,500 such orders regulating Palestinians' daily life in the OPTs since 1967). Lawyers and human rights organisations report that the text of these orders is not always immediately available to the public.

58. Following sustained action by a number of human rights organisations, especially the Public Committee Against Torture in Israel (PCATI), the Supreme Court of Israel prohibited the use of torture in interrogation in a ruling handed down on 6 September 1999. However, “*moderate physical pressure*” on grounds of “*security necessity*” was not excluded by the Court whenever the interrogator of the General Security Services (GSS or Shabak; hereafter GSS) or another entity is convinced that the case at hand can be described as a “*ticking bomb*” situation. Nevertheless, adults and children are often exposed to different methods of ill-treatment or torture such as incommunicado detention, sleep deprivation, and physical and verbal assaults. Detainees, among them many children, are reportedly often exposed to inhumane conditions and possible ill-treatment. This matter is clearly a central concern for various human rights NGOs and more especially the PCATI, Adalah, Al Haq, Physicians for Human Rights, Addameer, the Al-Mezan Centre for Human Rights, the Palestinian Centre for Human Rights and Defence for Children International-Palestine Section. It was also central to the recommendations of the UN Committee Against Torture when it studied Israel's report in 2001¹¹.

59. The delegation's visit coincided with the publication of articles in the Israeli and international press about Israel's secret prison, Facility 1391. The media reported allegations from former detainees about the appalling conditions they experienced there, in an absolute legal vacuum and without any kind of protection against even the most abhorrent abuses. While welcoming the emergence of this information and trying to identify former detainees so as to document human rights violations in that context, various NGOs were concerned that Facility 1391 could be only one among a number of similar facilities.

60. Some organisations expressed concern over the fact that some detainees had reportedly been exposed to interrogators who presented themselves as lawyers ready to represent them. To the extent possible, Physicians for Human Rights monitors and tries to prevent mistreatment in police facilities but, much to its concern, it has no access to detention centres, where detainees are in the hands of the GSS and more routinely exposed to “*moderate physical pressure*” on grounds of “*security necessity*” tolerated by the Supreme Court of Israel in “*ticking bomb*” cases.

61. Most NGOs with which the delegation met emphasized that the circumstances described above, which for many organisations absorb a great part of their daily work, have innumerable consequences. They underlined that these circumstances violate the international obligations that Israel has assumed, irrespective of the nature of the conflict and the possible grounds for detention. In particular, detention conditions are reported to conflict with a person's right to personal integrity, right not to be subjected to any form of torture or ill-treatment, right to be informed in a language which she understands of the reasons for her detention, right to prompt access to legal counsel of her own choosing, right to regular visits by relatives, right to be examined by a doctor, right to be treated according to procedures that are properly prescribed by

¹⁰ See on Adalah Website (<http://www.adalah.org>) the document dated 22 July 2003, entitled “UN Human Rights Committee – Information Sheet 1, State of Emergency”.

¹¹ “7. The Committee makes the following recommendations: a) The provisions of the [International] Convention [Against Torture] should be incorporated by legislation into the domestic law of Israel, in particular a crime of torture as defined in article 1 of the Convention should be enacted. b) The practice of administrative detention in the Occupied Territories, should be reviewed in order to ensure its conformity with article 16. c) The State party should review its laws and policies so as to ensure that all detainees, without exception, are brought promptly before a judge, and are ensured prompt access to a lawyer. d) The State party should ensure that interrogation methods prohibited by the convention are not utilized by either the police or the ISA in any circumstances. e) In view of the numerous allegations of torture and other ill treatment by law enforcement personnel, the State party should take all necessary effective steps to prevent the crime of torture and other acts of cruel inhuman or degrading treatment or punishment, and institute effective complaint, investigative and prosecution mechanisms relating thereto. f) All victims of torture and ill-treatment should be granted effective access to appropriate rehabilitation and compensation measures. g) The State party should desist from the policies of closure and house demolition where they offend article 16 of the Convention. h) The State party should intensify human rights education and training activities, in particular concerning the Convention, for the ISA, the Israel Defence Forces, police and medical doctors. i) Necessity as a possible justification to the crime of torture should be removed from the domestic law. j) Such legislative measures as are necessary should be taken to ensure the exclusion of not merely a confession extorted by torture but also any evidence derived from such confession. k) Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22.”

law, right to an appropriate and effective judicial review mechanisms to supervise the detention, right to be brought without undue delay before a court duly established by law, and right to legal remedies

Upholding the right to defence and due process of law

62. As of 1970 and even more drastically since 1994, Palestinian lawyers from the OPTs have been barred from representing or visiting detainees or other clients in Israel because the government does not recognize Palestinian Bar Association professional identification cards or lawyers' registration by the Chief Registrar of the Palestinian High Court of Justice. A permit to visit Palestinians detained or imprisoned in Israel is delivered by the Israeli Civil Administration's Officer in Charge of Legal Affairs and is valid for one year. The likelihood of for Palestinians to obtain a travel permit to enter Israel is, however, slim. It has to be presented to authorities along with the travel permit that any Palestinians have to show so to enter Israel from the OPTs. Provided they are given yet another special permit, Palestinian lawyers have access to the Israeli courts. Lawyers from the Al-Mezan Centre for Human Rights explained that they can only enter an Israeli courtroom accompanied by military personnel and after having undergone a thorough body search and surrendered all metallic objects, including cell phones, in their possession.

63. Furthermore, Palestinian lawyers have no access to the evidence against their clients: in the context of the conflict, the evidence is usually declared to be secret for security reasons. In many cases, Palestinian lawyers must work through Israeli lawyers, who are also usually barred access to the evidence, and with whom Palestinian lawyers are only able to communicate, as already mentioned, by e-mail, telephone or fax owing to limitations on freedom of movement to and from the OPTs. The legal personnel of Palestinian human rights NGOs is often asked to assist these Israeli lawyers.

64. For Palestinians, the need to ensure legal defence through Israeli lawyers represents not only a major practical obstacle but also a financial challenge. As a result, most of those Palestinians arrested by the IDF are not only limited in their choice of lawyers but are often deprived of any legal counsel, either Palestinian or Israeli. The situation is further exacerbated because it is difficult to obtain *pro bono* legal assistance from Israeli lawyers. In cases where it is possible to secure the assistance of an intermediary Israeli lawyer, Palestinian human rights organisations generally pay between \$500 and \$800 per case. The defendant's family is usually unable to cover these costs, given that in the OPTs 85% of the population reportedly lives below the poverty line, and 65% is unemployed. A representative of the Al-Mezan Centre for Human Rights estimated that whereas the Centre currently helps roughly 200 clients per year via intermediary Israeli lawyers, it could probably represent over 500 clients directly if its attorneys were able to appear in Israeli courts.

65. Finally, the Israeli government strictly limited by law "*the handling of claims against the State for acts performed by its Security Forces in Judea and Samaria and the Gaza Strip against terror, hostile acts and insurrection. Torts Law (State Liability) (Amendment – Claims Arising from Activity of Security Forces in Judea and Samaria and the Gaza Strip)*, 5761-2001, defines "wartime" as "*including any action of combating terror, hostile actions, or insurrection, and also an action as stated that is intended to prevent terror and hostile acts and insurrection committed in circumstances of danger to life or limb*". This excludes the admissibility of almost all Palestinian claims against the State of Israel or the IDF.

66. For those detained by the PNA, the legal situation is rather complex due to the fact that the legal system still effective in the Gaza Strip is based partly on Egyptian law and the system still effective in the West Bank is based partly on Jordanian law.

67. The delegation understood that, against this legal background, most of those detained by the PNA were in fact under administrative detention as well while others were brought before the State Security Courts whose functioning is, as reported by various human rights defenders met by the delegation, far from meeting human rights standards.

68. Various Palestinian human rights organisations expressed concern about lawyers' access to their clients, and recognized that due process of law and respect for the rules of procedure were not fully guaranteed in the PNA.

69. Some organisations underlined that the crux of the problem concerns the implementation of court decisions. By way of example, in 2003, the Palestinian High Court made decisions to free six detainees; yet, none of these decisions had been implemented at the time of the delegation's visit. Therefore, according to Palestinian human rights defenders, in addition to shortcomings in the judicial system, the security arm of the government demonstrated no real commitment to respect the rule of law.

70. Additionally, human rights organisations expressed concern about the detention conditions in the OPTs. The organisations with which the delegation met stressed, however, that most Palestinian prisons had

been bombarded by the IDF and generally destroyed down to the very ground.

