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**The Palestine Red Crescent Society (PRCS)**  
**Solidarity International for Human Rights**  
**Treatment and Rehabilitation Center for Victims of Torture (TRC)**  
**Women's Center for Legal Aid and Counseling (WCLAC)**

**Shadow Report to the United Nations Human  
Rights Committee (HRC) Regarding the Report  
of the State of Israel Concerning the Covenant  
on Civil and Political Rights**

**March 2003**

*Coordinated and edited by the **Palestinian Independent Commission for Citizen's Right (PICCR)**, the National Human Rights Institution of Palestine.*

## Table of Contents

	<u>Page</u>
Introduction    Applicability of the ICCPR to the West Bank and the Gaza Strip .....	3
Article 1        Self-Determination .....	9
Article 2        Effectives remedies .....	19
Article 6        Right to Life .....	20
Article 7        Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment .....	36
Article 9        Liberty and Security of Person .....	55
Article 10       Treatment of Persons Deprived of their Liberty .....	65
Article 12       Freedom of Movement .....	72
Article 14       Right to Fair Trial, Judicial Independence .....	84
Article 16       Recognition as a Person before the Law .....	87
Article 17       Freedom from Arbitrary Interference with Privacy, Family, Home .....	89
Article 19       Freedom of Opinion and Expression .....	90
Article 24       Protection of Children .....	91
Article 26       Equality before the Law .....	92
Annexes .....	102

## **Introduction: Applicability of the ICCPR to the West Bank and the Gaza Strip**

Israel has traditionally argued before UN treaty monitoring bodies that it has no obligation to ensure compliance with the major human rights conventions in the OPTs. Israel usually bases this argument on several grounds. First, Israel traditionally argues that the majority of the Palestinians living in the OPTs reside in the "Area A," which under the Oslo process has ostensibly been transferred to the security control of the Palestinian Authority (PA). Secondly, Israel has also argued in the past that human rights law generally does not apply in the OPTs and that only international humanitarian law applies.

Major UN bodies, including treaty-monitoring bodies, have uniformly rejected such arguments by Israel in the past. It is clear legally speaking that Israel has not relinquished full sovereign control over the OPTs to the PA. While many powers have been transferred by Israel to the Palestinian Authority it is abundantly clear that Israel still retains the ability to intervene in those areas under the administrative control of the PA. In fact, not only does Israel have the ability to do so, they have in actual fact done precisely that repeatedly within the last years.

Furthermore, as UN Special Rapporteur John Dugard remarked in his report on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (following his visit to the region in February 2002), such an argument "takes no account of Article 47 of the Fourth Geneva Convention, which provides that protected persons in an occupied territory shall not be deprived "in any case or in any manner whatsoever" of the benefits of the Convention by any change to the government of the territory resulting from an agreement concluded between the authorities of the occupied territories and the Occupying Power."<sup>1</sup>

Legally speaking, Israel still maintains full control over entry into and exit from the entire OPTs. Foreign visitors to any area in the West Bank and Gaza Strip must obtain a visa and permission to enter the area from the Israeli authorities; there is no equivalent Palestinian authority able to authorize visits. Israel retains control over all entry and exit points of Palestinian cities through a system of military checkpoints. These checkpoints mean that all movement of people, goods and labor is controlled by the Israeli military. There is no direct access to the outside world that is not mediated by the Israeli government. This means that Israel retains direct control over the Palestinian economy and social life. The permanent military presence and checkpoint system indicates that, in practical terms, Israel retains control over all areas of the West Bank and Gaza Strip.

Further evidence that Israel does indeed have jurisdiction over these areas is conclusively indicated by Israel's own Military Regulations. Israeli Military Regulations are applicable in all areas of the West Bank and Gaza Strip, regardless of their status under the Oslo Accords. Evidence of this is the fact that many Palestinians are arrested and charged for offences allegedly committed inside Area A. It should be stressed that these orders cover administrative as well as security-related issues. It is

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<sup>1</sup> UN Doc. E/CN.4/2002/32, p.6.

thus abundantly clear that Israeli policy itself considers Area A as part of its ultimate jurisdiction – in both the security and administrative spheres.

It should also be pointed out that the Oslo II Agreement explicitly guaranteed Israel the right to enter Area A should it deem such action necessary to protect the “overall security of Israelis.” (Article 1(1), Oslo II Agreement). Article XI of Annex I states that Israeli military engagement measures may include actions "within the territory under the security responsibility of the [Palestinian] Council." These powers were reconfirmed in the 1997 Hebron Protocol, which entitles Israel to "carry out independent security activities for the protection of Israelis in H-1" (H-1 is the functional equivalent of Area A in Hebron). Israel also stipulated that it retains the right to charge Palestinians committed within Area A

The practical implications of this have become particularly evident recently. The prolonged presence of Israeli troops in all areas of the West Bank and Gaza Strip including those areas supposedly under the control of the Palestinian Authority (e.g. Ramallah, Jenin, Nablus, Bethlehem, Tulkarem and Qalqilya) without a doubt establish Israel’s effective control of these areas.

Even if Israel were correct in its argument that it had no jurisdiction over Palestinians living in Area A, this would not explain why the Israeli report makes no mention of Palestinians living in Areas B or C. Nor does it specifically address the issue of applicability in regards to Israeli settlers living within the same geographical designation that it claims it does not hold responsibility for.

Physicians for Human Rights brought a petition to the High Court in beginning of 2003 asking it to require that Israel provide gas masks to the Palestinian population, as it has to Israeli citizens, in case of an Iraqi attack on the region. The High Court found that Israel was only required to do so in area A of the Occupied Territories, and that it was the responsibility of the Palestinian Authority to provide gas masks in areas B and C. The High Court did not explain how gas masks would get into areas B and C given the stringent border controls. Nor did it explain how the Palestinian authority could distribute masks in these areas given that most of their offices have been destroyed by the Israeli army. Finally, it did not explain how Palestinian civilians could access any potential distribution points given the curfews and closures restricting their Freedom of Movement. Thus the Occupied Territories exist in a legal twilight zone.<sup>2</sup>

Moreover, Israel’s wide-ranging military offensive that began on March 29, 2002 (termed Operation Defensive Shield by the Israeli government), has practically erased the distinction between Areas A, B and C. Since this date, Israeli troops have maintained a continuous presence in Area A of the West Bank. A permanent curfew, for example, was placed on the town of Ramallah for 36 out of 96 days between 29 March and 2 July. During this period, Israeli tanks and soldiers enforced the curfew, confining all residents to their homes with the threat of being shot or arrested if they left their houses. In other areas of the West Bank, such as Tulkarem and Jenin, the proportion of days under curfew was significantly higher.

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<sup>2</sup> Information from Badil.

The second argument Israel traditionally offers to treaty monitoring bodies is that since the OPTs are occupied territories, international humanitarian law applies. The strange conclusion Israel draws from this observation is that international humanitarian law and human rights law are “subject to separate international regimes” and therefore human rights law does not apply.

This argument has also been rejected by major UN bodies, including treaty-monitoring bodies. While it is true that international humanitarian law is binding in situations of military occupation, it is *supplementary* to international human rights law. Individuals do not lose their human rights as a result of military occupation. Rather, they are afforded the extra protection of humanitarian law.

It must also be pointed out that Israel considers the CRC to be applicable to Israeli settlers living in the West Bank and Gaza Strip, despite the fact that Israeli settlement is considered illegal by the international community. Israel also considers Palestinian residents of East Jerusalem to be covered by the CRC despite Israel’s illegal annexation of the city.

**Recommendations:**

Due to the fact that Israel continuously denies its reporting responsibility on the application of the Covenant in the OPTs, this report will focus on Israel’s activities within these territories that violate the basic tenets of the Covenant. We thereby request that the Committee consider the following recommendations in its Concluding Observations on Israel:

1. We urge the Committee to reaffirm the applicability of the ICCPR to the OPT and to request from the State of Israel information regarding measures taken towards implementation of the ICCPR in those areas;
2. In addition, based on the relevant articles of the Covenant, the following questions and suggestions should be put to Israel in order to clarify practices in violation of the ICCPR:

Article 1

We urge the Committee to ask:

- a. The Israeli settlers and the IDF to stop preventing Palestinian farmers from access to their farms and their fields;
- b. Israel to stop confiscating thousands of dunums of Palestinian land for reasons such as military areas, state land, or green areas, expanding settlements, constructing by-pass roads to connect settlements to each other and to Israel, building the infrastructure necessary to provide services to the settlements and their residents and erecting the Apartheid wall;
- c. Israel to give to Palestinians free access to water without discrimination.

Article 6

We request the Committee to ask Israel:

- a. To stop its massive extra-judicial executions of civilians, including children, and the collective murders of activists;
- b. Why the IDF often prevents ambulances and medical teams from reaching wounded Palestinians, resulting in several deaths;

- c. Why it does not conduct independent investigations and effective prosecutions of IDF soldiers for assassinations and of Israeli settlers for murder of Palestinian civilians, alleged violations of both Israeli and international humanitarian law.
- d. Why the IDF deliberately targets Palestinian children;
- e. Why the IDF uses heavy artillery (rockets, shells, missiles) fired by helicopters and warplanes, and rubber-coated steel bullets against Palestinian civilians;
- f. Why it engages in massive shelling of residential areas in the OPTs;

We also recommend that the Committee ask for information concerning the high number of Palestinian children and civilians killed and wounded by the Israeli military, including the number of official investigations that have been opened into these deaths, the number of violations of their Rules of Engagement discovered and any subsequent changes made, and the number of cases in which punitive measures were taken against those found responsible.

#### Article 7

We also recommend that the Committee ask for information concerning:

- a. The treatment of Palestinian child prisoners, including their repeated exposure to torture and cruel, inhuman and degrading treatment;
- b. The use of cruel and degrading treatment against Palestinian civilians at military checkpoints and during their detention and prosecution;
- c. The Israeli officials responsible for the use of these methods (Israeli Intelligence Service ("the Shabak"), Israeli Military, Israeli Police, and collaborators);
- d. We urge the Committee to reaffirm the findings of the Committee Against Torture, which found that home demolitions could be tantamount to cruel, inhuman and degrading treatment.

#### Article 9

We also recommend that the Committee ask for information concerning:

- a. The number of Palestinian children and other civilians placed in administrative detention and for the charges brought against them;
- b. The judicial review procedures for these detainees;
- c. The rationale for determining length of sentences in military courts and the reason for the obvious discrimination between length of sentences imposed upon Palestinians and Israeli;
- d. Why there is no juvenile specific criminal justice system in the occupied territories as there is in Israel proper;
- e. The number of Palestinian children (residing in the West Bank or Gaza Strip), 14 years and older, who have been arrested and found guilty of an offense, who have received a sentence of anything other than imprisonment?

#### Article 10

With reference to Palestinian prisoners, we recommend that the Committee:

- a. Inquire why Palestinian child political prisoners are repeatedly detained with Israeli criminal juvenile prisoners and how prison administrations have responded to complaints of mistreatment by Palestinian child prisoners?;
- b. Reaffirm the right of detainees to family and lawyer visits and call upon Israel to allow these visits. In particular, we ask that the Committee inquire why

there have been virtually no family visits since October 2000 and ask for an explanation of how the new regulations (effective July 2001) impeding the ability of Palestinian lawyers to visit their clients comply with the fundamental right of all detainees to attorney visits?;

- c. Ask Israel why, during arrest and interrogation, Palestinian detainees are exposed to violent physical and psychological mistreatment;
- d. Ask Israel why they are often placed in isolation cells for long periods;
- e. Reaffirm the right of detainees to be treated humanely, and in recognition of their human dignity;
- f. Ask Israel why the detainees are often denied access to drinking water, why they are provided with inadequate food, both in terms of quantity and quality, inadequate sanitation facilities, and inadequate clothing and why they are subjected to extremes of hot or cold weather;
- g. Ask Israel why the detainees are denied adequate medical care.

#### Article 12

We also recommend that the Committee ask Israel for information concerning:

- a. Its policies of external closure (allowing Israel to cancel all travel permits and preventing Palestinians - even those with valid work permits - from entering Israel or Jerusalem) and of internal closure (allowing Israel to prohibit most travel between West Bank cities, towns, and villages) in the OPTs, including information about the number of days it imposed such restrictions upon the Palestinians;
- b. The forced transfer, deportation and exile of Palestinians.

#### Article 14

We urge the Committee to ask Israel:

- a. Why a large number of Palestinians are detained in administrative detention, without being charged for a recognizable crime, without being charged, without having the opportunity to defend themselves based on evidence brought before a judge, and why they are held for indefinite periods of time, based on the renewal of administrative detention orders;
- b. Why in many cases, for long periods of time, they are also denied lawyers' visits.

#### Article 16

We urge the Committee to ask Israel:

- a. Why it applies two very different sets of laws in the Occupied Palestinian Territories, one for its Jewish citizens and one for Palestinian residents (military orders apply only to Palestinian residents of the West Bank and Gaza Strip, not to the Israeli settlers living in the same area);
- b. Why there are differences in the sentences imposed and in the competence of judges imposing them upon Palestinians and Israeli settlers.

#### Article 17

We urge the Committee to ask Israel to stop its arbitrary attacks upon the homes and property of Palestinian citizens, and to give information about the number of houses destroyed in the OPTs and the reasons for these demolitions.

Article 19:

We urge the Committee to ask Israel to respect the right of freedom of expression of the Palestinians NGOs and organizations.

Article 24

We recommend that the Committee ask Israel:

- a. Why the laws applying to Palestinian children are military orders and are much harsher than the civilian laws applicable to Israeli children;
- b. Why the Israeli Military Order #132 defines, by omission, Palestinian children who are 16 or 17 years old as adults, and why Israeli child settlers are not covered by this military order;
- c. Why Palestinian children from West Bank and Gaza Strip are almost always held in prison while awaiting trial.
- d. Whether, if Israel's arguments regarding the non-application of the ICCPR in the OPTs are to be taken into consideration, whether the Covenant applies to settler children living in the OPT.

Article 26

We also recommend that the Committee ask for information concerning:

- a. How Israel justifies the procedures for family reunification that apply only to Palestinian residents of Jerusalem, when these policies clearly have a negative impact on the ability of Palestinian children in the city to access social insurance, or educational and health services?
- b. Why Palestinian residents of East Jerusalem are required to obtain ID cards, indicating their "permanent residence" status, in order to be allowed access to the city and the services offered by government institutions and why this status does not apply to Israeli Jews living in Jerusalem;
- c. Why Israel continues to discriminate against Palestinian refugees by practicing selective denationalization based on its 1952 Nationality Law;
- d. How Israel thinks that the construction of the Apartheid Wall will not increase discrimination between Israeli settlers and Palestinian citizens of the OPTs and increase the "bantustanization" of the West Bank;
- e. How the Israeli policy of curfew, which only applies only to Palestinian residents of the OPT and not to the illegal Israeli settlers, complies with the principles of non-discrimination embodied in the Convention?
- f. Concerning the issue of land property, the following questions should be asked to Israel:
  - How much Palestinian/Arab-owned land has been confiscated - either temporarily or permanently by Israel 1) within the State of Israel, from 1948 to the present, 2) in Jerusalem, 3) in the West Bank and Gaza since 1967?
  - What is the basis for this calculation?
  - How many Jewish-owned properties have been returned to their original owners since 1948? Under which laws?
  - How many properties have been returned to Palestinians?
  - In cases involving Jewish properties, how does the State decide whether to return property or provide compensation? What is the formula for compensation for holocaust-era properties not subject to restitution?



