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## Israel/Occupied Palestinian Territories

The human rights situation in Israel and the occupied West Bank and Gaza Strip remained grave throughout 2004, as armed clashes continued to exact a high price from civilians. While many see the period after Arafat's death on November 11 as the beginning of a new era in the Israeli-Palestinian conflict, few changes have occurred on the ground where the wall regime Israel is building inside the West Bank and the illegal Israeli settlements continue to expand. On December 3 a top Hamas leader said that the group would accept the establishment of a Palestinian state in the West Bank and Gaza Strip and a long-term truce with Israel. It remains to be seen whether Israel will make reciprocal declarations and whether words will be translated into action.

In 2004, the Israeli army and security forces made frequent and, in the Gaza Strip, large-scale military incursions into densely-populated Palestinian areas, often taking heavy tolls in terms of Palestinian deaths and injuries as well as property destruction. Palestinian armed groups fired rockets from areas of the Gaza Strip at Israeli civilian settlements and populated areas in Israel close to the border, and carried out seven suicide bombings inside Israel and four around Israeli army checkpoints in the Occupied Palestinian Territories (OPT). Armed attacks and clashes in the course of the year brought casualties since September 2000 to well over three thousand Palestinians and nearly one thousand Israelis killed, and more than 34,000 Palestinians and six thousand Israelis injured. Most of those killed and injured were civilians.

The Israeli authorities continue a policy of closure, imposing severe and frequently arbitrary restrictions on freedom of movement in the West Bank, Gaza Strip, and East Jerusalem, contributing to a serious humanitarian crisis marked by extreme poverty, unemployment, and food insecurity. The movement restrictions have also severely compromised Palestinian residents' access to health care, education, and other services.

Over the past two years these restrictions have become more acute, and in many places more permanent, with the construction of a "separation barrier" inside the West Bank. While the stated Israeli security rationale for the barrier is to prevent Palestinian armed groups from carrying out attacks in Israel, 85 percent of its route extends into the West Bank, effectively annexing to Israel most of the large illegal Jewish settlements constructed over the past several decades as well as confiscating some of the most productive Palestinian farmlands and key water resources.

In October 2004 the Knesset approved Prime Minister Ariel Sharon's plan to "disengage" from the Gaza Strip in 2005 by withdrawing its military forces and Jewish settlements, although the plan will leave

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Israel in control of Gaza's borders, coastline, and airspace. This move will not end Israel's occupation of Gaza or its responsibility for the well-being of its inhabitants.

The control of the Palestinian Authority (P.A.) over Palestinian population centers is frequently nominal at best, and conditions of lawlessness prevail in some areas of the Gaza Strip and the northern West Bank. Palestinian gunmen carried out lethal attacks against persons alleged to have collaborated with Israeli security forces, and political rivalries sometimes erupted into clashes between armed factions and attacks on PA officials and offices.

### ***Unlawful Use of Force***

The Israeli army and security forces carried out numerous attacks in Palestinian areas over the course of 2004. These were most intense and extensive in the Gaza Strip, and were often carried out in a manner that failed to demonstrate that the attackers had used all feasible measures to avoid or minimize harm to civilians and their property. Human Rights Watch documented serious violations of international humanitarian law in the course of the Israel Defense Forces' (IDF) May 2004 assault in the southern Gaza town and refugee camp of Rafah, in which over two hundred homes, along with cultivated fields, roads, and other infrastructure, were razed without regard to military necessity. Israeli forces also continued to use lethal force in an excessive or indiscriminate manner. On May 19, 2004, for instance, during the Rafah incursions, an Israeli tank and helicopter gunship fired on a crowd of demonstrators, killing nine persons, including three children. In late September 2004, Israel launched a massive incursion into the northern Gaza Strip. Around 130 Palestinians were killed, more than a quarter of them children. One thirteen-year-old girl, Imam al-Hams, was shot twenty times by an Israeli officer. Several children were killed in their classrooms in other incidents.

There were also numerous instances in the West Bank of civilians killed by indiscriminate Israeli gunfire, such as the deaths in Nablus in June 2004 of Dr. Khaled Salah, a lecturer at Najah University, and his sixteen-year-old son. Israel has failed to investigate suspicious killings and serious injuries by its security forces, including killings of children, thus continuing to foster an atmosphere of impunity.

While in 2004 the number of Palestinian suicide bombings and similar attacks targeting civilians inside Israel dropped considerably compared to immediately preceding years, neither the Palestinian Authority nor the armed groups responsible have taken any serious steps to act against those who ordered or organized such attacks. Palestinian armed groups in the Gaza Strip on numerous occasions fired so-called Qassam rockets, an inherently indiscriminate home-made weapon, at illegal Jewish settlements in the Gaza Strip as well as at communities on the Israeli side of the border. Qassam rockets killed a man and a small child in the border town of Sderot in June, and in a separate incident killed two small children in the same town in September. In August 2004 gunmen apparently affiliated with the Hamas movement threw one or more grenades into a cellblock in a P.A.-run prison that housed alleged collaborators, and subsequently entered a Gaza City hospital to kill two of those who had been seriously wounded in the grenade attack. In July 2004 gunmen attempted to assassinate Palestine Legislative

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Council member Nabil Amr after he criticized PA President Yasir Arafat in a television appearance; Amr was gravely wounded and doctors had to amputate his leg.