Opposing house demolitions in the OPTs as a collective punishment and an ill-treatment

71. With the eruption of the second Intifada on September 28, 2000, human rights NGOs have documented a dramatic increase in the demolition of Palestinian housing in the OPTs, carried out by the IDF on "security grounds". Those especially targeted are family homes of people suspected of involvement in attacks against Israeli targets. The Palestine Centre for Human Rights (PCHR) argues that in most instances these demolitions are in fact related to the expansion of Israeli control over areas in the OPTs, for the purpose of annexation or for shorter-term gains during military operations. It claims that home demolitions are conducted as a form of collective punishment and intimidation. Both measures are prohibited by Articles 33 and 53 of the Fourth Geneva Convention. In its Concluding Observations regarding Israel's periodic report, the UN Human Rights Committee itself qualified this practice as a violation of the international prohibition of torture and ill-treatment.¹² In full contrast with this position, the Head of Security Matters at the Attorney General's Office of Israel reportedly stated that the Israeli military conducts a "deterrent policy" that is "accepted as legitimate in some matters, such as house demolitions." He also stated that "the army carries out other deterrent measures such as bombing empty Palestinian security buildings". PCHR, HaMoked, Al-Haq, B'Tselem and other organisations, which routinely file petitions against the IDF on behalf of victims of home demolitions, stated that in the last three years the demolition of civilian homes, commercial properties and education and health facilities has even become a routine occurrence throughout the OPTs. In September 2003, PCHR had documented the destruction of some 1,260 civilian homes in the Gaza Strip alone, leaving approximately 10,000 Palestinians homeless. HaMoked reported that IDF soldiers further threatened families that their homes would be blown up if they did not turn in their relatives suspected of involvement in terrorist activities. The organisations stated that those made homeless, who usually lost all of their possessions, were generally provided emergency assistance (usually a tent and basic provisions) by UNRWA or the ICRC but few were re-housed in adequate accommodation. Many families lived separately in the homes of different relatives.

72. While in Gaza, the delegation was able to visit the remains of the original headquarters of the PNA - the Moqata - which were fully destroyed by the IDF during the Defensive Shield "Operation Defensive Shield". The delegation also visited a site nearby Gaza City where two newly-built several-story buildings that were inhabited by families of Palestinian military personnel had just been destroyed to the ground by the IDF. The buildings were facing an Israeli settlement located a few miles away and the destruction had reportedly taken place by surprise, at night. The buildings had suddenly been surrounded by military bulldozers, tanks and other armoured vehicles, inhabitants, including children and elderly people, had reportedly been given only the time to escape the buildings prior to their destruction. According to reports by human rights organisations this is a routine tactic. Human rights organisations spend a great deal of time and resources documenting such situations, sometimes at the risk of being physically injured or detained, and working to obtain justice for, and assistance to, the victims.

Fighting for the dismantlement of Israeli settlements and opposing land-seizure in the OPTs

73. The delegation was not able to visit a settlement. It was explained that the number of such sites in East Jerusalem, the West Bank and the Gaza Strip has steadily increased since the establishment of Kfar Ezyon in the West Bank, in 1967. The map presented in annex 3 will provide an idea of the number and location of urban and rural settlements, community settlements and cooperative settlements and also of the many Israeli outposts that were to be found in the West Bank alone at the time of the visit. In addition, the delegation learned that since 1967 Israel has seized control of some fifty per cent of the West Bank, excluding East Jerusalem, with the primary objective of establishing settlements and providing reserves of land for expansion. The Israeli government has reportedly used legal-bureaucratic mechanisms to declare and register land as "State land" and has further applied measures such as requisition of land for military purposes, declaration of land as abandoned property, and expropriation of land for public needs.

74. In Israel, B'Tselem is particularly vocal about these issues and denounces the establishment of settlements and the practice of land seizure as violations of the rules of IHL (that are binding on Israel).

¹² See Concluding Observations of the Human Rights Committee: Israel, 21/08/2003, CCPR/CO/178/ISR as follows: "16. While fully acknowledging the threat posed by terrorist activities in the Occupied Territories, the Committee deplores what it considers to be the partly punitive nature of the demolition of property and homes in the Occupied Territories. In the Committee's Opinion, the demolition of property and houses of families some of whose members were or are suspected of involvement in terrorist activities or suicide bombings contravenes the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (art. 17), freedom to choose one's residence (art. 12), equality of all persons before the law and equal protection of the law (art. 26), and not to be subjected to torture or cruel and inhumane treatment (art. 7). The State party should cease forthwith the above practice." See also: « The Committee deplores the demolition of Arab homes as a means of punishment. It also deplores the practice of demolitions, in part or in whole, of "illegally" constructed Arab homes" (UN Doc. CCPR/C/79/Add.93, para.24). See also the following statement by the Committee Against Torture: "The State party should desist from the policies of closure and house demolition where they offend article 16 of the Convention [Against Torture]" (CAT/C/XXVIII/Concl.5, para. 7g).

Additionally, B'Tselem charges that the repercussions of land seizures constitute major violations of human rights, especially the right to self-determination, the right to equality, the right to property, the right to an adequate standard of living, and the right to freedom of movement, all of which are guaranteed in international human rights law.

75. On the other hand, B'Tselem and other Israeli organisations have expressed deep concern at Palestinian attacks on settlers, which have reportedly increased since the beginning of the second Intifada and have taken the form of throwing stones at cars, shootings, and laying explosives, all of which resulted in the killing or injury of Israeli civilians. These human rights defenders opposed statements allegedly made by Palestinian officials and even some NGOs justifying attacks on settlers on grounds that the settlements are illegal and serve Israel's military purposes.

Specific risks to which human rights defenders are exposed in their work and because of it

Physical risks and security hazards faced by human rights defenders in Israel and the OPTs

76. The degree of risk faced by those NGOs based in Israel and those based in the West Bank and the Gaza Strip is clearly different. All of the organisations based in Israel, without any exception, insisted that their colleagues based in the West Bank or the Gaza Strip had to operate under the very harsh circumstances that affect the entire Palestinian people in the OPTs. These circumstances, they said, were quite at odds with respect for human rights in general and were making their colleagues' work extremely difficult as well as risky. This was confirmed by members of Palestinian NGOs, who further insisted that risks and obstacles they faced had less to do with their work in defence of human rights than with the general circumstances experienced by the Palestinian people under the Israeli occupation. The organisations based in Israel asserted that, as difficult as their work was, it generally did not expose their staff to direct personal physical risk, with the important exception of their Palestinian field workers in the West Bank and the Gaza Strip. None complained that their premises experienced raids that could be attributed beyond doubts to action by the Israeli authorities or the IDF. However, some Israeli organisations further indicated that they were flooded with hate email from people accusing them of being traitors and anti-Semites.

77. The delegation hereafter reports recent incidents that have directly affected certain NGOs and their staffers, either in the OPTs or in Israel, and which provide examples of the serious circumstances and stress they have to face on a routine basis:

- Rabbis for Human Rights: In November 2003, a RHR delegation was attacked by settlers, some of whom were armed with clubs and had their faces covered, while documenting the reported cut of hundreds of olive trees at Ein Abus and Isawiya. John Ross, a 66 years-old journalist, Rabbi Arik Ascherman and activist David Nir were beaten; another activist, Dalya Bones, was threatened.
- Al-Haq: In 2001, 2002, and 2003, Al-Haq fieldworkers were subjected to beatings by settlers and members of the IDF while conducting fieldwork in Hebron. In several cases, their IDs were confiscated or damaged by Israeli soldiers. This happened twice to Al-Haq fieldworker Yusuf Qawariq who monitors violations in the Nablus area.

Detention and ill-treatment of human rights defenders: The case of Mr. Daoud Dirawi

78. In the last few years, and especially since the beginning of the second Intifada, a number of human rights defenders have been arrested by the IDF and held under administrative detention in Israel. Some of these cases have been the subject of action by the Observatory for the Protection of Human Rights Defenders which, at the time of the visit, had serious concerns about the situation of Mr. Daoud Dirawi's situation, a child rights lawyer and coordinator for the Juvenile Justice Program of Defence for Children International - Palestine Section. The mandating organisations had requested an authorisation for the delegation to be able to visit him in his detention centre, Ketziot prison in the Negev Desert, but, as already stated, that authorisation was not granted.

79. The information available to the delegation regarding Mr. Daoud Dirawi's situation at the time of the visit is summarized in annex 5.