- To whom has the Custodian of Absentee properties sold properties under his control?
  - What was the formula for deciding the value to be paid by purchasers?
  - What financial resources are at the disposal of the Custodian of Absentee Property following the sale of properties under his control to third parties?
- g. We also urge the Committee to take the following recommendations:
- In addition to any aspects of discrimination mentioned in points 12-15 of the 1998 Concluding Observations still relevant today, the Committee should express its concern about discrimination with regards to return/compensation of property, and discrimination with regards to ongoing seizures of property.
  - The Committee should conclude that all of Israel's land confiscation laws, *de jure* and *de facto*, based on national, racial, ethnic, religious or political criteria must be repealed or amended.
  - The Committee should also recommend that the official land records and archives of the United Nations Conciliation Commission for Palestine (UNCCP) be opened to the public –particularly to potential Palestinian claimants seeking to reclaim their property - for inspection and duplication.
  - With the goal of greater transparency, the Committee should ask Israel to make public all information available on all properties seized, under the various categories of legislation, since 1948, including all information on those properties that came into its possession at the end of the British mandate.

### Article 1

- 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.**
- 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.**
- 3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.**

Since the beginning of Intifada on 29 September 2000, the Palestinian people have not been able to dispose freely of their natural wealth and resources. Israeli settlers and the IDF prevent them from accessing their farms and fields. As a result, huge quantities of crops have been damaged. Military roadblocks have been set-up at the entrance to Palestinian cities and villages, limiting the movement of trucks and vehicles that transport agricultural products.

In addition, there have been numerous losses due to the military closure, such as destruction of agricultural produce, rising production costs, limiting the transportation of agricultural products, hindering marine fishing, and decreasing agricultural extension services and funding projects.

According to the *Agricultural Development Association* (P.A.R.C), agricultural losses reached \$823.810.217 (US) at the end of November 2002 (from 29/09/2000 to 30/11/2002). The following tables itemize those agricultural losses.<sup>3</sup>

No	Losses	Value/US \$
1-	Destruction of trees, green houses and agricultural buildings.	182.197.443
2-	Value of agricultural product losses due to dispotentiality of planting the sweeping lands and fields crops.	55.948.277
3-	Confiscating and stealing agricultural products.	15.504.237
4-	Decreasing the prices of agricultural products.	126.300.000
5-	Losses in animal wealth.	31.367.500
6-	Rising price of forage.	15.502.500
7-	Losses of fishery wealth.	6.063.660
8-	Exports to Israel and abroad.	28.285.000
9-	Paralyzing of agricultural transpiration.	49.020.000
10-	Agriculture labour.	271.300.000
11-	Bulldozing of soil surface, & 30000 dunums of fields (crops unable to be planted).	42.321.600
<i>Total losses in US \$</i>		<b>823.810.217</b>

#### **Total Losses of Uprooted Trees, Greenhouses and Open Field Crops**

Losses	Unit	Total
Uprooted Olive trees	Tree	202999
Uprooted Date trees	Tree	15750
Uprooted Citrus trees	Tree	199259
Uprooted Almond trees	Tree	59493
Uprooted Grapevines	Tree	47915
Uprooted Banana trees	Tree	18400
Uprooted Miscellaneous Fruit trees	Tree	68175
Uprooted Forest trees and fences	Tree	112854
<b>Total Number of Uprooted trees</b>	Tree	<b>724848</b>
Total Uprooted Tree Area	Dunum	23608
Uprooted Vegetable Fields	Dunum	20212
Demolished Greenhouses	Dunum	755
Destroyed Crops	Dunum	8327
<b>Total Uprooted Area</b>	Dunum	<b>52902</b>

<sup>3</sup> According to the *Agricultural Development Association* (P.A.R.C).

<b>Farmers' Losses Due to Israeli Destruction of Palestinian Houses, Wells and Agricultural Buildings</b>		
<b>Total Losses</b>	<b>Unit</b>	<b>Losses</b>
Agricultural stores destroyed	NO.	<b>228</b>
Poultry farms and equipment destroyed	NO.	<b>109</b>
Poultry and birds frame destroyed.	Bird	<b>1.401.814</b>
Animal yards destroyed	NO.	<b>47</b>
Sheep and goats killed	NO.	<b>3612</b>
Other animals killed	NO.	<b>592</b>
Beehives destroyed	NO.	<b>6211</b>
Water wells and supplements destroyed	NO.	<b>198</b>
Pools and water stores destroyed	NO.	<b>711</b>
Basic water lines destroyed	Meter	<b>312157</b>
Irrigation networks destroyed	Dunum	<b>11154</b>
Farmers' houses and furniture destroyed	NO.	<b>207</b>
Harms fences destroyed	Meter	<b>142.589</b>
Terraces destroyed	Meter	<b>1466</b>
Sweeping packing, grading and sorting station	NO.	<b>1</b>
Sweeping experimental station	NO	<b>2</b>
Sweeping nursery	NO	<b>6</b>
Tractors destroyed	<b>NO.</b>	<b>3</b>
<b>Number of Affected Farmers</b>	<b>Farmers</b>	<b>7828</b>
<b>Total direct losses from 29/09/2000 to 30/11/2002: 128.197.443 US \$</b>		

In 2001, the IDF and Israeli settlers escalated their assaults on Palestinian farmers. The IDF uprooted fruit-bearing and woodland trees, gardens, and fields, and it destroyed water wells, irrigation networks, greenhouses, and animal pens. More than 494,101 olive, fruit, date, and almond trees were uprooted, and more than 30,000 dunums of cultivated land were destroyed<sup>4</sup>. Land was bulldozed and trees were uprooted allegedly to protect settlements and settlers, particularly in areas claimed to be sources of shooting at Israeli targets. In addition, land was bulldozed to open new by-pass roads for settlers, to widen existing settlements, or to build new ones. Bulldozing was concentrated in the agricultural areas on the borders of the Gaza Strip and the northern West Bank, and alongside the roads used by settlers. Palestinian farmers were also subjected to shelling by the Israeli army and to settler attacks that prevented them from working on land adjacent to settlements or army encampments. On 21 October 2001, settlers shot and killed Ghada Muhammad Ayash while she was picking olives on her family's land in the town of Sanour near Jenin.<sup>5</sup>

<sup>4</sup> According to the statistics of the Ministry of Agriculture, *Interim Report on Losses and Damage to the Agriculture Sector Due to Israeli Practices*, 31 December 2001.

<sup>5</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 30.

The IDF usually destroyed the areas from which soldiers or settlers are attacked by armed Palestinians. It uprooted trees, bulldozed land, and demolished the homes from which there was shooting<sup>6</sup>. In 2001, under the occupation and despite the Oslo Accords, illegal Israeli settlements continued to expand and more settlers moved into the Palestinian Territories. During this period, the IDF confiscated thousands of dunums of Palestinian land, which it justified by declaring them closed military areas, state land, or green areas. From a practical perspective however, most of the confiscations were used to expand settlements, to construct by-pass roads to connect settlements to each other and to Israel, to expand existing roads, and to build the infrastructure necessary to provide services to the settlements and their residents.

In the past two years, the razing of tens of thousands of dunums of agricultural lands, including the uprooting of close to one million trees, many of which are considered centuries old and carry deep cultural and historic significance, continues to affect the thousands of people who depend on them for work and income. And while closure and siege has meant further, severe restriction of movement and inability to reach any work that one might have, people have become more dependent upon their lands both for their livelihoods and their very survival.

From the outbreak of the Intifada until 28/3/2002, the IDF bulldozed no less than 32,846 dunums of agricultural land.<sup>7</sup> During the period January-March 2002, more than 400 dunums were bulldozed in the Gaza Strip Governorates. During the period between 9/1 – 12/31/2002, the IDF bulldozed more than 1,468 dunums in the Gaza Strip. From September-December 2002, the IDF confiscated wide expanses of land in the Tulkarem, Qalqilya, and Jenin Governorates, for the purpose of erecting walls and fences of cement and barbed wire on the borders between the West Bank and Israel, constructing what is known as the “security fence.” Around twenty thousand dunums of land have been confiscated for this purpose.<sup>8</sup>

#### The Apartheid Wall (or security fence):

Contrary to worldwide news reports, the Apartheid Wall (also referred to as the “fence” or “security fence” ), which Israel is currently building in the northeast of the West Bank, will not mark the 1967 border, also known as the “Green Line” . Rather, this latest offensive, occurring on some of the most fertile land in Palestine, is a further chapter in Israel’s annexation of lands, destruction of agriculture and property.<sup>9</sup>

In the northern West Bank, the first phase of the Apartheid Wall is to be approximately 115km long and is to include electric fences, trenches, cameras, sensors, and security patrols, at a cost tens of millions of dollars. The height of the Apartheid Wall will average 8 meters (25 feet) and, in its entirety, it will cover at least

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<sup>6</sup> For detailed statistics and examples of Israeli assaults on agricultural tracts, see the reports of the Palestinian Centre for Human Rights, available at <http://www.pchrgaza.org/>. Also see the reports of Al-Mezan Center for Human Rights, available at <http://www.mezan.org/>.

<sup>7</sup> The Ministry of Agriculture issued a damage report on 28/3/2002.

<sup>8</sup> PICCR’s *Reports on the Israeli Violations of Palestinian Citizens’ Rights, Report 1 January – 28 March 2002, p. 10-11, and Report 1 September – 31 December 2002*, p. 36.

<sup>9</sup> The Apartheid Wall Campaign, *Report # 1*, November 2002, to be found at <http://www.pengon.org/wall/wall.html>

350km, somewhat encircling the West Bank. In this first phase, which will see the confiscation of close to 2% of the West Bank, at least 30 villages will lose parts or all of their lands. In an area 40 kilometers north of Qalqiliya, approximately 90,000 dunums (90 km square) will be lost as a consequence of the Apartheid Wall.

Altogether, the first phase is expected to see the confiscation of between 160,000-180,000 dunums. The residential areas of at least 15 villages will be east of the Apartheid Wall, while a significant portion of their lands will be either between the Apartheid Wall or on the other side. In addition, the city of Qalqiliya, which is the urban center for the entire area, will be almost completely encircled by the Apartheid Wall.<sup>10</sup>

In April, 2002, an order of the Israeli cabinet steering committee dealing with the Apartheid Wall called for work to begin immediately in the northern West Bank and the Jerusalem area. Within days, even before publication of any map outlining the route of the Apartheid Wall, the Israeli military began confiscating land and uprooting trees in the northern West Bank.

Governmental-ministerial meetings concerning the Apartheid Wall continued, when in August, following objections from within the Israeli security establishment to the first maps of the Apartheid Wall, changes were made but were never published. For months following the commencement of the Apartheid Wall, the government and military did not make its plans known to the public, and only after continued demands by Palestinian human rights organizations to produce the map, was the first phase made public. The public was not made aware of subsequent changes to the map and the complete map of the Apartheid Wall was finalized, without any public knowledge, no less input. Nevertheless, military orders for land confiscation continue unabated.

The fertility of the land that has been confiscated in the north and is being destroyed cannot be emphasized enough. Amidst the continuing poverty due to forcible closure by Israel, people's sustenance and survival depend on these lands. Approximately 30 groundwater wells in the first phase of the Apartheid Wall will be out of bounds, having been separated by the Apartheid Wall from the villages which depend on them, meaning even further Israeli control over Palestinian water resources. A number of villages will lose their only source of water.<sup>11</sup>

The land confiscation for the first phase of the Apartheid Wall will exceed 160,000 dunums (as opposed to the often cited 90,000 dunums for the first phase, which only reflects one part of the first phase, where the Wall is currently being built) and is to include the uprooting of tens of thousands of trees. Much of the lands that will be saved from being razed by the military bulldozers will be inaccessible to their owners because they are on the "wrong" side of the Apartheid Wall. Many villages will be disconnected from the nearest city, which is where they have access to markets to buy various goods and production materials and to sell their products. Areas in between the Apartheid Wall and Israel will be closed off to both areas. All of Qalqiliya will be encircled by the Apartheid Wall and will have much of its lands confiscated. It is a

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<sup>10</sup> The Apartheid Wall Campaign, *Report # 1*, November 2002, found at <http://www.pengon.org/wall/wall.html>

<sup>11</sup> *Ibid.*

major producer of fruits and vegetables for the entire West Bank, and a large percentage of its population depends on agriculture. According to the Palestinian Central Bureau Statistics, prior to 2000, the unemployment rate in Qalqiliya District was 16%. According to the Qalqiliya Workers' Union, the unemployment rate in 2002 reached 70%. The consequences for the entire District are immense.<sup>12</sup>

The repercussions to the entire Palestinian economy should not be underrated. According to the Palestinian Academic Society for the Study of International Affairs (PASSIA) 2002 Diary, as of mid-year 2001, it was estimated that agriculture contributed to around 7% of Palestinian GDP; it is a sector dominated by small, family-based farms. Approximately 90% of the total cultivated area is located in the West Bank. Before 2002, when incursions, sieges and closures increased dramatically, some 20% of the Palestinian labor force was engaged in agriculture. 75% of them are female.

As an example of the repercussions of the first phase of the Apartheid Wall on other areas in the West Bank, the main fruit and vegetable market where the village of Jayous sells its produce, located in Nablus, will lose a substantial portion of its business. The market, run by the Nablus Municipality, will lose the fees it gets from the Jayous farmers to sell at the market, some 750,000 New Israeli Shekels, or over \$US 150,000. Truck drivers, loaders and other workers related to the market will also experience substantial losses. More information on the Apartheid Wall can be found in Annex F.

#### The issue of water:

The IDF took control of Palestinian natural resources when they occupied the West Bank and Gaza Strip in 1967, and this control has continued throughout the reporting period (1998-2002). Israel controls the water resources and considers information on water to be classified information. It closed dozens of ground water wells that the Palestinians had used for drinking and irrigating their crops, and issued military orders restricting Palestinian water consumption. Israeli settlers consume an average of four times the amount of water that Palestinian citizens consume. Settlers consume more than 274 liters of water per day, while Palestinians consume approximately 65 liters per day, and this quantity is continually diminishing<sup>13</sup>. While Israel draws more than 870 million metric meters (81%) of Palestinian ground water per year, it allows Palestinians to use only 130 metric meters annually in the West Bank and even less in the Gaza Strip. Furthermore, this quantity is continually decreasing. As a result, the Palestinian Territories suffered a severe water shortage in 2001, affecting 150 Palestinian villages, as well as several cities including Hebron and Ramallah.<sup>14</sup>

In the West Bank alone, more than 200,000 people who depend on supplies brought in by water tankers have been left without an adequate water supply for long periods because of curfews and closures. In addition to problems caused by access, a number of water systems (water pipes, pumps and wells) were destroyed by the IDF during

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<sup>12</sup> The Apartheid Wall Campaign, *Report # 1*, November 2002, found at <http://www.pengon.org/wall/wall.html>

<sup>13</sup> See: B'Tselem, *Water for Ishmael just like for Israel*, 27 June 2000.

<sup>14</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 32-33.