### ***Separation Barrier and Restrictions on Freedom of Movement***

The government of Israel cites the significant decrease in suicide bombing attacks in 2004 to buttress its claim that the separation barrier performs a valid security function, but it fails to make the case that a barrier constructed entirely on the Israeli side of the “Green Line” would not have been at least as effective. The actual route, instead, is designed to “capture” some 80 percent of the Jewish population now living in illegal West Bank settlements, and the land and resources they control, while government policy continues to support the expansion of settlements. In the case of many Palestinian villages like Jayyous and Isla, the barrier separates farmers from their agricultural land, greenhouses, olive and citrus trees, and even water. Other Palestinians who find themselves on the “Israeli side” of the barrier must have special permits to reside in their own homes. By making movement and in some cases residence so difficult, the barrier seems intended to encourage Palestinians to leave for other areas of the West Bank, or even other countries.

In June 2004, Israel’s High Court of Justice ruled on a petition challenging a forty-kilometer portion of the separation barrier, finding that the route in this case violated the principle of proportionality because the hardship and severe injury caused to the affected Palestinian population, by separating them from the agricultural lands on which their livelihoods depended, was excessive compared to the purported security benefit. The injury caused by the barrier, the court wrote, is not limited to the immediate inhabitants: “The injury is of far wider scope. It is the fabric of life of the entire population.” The government responded that it would revise thirty kilometers of the route in that area to meet the objections of the court, but neither the court nor the government addressed the issue of proportionality as it pertained to other areas of the barrier.

The following month, the International Court of Justice (ICJ), in an advisory opinion responding to a request from the U.N. General Assembly, held that the barrier is in violation of international humanitarian law. The court wrote that Israel should cease construction of the barrier on Palestinian territory, dismantle those portions already constructed on Palestinian territory, and pay reparations for damage caused by its construction there. However the construction of the barrier has continued since the ICJ decision.

Israeli restrictions on freedom of movement in the West Bank and Gaza Strip are so extensive as to constitute collective punishment, a serious violation of international humanitarian law. These restrictions are the result of the barrier, government-sponsored illegal settlements, the network of Jewish-only roads that support them, and the more than 700 checkpoints that are frequently operated in an arbitrary manner. This system of collective punishment is also in direct violation of Israel’s obligation, as the occupying power, to provide to the extent possible for the welfare of the population it controls.

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## **Gaza “Disengagement”**

The Israeli Cabinet adopted Prime Minister Sharon’s Gaza “disengagement” plan on June 6, 2004, and the full Knesset gave its approval on October 26. The plan calls for the withdrawal of Jewish settlers and the redeployment of Israeli troops to posts on the Israeli side of the border with Gaza, while Israel will retain control of Gaza’s borders, coastline, and airspace. Israel is reserving the right to launch incursions into Gaza, and will continue to control Gaza’s economy and trade, telecommunications, water, electricity, and sewage networks. The plan explicitly envisions the demolition of hundreds more homes along the Gaza-Egypt border in order to expand the buffer zone there. The plan states that the disengagement “will serve to dispel the claims regarding Israel’s responsibility for the Palestinians in the Gaza Strip.” In fact, under international humanitarian law, the steps envisioned will not end Israel’s occupation of the territory, and Israel will retain responsibility for the welfare of Gaza’s civilian population.

## **Key International Actors**

Israel remains the largest bilateral recipient of United States military and economic assistance, amounting to about U.S. \$2.7 billion in Fiscal Year 2004. The IDF continues to use U.S.-supplied weaponry in military operations in the OPT, including Apache and Cobra helicopters, F-16 fighter aircraft, and M-16 automatic weapons. Through the Foreign Military Sales Program, Caterpillar Corporation supplies to Israel bulldozers built to military specification which have been used to demolish Palestinian homes and other civilian property in violation of international humanitarian law. Public reactions by Bush administration officials to reported Israeli violations of international humanitarian law continued to emphasize Israel’s right of self-defense without clear reference to international humanitarian law standards, and the U.S. took no public steps to pressure Israel to meet its obligations under those standards. In April 2004, during a visit of Prime Minister Sharon to Washington, President Bush endorsed the Gaza “disengagement” plan and voiced support for a West Bank final status in which Israel would continue to control many of the illegal settlements constructed there. Although the U.S. calls for a “freeze” on construction of illegal settlements, in 2004 the administration declined to deduct from the U.S. \$9 billion in loan guarantees awarded in 2003 any amount corresponding to Israeli expenditures on settlements, as it had the previous year. There were Israeli press reports in 2004 that some U.S. army units were training at a “special anti-terror school” at an IDF base near Modi’in.

In early May 2004, representatives of the “Quartet”—United Nations Secretary-General Kofi Annan, Irish Foreign Minister Brian Cowen representing the presidency of the European Union, Russian Foreign Minister Sergei Lavrov, and U.S. Secretary of State Colin Powell—met at the U.N. and issued a communiqué that, among other things, called on Israel to exercise its legitimate right to self-defense “within the parameters of international humanitarian law” and on the P.A. to “take immediate action against terrorist groups and individuals who plan and execute such attacks.”