80. The delegation met at length with the wife of Mr. Dirawi, herself a lawyer, who expressed great distress at the fact that she had not been authorized to visit her husband for over two months, neither as a wife with their infant daughter or as a lawyer, even though she was petitioning on his behalf. In her capacity as a lawyer, she had been successful in visiting him twice only since his arrest on 21 February 2003.

81. While not allowed to visit Mr. Dirawi, the delegation was able to raise his case when meeting at the Ministry of Foreign Affairs of Israel with the Head of the NGO section, Ms. Gill Orly, the Director of the General Law Division, Mr. Daniel Taub, and a senior officer of the Office of the Legal Adviser, Ms. Ady Schönmann. On that occasion, the delegation provided a note on Mr. Dirawi's case prepared by DCI-Palestine. The delegation insisted that Mr. Dirawi enjoy fair treatment and due process of law according to international human rights and IHL standards, and that he be allowed to receive visits from his family and the lawyer of his own choice so as to prepare his defence adequately. The delegation further insisted that he should either be charged on the basis of concrete evidence and tried with all due guarantees of fairness, or else released without delay. The delegation raised serious concerns about the wide powers conferred upon the Government and the IDF by the unusually large and intricate series of laws and military orders allowing for the administrative detention of suspects for indefinitely renewable periods of time, on grounds of "*security necessity*", and at the wide use of such powers based on secret accusations or evidence to which (as is in the case for of Mr. Dirawi) the detainees often have no access. The delegation further insisted on Mr. Dirawi's right to meet his family, at least on humanitarian grounds. The officers of the Ministry stated that they would relay the written allegations to the GSS and that they would further raise the issue of visits by Mr. Dirawi's wife and daughter. They further stated that, to their knowledge, Mr. Dirawi was being detained because of evidence that he was affiliated with the Popular Front for the Liberation of Palestine (PFLP) and because the GSS argued that he represented a threat to Israeli security. The delegation later learned that Mr. Dirawi was unconditionally released on 29 January 2004.

Bridges instead of walls: Human rights NGOs' contribution to peace-building efforts

Promoting respect for human rights and human dignity over and above any other considerations, and building mutual trust and respect

82. The delegation has deep admiration for the work conducted by all the organisations it visited and for the vision, courage and determination of these organisation's' directors and staffers. The delegation met with organisations that represent a remarkable variety of approaches. Each of those persons it met appeared to be genuinely engaged in promoting international human rights values and norms and in conducting independent, reliable monitoring of developments on the ground that affect these rights. The delegation was equally impressed with the organisations' commitment to uphold and promote respect for human dignity above divisions, and beyond reciprocal fears, mistrust and anger. Within the confines of their respective mandates, they all stated their concern to do so irrespective of who was responsible for violating these norms. All argued that the best tools against violence were awareness and acknowledgement of facts affecting the enjoyment of human rights and fundamental freedoms and of both their short and long-term impact on people's life and spirit. They further emphasized the importance of building respect for human rights and human dignity in people's minds, and securing justice for the victims and fair trials for any suspects of human rights and humanitarian law violations.

83. For the delegation, it is clear that an underlying aspect of the work of all human rights organisations is "to build bridges" as opposed to building walls. This role is far from negligible as fears and mistrust have become very deep, especially since the beginning of the second Intifada.

84. Mutual respect can only derive from awareness of, and personal relationships with or getting to know of the other. Instead, generations of Palestinians in the West Bank or the Gaza Strip have been exposed only to violence and humiliation by the IDF and Israeli settlers. Meanwhile, generations of Israelis have experienced only Palestinian armed resistance and attacks of civilians and increasingly tend to view all Palestinians as potential suicide bombers. It is thus quite obvious that one major, explicit or underlying, issue in all discussions was that of the reciprocal "demonisation" of Israeli and Palestinians, and of the growing tendency to view the other group as one single homogeneous group identified with extremist positions. Yet, as in any society, the real situation is far from that simplistic and in both societies there are a variety of approaches and nuances.

85. Against that background, many human rights organisations regard themselves as channels for the variety of the views existing within their respective societies. They consider themselves as being a vehicle on the part of civil society to reinforce the rule of law and to strengthen democracy by making alternative or complementary views and solutions visible and by raising public awareness of international human rights standards. This is why, while keen to preserve their independence, they are also concerned to develop a constructive relationship with the governmental authorities and also with the people's elected representatives within their respective environment. In the OPTs, as already stated, human rights organisations further feel that they partly compensate for the inability to deliver certain services suffered by the PNA under the current circumstances; this is particularly so with regard to offering the public free legal assistance or guidance.

Such a claim did not arise in that form in Israel, even though, as far as the delegation is concerned, it is quite clear that the human rights organisations are also providing crucial help to the public.

86. A remarkable initiative aimed at “building bridges” is the Mobile Clinic developed by Physicians for Human Rights, which is referred to in the relevant sub-section of paragraph 42. Additionally, PHR has used the framework of international human rights law to craft public education campaigns that aim to build bridges of understanding among the Israeli public regarding the situation of residents of the OPTs. PHR has created materials that highlight human rights concerns in the OPTs in parallel to similar concerns in Israel proper. For example, by highlighting access to health care issues throughout the OPTs and Israel in the same pamphlet, PHR is able to shed light on challenges to the movement of ambulances travelling within the OPTs, as well as lack of adequate health care for citizens within Israel. By highlighting these types of violations in the same campaign, PHR attempts to diffuse public preoccupation with the political nature of the conflict, and to highlight the need to address human rights violations wherever they are occurring.

87. Rabbis for Human Rights (self-defined as “*the rabbinic voice of conscience in Israel*”) has also attempted to build bridges through the promotion of interfaith dialogue regarding the situation of residents of the OPTs. Under RHR’s leadership, Jewish, Muslim, and other religious leaders come together to highlight the impact of human rights violations on all people, and to promote peace. Another relevant initiative of RHR is the action it has carried out under the name “*Extending the Olive Branch – Olive Tree Campaign*”. RHR argues that the olive branch – a traditional symbol of peace – is today at the heart of the Israeli-Palestinian conflict. As part of this campaign, RHR has marketed for Palestinians during the olive harvest, assisted families who have lost trees, and replanted trees uprooted (mainly as a result of the construction of the wall and “seam zone”). RHR claims that over \$100,000, mostly from the worldwide Jewish community, has been raised in this bridge-building effort.

88. Ultimately, what matters for all human rights organisations are human beings. As stated by the Director of the Women’s Centre for Legal Aid and Counselling: “*If we want a truly sustainable solution to the conflict, we must begin to deal with the people, not the land.*”.

G. Delegation’s concluding views and recommendations, as endorsed by the mandating organisations

General views and conclusions

89. The delegation and its mandating organisations – Forefront and the OMCT and the FIDH as partners in the Observatory for the Protection of Human Rights Defenders - are highly impressed by the work performed by human rights NGOs, both in Israel and the OPTs, by their vision, courage and their commitment. Keeping in mind the particular context in which these NGOs have to operate, they highly value their efforts, especially given that their defence of human rights exposes them to significant personal risks, such as slandering and defamation, physical assaults, arbitrary arrest, torture and prolonged administrative detention.

90. As one organisation put it, “*Political decisions are taken every day by both the Palestinian and Israeli authorities that violate human rights and have far-reaching effects on their protection and on the rule of law*”. In contrast, both in Israel and the OPTs, human rights NGOs attempt to demonstrate that respect for human dignity and the rule of law, solidarity with and assistance to the victims of violations of human rights and IHL, and building a culture of human rights and respect for IHL within their respective societies, are the best possible ways of preventing, and limiting, armed violence and terrorism and of reaching and guaranteeing peace and security in the long run.

91. The organisations visited by the delegation represent a wide variety of views and approaches and operate in two very different human, political, military, legal and religious environments. Clearly, there exists a dramatic difference between upholding human rights in a context where the priority concerns are military occupation and land confiscation entailing massive violations of human rights and IHL, and in which the first aspiration is self-determination, and upholding human rights in a context of freedom where the priority concerns are related to land and security, and the risks are abhorrent suicide bombings affecting the civilian population. Within such different contexts, and despite the backdrop of an intense propaganda battle, both those human rights NGOs located in Israel and those located in the OPTs appear to be clearly committed to upholding human rights and IHL as an impartial standard, irrespective of who may be held responsible for violating them, against whatever authority.