“Operation Defensive Shield” and the ongoing re-occupation of the Palestinian self-rule areas. Furthermore, a sizeable number of wells and reservoirs in rural areas have been damaged, destroyed or made inaccessible because of violence. A number of the West Bank villages adjacent to Israeli settlements have been and are currently suffering from recurrent closures of main valves on their water networks.<sup>15</sup>

More than half of Israel's water supplies now come from the Mountain Aquifer and Jordan River basin, which are situated deep within them. Israel utilizes more than 85% of the water resources, thus leaving the Palestinian population with a mere 15% for its survival. A rapid glance at the annual water use per capita in three countries in the region highlights an alarming and unacceptable discrepancy. While Israelis enjoy 344m<sup>3</sup> per capita, Jordanians are limited to 244m<sup>3</sup> each, and Palestinians have to survive on 93m<sup>3</sup>. In terms of domestic usage, the average Palestinian is limited to 39-50 liters per capita per day, while Israelis are privileged with more than 220 liters per capita per day. There are three main sources of renewable water in the Occupied Territories that the Palestinians could rely on; namely groundwater (of which some 87% is utilised by Israel), surface water, and the Jordan Valley basin (both of which the Palestinians are currently prevented from utilizing).<sup>16</sup>

Today, Israel uses 79% of the Mountain Aquifer and all of the Jordan River Basin – except for a small quantity that it sells to Palestinians in Gaza. The amount of water at the disposal of the Palestinian territories is only one-third the amount required to meet basic survival and sanitation needs. Instead of the desired amount of 150 liters daily per person, Palestinians have to make do with only 50-85 liters, amidst an ongoing severe shortage of running water. The current level of daily water consumption in the occupied Palestinian territory is only half the amount recommended by the World Health Organisation – 100 litres per person per day.<sup>17</sup> An increasing number of civilians in rural areas currently consume less than 20 liters of water per day.

In contrast, in the surrounding Jewish settlements, each settler is provided with 280 to 300 liters daily. The settlers' unlimited quantity of running water has served to fill swimming pools and to water ornamental lawns. In the meantime, Palestinians have become increasingly unable to use water for irrigation, or even to water backyard family vegetable plots. Agriculture, the major Palestinian source of income, has consequently been devastated.

Palestinian communities that are connected to distribution networks have suffered a drastic reduction in water supplied by an Israeli private operator – Mekharoth. In certain cases, water currently supplied to Palestinian villages has been less than 75 percent of the normal supply. When supplies run low during the summer months, the Israeli water company, Mekharoth, simply shuts off the valves that supply Palestinian towns. This means settlers get their swimming pools filled up while Palestinian villages a few miles away run out of drinking water. When tensions are high -- as they

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<sup>15</sup> *Information from the United Nations Technical Assessment Mission-October 2002*, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000*.

<sup>16</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 14.

<sup>17</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 15.

are now -- the situation becomes unbearable, especially for the 25 per cent of Palestinian villages that were never connected to a water supply.

Since the start of the Intifada, Israel has made it almost impossible for water tankers to enter Palestinian areas -- or for villagers to get to nearby wells. B'Tselem, the Israeli human rights group, says Israeli soldiers sometimes beat and humiliate tanker drivers or deliberately spill their water.

Yunis Muhammad 'Abd Tim Jabarin, a father of eight from a village in southern Hebron described how, in hot weather, "often we don't have water for ten to twenty days. In such situations, my wife and daughters ask the neighbors for water, but they can only give enough for drinking and cooking. As for washing, we have got used to showering once every five to seven days. The situation is intolerable, especially in the summer."

But towns with water distribution connections also face problems, according to Ayman Rabi, of the Palestinian Hydrological Group. "Settlers attack the Palestinians' water supply, severing pipes and switching off valves," he said. "They dump untreated sewage on Palestinian land, polluting wells and aquifers." The Israeli army has also routinely destroyed water supplies, an activity defined as a war crime. "Israel continues to maintain almost total control over water in the occupied territories. Every new project, from drilling a well to laying pipes or building a reservoir, requires Israel's consent."

In the Palestinian economy, agriculture provides 33% of the GDP, employs 14% of the workforce, and accounts for 64% of the total amount of water usage. In Israel, agriculture accounts for less than 3% of the GDP, 4% of the workforce and 57% of total water usage. It is alarming to compare the amount of water available to Palestinians with their actual needs.<sup>18</sup>

In Hebron, where a Jewish settler population was imposed in and around the city, it is estimated that 70% of the water goes to an estimated 8,500 settlers, while 30% goes to the city's 250,000 Palestinian inhabitants.

In the Gaza Strip, where there are overwhelming qualitative and quantitative water problems, it is estimated that one million Palestinians have to make do with 25% of the available ground water, while 75% goes to a settler population of 3,000 to 4,000. As a result, the water table in Gaza has decreased drastically, sinking to below sea level, thus becoming contaminated to such a degree that it has become unfit for human consumption. Unless drastic measures are immediately adopted, it will rapidly become unsuitable for irrigation purposes, as well.

The economic decline and the depletion of the population's disposable income have further amplified the water crisis. Against the background of the ongoing impoverishment, water prices soared, reflecting the sharply increased transportation costs borne by private suppliers and the security risks associated with operating water tankers.

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<sup>18</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 16.



Currently, the average cost for 1 m<sup>3</sup> of water is estimated by the Palestinian Hydrology Group at US\$0.6 in Palestinian areas with a water network. Recent reports from the Palestinian Hydrology Group also indicate that more than 90% of the population in a number of West Bank surveyed is unable to pay its water bills. The situation is particularly dire in communities without water distribution networks, where the price of tanker-delivered water currently exceeds US\$4 per m<sup>3</sup>. The chronic indebtedness of water consumers has practically exhausted the ability of tanker operators to provide additional credit for water delivered.<sup>19</sup>

In the absence of a regular water supply, Palestinian households have depended on harvesting rainwater and water from local springs and wells. Combined with tanker-delivered water, this used to provide relative water-security to tens of thousands of households prior to September 2000. This traditional water harvesting and storage practice has increasingly become unsustainable as a result of repeated destruction/damage of family cisterns and the inability to replace or repair them during protracted curfews. In addition, around 25% of the towns and 100% of the rural areas do not have adequate wastewater systems. The build-up of waste constitutes a serious health and environmental hazard for both Palestinians and Israelis, as wells and aquifers are being contaminated.<sup>20</sup>

The impact on the water supplies to the areas around the Apartheid Wall is also a serious concern. A number of water wells will be lost to communities near the Apartheid Wall. The Palestinian Hydrology Group (PHG) has listed 30 wells in villages around Qalqiliya and Tulkarem that will be lost in the first phase of the Apartheid Wall. These 30 groundwater wells are located in the Western Groundwater Basin and were drilled prior to 1967. They have a total discharge of 4 MCM/year. As a result of their loss, Palestinians will lose nearly 18% of their share of the Western Groundwater Basin. The following table details the 30 wells to be lost in the Apartheid Wall's first phase.<sup>21</sup>

**Wells to be Lost in the Wall's First Phase**

Well No.	Location	Discharge
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<sup>19</sup> Information from the United Nations Technical Assessment Mission-October 2002, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000.*

<sup>20</sup> Information from the United Nations Technical Assessment Mission-October 2002, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000.*

<sup>21</sup> The Apartheid Wall Campaign, Report # 1, November 2002, found at <http://www.pengon.org/wall/wall.html>

		(m3/year)
15-20/003	Nazlat 'Isa: Tulkarem	237000
15-20/005	Baqa Al Sharqiya: Tulkarem	194000
15-20/001	Baqa Al Sharqiya: Tulkarem	244000
15-19/036	Attil: Tulkarem	299000
15-19/029	Deir Al Ghusun: Tulkarem	352000
15-18/020	Far'un: Tulkarem	193000
15/18/025	Kafr Sur: Tulkarem	
15-18/005	Falameya: Qalqiliya	175000
15-18/001	Falameya: Qalqiliya	135000
15-18/002	Jayous: Qalqiliya	114000
15-18/004	Falameya: Qalqiliya	130000
15-17/009	Qalqiliya	131000
15-17/012	Jayous: Qalqiliya	124000
14-17/040	Qalqiliya	95000
15-17/010	Qalqiliya	82000
15-17/011	Jayous: Qalqiliya	87000
14-17/031	Qalqiliya	102000
14-17/047	Qalqiliya	151000
14-17/018	Qalqiliya	157000
14-17/029	Qalqiliya	62000
14-17/020	Qalqiliya	17000
14-17/042	Qalqiliya	136000
14-17/010	Habla: Qalqiliya	99000
14-17/011	Qalqiliya	89000
14-17/009	Habla: Qalqiliya	94000
14-17/014	Habla: Qalqiliya	84000
14-17/013	Habla: Qalqiliya	87000
14-17/005	Habla: Qalqiliya	108000
14-17/044	Izbat Salman: Qalqiliya	102000
<b>Total</b>		<b>3880000</b>

The annual recharge of the Western Groundwater Basin is 362 MCM/year. More than 95% of this recharge occurs in the mountains of the West Bank, yet Palestinians have not been allowed to drill new wells in this basin since 1967. The total Palestinian groundwater withdrawal of nearly 22 MCM/year comes from these wells, which were drilled prior to the 1967 Occupation.<sup>22</sup>

The Israeli position on the water issue has, so far, been vague and misleading. Israel maintains that there are no real water resources to be compromised for peace;

<sup>22</sup> The Apartheid Wall Campaign, *Report # 1*, November 2002, to be found at <http://www.pengon.org/wall/wall.html>

Palestinian efforts to find a solution with Israel to water issues are often stalemated by the latter's insistence that the only real options for the Palestinians are either "desalination" or water imported from neighboring countries. Both alternatives to utilizing existing water resources (i.e. imported water and desalination) are understandably unacceptable to the Palestinians. They argue that Israel cannot deprive them of existing water resources purely on the grounds that such resources are "scarce." In other words, if Israel can use these resources, then, under any final agreement, Palestine should receive its equal share. In addition, the costs of desalination are so high that it does not, in any case, constitute a valid alternative.

During negotiations, the Israelis refused to discuss water rights and confined the talks to water usage, thereby perpetuating the hardships and prejudicial conditions through the transitional phase. The issue of water rights was postponed to the permanent status talks, with no assurances whatsoever given. The Taba (interim) Agreement supposedly sought to improve the water situation of Palestinians by increasing their water supply. Even that, however, was not honored in the implementation, and Palestinians continue to suffer from a severe shortage. More significantly, the Agreement maintained the previous conditions of inequality.<sup>23</sup>

## Article 2

**1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.**

**2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.**

**3. Each State Party to the present Covenant undertakes:**

**(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;**

**(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;**

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<sup>23</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 16.

**(c) To ensure that the competent authorities shall enforce such remedies when granted.**

A Remedy must be effective in practice as well as in law.

No effective remedy exists for the vast majority of Palestinians whose properties in Israel were confiscated by Israeli authorities during the 1950s-60s (also see article 26), thus it is no surprise that no effective remedies exist for Palestinians in the occupied territories whose properties are being confiscated for construction of the separation wall and other purposes (see also article 1).

There are no effective remedies for the various and forms of collective punishment—from house demolitions and arbitrary detentions, to curfews and closures—imposed by the Israeli authorities on Palestinians in the occupied territories.

There are no effective remedies for Palestinians who have mistreated at checkpoints and in detention, or for families of individuals who died because Israeli policies prevented access to health care.

There are no effective remedies available to the non-Jewish citizens of Israel who have been excluded from the land allocation and building process over the past decades. Investigations into Israeli crimes committed against Palestinians, both by settlers and by soldiers, are so superficial and ineffective that it can be said no remedies for such crimes exist.

Indeed, there are no effective remedies to any of the violations listed in the full shadow report.

**Article 6**

**1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.**

**2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.**

**3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.**

**4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.**

**5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.**

**6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.**

***1) Palestinian civilians' right to life:***

The IDF breach the Palestinian right to life through the use of excessive force. Based on the documentation of *Solidarity International for Human Rights*, from the beginning of the Intifada until 28 September 2002, 1888 Palestinian were unlawfully killed in the occupied territories and inside the Green Line by Israeli forces as follows:

- 715 persons during the first year of the Intifada (37.8%).
- 1173 persons during the second year of the Intifada (62.2%).
- 401 children under 18 years old.

146 persons were assassinated by the IDF by extrajudicial killings from the beginning of the Intifada until 29/9/2002.<sup>24</sup> The number of deaths (per year) during the current Intifada is much higher than those during the first Intifada, as shown in the following table<sup>25</sup>:

<b>Year</b>	<b>Number of deaths</b>	<b>Year</b>	<b>Number of deaths</b>
<b>1987</b>	28	<b>1996</b>	92
<b>1988</b>	377	<b>1997</b>	37
<b>1989</b>	334	<b>1998</b>	38
<b>1990</b>	162	<b>1999</b>	16
<b>1991</b>	99	<b>2000</b>	360
<b>1992</b>	117	<b>2001</b>	622
<b>1993</b>	164	<b>2002</b>	925
<b>1994</b>	147		
<b>1995</b>	83		

According to statistics from the Palestinian Ministry of health, 2804 Palestinians have been killed from the beginning of the Intifada (28 September 2000) until 29 January 2003. 542 were juveniles (under 18).

In 2001, at least 534 Palestinians were killed as a result of clashes or IDF shelling of Palestinian homes and other sites. There were approximately 100 children among the dead, and more than 20 women. Fifty-four Palestinians were assassinated and 17 were killed while participating in operations against Israelis. In addition, 29 Palestinians detonated themselves among Israeli targets, and 15 died in mysterious circumstances. According to information compiled by the Palestine Red Crescent Society, by the end of 2002, over 20,000 Palestinians have been injured since the beginning of the current Intifada on 29 September 2000, with at least a third of these children under the age of 18.<sup>26</sup>

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<sup>24</sup> According to *Solidarity International for Human Rights*.

<sup>25</sup> According to *Solidarity International for Human Rights*.

<sup>26</sup> According to monthly statistics chart from the Palestine Red Crescent Society, [http://www.palestinercs.org/crisistables/dec\\_2002\\_table.htm/](http://www.palestinercs.org/crisistables/dec_2002_table.htm/).

During the current Intifada, the IDF has used various weapons and means of warfare against Palestinian civilians that are prohibited by international law. These include exploding bullets, heavy military weapons, artillery and rocket bombing, and shooting from warplanes (F15/F16) and war boats. Israel implements its assassination policy through the use of warplanes, attack helicopters, and tank shelling, which in most cases have caused massive collateral damage, such as occurred in Gaza on 27/7/2002, when an Israeli warplane bombed a building located in a crowded area in order to assassinate one suspected person. 17 civilian Palestinians were killed while they slept.

The Israeli army has used live bullets to disperse Palestinian demonstrations. It also has used ammunition that is banned internationally such as exploding “Dum—Dum” bullets that explode into fragments within the body<sup>27</sup>, causing serious damage to the internal organs. The IDF has also used heavy weapons in confrontations with Palestinians, such as high caliber machine guns fired from tanks and helicopters, high-explosive shells fired from tanks and planes, and flechette shells that cause widespread destruction. The IDF has sometimes aimed at the bodies and homes of Palestinians, blowing apart the heads and bodies of some victims. In their dispersal of Palestinian demonstrations, the IDF has targeted Palestinians’ bodies, aiming at lethal areas of the upper body, such as the head and chest. The excessive use of force by the Israeli forces has caused death and permanent injury and disability to hundreds of Palestinians.