92. Forefront, the OMCT and the FIDH noted (see para.22) that under the circumstances of the conflict,

Israel's approach to security is basically a military one and thus tends to privilege military priorities over wider human concerns, at least as far as Palestinians are concerned. Such a focus tends to make human rights enjoyment by the Palestinian people heavily dependent upon Israel's security concerns seen from a military perspective, with the result that human rights defence and promotion on behalf of the Palestinian people are being interpreted by Israel either as part of hostile action or as instrumental to it. With such an approach to security, Israel deliberately ignores that security is only one component of human rights and cannot be upheld purely militarily in a sustainable manner, and at the cost of sacrificing the enjoyment of human rights at large by the Palestinian people. According to international human rights covenants and IHL human rights are to be upheld even in circumstances of armed conflict. At least a core group of rights - such as the right to life, the right to human treatment, the right to liberty and personal security, the right to a fair trial, the right to freedom of expression, and the right to judicial protection - may not be derogated upon under any circumstances.

93. For their part, Israeli human rights NGOs appear to be confronted with a certain duality of approach to human rights by the Government. They are able to carry out their activities in Israel as they might in any other democratic State. However, most complained about being barred from entering the OPTs and stated that their work in defence of the human rights of the Palestinian population in Israel and the OPTs is less than welcomed by the Government. Most of them also acknowledged that, against the background of terrorist attacks and suicide bombings, they were confronted with the difficulty of mobilising public support against violations of the human rights of the Palestinian people and that they were constantly exposed to attempts to discredit them vis-à-vis the public opinion.

94. The Palestinian National Authority (PNA) -- which fights for the right to self-determination and statehood of the Palestinian people -- also appears to have a military approach to security (see para. 23). This leads to policies that clearly make human rights enjoyment in the OPTs heavily dependent upon the resolution of the conflict. In that context, any criticisms by human rights NGOs in the OPTs of the PNA's human rights policy and practices appear to be perceived by the PNA as instrumental to Israel's offensive policy.

95. As can be seen from various examples presented in this report, such a military approach to security exposes all human rights defenders, to varying degrees, both in Israel and the OPTs, to accusations of sympathy with the enemy, explicitly, deliberately or de facto, and to situations ranging from mere criticisms to direct threats or attacks.

96. Forefront, the OMCT and the FIDH observe that the situation is, as clearly emerges from the delegation's report, especially difficult and risky for Palestinian NGOs and human rights defenders. Their work is greatly impaired by the innumerable obstacles to freedom of movement imposed by the occupying force on the Palestinian people. At the same time, they have to defend and promote human rights as part of the building of democratic institutions and governance in the OPTs. In that context, they may have to fight to secure their very existence and also to live with decisions somehow imposed from abroad which, like the existence of the State Security Court, represent a challenge to human rights. In other words, they have to operate on the razor blade: their work to denounce violations by Israel of human rights and IHL exposes them to hostile action by Israel; their monitoring of the PNA human rights policy and practices exposes them to being viewed as hostile to their own people and even as traitors, even though there exists an acknowledged level of dialogue between them and the PNA.

97. Restrictions on freedom of movement inhibit human rights defenders from direct contact with one another, thus limiting their ability to share ideas, develop joint strategies, and be inspired or sustained by one another's work. Most organisations curb the obstacles placed on their freedom of movement by using communication technologies. Close cooperation among Israeli organisations and among Palestinian organisations, and also the further development of working ties and dialogue between Israeli and Palestinian human rights organisations, are very powerful tools not only to strengthen respect for human rights, but also to create a strong momentum for mutual understanding and, finally, for peace. Forefront, the OMCT and the FIDH trust that complementary efforts and mutual support between human rights organisations are indeed crucial to help reaching the final objective: enjoyment of human rights by all.

Recommendations

98. Forefront, the OMCT and the FIDH trust that by allowing the existence of a wide range of human rights NGOs that embody a variety of approaches and concerns, and by ensuring their registration under clearly established rules that are identically applicable to all, governments demonstrate a true political will to allow for the development of a vibrant civil society and a desire to promote democratic governance, with transparency and accountability.

- With this in mind and considering further that human rights belong to the realm of justice, Forefront,

the OMCT and the FIDH strongly advocate, both with the Government of Israel and the PNA, in favour of such kind of registration under the Ministry of Justice instead of the Ministry of Interior, and trust that this would be interpreted, locally and internationally, as a confidence-building measure.

99. Forefront, the OMCT and the FIDH welcome the importance now attached by the Ministry of Foreign Affairs of Israel to the shadow reports developed by the human rights NGOs for presentation to the UN treaty bodies, and to the role played by them in general.

- Against that background, Forefront, the OMCT and the FIDH hope that, as a first concrete step consistent with its stated intention, the NGOs section will contact all those local NGOs active in the human rights field with a view to exploring with them the best possible ways of following-up, in particular, the Concluding Observations of the Human Rights Committee regarding the report presented to it under Article 40 of the Covenant on Civil and Political Rights, in July 2003 (see document CCPR/CO/78/ISR of 21 August 2003).
- The Ministry Officers having informed the delegation that the Concluding Observations of the Human Rights Committee are being discussed at the highest level of Government, Forefront, the OMCT and the FIDH trust that involving the NGOs – at least those which presented a shadow report - in a constructive and continuing dialogue on the concerns raised by the Committee could only be conducive to positive developments, and that it would, in particular, contribute to building confidence and mutual trust and, as a result, to releasing tension.
- Similarly, Forefront, the OMCT and the FIDH urge the State of Israel, a State party to the International Convention Against Torture, to take all necessary and similar action as a follow-up to the Conclusions and Recommendations of the United Nations Committee Against Torture of 23 November 2001 regarding Israel (CAT/C/XXVII/Concl.5.)¹³. They also urge that State to adhere to the Optional Protocol to the Convention and adopt the corresponding legislation.

100. Forefront, the OMCT and the FIDH further hope that the Ministry's NGOs Section will help develop a constructive dialogue with international human rights organisations and contribute to ease the process of access to Israel and the OPTs and any travel within them.

101. Forefront, the OMCT and the FIDH welcome the unconditional release from administrative detention of human rights defender Mr. Daoud Dirawi.

- At the same time, they urge the UN Secretary General's Special Representative on Human Rights Defenders to pay continuous attention to the situation of Palestinian human rights NGOs and individual human rights defenders in Israel and the OPTs, and to take urgent action to protect them whenever the need arises.
- They consider it most important that the Special Representative take especially swift action whenever human rights defenders are being arrested and detained in Israel or the OPTs, and that she seek guarantees for due process of law, respect for personal dignity and physical integrity, and redress in case of human rights abuses.

102. Forefront, the OMCT and the FIDH are convinced that denial of human rights enjoyment fuels frustration and the escalation of violence, and thus represents a serious threat on security. They trust that, in contrast to this, respect for human rights and IHL has the effect of limiting violence and thus of creating conditions that bring the region closer to peace.

- From that point of view, Forefront, the OMCT and the FIDH believe that there is no better service that may be rendered to the Israeli people and the Palestinian people than to place respect for human rights and IHL by both parts in the conflict at the centre of any peace efforts.
- They trust that a way of doing this is to include in any future peace agreement the obligation by all parties to respect human rights and IHL.

¹³

Please refer to note N°7. "7. The Committee makes the following recommendations: a) The provisions of the [International] Convention [Against Torture] should be incorporated by legislation into the domestic law of Israel, in particular a crime of torture as defined in article 1 of the Convention should be enacted. b) The practice of administrative detention in the Occupied Territories, should be reviewed in order to ensure its conformity with article 16. c) The State party should review its laws and policies so as to ensure that all detainees, without exception, are brought promptly before a judge, and are ensured prompt access to a lawyer. d) The State party should ensure that interrogation methods prohibited by the convention are not utilized by either the police or the ISA in any circumstances. e) In view of the numerous allegations of torture and other ill treatment by law enforcement personnel, the State party should take all necessary effective steps to prevent the crime of torture and other acts of cruel inhuman or degrading treatment or punishment, and institute effective complaint, investigative and prosecution mechanisms relating thereto. f) All victims of torture and ill-treatment should be granted effective access to appropriate rehabilitation and compensation measures. g) The State party should desist from the policies of closure and house demolition where they offend article 16 of the Convention. h) The State party should intensify human rights education and training activities, in particular concerning the Convention, for the ISA, the Israel Defence Forces, police and medical doctors. i) Necessity as a possible justification to the crime of torture should be removed from the domestic law. j) Such legislative measures as are necessary should be taken to ensure the exclusion of not merely a confession extorted by torture but also any evidence derived from such confession. k) Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22.

- They further trust that another effective way of doing this is supporting and protecting human rights defenders and human rights NGOs.
- They therefore advocate for the adoption, at the 2004 session of the Commission on Human Rights, of a resolution acknowledging the special role played by human rights defenders in Israel and the OPTs in bringing about peace in the region, calling for a constructive and continuing dialogue between them and the authorities, and further calling for respect of these organisations' independence and also for respect of the security and human rights of their individual workers.

103. Forefront, the OMCT and the FIDH trust that, as a matter of high priority, the international community should urge the Israeli Government and the PNA:

- To immediately put an end to any kind of harassment and reprisals against human rights defenders and associations.
- To order impartial investigations into any acts of violence perpetrated against human rights defenders in order to identify those responsible, bring them to book and apply the penal, civil and/or administrative sanctions as provided by law.
- To recognise the role of human rights defenders in bringing about constructive solutions to the conflict and, with that objective, to develop a continuing dialogue with civil society.
- To ensure therefore that all human rights defenders in Israel and the OPTs are able to freely pursue their activities, and in particular, to respect the rights to freedom of association, freedom to peaceful assembly and freedom of expression as well as freedom of movement, in conformity with the provisions of human rights international instruments ratified by Israel, in particular the International Covenant on Civil and Political Rights, and in conformity with the Declaration on Human Rights Defenders, all instruments that the PNA is also to respect even though it may not be held legally bound by them.
- To issue a formal, standing invitation to all United Nations human rights mechanisms, in particular the UN Secretary General's Special Representative on Human Rights Defenders, to visit Israel and the Occupied Palestinian Territories;
- To conform to international human rights law and international humanitarian law, two branches of international public law which are legally binding for Israel, and which the PNA has also committed itself to respect.

104. With regard to freedom of movement:

- Forefront, the OMCT and the FIDH find it crucial that Palestinian human rights defenders be provided with authorisations to move freely within the OPTs and that Israeli human rights defenders also be provided with authorizations to access the OPTs and move freely within them;
- Forefront, the OMCT and the FIDH also urge the Israeli Government, and also the Jordanian and Egyptian Governments to remove any existing restrictions affecting human rights defenders from the OPTs with regard to regional and international travels.

105. Finally, Forefront, the OMCT and the FIDH note that most human rights NGOs, be it in Israel or the OPTs, are highly dependent upon financing from abroad. This external financing may be viewed as a strength insofar as it protects them from close official control on their programmes, and as a weakness insofar as it isolates them to a certain extent from the public. Such external funding is crucial and should be pursued and even strengthened as appropriate to allow human rights NGOs to help building a culture of human rights and mutual respect and pave the way for a peaceful future.

- Forefront, the OMCT and the FIDH therefore urge financing institutions to pursue and strengthen, as appropriate, their financial support to human rights organisations in Israel and the OPTs as part of a process aimed at peace and dialogue in the region.

Non governmental organisations in Israel and the Occupied Palestinian Territories with which the delegation held discussions

N.B. The organisations are listed in the order in which the meetings had to be scheduled and the short presentation is the responsibility of each of the organisations concerned.

In Israel

B'TSELEM - *The Israeli Center for Human Rights in the Occupied Territories* (www.btselem.org/)

B'Tselem was established in 1989 by a group of prominent academics, attorneys, journalists, and Knesset members. It endeavors to document and educate the Israeli public and policymakers about human rights violations in the Occupied Territories, combat the phenomenon of denial prevalent among the Israeli public, and help create a human rights culture in Israel. As an Israeli human rights organisation, B'Tselem acts primarily to change Israeli policy in the Occupied Territories and ensure that its government, which rules the Occupied Territories, protects the human rights of residents there and complies with its obligations under international law. In December, 1989 it received the Carter-Menil Award for Human Rights. Its reports have gained B'Tselem a reputation for accuracy, and the Israeli authorities relate to them seriously. B'Tselem ensures the reliability of information it publishes by conducting its own fieldwork and research, whose results are thoroughly cross-checked with relevant documents, official government sources, and information from other sources, among them Israeli, Palestinian, and other human rights organisations. B'Tselem is a member of the FIDH.

HAMOKED, *Center for the Defense of the Individual* (www.hamoked.org.il)

HaMoked (formerly Hotline for Victims of Violence) is an Israeli organisation founded in 1988 to defend human rights in the occupied territories. It has provided assistance to several thousand Palestinian victims of violence, human rights abuses and bureaucratic harassment. HaMoked registers complaints and follows through on them through administrative and legal channels until the matter is successfully resolved. In addition to its individual assistance, HaMoked advocates for human rights at the policy level.

THE PUBLIC COMMITTEE AGAINST TORTURE IN ISRAEL (www.stoptorture.org.il)

In September 1999, in response to PCATI's petition, nine justices of the High Court of Justice ruled to prohibit the use of torture during interrogation. The Public Committee Against Torture in Israel, an independent human rights organisation founded in 1990, monitors the implementation of this ruling in detention centers and prisons and continues the struggle against the use of torture in interrogation in Israel and the Palestinian Authority through legal means, support of relevant legislation and through an information campaign aimed at raising public awareness of the subject. The Public Committee Against Torture in Israel provides legal counsel and aid to victims of torture and assistance to attorneys representing them and files petitions and petitions of principle to the High Court of Justice. PCATI is involved with all investigative authorities in Israel: the Military, Police and the GSS, actively lobbies against legislation which would allow torture during interrogation and permits the holding of hostages by law. PCATI continues the campaign for public opinion in Israel and develops educational programmes for the public, and acts as a national and international resource center for information on torture and related fields of human rights in Israel and the Palestinian Authority. PCATI is a member of the FIDH.

THE NEW ISRAEL FUND (www.nif.org.il)

The New Israel Fund (NIF) works to strengthen Israel's democracy and to promote freedom, justice and equality for all Israel's citizens. For nearly twenty-five years, NIF has been a leader in building a just and strong Israel, believing that Israel's strength depends as much on its commitment to democratic principles as on its ability to defend itself against physical and military threats. Not only are these principles guaranteed in Israel's Declaration of Independence, they are central elements of the Jewish tradition. NIF works in three areas: fighting for civil and human rights and promoting religious tolerance and pluralism and closing the social and economic gaps in Israeli society. To promote these goals, the New Israel Fund pursues an integrated strategy of grantmaking, technical assistance and coalition building. NIF builds institutions by nurturing and developing grassroots organisations that become the backbone of Israel's civil society and it partners with funders who share this vision of strategic philanthropy in support of democracy and social justice.

ADALAH *The Legal Center for Arab Minority Rights in Israel* (www.adalah.org)

Adalah is the first non-profit, non-sectarian Palestinian-run legal center in Israel. Established in November 1996, Adalah serves the Palestinian community nationwide, over one million people or 20% of the population. Adalah's legal work draws on Israeli law, comparative constitutional law, and international human rights standards. The main goal of Adalah's work is to achieve equal rights and minority rights protections for Palestinian citizens of Israel. Their eight fields of interest are cultural and language rights, education rights, religious rights, land and housing rights, political rights, prisoners' rights, Palestinian women's rights, and social and economic rights. Adalah is a member of the FIDH.

THE ASSOCIATION OF FORTY (www.assoc40.org)

The Association of Forty - the association for the recognition of the Arab Unrecognized Villages in Israel, was formally established in 1988 in the Unrecognized Village Ein-Hod, by the local committee of the village, by the inhabitants of unrecognized villages and also by Arab and Jewish Volunteers from all over the country. The plight of the Arab Unrecognized Villages first began in 1948 with the establishment of the State of Israel. Even though these Arab Villages existed tens and hundreds of years ago, The Israeli consecutive governments ignored the existence of these villages and

the inhabitants were denied their rights as citizens of the country. Since this time, these villages have not appeared on any map and there is still no plan for their development.

PALESTINIAN HUMAN RIGHTS MONITORING GROUP (www.phrmg.org)

The Palestinian Human Rights Monitoring Group (PHRMG) was founded in December 1996 by a diverse group of well-established Palestinians, including Palestinian Legislative Council (PLC) members, newspaper editors, journalists, a union leader, veteran human rights activists and religious leaders. The political composition of its founders is diverse - including members of Fatah, PFLP, DFLP, Hamas and independents - thereby ensuring the non-partisan character of the organisation. The PHRMG documents human rights violations committed against Palestinians in the West Bank, Gaza Strip and East Jerusalem, regardless of who is responsible. In effect, the PHRMG has dedicated much of its work to the monitoring of human rights violations committed by the Palestinian Authority. The PHRMG believes that in spite of the ongoing Israeli occupation of the Palestinian Territories and the need to denounce Israeli human rights abuses, such scrutiny is essential in the current process of state building, to ensure that the future Palestinian State will be a truly democratic one. In the long run, the protection of human rights can only strengthen the Palestinian Authority. Due to the absence and/or poor reliability of traditional democratic mechanisms, the PHRMG's principle strategy since its foundation has been to appeal to Palestinian public opinion and to international opinion in order to bring about positive change in the human rights situation. Violations of Palestinian human rights by both Palestinian and Israeli authorities persist with little accountability and, for the foreseeable future, the PHRMG will maintain and improve upon its traditional human rights monitoring and outreach activities.