#### Extra-judicial Executions (Assassinations):

In 2001, the IDF increased their extra-judicial executions of Palestinians, assassinating 54 individuals. These Israeli assassinations were not restricted to armed activists of the Intifada, but also included political leaders of Palestinian parties and factions<sup>28</sup>. The IDF and their agents have used an array of methods to assassinate Palestinians, including firing missiles from tanks or planes, detonating explosives near targeted individuals or in their cars, exploding their mobile phones, or firing live bullets.<sup>29</sup> Many of the assassinations of Palestinian activists, whether failed attempts or successful operations, have led to the death or injury of innocent civilians present in the area<sup>30</sup>.

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<sup>27</sup> The use of this type of bullet is considered a war crime according to Article 8, Paragraph 19/b of the 1998 Rome Statute of the International Criminal Court.

<sup>28</sup> On 31 July, Israel assassinated Jamal Mansour and Jamal Salim, members of the political wing of the Islamic Resistance Movement, Hamas. They were in the office of the Center for Studies and Media located in a residential building in Nablus when they were assassinated by missiles fired from two helicopters. On 27 August, Israel assassinated Ali Al-Zabari (Abu Ali Mustafa), the Secretary General of the Popular Front for the Liberation of Palestine, and a member of the PLO executive board. He was assassinated by two missiles fired from a helicopter while he was in his office in Al-Bireh.

<sup>29</sup> For example, Iyad Mahmoud Hardan, age 26, was killed in Jenin on 5 April as his mobile phone exploded while he was speaking into it. On 18 October, the Israeli forces assassinated three citizens: Atef Ahmed Abiyat, age 32, Abdullah Al- Nawawreh Abiyat, age 35, and Eissa Al-Khatib Abiyat, age 28, by an explosive device planted in the car they were driving in Beit Sahour near Bethlehem.

<sup>30</sup> On 10 December 2001, an Israeli helicopter fired two missiles in the direction of numerous cars on a busy street in Hebron, aiming to assassinate Muhammad Sidr. Although the targeted individual survived, two children at the scene were killed, Burhan Al-Heimouni, age 3, who was in a car with his parents, and Shady Arefeh, age 12, who was walking in the area. A number of car passengers and bystanders were also injured.

### Killing Wounded Palestinians and Preventing their Rescue:

The IDF has wounded Palestinians and then shot them to ensure their death. These citizens did not present any danger to Israeli soldiers after they were wounded, and it would have been possible to save their lives if the soldiers had allowed medical teams to reach them.<sup>31</sup> In many cases, soldiers prevented ambulances and medical teams from reaching the locations of wounded Palestinians, resulting in several deaths. For example, for several hours on 24 October 2001, the IDF refused to allow Red Crescent and Red Cross vehicles to enter Beit Rima village near Ramallah to transport wounded persons to hospitals and collect martyrs' corpses<sup>32</sup>.

The following are a few examples of the collective murders of Intifada activists and Palestinian civilians in 2001. On 27 September, the Israeli army killed five Palestinians in the Gaza Strip and the following day, it killed eight Palestinians in the West Bank. On 3 October, shelling by an Israeli tank killed six Palestinians in Gaza City, and on 5 October, Israeli planes and tanks killed five Palestinians in Hebron city. On 8 October, five Palestinians were killed in the Gaza Strip, and on 18 October, six citizens were killed in the West Bank. On 19 October, six civilians were killed in the West Bank and Gaza Strip, and the next day, eight more citizens were killed in various locations in the West Bank. On 23 October, six Palestinians were killed on the West Bank, on 25 October, five Palestinians were killed in the Bethlehem area, and six Palestinians were assassinated on 31 October. On 6 November, five Palestinians were killed in the West Bank and on 23 November, the Israeli army killed seven Palestinians in different locations in the West Bank and Gaza Strip. On 3 December, seven Palestinians were killed in the West Bank. Many of these unjustified collective murders were committed during periods of calm, as happened on 30 December, when Israeli soldiers killed six citizens in the Gaza Strip.

The Israeli authorities rarely conduct investigations into the killing of Palestinians committed by soldiers or settlers, and seldom present reports on deaths caused by gunfire, thus violating the international law requirements.<sup>33</sup> They almost never prosecute soldiers or settlers for murder, thus permitting them to act with impunity. When required investigations are conducted and legal action is taken, usually in a

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<sup>31</sup> For example, on 6 November 2001 in Tel village near Nablus, occupation soldiers murdered in cold blood three injured Palestinians. They were: Iyad Al-Khatib, 28 years, Jamal Malouh, age 27, and Ali Abu Hujleh, age 22. The Red Crescent detailed the incident in its report of 6 November, recording how the Red Crescent ambulances arrived at 1 p.m. in the area of Tel village to treat the wounded persons. When the ambulance arrived within approximately 50 meters of the location, the Israeli soldiers prevented the medical team from aiding the wounded. The Israeli soldiers then brought a soldier on a stretcher and asked the medical team to treat him, which they attempted to do but he was already dead. The medical team then asked permission to treat the wounded Palestinians but were forbidden from doing so. After a short time, the medical team witnessed seven soldiers shooting and killing the injured. The international board of the Red Crescent condemned the death of these three Palestinians as a "barbaric act," and demanded an investigation into the circumstances of this incident. In the town of Yatta, near Hebron, special Israeli forces shot at Eissa Mahmoud Al-Debabsch, age 50, who was wounded and arrested. The Israeli forces later notified the Palestinians of his death, and eye witnesses reported that the Israeli forces shot him after he was wounded, thus killing him.

<sup>32</sup> See: the report issued by the International Committee of Red Cross on this incident. Available at: <http://www.icrc.org/ihrceng.nsf/bdbc6ea35567c6634125673900241f2e/fb4fb71a678c0749c1256af000514d2c?OpenDocument>.

<sup>33</sup> On this topic one of the occupation generals stated on 2 April 2001, "The law has no teeth here." Human Rights Watch, *Center of the Storm: A Case Study of Human Rights Abuses in the Hebron District*, p.78.

superficial manner and only to appease international public opinion, it is not long before the matter is forgotten, as if it had never happened. For example, after the death of three Palestinian civilians, including a three month old infant, in the Turqumiya region near Hebron on 19 July 2001, the Israeli government announced its ignorance of the incident and its determination to investigate and try the criminals involved. However, to date, this had still not been done.

After five children from the Al-Ustul family in Khan Younis were killed on 22 November 2001 by an explosive device the Israeli army had placed on the road to the children's school, the IDF at first stated that the device had been placed there by Palestinians. It later reported that it was an undetonated tank shell, and later still, admitted that it was a time bomb that exploded after being placed by the army to assassinate Palestinian activists. However, this statement was not accompanied by charges or trials against any Israeli soldiers for this crime.<sup>34</sup>

Israel claims that it investigates every incident, and that investigations take place internally, within the Israeli army. For example, the Israeli military prosecutor ordered an investigation into the deaths of three Palestinian women on 10 June 2001. The women, Nasra Salim Al-Malalheh, age 21, Hikmet Atallah Al-Malalheh, age 18, and Salmiyeh Omar Al-Malalheh, age 37, were killed when an Israeli tank shelled their camp in southern Gaza with a shell filled with approximately 2,000 iron nails, each five centimeters long. Three artillery shells also exploded in the same region, wounding another person and killing a flock of sheep. Initially, the Israeli army reported that it was returning fire, but it later stated that the killings were accidental. The military prosecutor stated that internal questioning was insufficient, and called for another investigator to be appointed. However, evidence indicates that the case was not followed-up.

Since early October 2002, the IDF have launched a series of operations involving the use of tanks, bulldozers and helicopters in the southern part of Gaza, especially in the city of Khan Younis and Rafah refugee camp. On 17 October 2002, Israeli tanks shelled the refugee camp in Rafah, killing at least seven Palestinians and wounding 35 others, after a gunman shot at Israeli bulldozers. On 11 October, a prominent figure in a women's group advocating non-violence (and mother of a UNDP staff member) was shot dead in Nablus, in broad daylight, by the IDF, while she was sitting on her veranda. Earlier that same day, a midwife employed on a project of the British Department for International Development was cooking breakfast for her children, when a tank shell was fired into her kitchen, killing her.

IDF regulations permit shooting at people who are outdoors during curfews even in non-life-threatening situations. In most instances, the manner in which civilians were killed strongly suggests excessive use of force. Human rights organizations have also expressed serious concerns about the limited number of independent investigations and effective prosecutions of IDF soldiers for alleged violations of Israeli and international humanitarian law.<sup>35</sup>

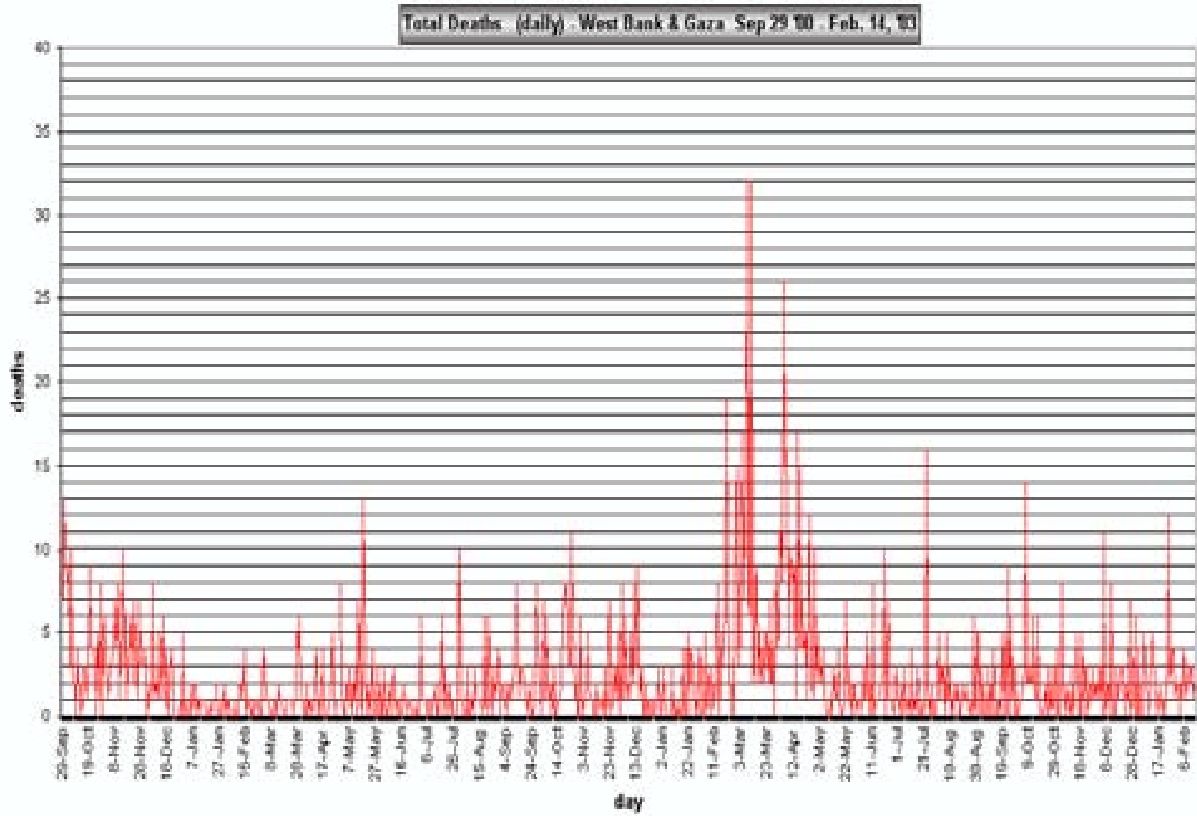
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<sup>34</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*.

<sup>35</sup> *Information from the United Nations Technical Assessment Mission-October 2002*, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000*.



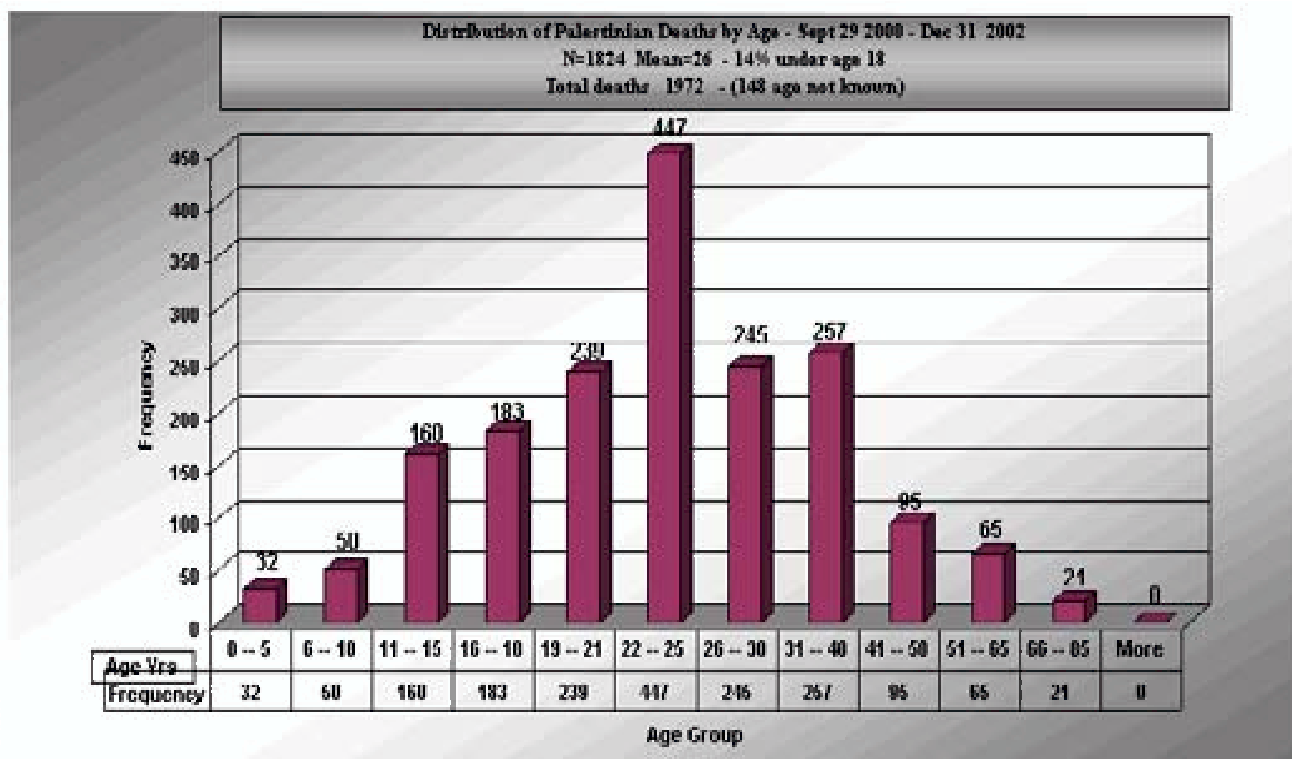
The chart below shows the total monthly frequency of deaths from September 29, 2000 to January 17, 2002, as recorded by the Palestine Red Crescent Society:



The table below shows the total annual number of deaths and injuries by type from September 29, 2000 to January 28, 2003, as recorded by the Palestine Red Crescent Society:

<i>Figures inclusive of the period Sept 29 '00 - Jan 28'03, Midnight</i>			
Date	Deaths	Injuries by Live Ammunition	Injuries by Rubber/Plastic Bullets
Sept 29 – Dec.31'00	327	2,168	4,067
Jan 1 – Dec.31 '01	577	1,442	1,237
Jan 1 – Dec.31 '02	1,068	1,392	244
Jan 1- Jan 28 '03	61	92	19
<b>TOTAL</b>	<b>2,033</b>	<b>5,094</b>	<b>5,567</b>

The chart below shows the distribution of deaths by age from September 29, 2000 to October 31, 2002, as recorded by the Palestine Red Crescent Society. Victims below 18 comprise 24% (397) of the total victims (1652) while victims above 50 comprise 5% (83):



Mandela Institute observed the use of entire families as human shields during Israeli military operations against Palestinian "suspects." Such measures have been criticized by the international community and even the Israeli High Court of Justice (on 18/01/2003) outlawed the use of neighbors as human shields.<sup>36</sup>

## 2) Children's right to life:

Over the last five years, Palestinian children have been the continual target of Israeli aggression and violence. The breakdown of child deaths as a percentage of total Palestinian deaths is as follows<sup>37</sup>:

Year	Palestinian Children Killed By Israeli Soldiers, Settlers or Undercover Units	Percentage of Total Palestinian Deaths Represented by Children
1998	14	51.85%
1999	4	50%
2000	105	35.96%
2001	98	21.26%

Israeli forces have consistently targeted Palestinian children since 1998 (and even before). Looking at these deaths as a percentage of total deaths, we see that Palestinian children accounted for more than 20% of total deaths for every year since 1998.

Over 40% of Palestinian child deaths over the last 10 years occurred in the years 2000 and 2001. Over the last two years, and in particular, since the beginning of the Palestinian uprising on 29 September 2000, Israeli military forces have employed violent, excessive and disproportionate force against the Palestinian civilian population.

DCI/PS field research recorded 105 deaths of children (under the age of 18) killed as a result of the Israeli occupation during the year 2000.<sup>38</sup> Ninety-four of these deaths occurred during the Palestinian Intifada in the last 3 months of the year. This figure represents a significant proportion of total deaths during the uprising – approximately 30% of total deaths were minors under the age of 18 years. DCI/PS fieldwork indicates that 27% of total child deaths were a result of live ammunition fired at the head. Seventy-two percent (72%) of deaths resulted from injuries to the head, chest or eye. Such a high proportion of lethal injuries to the upper part of the body would seem to indicate the deliberate targeting of Palestinian children.

DCI/PS fieldwork indicates that many of those killed or injured were not involved in demonstrations at the time. One illustration of this was the killing of 14-year old

<sup>36</sup> See Betsalem's report dated 12/01/2003.

<sup>37</sup> Figures for 1990-1995 compiled from Al Haq documentation and fieldwork, figures for 1995-1997 from B'Tselem and the Jerusalem Media and Communication Centre, figures for 1998-2001, Defence for Children International/Palestine Section.

<sup>38</sup> Figures taken from DCI/PS fieldwork in 2000 and published previously in the DCI/PS publication *A Generation Denied*.

Mo'ayyad Osaama Al-Jowareesh, of Aida Refugee Camp, in Bethlehem, as he was walking to school. At approximately 2:30pm, 16 October 2000, the IDF shot Mo'ayyad in the head with a rubber coated steel bullet, a metal bullet surrounded by a thin rubber layer. According to eyewitnesses, an Israeli soldier posted in the watchtower at Rachel's Tomb shot Mo'ayyad at close range, as he was walking beneath the tower. The bullet entered the apex of the skull and exited the other side. Mo'ayyad was a 9<sup>th</sup> grade student at the UNRWA Basic School for Boys, which holds classes in morning and afternoon sessions, due to capacity restrictions. At the time of his killing, Mo'ayyad was passing through the area on his way to the afternoon session, with his school bag on his back.<sup>39</sup>

Examining the statistics of body injury location, we see a sharp rise in injuries to the upper body during the Intifada (the last three months of the year 2000) compared with injuries prior to the Intifada - 19% prior to Intifada compared to 31.7% during the Intifada. Nearly 32% of injuries sustained were to the upper body during the Intifada. More than one-quarter of children injured by Israeli forces in the year 2000 were aged below 12 years. An examination of body injury location between September-December 2000 further illustrates the escalating use of force over this period. These figures demonstrate a significant increase in the targeting of the head area (neck, eyes, head) by Israeli soldiers. Between September- November 2000, the number of injuries to the head area were extremely high, but relatively constant. However, during December 2000, this percentage increased by 8.7%.

The Israeli assault has also witnessed the use of anti-tank weaponry against the civilian population. DCI/PS has documented the killing of nine children as a result of machine guns firing 500-bullets in the year 2000. These bullets are approximately 12.5 mm in diameter and are designed for use against tanks and armored personnel carriers. These facts contradict Israeli claims that this type of weaponry has not been employed against civilian demonstrators. According to official Israeli sources, there were no armed confrontations occurring at the time of this demonstration.<sup>40</sup>

DCI/PS research indicates that the percentage of Palestinian children killed under the age of thirteen doubled from 2000 to year 2001. More than 1/3 of the children killed in the year 2001 were under the age of 12.

Age Group	2000		2001	
	Number	Percentage	Number	Percentage
<b>0-8</b>	7	6.66%	12	12.24%
<b>9-12</b>	12	11.43%	21	21.43%
<b>13-15</b>	36	34.29%	31	31.63%
<b>16-17</b>	50	47.62%	34	34.69%
<b>Total</b>	105	100%	98	100%

<sup>39</sup> DCI/PS has on file a signed affidavit from an eyewitness to Mo'ayyad's killing as well as a report from a fieldworker in Bethlehem.

<sup>40</sup> See for example *Summary of Events of the Day According to the Official IDF Spokesman*, October 20, 2000, which notes the "light wounding of two soldiers due to stone throwing" near Tulkarem and no mention of armed clashes.

The level of force used to kill these children has also increased. In the year 2001, 32% of children were killed by injuries to the head, an 11% drop in comparison with the year 2000. This apparent drop, however, was compensated by the large increase in the number of children who received multiple deadly wounds to more than one bodily location (33.33% of child deaths).

Location of Injury	2000		2001	
	Number	Percentage	Number	Percentage
Head	44	43.14	31	32.29
Chest	32	31.37	20	20.8
Back	2	1.96	4	4.17
Stomach	2	1.96	9	9.38
More than one location	22	21.57	32	33.33
<b>Total<sup>41</sup></b>	<b>102</b>	<b>100%</b>	<b>96</b>	<b>100</b>

Further indication of this increase in the level of force is found through an examination of the injury statistics. In the year 2001, DCI/PS collected information on 3750 child injuries. The Palestinian Red Crescent estimates that between 6000-7000 children were injured during the year 2001.<sup>42</sup> Of those 3750 injuries, more than 1/5 were to the upper part of the body (head, chest, eye, neck and back).

In a qualitative shift from any other period in the last ten years (and indeed since the onset of the occupation in 1967), a large proportion of injuries were a direct result of the use of heavy artillery (rockets, shells, missiles) fired by helicopters and warplanes. Over 14% of child injuries occurred as a result of such attacks on the civilian population. This same trend is confirmed by child death statistics. Over 20% of child deaths occurred as a result of being hit directly or by shrapnel from rockets, shells, bombs or missiles.

According to DCI/PS documentation, in the year 2001, twenty-seven Palestinian children lost a body part as a result of their injury (limbs or internal organs). Of these, nine children lost an eye. Twenty-four percent (24%) of children who were injured were shot by live ammunition. Over 20% of child injuries from live ammunition in 2001 were to the upper part of the body. Nearly 40% of children injured were 12 years old or younger (39.73%). Doctors report many injuries due to fragmenting bullets fired from M-16 rifles. The injury types caused by these bullets, 5.66mm in diameter, resemble those of the internationally banned dum-dum bullets. They are designed to splinter on impact – tearing tissue and muscles and causing multiple internal injuries.

#### *“Riot Dispersal Methods”*

The phrases “employed dispersal methods,” “responded with crowd dispersal methods,” and “responded with measures for dispersing demonstrations” are repeatedly used by the IDF when describing the response of the Israeli army to

<sup>41</sup> It should be noted that in both 2000 and 2001 two children died due to closure. They are not included in this table.

<sup>42</sup> See <http://www.palestinercs.org>, the website of the Palestinian Red Crescent for more information.

demonstrations. These terms are, in actual fact, euphemisms for employing lethal techniques.

According to the IDF Rules of Engagement, in the case of “violent riots,” the following techniques of dispersal should be used:

“If the riot does not end within a reasonable period of time, it is permitted to employ means for dispersing demonstrations according to the following stages:

- 1) Means such as: tear gas, water jets, blasting cap, stun grenades.
- 2) Warning shots in the air.
- 3) Firing rubber ammunition.<sup>43</sup>

The passage from one stage to the next will be done, only if the previous stage did not lead to the ending of the violent riot. A stage may be skipped, if certain means are not at the disposal of the force, or if they are not applicable in the circumstances of the event.”

Any observer of the recent demonstrations can testify that these rules have not been adhered to by the Israeli military. This is confirmed by countless eyewitnesses, media coverage, various reports from human rights organizations and of course- the wounded themselves. There has been increased understanding among the international community that so-called “rubber ammunition” is actually a euphemism for rubber coated steel bullets. Provisions governing the use of this ammunition are explicitly spelt out in the IDF Open-fire Regulations. These bullets are supposed to be fired from a minimum distance of 40m and “to be aimed solely at the legs of a person who has been identified as one of the rioters or stone-throwers.”

Injury statistics indicate blatant disregard of these regulations. In 2000, DCI/PS gathered information concerning 793 children shot by rubber-coated steel bullets in the year 2000, 672 of these during the Intifada.<sup>44</sup> Of these 672, 319 or 47.47% were wounded in the upper part of the body. Forty-seven, or 7% were hit in the eye. Seven children lost their eye as a result of rubber-coated steel bullets. DCI/PS documented three cases of deaths in the year 2000 as a result of the use of rubber-coated steel bullets.

In the year 2001, 535 children were hit by rubber-coated steel bullets, according to injury statistics from DCI/PS. Of this 535, 206 were hit in the upper part of their body. This represents 39% of injuries by this type of bullet. There were 22 serious eye injuries as a result of rubber-coated steel bullets. It is absolutely unthinkable that the Israeli army’s own rules of engagement were accidentally violated in nearly 40% of cases.

Three Palestinian children were killed by Israeli settlers during the year 2001. According to DCI/PS’ information, in none of these cases were the perpetrators brought to justice or were the cases even investigated in a serious manner. On 1 May 2001, 16 year old Kifah Zorab was playing on the beach near his home near Khan Younis in the Gaza Strip. A settler approached him and set a group of dogs on Kifah,

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<sup>43</sup> Codes RRNM and Roma GG, RM.

<sup>44</sup> These figures should not be taken to represent total injuries by rubber-coated steel bullets but represent the number recorded by DCI/PS. The actual figure is probably much higher.

seriously wounding him. The settler then proceeded to beat Kifah. Kifah was carried to his house and was then prevented from reaching a hospital for 9 days. He died from his wounds on 10 May, 2001.<sup>45</sup> On 19 July 2001, Dia A.-Tmaizy from Ithna village near Hebron, aged 3 and a half months, was going home with his family from a party to celebrate his recent birth. A group of armed settlers ambushed their car and opened fire on those inside. Dia and two adults were killed and three other children injured.<sup>46</sup>

There were also several deaths, including two children, due to the Israeli imposed closure of Palestinian areas in the year 2001. In both these cases, the children were under five years old and suffering from serious medical problems. They were prevented by Israeli soldiers from obtaining medical assistance and died as a result of (see article 12 for more information).

Concerning the child deaths as a result of extra-judicial killings, during the year 2001, 12 children were killed during Israeli assassination attempts against Palestinian activists. Most of these children were killed in crowded, populated areas, where it was abundantly clear that other casualties would result from the Israeli assassination attempt. On 31 July, two Palestinian children, Ashraf Abd Al Manaam Abu Khader, 5 years old, and Bilal Abd Al Manaam Abu Khader, 8 years old, were killed as a result of Israeli missiles fired from Apache helicopters at an apartment building in a busy residential area in the northern West Bank town of Nablus. Ashraf and Bilal lived in Jenin, and had gone to Nablus with their parents in order to buy items for school.<sup>47</sup> On 10 December 2001, two Palestinian children were killed during a failed Israeli assassination attempt in Hebron.

According to affidavits provided to DCI/PS by eyewitnesses, at approximately 2:20pm, three year old Burhan Mohammad Ibrahim Al-Himouni, from Hebron, was killed when an Israeli missile hit the car in which he was riding, dismembering the three year old child. At the same time, 15 year old Shadi Ahmad Abdel Mu'ati Arafa, also from Hebron, sustained fatal injuries to the neck and head as a result of the explosion. Both children were on a crowded Hebron street when the assassination attempt occurred.<sup>48</sup> On 4 March 2002, during an assassination attempt in Al-Bireh, five Palestinian children from two families were instantly killed when the Israeli military attacked the cars in which they were riding: Mohammed Hussein Abu Kweik, 8 years old; Bara' Hussein Abu Kweik, 14 years old; Aziza Hussein Abu Kweik, 17 years old; Shayma' Azz Eldin Khalil Al Masri, 4 years old ; Arafat Ibrahim Khalil Al Masri, 16 years old.<sup>49</sup>

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<sup>45</sup> Based on DCI/PS fieldwork and a sworn affidavit from a representative of the Palestinian General Intelligence who was responsible for following up the case in Gaza and attempting to arrange for the transfer of Kifah to a hospital that was refused for a period of 9 days.

<sup>46</sup> Information based on a sworn and signed affidavit from Dia's aunt who was carrying Dia at the time and was injured during the attack, a medical report from the hospital, and DCI/PS fieldwork.

<sup>47</sup> See DCI/PS Press Release 2 August 2001, ref: 0019/01, *A Palestinian Child is Killed Every Five Days - DCI/PS Urges Immediate International Action*, information based on DCI/PS fieldwork.

<sup>48</sup> See DCI/PS Press Release, 11 December 2001, ref: 0031/01, *Two Palestinian Children killed during Israeli assassination attempt; 15 year old girl sentenced to five years in prison*.

<sup>49</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 10.

A number of children were killed inside their homes during random Israeli shelling of residential areas with tanks and machine guns. For example, the infant Iman Hiju, age 3 months, was killed when struck by the shrapnel of a tank missile while in her family's home in the Khan Younis refugee camp on 7 May. Sabrine Abdul Karim Asinineh, age 8, was killed after being injured with a mid-size bullet in her head during Israeli shelling of residential areas in Hebron on 12 August. Muhammad Salem, age 15, was killed while throwing stones at the Israeli forces in Bureij Camp on 16 May. Children were also intentionally killed without any justification, such as Muhammad Juman Handiq, age 12, who was shot by Israeli soldiers while playing in front of his house near a military checkpoint in Khan Younis on 17 December, the second day of the Muslim holiday, Eid Al-Fitr. The infant Diya Marwan Hilmy Tamizi, age 3 months, was killed when his family's car was attacked on a road leading to Hebron on 19 July. The IDF also continued assaults on children in their schools or on their way to school throughout the year, and many school children were subjected to shelling by planes and tanks. Riham Nabil Ibrahim Ward, age 10, was killed by heavy artillery the IDF fired on her school in Jenin on the morning of 8 October.<sup>50</sup>

Israel has planted many land mine fields under the pretext of security since the beginning of its occupation of the West Bank and Gaza Strip, particularly around the Jordan Valley, the Gaza Strip, and the settlements. Israel has also allocated wide areas within the Palestinian Territories for the purpose of conducting military training and practice, leaving behind large quantities of military waste that threaten the lives of Palestinian civilians, particularly children. In 2001, a group of children was wounded, and some were killed by mines and military refuse left after Israeli army training sessions exploded.