RABBIS FOR HUMAN RIGHTS (www.rhr.israel.net)

RHR was founded in 1988, in response to serious abuses of human rights by the Israeli military authorities in the suppression of the Intifada. The indifference of much of the country's religious leadership and religiously identified citizenry to the suffering of innocent people seen as the enemy was a cause of concern to RHR's organizers. Both the religious and the non-religious sectors of the public need to be reminded that Judaism had another face. Human rights abuses are not compatible with the age-old Jewish tradition of humaneness and moral responsibility or the Biblical concern for "*The stranger in your midst*."--even in the face of the danger to public order and safety which the uprising represented. Today, the membership includes some ninety ordained rabbis, plus a number of rabbinic students and is comprised of Reform, Orthodox, Conservative and Reconstructionist rabbis and students. Rabbis for Human Rights has no affiliation with any political party or ideology. Its members are Israeli citizens. RHR has helped numerous individuals, publicized causes, engaged in civil disobedience, lobbied the Knesset and participated in a landmark high court case limiting the scope of the army to abuse human rights under the guise of security. We bring specific human-rights grievances to the attention of the Israeli public and to pressure the appropriate authorities for their redress. RHR is involved in ecumenical dialogue and educational activities. In addition, it deals with violations of human rights of West Bank Palestinians and Israeli Arabs. RHR concerns itself with foreign workers, the Israeli health care system, the status of women, Ethiopian Jews, and an Israeli bill of rights, to name a few issues.

PHYSICIANS FOR HUMAN RIGHTS, ISRAEL (www.phr.org.il)

Physicians for Human Rights - Israel (PHR-Israel) was established in 1988 as a non-partisan, non-profit organisation, dedicated to promoting and protecting the medical human rights of all residents of Israel and the territories under Israel's effective control. PHR-Israel's operating premise is that the maintenance of medical human rights is a necessary condition for social justice, as well as a legal obligation in accordance with international humanitarian law. The right to health and medical care transcends political, national, religious, gender, socio-economic or any other considerations. PHR-Israel categorically opposes the subjugation of medical care to political considerations of any kind. PHR-Israel works to rectify and prevent breaches of medical human rights by the Israeli authorities as well as breakdowns in health care delivery in the West Bank and Gaza strip. PHR-Israel's activities include monitoring, intervention including direct intervention and provision of medical aid, dissemination of information, legal action, campaigning and advocacy. PHR-Israel operates in cooperation with many other non governmental organisations both Palestinian and Israeli, as well as with ones based abroad. PHR-Israel is also a member of the International Federation of Health and Human Rights Organisations (IFHHRO).

In the West Bank and the Gaza Strip

AL-HAQ (www.alhaq.org)

Al-Haq, the West Bank affiliate of the International Commission of Jurists - Geneva, is a Palestinian human rights organisation located in Ramallah, West Bank. The organisation was established in 1979 to protect and promote human rights and rule of law in the Occupied Palestinian Territories (OPT), and has special consultative status with the UN Economic and Social Council. Al-Haq is committed to the uniform application of the universal principles of human rights regardless of the identity of the perpetrator or victim of abuse. In order to meet these goals, the organisation conducts and disseminates legal and field research based on international human rights and humanitarian law; monitors and documents human rights violations through an extensive database; houses the only public library specialised in human rights in the West Bank; and provides free legal services to the Palestinian community. Through these activities, Al-Haq strives to bring to an end abuses committed by Israeli and Palestinian authorities. In addition, through the reinforcement of rule of law and the promotion of international legal standards, the organisation contributes to the development of a transparent and democratic civil society in Palestine. Al-Haq is a member of the Euro-Mediterranean Human Rights Network, the World Organisation Against Torture, the FIDH and Habitat International Coalition.

ADDAMEER Prisoners Support and Human Rights Association (www.addameer.org)

ADDAMEER (Arabic for conscience) Prisoners Support and Human Rights Association is a Palestinian non-governmental, civil institution that focuses on human rights issues. Established in 1992 by a group of lawyers, ex-

detainees and activists concerned with human rights, the center's activities focus on offering support for Palestinian prisoners, advocating for the rights of political prisoners, and working to end torture through monitoring, legal procedures, advocacy and solidarity campaigns. ADDAMEER is a member of the Executive Committee of the Palestinian NGO Network and works closely with various International human rights organisations and bodies to provide regular information on the situation of Palestinian political detainees. ADDAMEER believes in the internationality of human rights based on the respect based on the respect of human dignity as a priority, the totality of which is constructed upon international laws and convictions. ADDAMEER also believes in the importance of building a free and democratic Palestinian society based on justice, equality, rule of law and respect for human rights within the larger framework of the right to self-determination.

THE JERUSALEM CENTER FOR LEGAL AID AND HUMAN RIGHTS (www.jlac.org)

The Jerusalem Center For Legal Aid and Human Rights was established in 1974 by the American Friends Service Committee. In 1993, the first step were taken to integrate the administration with a Legal Board of Directors. Today, the JLAC is an independent, locally based run organisation. We value our role as a Palestinian legal organisation, which works to address the individual and collective needs of a community, faced with rapidly changing political, legal geographic realities. JLAC serves the needs of a population whose basic rights are still used as political currency, in a multi-layered legal system where legislative confusion prevails and where the authorities' voice remains of the occupying power. The JLAC offers legal advice and representation to Palestinians facing the consequences of the ongoing battle for political, economic and demographic control. That battle is waged, particularly in Jerusalem, through policies of arbitrary arrest and detention, house demolition, identity card confiscation, denial of residency rights, land seizures, and other measures which essentially violate the inalienable right of Palestinians to live, develop and prosper in their homeland. We also work on larger issues affecting the entire community: we take cases which could impact many people and establish legal precedents; we sponsor continuous legal education initiatives; and we create coalitions with other law-related or human rights organisations in order to develop the legal reforms necessary to establish a stable civil society.

DEMOCRACY AND WORKERS' RIGHTS CENTRE IN PALESTINE (www.dwrc.org)

The Democracy and Workers' Rights Center in Palestine is non-governmental organisation established in October 1993 by a group of academics, lawyers, trade unionists, and prominent political figures to defend Palestinian workers' rights, empower them and promote principles of democracy and social justice in the Palestinian territories. The Center is a member of the International Federation for Workers' Education Associations (IFWEA), the International Economic, Social and Cultural Rights Network (ESCR-net), the Global Occupational Health Network (GOHNET), and the Arab Network for NGOs. We are a founding member of the Arab Federation for Democracy and Workers' Education Associations established in December 2003. Our headquarters are in Ramallah, West Bank, and we have branch offices in Gaza and Jenin. DWRC offers legal aid to Palestinian workers in the Palestinian and Israeli labor markets, and endeavors to protect their human rights in general, and economic, social and cultural rights in particular, through advocacy, awareness raising, monitoring of violations, pressure campaigns, and work on legislation. We also promote workers' right to freedom of association, and help them organize in free, independent and democratic committees and trade unions. We train workers and trade union leaders to develop their organisational, leadership, trade union and management skills. We also run training courses on administrative skills and civic education. We fight unemployment and poverty through job creation projects for unemployed Palestinian workers. We are also active in fighting the negative consequences of globalization and the WTO on economic and social rights through studies, workshops, lectures, pressure on the Palestinian Authority at the local level, and networking with organisations active in this field at the Arab and international levels.

PALESTINIAN INDEPENDENT COMMISSION FOR CITIZEN'S RIGHTS (www.piccr.org/first.html)

The Palestinian Independent Commission for Citizens' Rights (PICCR) was established on September 30, 1993, upon a Presidential Decree issued by President Yasser Arafat, in his capacity as President of the State of Palestine and Chairman of the Palestine Liberation Organisation. The PICCR seeks, through its various activities, to educate and provide outreach to the public regarding legal rights and protection. More specifically, they work to investigate and follow-up on complaints with official and non-official parties in order to attain appropriate solutions to complaints received from individual citizens. They also work to safeguard the freedom of expression and opinion, while disseminating legal awareness and familiarizing citizens with their rights and freedoms, as well as with the mechanisms needed to protect and defend those rights.