Children were also killed by booby-trapped explosives the IDF planted in the Occupied Territories. On 28 March, Yehya Fathi Al-Shaykh Eid, age 12, was killed after a device left by the Israeli army along the border in Rafah exploded in his hands, tearing apart his body. On 19 October, Basim Salim Al-Mubashir, age 13, was killed near his house by shrapnel wounds after a discarded shell near Nefiyeh Dakalim settlement near Khan Younis exploded, causing severe burns and limb amputation.<sup>51</sup>

On the morning of 22 November, five Palestinian children from the Al-Ustul family were killed in Gaza by the detonation of an explosive device the IDF had planted near their school. The five children were: Akram Naim, age 6, his brother Muhammad, age 14, Anis Idris, age 12, his brother Omar, age 13, and Muhammad Sultan, age 12. The bodies of these five children were blown into fragments and scattered, and they were only identified by the remnants of school books they had been carrying. The Israeli army admitted planting explosive devices in that location in order to assassinate armed Palestinian activists.

The repeated shelling of Palestinian residential areas has caused a state of terror and panic among children who now suffer from anxiety, involuntary urination, fear of the dark, inability to sleep far from their parents, waking at night, and fear of leaving their

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<sup>50</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 11.

<sup>51</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 11-12.



home. Statistics issued by the Development Studies Program of Birzeit University on 19 February 2001 indicate that approximately 69% of Palestinian children between the ages of 4 and 14 suffer negative psychological effects from oppressive Israeli measures.<sup>52</sup> In the first five months of 2002, 93 Palestinian children were killed by Israeli soldiers.<sup>53</sup>

Age Group	2001		2002 (Jan – May)	
	Number	Percentage	Number	Percentage
0-8	12	12.24	21	23
9-12	21	21.43	20	22
13-15	31	31.63	26	28.6
16-17	34	34.69	24	26.4
<b>Total</b>	<b>98</b>	<b>100%</b>	<b>91*</b>	<b>100%</b>

\* The total of 91 rather than 93 is due to the fact that the bodies of 2 children are still unidentified.

Location of Injury	2001		2002 (Jan – May)	
	Number	Percentage	Number	Percentage
Head	31	32.29	19	22
Chest	20	20.8	14	16.2
Back	4	4.17	4	4.65
Stomach	9	9.38	4	4.65
More than one location	32	33.33	45	52.33
<b>Total<sup>54</sup></b>	<b>96</b>	<b>100%</b>	<b>86*</b>	<b>100%</b>

\* The total of 86 rather than 93 is due to the fact that some children were killed by suffocation from tear gas, or closure.

An examination of data concerning children killed between 0-8 years shows a further disturbing trend. The number of children killed in this age group has been increasing on an annual basis, with 7 deaths documented in 2000, 12 in 2001, and 20 in the first 5 months of 2002. In addition, the percentage this age group of children represents is increasing within the context of total number of children killed annually. In 2000, deaths of Palestinian children 0-8 years constituted 6.6% of total children killed (7/105). In 2001, the percentage increased to 12.2% (12/98). In the first 5 months of the year 2002, deaths in this age group constituted 21.5% (20/93) of total child deaths. *Thus, in the span of two years, the percentage of children in this age group that have been killed has increased by over 300%.*

Regarding the use of force, in 2002, over half of the children killed (52.33%) sustained multiple fatal injuries to more than on part of the body as compared to one-

<sup>52</sup> On the psychological damage to Palestinian children, see: Maisoon Atawneh al-Weheidi, *Israeli Violations to the Rights of Palestinian Children*, Ramallah, Ministry of Social Affairs, 2001, pp. 35-39.

<sup>53</sup> According to DCI/PS.

<sup>54</sup> It should be noted that in both 2000 and 2001, two children died due to closure. They are not included in this table.

third of children killed in 2001. In other words, the level of deadly force used by Israeli soldiers in 2002 increased dramatically.

Israeli Claims Concerning Palestinian Child Deaths:

Israel has attempted to justify child deaths by claiming that these children were killed during demonstrations because Israeli soldiers were forced to defend themselves against armed attacks by Palestinian demonstrators. The official Israeli Foreign Ministry explanation for Palestinian child deaths is as follows: “Armed Palestinian policemen and members of the Fatah militia, the Tanzim, often stand just behind this human shield of juvenile martyrs and direct gunfire at Israeli soldiers, knowing they can exploit the children's wounds for their propaganda purposes.”<sup>55</sup>

Thus, according to Israeli logic, Palestinian children are not being deliberately targeted by Israeli soldiers (which is, after all, against their own Open Fire Regulations), but rather are caught in crossfire between “Palestinian gunmen” and the Israeli military. This line has been repeated *ad nauseum* by Israeli military and government spokespersons. It should be noted that the above justification is taken directly from an official Israeli government source – the Ministry of Foreign Affairs – and therefore cannot be seen as a misrepresentation of the Israeli government position.

One would have hoped that when similar spurious claims of so-called Palestinian culpability for child deaths were echoed during the second Intifada, the international community would have been less willing to accept these fabrications so uncritically. Unfortunately, these myths have been widely spread throughout the media and are rarely challenged, despite the fact that the evidence completely contradicts these claims.

The question must also be asked: Why should a child who throws a stone be shot? It must be unequivocally stressed that according to international law, the Israeli government and its soldiers are responsible for child injury and death even during stone-throwing demonstrations.

According to DCI/PS fieldwork, of the 98 children killed directly by Israeli soldiers or settlers in the year 2001, 56 of those killed were not participating in a demonstration or any form of confrontation at the time of their death. This represents 57% of those children killed by Israeli soldiers or settlers.

<b>Circumstance of Death</b>	<b>Number</b>	<b>Percentage</b>
Clashes	42	42.86
Shelling/ Missile Attack	17	17.35
During assassination attempt	12	12.24
Attack	18	18.37
Closure	2	2.04
Mine/Explosive	7	7.14
<b>Total</b>	<b>98</b>	<b>100%</b>

<sup>55</sup> *Why are Palestinian children being wounded in the conflict?* Israeli Ministry of Foreign Affairs <http://www.mfa.gov.il/mfa/go.asp?MFAH0i9o0#children>.

Furthermore, of those 42 children killed during clashes, only 26 were actually participating in the clashes at the time, according to DCI/PS documentation. The remaining 16 were passing nearby. Of the total 98 children killed, 39 were killed inside their houses, on the way to school, or in school.

These figures indicate that the Israeli justification for child deaths is nothing short of a complete fabrication. In fact the evidence points overwhelmingly in the opposite direction. The vast majority of Palestinian children were killed going about their daily lives in circumstances where they should have been completely safe from Israeli aggression. They were not presenting any threat to the lives of Israeli soldiers or settlers. More than 1/3 of these children were under the age of 12. There can be no moral justification for these deaths. They must be unequivocally condemned and the perpetrators brought to justice.

### **3) Disabled's right to life:**

36 disabled persons have been killed by the Israeli forces since the beginning of the second Intifada in September 29,2000 until January 25, 2003.<sup>56</sup>

63% of the disabled persons killed were from Gaza and 37% were from the West Bank:

16%	under the age of 18 years.
68%	between 18-45 years old.
16%	over 45 years of age.
83%	disabled with one disability.
17%	more than one disability.
44%	were mentally disabled.
22%	psychological and mental disturbances.
20%	movement disability.
10%	deaf and dumb
4%	blind.

Annex C presents 4 cases of disabled Palestinians who were killed during the period from January 1, 2002 – December 31,2002 in the Gaza Strip.

Handicapped children were also not exempted from shootings. The Palestine Red Crescent Society-Rehabilitation Department has documented the death of 2 handicapped children sheltered at Khan Younis- Almal City in 2002, as well as the severe injuring of one deaf child in Nablus. In addition, settlers from Ofra shot a Palestine Red Crescent Society car that was transporting deaf children from eastern villages of Ramallah.<sup>57</sup>

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<sup>56</sup> According to the National Society for Rehabilitation in the Gaza Strip and the Palestinian Ministry of Health.

<sup>57</sup> *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000.*

#### **4) Women's rights to life:**

There is a lack of systematically collected data about the situation of Palestinian women during the last two years of the second Intifadah. It has been almost impossible to find data classified on the basis of gender. All deaths, for instance, are classified together, except for children.

The impact of checkpoints on the life of Palestinian women and their unborn children is one of the clearest violations of the right to life. According to the Palestinian Ministry of Health, there have been several reported deaths of pregnant women at checkpoints (see also article 12), and cases of harassment by soldiers of pregnant women, as well as cases in which women were forced to give birth at the military checkpoints.<sup>58</sup> It has also been reported that there has been an increase of 30% in home deliveries, due to movement restrictions. According to the United Nations Population Fund (UNFPA)<sup>59</sup>, one fifth of pregnant women in Gaza and the West Bank could not receive prenatal care because of the difficulty of traveling through checkpoints to health facilities. Women are being denied their basic right to deliver their babies in a safe and clean environment and thus their fundamental right to be treated with dignity.

The following case study, documented in a video by the Palestinian Health Ministry, sheds light on this reality.

- Hourryah Mir'ie lost her newborn baby when she was not allowed to cross a checkpoint for 6 six hours although she was hemorrhaging. She was trying to get to a hospital. Bleeding and forced to walk 2 kms, she passed out and the newborn baby died.
- Samaher Zbbeidat nearly lost her life when she was not permitted to cross a checkpoint although she was in labour. She gave birth at the checkpoint as soldiers with search lights watched. Her delay at the checkpoint resulted in a ruptured placenta. Delays of women in labour at military checkpoints have, at best, resulted in unattended and risky roadside births and, at worst, in the death of women and their newborns.

#### **Article 7**

**No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.**

#### **1) Torture of Palestinian civilians:**

Torture is a practice used by the Israeli Intelligence Service ("the Shabak"), by the Israeli Military, the Israeli Police, and by collaborators (i.e. Palestinian prisoners recruited by Israeli authorities after their arrest and held in special wings in each

<sup>58</sup> Source: UN Office for the Coordination of Humanitarian Affairs (OCHA). – Relief Web.

<sup>59</sup> The United Nations Population Fund (UNFPA), UNITED NATIONS, New York, 5 April 2002.

detention facility). In addition, Israeli medical personnel working in prisons clinics have participated in such practices by issuing medical reports regarding prisoners "physical fitness" (to withstand torture).<sup>60</sup>

The IDF use cruel and degrading treatment against Palestinian civilians, particularly at military checkpoints and during their detention and prosecution. This is a policy that is implemented methodically, on a daily basis, making it so routine action that it is difficult to quantify. Soldiers and settlers frequently engage in violent beatings and shootings of Palestinian civilians, particularly during curfews. Israeli soldiers also attack Palestinian workers, with beating and humiliating them as they are come and go from their areas of residence.<sup>61</sup>

Just as an example of such behavior,<sup>62</sup> on the morning of 1 January 2001, Jadallah Al-Juabari was stopped by the IDF as he was trying to leave the occupied area of Hebron (Area "H2") towards Palestinian controlled Area "H1." He was informed, in Hebrew, that he could not be out walking in the area because of a curfew. However, Al-Juabari does not understand Hebrew. He was then ordered to return to home. He left, but when he reached a distance of some 15 meters, a soldier fired two bullets at him, breaking his right foot and separating it from the rest of his leg. An Associated Press photographer happened to be in the area and snapped a photo of Al-Juabari lying on the ground, holding his severed foot with his hand and bleeding intensely.<sup>63</sup> On 5 December 2001, Israeli soldiers at the military point at Al-Matahin crossing in Khan Younis forced six Palestinian passengers in a taxi to disembark, remove their clothing, and walk in the cold rain with their hands on their heads. A soldier then threw their clothes into a basin full of rainwater and mud before the youths were allowed to don their clothing. They were then arrested. This humiliating treatment by the soldiers took place in full view of a number of passers-by, including several journalists who were able to photograph the incident<sup>64</sup>.

Insults are not restricted to the living. The IDF also mistreats the corpses of Palestinian martyrs. On 12 January in Hebron city, after Israeli soldiers killed Shakir Faisal Hasouneh, age 23, a group of soldiers dragged his corpse dozens of meters through city's streets despite the presence of the international press. On 30 December, the IDF killed three Palestinian children in Beit Lahya near Gaza City: Muhammad Ahmed Labeled, age 16, Muhammad Abd Al-Rahman Al- Madhoun, age 16, and Ahmed Muhammad Banat, age 15. Their corpses were kept for four days near the Eli Sinay settlement. Palestinian medical sources reported that Israeli soldiers had killed the three children after they had been wounded, and then mutilated their corpses. They burned and stabbed the bodies with knives, broke their limbs, crushed their heads, and

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<sup>60</sup> According to Mandela.

<sup>61</sup> See report by B'Tselem (Israeli Information Center for Human Rights in the Occupied Territories), *Routine Acts: Beating and Abuse of Palestinians by the Israeli Security Forces during the Al-Aqsa Intifada*, May 2001, and *In the Daylight: Israeli Armed Forces' Abuse of Palestinians*, July 2002. These reports are available on B'Tselem's website at: <http://www.btselem.org>

<sup>62</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 13.

<sup>63</sup> For details of the incident, see: Human Rights Watch, *Center Of The Storm: A Case Study Of Human Rights Abuses in Hebron District*, New York, April 2001, pp. 49-50.

<sup>64</sup> *The Jerusalem Post*, 6 December 2001, p 2.

removed some of their internal organs. The mutilated bodies of the three children were shown to the media on 3 January 2002, before their burial.<sup>65</sup>

Torture is not restricted to people who are detained, as Israeli forces have, on several occasions, subjected Palestinian civilians to unfathomable treatment. In mid October 2002, the newspaper *The Guardian* reported that an Israeli army commander, Lieutenant Colonel Geva Saguy, had ordered a Palestinian boy to strip naked, held a burning paper under his testicles, threatened to ram a bottle into his anus, beat him and further terrified the child by threatening to shoot him. Surprisingly the military court relieved Saguy of his post. It is far more common for such torture to be justified by the military court, permitting the perpetrator to act with impunity.

As reported by the *Washington Post*, in December 2002, Israeli forces started engaging in a new practice, known as "The Lottery," where curfew violators are ordered to choose one of several folded pieces of paper that have different punishments written on them -- such as "broken leg," "smashed hand" or "smashed head" - and the soldiers then administer the selected punishment. This was reported to have happened in Hebron, where a group of Palestinian youths were taken to the Israeli settlement of Beit Hadassah and after selecting various pieces of papers, had their hands, legs or nose broken. Similar illegal behavior occurred in other West Bank locations, as testified to by Firas Mohammad Khamis El-Srafandi (17 years), who was subjected to it when he was stopped by Israeli soldiers while returning to his village of Jifna, near Ramallah.<sup>66</sup> It is believed that this practice led to the recent death of Amran Abu Hamediye, 18, who Palestinian witnesses reported was beaten severely around the head.<sup>67</sup>

Among the new and bizarre developments reported towards the end of 2002, soldiers in the city of Nablus forced several Palestinians to remove their clothes and walk naked through the streets, while imitating animals with their movements and voices.

#### The Israeli rulings on the use of torture:

On 31 May 1987, the Israeli Government established a commission of inquiry to investigate the interrogation methods used by the General Security Services (Shabak) to obtain confessions from Palestinian detainees. The Commission, chaired by retired Israeli High Court Justice Moshe Landau, concluded that "the interrogation of prisoners who are accused of carrying out terrorist activities will not be successful without using pressure." The Landau Commission recommended the use of pressure that "should principally take the form of non-violent psychological pressure via a vigorous and lengthy interrogation... However, when these methods do not attain their purpose, the exertion of a moderate measure of physical pressure cannot be avoided."<sup>68</sup>

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<sup>65</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 13-14.

<sup>66</sup> According to Mandela.

<sup>67</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 34.

<sup>68</sup> Clauses 6/4, and 7/4, Landau Commission Recommendations, 1987.

On 13 January 1999, the Israeli Government submitted a written response to the Israeli High Court of Justice regarding appeals against various interrogation methods used by the Israeli Intelligence Service (Shabak), including "severe shaking " which resulted in the death of Abed El-Samad Hreizat on 25/04/1995.<sup>69</sup> That document stated: "The Government decided to submit to the Israeli Knesset a draft law regulating the authority for special investigations conducted by the Shabak, including the authority to use moderate physical and psychological pressure".<sup>70</sup>

On 16 January 1999, the Israeli Attorney General issued an official statement asserting that the torture methods used by the Shabak while interrogating detainees, including physical pressure and severe shaking are "legitimate and vital methods," since they aim to prevent suicide operations and thus save the lives of Israeli citizens.<sup>71</sup>

On 6 September 1999, as a result of numerous complaints and petitions by human rights organizations concerning Israel's use of torture against Palestinian detainees, the Israeli High Court of Justice banned the use of four methods of torture which were previously allowed by the Landau Commission. These included the vigorous 'shaking' of a detainee, placing the detainee in the 'Shabeh' position, forcing the detainee into the 'Gambaz' (frog crouch) position, and depriving the detainee of sleep in a manner other than that which is inherently required by the interrogation.<sup>72</sup> That decision, made by 9 judges, overruled the regulations permitting use of such methods of torture during interrogation as severe shaking, position abuse, sleep deprivation, hooding and shackling the detainee and the use of extremely loud music. The Court added: "If the State wishes to enable the Shabak to use physical means during interrogation, then it should adopt a law".

On 15 September 1999, an Israeli ministerial committee headed by Yehud Barak established a subcommittee to examine the possibility of proposing new legislation that would allow for the use of force. In December, the committee submitted its recommendations to the government. However, on 15 February 2000, Ami Ayaloon, head of Shabak, withdrew his proposal to have special legislation allowing for the use of force during interrogation. No new legislation was ever passed.<sup>73</sup>

Based on Mandela Institute's field visits (and other human rights organizations' visits) to Israeli detention facilities and interrogation centers and on numerous testimonies from detainees who had been tortured during their interrogation after the High Court ruling, it is evident that the use of torture is still common practice amongst Israeli interrogators, albeit somewhat reduced. The Landau Commission's recommendation in May 1987 encouraged and allowed the use of torture by the Israeli Shabak of Palestinian detainees under the ambiguous phrase "moderate physical and psychological pressure," enabling this illegal form of interrogation to be conducted in

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<sup>69</sup> For further information, see Amnesty International, Document number 15/23/95, dated November 1995 and Mandela's Fact Sheet dated 29/04/1995.

<sup>70</sup> Al-Quds Arabic Daily Newspaper dated 13/01/1999, reproducing a report of Mandela.

<sup>71</sup> Information from Mandela.

<sup>72</sup> HCJ 5100/94, Public Committee Against Torture in Israel v. The State of Israel et.al. and six other petitions; High Court Ruling on GSS Interrogations}.

<sup>73</sup> Information from Mandela.

an environment of impunity, and approving a culture of abuse. Although the High Court ruling limited the use of torture in interrogation, it did not unilaterally ban it for human rights organizations such as Mandela and Addameer.

Israeli State Comptroller, Miriam Ben-Porat, conducted a study of Shin Bet practices during the first Intifada and presented her report in 1995 to a Parliamentary State Audit Committee. The subcommittee chose to keep the report confidential, until a Supreme Court ruling in February 2000 allowed for a summary of the findings to be made public. The Ben-Porat report blamed the GSS chain of command under its director, Yaakov Peri, for irregularities in GSS practices and the use of systematic torture. The report stated that “the irregularities were not, for the most part, the result of not knowing the line between the permissible and the forbidden, but rather were committed knowingly.” “Veteran and even senior interrogators in the facility in Gaza committed severe and systematic deviations [from the regulations].”<sup>74</sup> “The assurances of senior Shin Bet officials to the Landau Commission that truth-telling inside the organization is enforced...were found to have no basis in reality,” the report further noted.<sup>75</sup> However, despite the report, no Shin Bet officers were ever prosecuted for the abuses committed during the first Intifada.

Furthermore, the loophole left in the 1999 ruling whereby ‘moderate pressure’ was found to be permissible in cases of ‘ticking bombs’ also left room for GSS interrogators to use torture in cases they deemed necessary. The ruling itself, as well as the Landau Commission recommendations, do not clearly define ‘ticking bomb’ cases, other than that they involve individuals who have information or are involved in activities that may directly harm the security of the State of Israel. Carmi Gillon, former GSS head, stated during his remarks at a Tel Aviv University conference: “In most cases, the possibility that a suspect possesses information about a pending terrorist attack is so vague and uncertain that it is impossible to leave the responsibility for whether or not to apply physical pressure to the interrogator. He must be protected by law.”<sup>76</sup> However, experience has shown that any law allowing the GSS to use any degree of physical force, even in exceptional cases, would be equivalent to legalizing torture.

#### Consequences:

Although the number of reported cases of torture of Palestinian detainees significantly decreased following the 1999 High Court ruling, the use of torture has again increased since the beginning of the current Intifada. Since the beginning of the second Intifada, Palestinian human rights institutions have documented countless cases of torture. For example, according to a survey of ex-detainees conducted by The Treatment and Rehabilitation Center for Victims of Torture, they found that between 85-90% of detainees surveyed had been tortured during their detention.

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<sup>74</sup> Borger, Julian, *Israeli government report admits systematic torture of Palestinians*, The Guardian Newspaper, 11 February 2000.

<sup>75</sup> *Israel admits torture*, BBC News, 9 February 2000.

<sup>76</sup> Izenberg, Dan and Dudkevitch, Margot, “*Rivlin slammed over GSS interrogation-technique bill*”, The Jerusalem Post, 10 December 1999.



Torture is used in Israeli prisons and detention centers to obtain confessions and information about involvement in political activities and to recruit prisoners as collaborators.<sup>77</sup> While the number of cases involving use of the specific forms of torture stipulated by the 1999 court decision have somewhat diminished, virtually all Palestinian detainees held by Israel suffer some form of torture or cruel and degrading treatment by arresting officers and interrogators. Since the beginning of the current Intifada, a significant increase has been noted in the use of the following methods: threats and actual attempts to kill the detainee, attempted rape, arrest of family members, threats of deportation and house demolition, use of collaboration cells to obtain confessions, and the threat of placing the detainee in administrative detention if he/she does not 'confess'.<sup>78</sup>

Especially during the Israeli incursions of March/April 2002, many detainees were severely beaten and/or shot at during their arrest, in addition to instances of attempted rape and killing. One such example is detainee 'G' who was arrested from his home on 4 April 2002 and repeatedly severely beaten by soldiers during his detention. At one point, one soldier began to beat him hysterically, then loaded a gun and pointed it at his head. According to his testimony, another soldier "yelled, 'Don't do it,' and dragged him away by force. Then the soldier hit me on the head with his gun, and repeated this several times. I later heard one of the soldiers say, 'How about we kill him?' Another soldier replied, 'It is better if we smash his skull and we should make sure that the nurse is here'."<sup>79</sup> Another detainee, Detainee 'A', suffered similar abuse, including attempted rape.<sup>80</sup>

#### Forms of torture used against Palestinians:

Palestinian detainees continue to be subjected to the following forms of torture:

1. Tied up in painful positions for hours or days on end.
2. Solitary Confinement.
3. Placement in collaboration cells.
4. Confinement in tiny isolation cells.
5. Beatings.
6. Deprivation of sleep and food.
7. Preventing the use of the toilet.
8. Exposure to cold or heat.
9. Tightening of plastic cuffs

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<sup>77</sup> Al-Haq (1988). *Punishing a nation: Human rights violations during the Palestinian uprising, December 1987- December 1988*. Ramaila, West Bank: Al-Haq publication; B'tselem (1989). *Annual report 1989: Violations of human rights in the occupied territories*. B'tselem, Jerusalem; Cohen S., & Golan D. (1991). *The interrogation of Palestinians during the Intifada: ill-treatment, "moderate physical pressure" or torture?* B'tselem, Jerusalem; International Committee of the Red Cross (1992). Press release No. 1717. Jerusalem. May 1992; Siegiel-Itzkovich J. (1986). Israeli doctors banned from role in interrogation. *British Medical Journal*, 307, 150-151.

<sup>78</sup> For examples, see the "Sworn Affidavit taken by 'Adel Al Hidmi'", 31 October 2002, from Addameer Prisoners Support and Human Rights Association, Annex D.1.

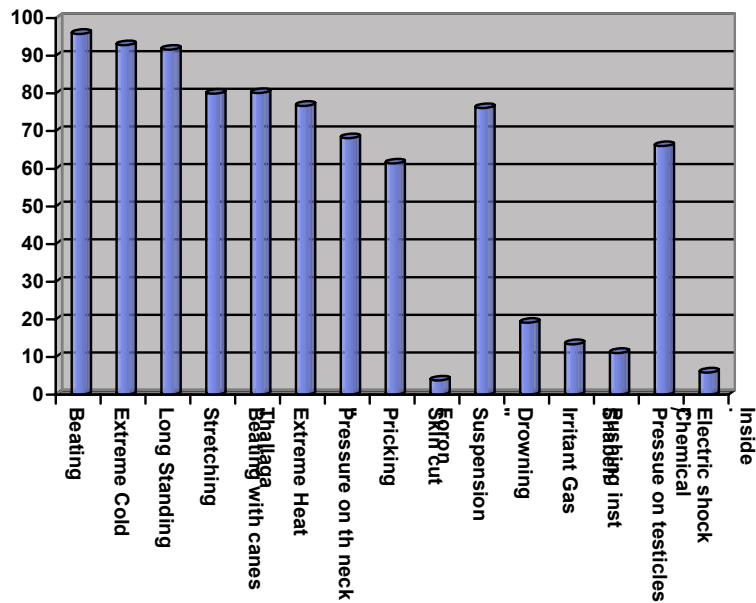
<sup>79</sup> Detainee 'G' (name withheld), Testimony taken by Addameer Prisoners Support and Human Rights Association, 12 May 2002. Annex D.2.

<sup>80</sup> Detainee 'A' (name withheld), Testimony taken by Addameer Prisoners Support and Human Rights Association, 14 May 2002. Annex D.2.

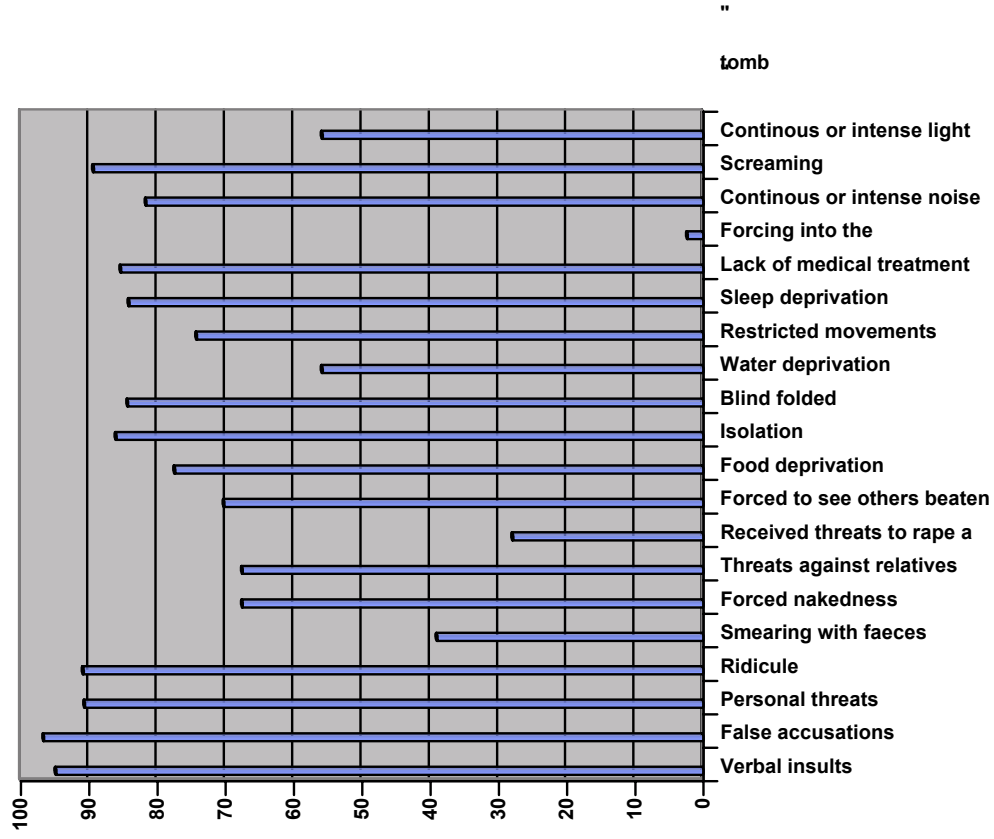
10. Verbal, sexual and psychological abuse.
11. Threats against the individual or the individual's family.
12. Lack of adequate clothing or hygiene.