WOMEN'S CENTER FOR LEGAL AID AND COUNSELLING (www.wclac.org/)

The WCLAC, established in 1991 in Jerusalem as an independent Palestinian organisation, aims to contribute to the establishment of a democratic Palestinian society, based on social justice and equality between women and men. To achieve this aim, the Centre has developed and is further developing, through its activities, a new Palestinian feminist discourse. WCLAC's mission is to contribute to the rectification of the long-standing neglect of women's human rights in Palestinian society, striving to provide support and guidance to Palestinian women whose human rights and rights, under the law, have been violated. They do this by seeking to promote the development of a social, political and legal order in which human rights are well respected and women's rights are well protected.

DEFENSE FOR CHILDREN INTERNATIONAL, PALESTINE (www.dci-pal.org)

Defense for Children International/Palestine Section (DCI/PS), established in 1992, is affiliated with the Geneva-based Defense for Children International, an organisation established in 1979, with consultative status with the United Nations Economic and Social Council, UNICEF, UNESCO, and the Council of Europe. Though affiliated with an international network, DCI/PS is an independent, Palestinian organisation, which develops its programmes and acts according to Palestinian children's needs and Palestinian priorities. DCI/PS is dedicated to promoting and protecting the rights of Palestinian children in the West Bank and Gaza - as articulated in the United Nations Convention on the Rights of the Child as well as in other international human rights instruments - and to facilitating the creation of an environment which is aware of and respects children's rights.

THE APARTHEID WALL CAMPAIGN -- - Campaign Emergency Center- Jayous, Qalqiliya (www.stopthewall.org)

The Anti-Apartheid Wall Campaign is a national grassroots movement against the Wall coordinated by the Palestinian Environmental Nongovernmental Organisations Network (PENGON) and rooted in the communities affected by the Wall. The main mission is to "Stop the Wall". The Campaign calls for the immediate cessation of the building of the Wall, the dismantling of all parts of the Wall and its related zones already built, the return of lands confiscated for the path of the Wall, and the compensation of damages and lost income due to the destruction of land and property in addition to the restitution of land. The campaign also works to lobby national officials, and generate calls for international solidarity in their struggle to defend their livelihoods and future.

PALESTINIAN RED CRESCENT SOCIETY (www.palestinercs.org)

The Palestine Red Crescent Society (PRCS) is a national humanitarian society that provides a wide range of health, social and other humanitarian services for the Palestinian People throughout the Middle East. PRCS is an observer member in the International Federation of the Red Cross and Red Crescent Societies (IFRC). PRCS has a total number of 25 branches, approximately 1200 staff offering Rehabilitation, Primary Health Care, Secondary Health Care, and Social Welfare.

AL-MEZAN CENTER FOR HUMAN RIGHTS (www.mezan.org)

Al Mezan Center for Human Rights is a Palestinian non-governmental organisation, with its main office located in Jabalia. The Center aims to encourage the protection, promotion and respect of human rights in the Occupied Territories, especially economic, cultural and social rights, through a wide range of activities. It supports all efforts to enforce the rules of International Law relative to the Occupied Territories and to empower the Palestinian people to practice their legitimate rights, especially the right to self-determination and an independent Palestinian State, while seeking to promote the democracy building process.

PALESTINIAN CENTRE FOR HUMAN RIGHTS (PCHR) (www.pchrgaza.org)

The Palestinian Centre for Human Rights (PCHR) is an independent legal body based in Gaza City dedicated to protecting human rights, promoting the rule of law, and upholding democratic principles in the Occupied Palestinian Territories. It holds Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations and is an affiliate of the International Commission of Jurists, the International Federation for Human Rights (FIDH), and the Euro-Mediterranean Human Rights Network. PCHR is a recipient of the 1996 French Republic Award for Human Rights. The Centre was established in 1995 by a group of Palestinian lawyers and human rights activists with the following mandate: (i) To protect human rights and promote the rule of law in accordance with international standards; (ii) To create and develop democratic institutions and an active civil society, while promoting democratic culture within Palestinian society; and (iii) To support all efforts aimed at enabling the Palestinian people to exercise its inalienable rights in regard to self-determination and independence in accordance with international law and UN resolutions.

List on the basis of which the delegation sought to collect data

This assessment list was sent in advance to all human rights non-governmental organisations in Israel and the Occupied Palestinian Territories and served as a guiding post for the interviews

General profile of the organisation

Date of foundation

Mandate / Terms of reference

Mission statement – Human Rights protected and promoted (main focus): civil and political rights / economic, social and cultural

Membership / Affiliates

Conditions in which the organisation works

Legal background

Budget

Support enjoyed, including financial and technical, from abroad

Area where the organisation premises are located: security and other related issues / premises easily accessible by the public or not

Premises and equipment

Access to internet and the e-mail

Main activities carried out

Advocacy, defence and promotion with the corresponding authorities

Fact-finding on human rights violations

Defence of affected groups and individuals

Direct assistance to victims

Human rights public awareness-building and advocacy

Action with international organisations: complaints, shadow reports to corresponding human rights UN bodies, advocacy, etc.

Other

Obstacles faced by human rights defenders as individuals

Nature of obstacles

Background information of incidents (date occurred, circumstances, etc)

Consequences for personal and professional life

Potential consequences for families, relatives of HRD

Remedies sought and obtained or failed to obtain

Freedom of association

Legal background

Organisation's general policy and practices

Practical difficulties faced by the organisation

Remedies sought and obtained or failed to obtain

Freedom of expression

Legal background

Organisation's general policy and practices

Practical difficulties faced by the organisation

Remedies sought and obtained or failed to obtain

Freedom of movement

Legal background

Organisation's general policy and practices

Practical difficulties faced by the organisation

Remedies sought and obtained or failed to obtain

Specific difficulties and prejudice suffered by the organisation

Raids on premises

Attacks on people : threats and harassment (verbal and/or physical) / detention (administrative or judicial) / torture or other form of ill-treatment / legal action / extra-judicial killings / smear campaigns against human rights defenders

Attacks on working tools and restrictions on communications : publications / website / e-mail / correspondence / other

Attacks on assets

Methods used to impede or discredit the work of the organisation and State and non-State agencies involved

Legal action

Restrictions relating to the budget and assets

Propaganda and smear campaigns against the organisation

Intelligence activities aimed at the organisation

Action by non-State actors, including armed groups and suicide bombers

Relations with the media

Impact of the organisation

On its independence

On its activities at large : e.g. ability to document / ability to report / ability to communicate : e.g. to the general public; to international organisations and partners; to the media; with corresponding organisations from the "other side"

On its staff

On members / affiliates

On its assets

On its outreach: contacts with the media / with the public / with other organisations abroad, including the UN Special Representative on Human Rights Defenders

Impact on the organisation's ability to contribute to peace-building efforts in the region

Measures taken to remedy the situation

Strategies developed and action taken by the organisation itself to reverse the conditions, policies and practices or to reform the laws that are contrary to the rights recognized by the UN Declaration.

Action taken by the organisation to prevent violence and to bring to justice those involved in violent action / Issues of impunity

Any suggestions by the organisations

Action to be taken with and by the corresponding authorities

Action to be taken with and by the UN Special Representative on Human Rights Defenders

Action to be taken by the organisations involved in the delegation

Any other suggestions

[OCHA Map of the West Bank to be inserted]

Additional background information on issues that human rights NGOs address in their work: A supplement to section D of the report

Opposing the construction of the Wall ¹⁴

1. As background, it is worth quoting a UN-OCHA report regarding the Wall: *“Following a series of deadly suicide bombings and attacks by Palestinian militants on civilians inside Israel, the Government of Israel (GOI) in June 2002 began construction of the first phase of a Wall to physically separate the West Bank from Israel” (...). “Had the Wall been constructed in Israel or along the Green Line marking the 1948 armistice line, the GOI’s position may not have been contested. But in many places, the Wall cuts eastwards several kilometres into the West Bank and place approximately 60,000 Palestinians on the western side of the Wall, between the Green line and Israeli population centres. This has not only raised serious questions regarding the effectiveness vis-à-vis security of the Wall, but also considerable concern that it will become a final border.” (...). “In Palestinian cities, immediately adjacent to the Green Line, such as Qalqiliya and Tulkarm, the Wall consists of an 8 meters (26 feet) high concrete barrier with guard towers spaced along it. In Palestinian rural areas, the Wall combines a 70-80 meters wide strip of coiled barbed wire, ditches, a trace road (where footprints can be detected), an electronic fence, and a paved patrol road. An additional “no-go” strip on the Palestinian side of the Wall has been mentioned but as yet not officially been put in place” (...). “The Wall needs to be viewed in conjunction with the pattern of settlements and by-pass roads built in the West Bank. In many places, like the Bethlehem area, for example, a combination of these three components combines to form the barrier” (cf. The West Bank Wall – Humanitarian Status Report, July 2003 – Northern West Bank Trajectory).*

2. As is well known, despite international protests, the construction of the Wall has not only continued but has also accelerated, representing an attack on human dignity and causing a humanitarian tragedy. In response, human rights defenders in both Israel and the OPTs have mobilised against the Wall and filed multiple petitions against the State of Israel, including in 2004 before the International Court of Justice. Those organisations visited by the delegation which are particularly active against the Wall, denouncing its illegality and its dramatic consequences and providing direct or indirect assistance to victims, include B’Tselem, Al-Haq, HaMoked, Rabbis for Human Rights, Addameer, the Jerusalem Center for Legal Aid and Human Rights, and The Apartheid Wall Campaign -- Campaign Emergency Center- Jayous, Qalqiliya whose worked is, as per its name, centred around the issue of the Wall.

3. As per the same OCHA report of July 2003, and as partially witnessed by the delegation in the Jayous and Qalqiliya area, the humanitarian implications of the Wall include :

- Some 210,000 Palestinians residents of the northern West Bank find themselves either with their villages wedged between the Green Line and Israel, or with their home on one side of the wall and their land on the other side without any possibility to cross over, except where there exists an agricultural crossing or gate. These may be located far away from the land and, according to the information provided to the delegation by human rights workers, generally have very limited, drastic and sometimes capricious opening hours;
- Almost 20,000 Israelis living in West Bank settlements placed on the west side of the wall, adjacent to Israel;
- 2,850 acres of privately-owned Palestinian land already confiscated and over 102,000 trees already destroyed;
- An estimated 40,000 acres of high-income Palestinian land affected. The land in the northern part of the West Bank, where the wall has already been completed, is especially fertile (reportedly twice as fertile as in the rest of West Bank and Gaza Strip land). In this area, one quarter of residents traditionally work on the land;
- Limited access to water wells with the *de facto* confiscation of an important proportion of water resources and the destruction of miles of pipelines. Here again, some of the best wells are located in the northern area of the West Bank, on the route of the wall;
- No direct access to medical facilities for those communities in the enclaves west of the wall;
- The inclusion on the Palestinian side of dumping sites from the Israeli settlements, as is the case in Jayous, near Qalqiliya.

Opposing family forced division as a human rights violation

4. Various NGOs – especially ACRI, Adalah and HaMoked - cited concerns about family separation and petitions they made on behalf of victims of such a situation (among them, some of their staffers). The NGOs challenge the 2002 *Nationality and Entry into Israel Law* that suspended family reunification, as the State of Israel’s violation of the right to protection of the family (enshrined in Article 16 of the Universal Declaration of Human Rights and Article 23 of the International Covenant on Civil and Political Rights). The 2002 law put an end to the right of non-resident spouses of Palestinians with Israeli citizenship to become residents. Therefore, any Israeli citizen who has married or who intends to marry a Palestinian from the OPTs must either live in the OPTs or live separately from his/her spouse. Many Palestinians from East Jerusalem face this situation. Applications for family reunification reportedly take over a year to be processed (even though applications can only be filed two months before expiration of the permit) and any spouse whose permit to live in Jerusalem has expired runs the risk of being deported. Any spouse moving to the OPTs pending the renewal of the permit runs the risk that his or her application may be denied. The delegation met various persons who -like Ms. Dirawi and her husband, a lawyer at Defence for Children International-Palestine (see para. 84-87) - personally experienced this situation.

¹⁴ See footnote N° in the report.

Fighting for a legal status for un-recognized Palestinian villages in Israel

5. Following the armed conflict from 1948 to the early 1950s, a number of displaced Palestinians established new villages that have so far been denied recognition by the Israeli authorities. As a result, they do not appear on any map, their inhabitants have no legal status and do not enjoy any public infrastructure and services, such as running water and sewage, electricity, trash collection, access by properly built roads, schools, healthcare, etc. The Association of Forty, which was created in one of these villages – Ein-Hod – fights for recognition and claims that non-recognition entails, directly or indirectly, a violation of civil and political rights and of economic, social, and cultural rights, all of which are guaranteed by the International Human Rights Covenants of which Israel is a State party.

6. The leader of the Association of Forty (see annex 1) asserted that he, as a human rights defender, and his village as a community have suffered a backlash for their ardent advocacy and leadership of this cause. While a number of Arab villages were eventually provided official recognition and the infrastructure and services that come with it, the village of Ein-Hod has continued decades of waiting. *“This village will be the last to get services. We are being made to pay a price. We are the head of the snake.”* Meanwhile, the village where Ein-Hod’s Palestinian residents lived prior to 1948 has been transformed into a fashionable village for Israeli artists and enjoys full public services.

A human rights defender in administrative detention: Mr. Daoud Dirawi

Summary of his situation prepared by DCI-Palestine Section and handed over by the delegation to the officers it met at the Ministry of Foreign Affairs of Israel on 23 November 2003

Daoud Dirawi is a DCI child rights lawyer and coordinator for the Juvenile Justice Program of Defence for Children International - Palestine Section. On 21 February 2003, he was arrested by Israeli soldiers in Jerusalem, while seeking medical treatment for his two-year old daughter, Mira. He also reports that he was beaten and tortured and then given an administrative detention order for 6 months in an Israeli military prison, without specific charges or even a trial. The 12 days he had spent on remand prior to his detention were not taken into consideration. The order was renewed for a further 6 months, again without charges or trial, in August 2003, days before Daoud was due to be released. Daoud remains one of nearly 1,000 Palestinian political prisoners held illegally under the Israeli administrative detention system.

Prior to his current detention, Daoud was arrested, tortured and detained by the Israeli authorities in September 2001, when returning from Jordan with his family. On that occasion he was given an administrative detention order of 6 months, after which he was released on payment of a 12,000 NIS fine (\$1= NIS4.5).

In the absence of any public evidence, Daoud believes that he is now being punished for the third time for the same unfounded accusations that led to his detention in 2001. The Israeli authorities have not yet closed the case and on 15 October 2003, Daoud was brought to Ofer court where the general prosecutor's office sought permission to bring Daoud before a military court, once his current detention order has run its course, to face charges over his activities as a student in 2001.

The presiding judge did not accept the request and told the prosecution that it had until 24 November 2003 to come up with a charge sheet with the accusations – in which case Daoud's case would be transferred directly to the military court for sentencing – or allow the current detention order to continue.

Daoud was not present when the Israeli authorities decided to fix his period of administrative detention in August, despite the fact that the judge is obliged to hand down the sentence in front of the prisoner. In light of this and other injustices perpetuated by the Israeli military, Daoud plans to boycott the court when his lawyer appeals against the renewal of his administrative detention. He will send a letter withdrawing his case from the court on the grounds that the administrative detention order is a political rather than judicial instrument.

Meanwhile, Daoud continues to be held at Ketziot prison in the Negev desert. He is one of some 550 Palestinians, including 15 children, being held under administrative detention at the prison camp, which is run by the Israeli army and does not form part of the civil penal system. The detainees sleep in tents which offer minimal protection against the harsh weather conditions of the desert. As winter approaches and the night time temperature drops to below freezing, conditions will become even more uncomfortable for Daoud and fellow inmates: there are insufficient blankets to go round, hygiene and sanitary facilities are substandard, the food is extremely bad both in terms of quality and quantity, and the prisoners are also plagued by mice, ticks and other insects.

Prisoners in Ketziot are subject to regular maltreatment from the Israeli guards, including severe beatings. One of the worst and most regular forms of abuse is the mental anguish suffered by prisoners following the arbitrary renewal of their administrative detention orders. According to Daoud, between 23 September-16 October, 84 detainees were told that their detention orders had been renewed only days, and in some cases hours, before they were due to be released. The practice amounts to a form of psychological torture and ignores a previous Israeli agreement to inform prisoners of a renewal at least two weeks before they were due to be released. In several cases, the military administrators at Ketziot have issued detention order renewals on the basis of a telephone call, although they are legally obliged to receive a signed order from the military commander before they can act.