Testimonies from detainees who have been subjected to these forms of torture may be found in Annex A, Treatment and Rehabilitation Centre for Victims of Torture Annex B, Gaza Community Mental Health Programme, Annex D1 and 2, Addameer Prisoners Support and Human Rights Association, and Annex E from the Mandela Institute. The Gaza Community Mental Health Programme conducted a study and found the following methods of torture are used against Palestinians:

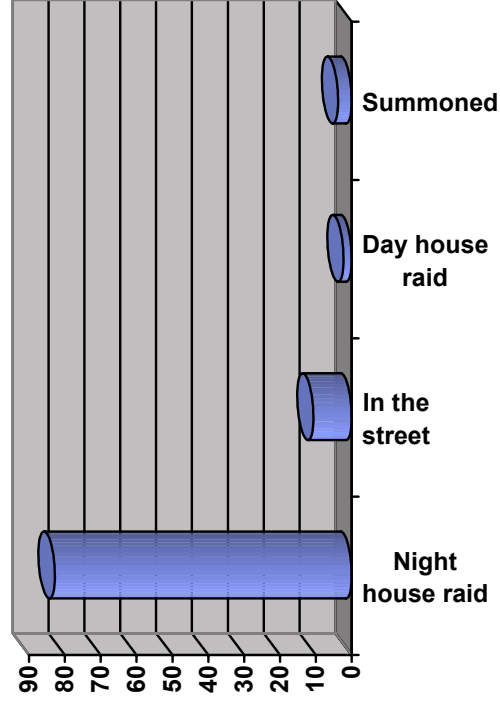
**A. Physical**



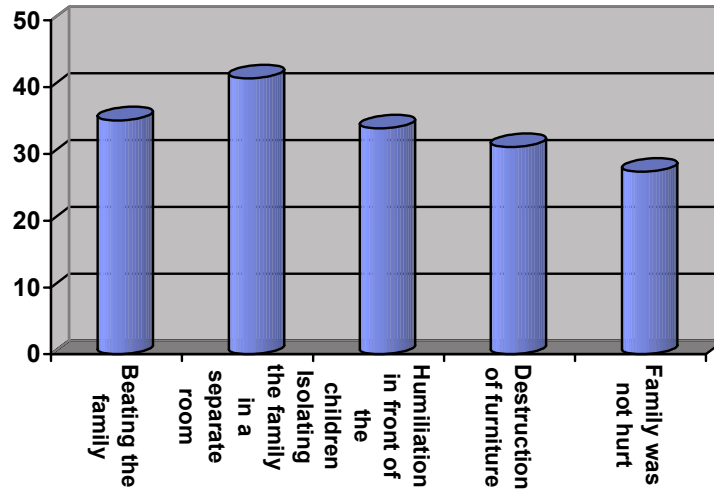
**B. Psychological**



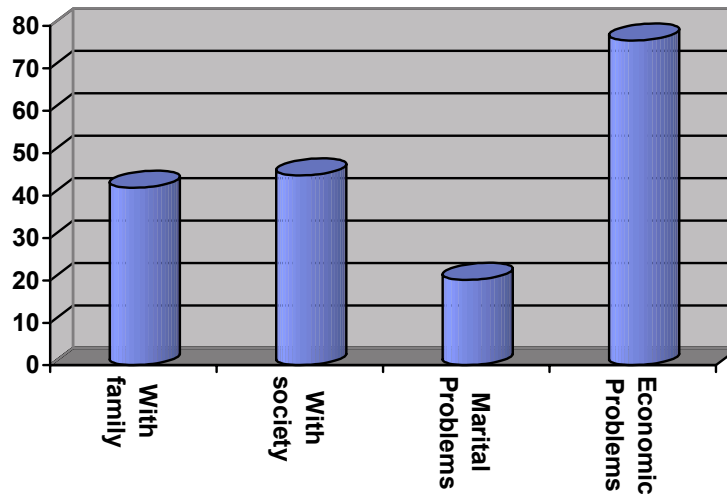
**C. Subjection of family members to ill-treatment**



#### D. Behavior of the army during arrest



#### F. Difficulties in adjustment after release



In testimonies taken from the 20 ex-prisoners treated by the Treatment and Rehabilitation Centre for Victims of Torture during 2001-2002, the following forms of torture were reported: victims forced to stand naked in the dark during cold nights or rain, forced to perform acts or corpses, massive beatings, exposure to solitary confinement, to non-stop loud noise or music, to harsh light, to extremely hot and cold water and chemical substances, deprivation of food, sleep, use of the toilet, and fresh air, humiliations, threats against members of the victim's family, beating with electric wires, hanging with hands and legs tied, threats to kill if the victim didn't sign confession papers, sexual assault, and denial of needed medical attention. Annex A outlines some cases presented to the the Treatment and Rehabilitation Centre for Victims of Torture in 2001 and 2002.

### Psychological consequences:

The inhuman living conditions Palestinian have to endure during detention and the degrading ill treatment, including torture, during interrogation has a far-reaching damaging impact that will stay with them for the rest of their lives. The Ramallah-based Center for Rehabilitation of Torture Victims reports that medical and psychological diagnosis of ex-prisoners treated in 2001 show that they were left with traumatic nervous disorders, including epilepsy. During 2002, the Center treated ten cases and reached the same conclusions. A number of studies have also demonstrated a relationship between torture experiences and subsequent disorders, including depression, anxiety, antisocial behavior, and nonspecific physical complaints<sup>81</sup>.

The Gaza Community Mental Health Programme reached the same conclusions as the Center for Rehabilitation of Torture Victims. The study of several cases of ex-detainees treated by the Gaza Community Mental Health Programme is found in Annex B. Specialists also report that juveniles find it extremely difficult to reintegrate into society due to long absence from family life, school or neighborhood. Many ex-detainees affirmed their academic absorption was greatly affected. Leading a normal life for female ex-prisoners is next to impossible, as the conservative Palestinian society looks down them.

### **2) Children/Juveniles:**

Palestinian juveniles endure the same harsh treatment. Mandela notes that during their transfer to prisons and detention centre, juveniles are often victims of degrading treatment. Often, children, blindfolded and cuffed, are brought on foot. Accompanying soldiers beat them savagely either with rifle butts, punches or kicks with heavy military boots, while hurling vulgar insults at them. Virtually every child arrested undergoes a terrifying and abusive process that constitutes torture. Attorneys assert that many children arrested endure even more severe forms of torture, such as beating and shabeh.<sup>82</sup> Isolation and the use of psychological pressure from

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<sup>81</sup> Allodi, F. A. (1991). *Assessment and treatment of torture victims: A criteria review*. Journal of Nervous and Mental Disease, 179, 4-11; Basoglu, M., Parker, M., Ozmen, E., Tasdemir, O., & Sahin, D. (1994). *Psychological responses to war and atrocity: The limitations of current concepts*, Social Science & Medicine, 40, 1073-1082; Mollica R. F., & Caspi-Yavin Y. (1991). *Measuring torture and torture-related symptoms. Special Section: Issues and methods in assessment of post-traumatic stress disorder*. Psychological Assessment, 3, 581-587; Molice R. F., & Wyshak G., Lavelle J., & Truong T. (1990). *Assessing symptom change in Southeast Asian refugee survivors of mass violence and torture*. American Journal of Psychiatry, 147, 83-88; Ramsay R., Gorst-Unsworth C., & Turner S. W. (1993). *Psychiatric morbidity in survey of organized state violence including torture: A retrospective series*. British Journal of Psychiatry, 162, 55-59.

<sup>82</sup> Position abuse, or *shabeh* in Arabic, is a form of torture in which extremes of bodily pain and psychological abuse are combined with physical isolation and immobilization of prisoners. Briefly put, shabeh is a form of torture that uses time and the prisoner's own body, shackled and bound, as the primary elements for inflicting pain. In position abuse, prisoners are tied up in painful positions, fettered to walls or small chairs that force them to contort and cramp their bodies for extended periods of time--each passing moment heightens the pain of stillness. In addition to the psychological effects of the entire torture process on its victims, long-term damage to internal organs, joints and limbs can result from this form of abuse. Most adult Palestinians who are tortured, including those who are physically brutalized in any other way, are also subject to position abuse.

collaborators<sup>83</sup> have become mainstays of Israeli tactics against child detainees. DCI compiled the following list of abuses to which Palestinian child political prisoners are exposed, taken from testimonies:

**Beating:** From the moment of arrest until entering prison, children are subjected to beatings all over the body, in particular the head and genitals. The victim is often beaten while blindfolded. Some reported that soldiers threw hoods onto the wet and dirty ground of the lavatory before forcing them to wear it.<sup>84</sup>

**Solitary confinement:** Children are often placed for long periods of time (from 1-3 days), in isolation cells approximately 2mX2m in size, with a small window or ventilation space and an open toilet, from which an overwhelming stench permeates the room. Once inside, the child is unable to communicate with anyone else. Often times the floor of the cell is wet or has open sewage flowing through it. The cell may either be almost completely devoid of light, or have the light on at all times. If the prisoner tries to sleep, a guard will come and wake him or her.

**Sleep Deprivation:** During interrogation, in order to exert pressure on them and to physically and psychologically exhaust them, children are not allowed to sleep.

**Shaking:** Vigorous shaking forward and backward several times causes rupture of small blood vessels in the brain. It has neurological consequences manifested by dizziness, vertigo, loss of consciousness, although it does not leave visible symptoms.

**Threats:** Children are faced with threats of long prison terms, imprisonment of family members, demolition of family home, and/or rape or the rape of female members of the family.

**Shabeh:** With their hands and/or legs tied, children are placed on a chair or against the wall and forced to stand on their toes for extended periods of time. The initial discomfort quickly turns to pain and grows more intense as time passes "due to restricted circulation, straining of limbs, cramps, numbing, itching..."<sup>85</sup> Some have suggested that the popularity of shabeh as a means of torture is due to the fact that it leaves few scars on the body.

**Exposure to Humiliation and Degrading Situations:** Demanding that the child curse God or his relatives; spitting on child prisoners, forcing the child to exert himself physically or disrobe.

**Deprivation from food and drink:** In order to exhaust and exert psychological pressure on them, children are deprived of food and drink, or are served inedible, unidentifiable food.

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<sup>83</sup> Israeli occupation authorities regularly pressure Palestinians to collaborate with Israeli security. In many cases these collaborators are used to attempt to extract confessions from Palestinian children.

<sup>84</sup> Human Rights Watch/Middle East [HRW/ME], *Torture and Ill-Treatment: Israel's Interrogation of Palestinians from the Occupied Territories*, Human Rights Watch Middle East Watch, New York, 1994, p. 161.

<sup>85</sup> HRW/ME 1994, p. 111.

**Prevented from using the bathroom:** Frequently, prisoners are not allowed to use the toilet and are forced to relieve themselves while fully clothed in the presence of others.

**Cold and Hot Water:** Children are often doused with extremely hot and/or cold water during interrogation. The choice of hot or cold water is often dependent on the whims of their interrogators or on the season (i.e. in winter, cold water is used; in summer, hot water).

**Deprivation of family and attorney visits:** Employed in order to exert psychological pressure on the child and to increase the detainees feeling of isolation.

**Pressuring child detainees to collaborate with the Israeli security services:** Often attempted through threatening the child with other punitive measures or by placing children in rooms with Palestinian collaborators who then exert pressure on the child to also collaborate.

**Forced signing of confessions:** Numerous children are arrested on the basis of confessions signed by other children, in which case, the child is not taken to interrogation, especially if they are arrested with a large group of children. Frequently, children are forced to sign confessions printed in Hebrew, which they do not understand, by placing their fingerprints on the paper.

**Collective Interrogation:** Often, more than one interrogator participates in interrogating and intimidating the child.

Mandela documentation reveals that many juveniles reported that soldiers intentionally tighten the plastic cuffs, causing severe pain and/or bleeding. Detainees would complain and cry but the soldiers, who believe these children are "terrorists," do not heed their pleas. Transfer from an arresting site to a detention station often takes a long time and during transfer, soldiers do not offer detainees any meals or allow them to use the toilets. Many reported wetting their clothes.

Juveniles are also victims of torture during their interrogation. Israeli military forces transfer juveniles to interrogation centers or to military detention stations such as Bet El near Ramallah; Adarom near Hebron; Salem near Jenin; Gosh 'Atzion near Bethlehem; Hawwara near Nablus; Qadumim near Qalqilia or Erez near Gaza. Many detainees reported they were transferred to stations inside Israeli settlements, like Qiryat Arba' near Hebron; Giva'at Ze'ev or Pisagot near Ramallah. Some were transferred to interrogation centers like Ashqelon, Jalama, Petah Tikva or the Russian Compound in occupied Jerusalem. These centers are directly run by the Israeli intelligence services (Shabak). Interrogating agencies vary depending on the accusation. For instance, Israeli police interrogate those accused of throwing stones, writing graffiti or participating in a demonstration.<sup>86</sup>

Mandela documentation reveals that most juveniles were interrogated by members of the Israeli police supervised by Shabak agents. Police interrogators often resorted to

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<sup>86</sup> Information from Mandela.

the "carrot and stick" method, duping juveniles into signing confessions. Nevertheless, most interrogation involves ill treatment including beating and insults and profanities.

The Mandela Institute followed up two cases of mass arrest of juveniles. The first was in the village of Houssan near Bethlehem, in April 2002. The other was in the village of Kharbatha al-Misbah near Ramallah, in May 2002, where the IDF arrested 10 juveniles. These detainees were accused of throwing stones at Israeli vehicles. Interrogators placed three ready-made confessions in front of the detainees. The first was a confession to throwing 100 stones, the second, 200 stones and the third, 300 stones. Children who had actually thrown only a couple of stones were thus duped into choosing the lesser amount of stones.

Nai'em Salah, a juvenile from Kharbatha al-Misbah, said in an affidavit: "Israeli soldiers arrested my 17-year old brother Mahmoud and me around 2:30 AM on Monday 17 July 2002. We were taken, blindfolded and cuffed, in a military jeep to the settlement of Giva'at Ze'ev. I was taken to a room with 3 interrogators in plain clothes. They interrogated me for about 2 hours using the "carrot and stick" method. One kept insisting that I had thrown 300 stones at Israeli vehicles and I denied the charge. With every denial he would beat me all over and would punch me in the face. He insulted me using vulgar profanities about my mother and sister. Two hours later, he wrote something, in Hebrew on a piece of paper. He claimed it was an order for my release and asked me to sign it using my ink-covered finger prints".<sup>87</sup>

The more serious cases, such as those who are accused of killing Israelis, are handled by the Israeli Shabak. This agency is totally independent and is directly answerable to the prime minister, and often uses forms of interrogation that constitute torture, as described above. Interrogators subject these detainees to severe physical and psychological pressures including beating, position abuse (Shabeh) for prolonged periods under rain or scorching sun, burning with cigarette butts and solitary confinement for days or weeks.

Fadi Shafe'ie, a 17-year old from al-Bireh near Ramallah, was arrested during the Israeli incursion on 30 March 2002. Invading troops ordered all males over the age of 14 into a school yard. In an affidavit to the Mandela Institute, he said: "I was taken with 40 others in an Israeli bus to 'Ofra detention camp. I was blindfolded and cuffed with plastic wire. A heavier blindfold was placed over my eyes when we got off the bus. The soldiers ordered us to sit on the ground. It was full of gravel. This caused numbness in my legs and buttocks. The plastic wire was tightly wrapped around my wrists and began digging into the flesh. We stayed like this for 4 days under cold rain. The following day I was called in for interrogation. We were deprived of food and sleep for five days. The interrogation session lasted one hour. I was placed under administrative detention for six months".<sup>88</sup>

The most dangerous cases, like those accused of killing Israelis, are handled by the Israeli Shabak. This agency is totally independent and is directly answerable to the

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<sup>87</sup> Affidavit to the Mandela Institute.

<sup>88</sup> Affidavit to the Mandela Institute.



prime minister. The Shabak is notorious for using systematic methods of torture, including food and sleep deprivation, violent shaking, position abuse and prolonged periods in solitary confinement.

Ubay Mohammad 'Odeh, a juvenile from occupied Jerusalem, said in his affidavit<sup>89</sup>: "Around 7:30 Am on 20 October 2002, I was in a communal taxi on my way to school. An Israeli military vehicle blocked the road. An officer asked the passengers for their identity cards. When he examined mine, he ordered me off the vehicle claiming something wrong with my ID. They covered my head with a cloth sack that had an opening for the eyes. I was taken to the Russian Compound. After two hours they took me to a clinic. The doctor ordered me to take my clothes off. This was quite embarrassing as the place was full of male and female soldiers. After examination I was taken to an interrogation section. They placed me in a solitary cell in the adult section. I was deprived of all rights. My lawyer came for a visit. They subjected me to different forms of torture and ill treatment including position abuse [Shabeh] during the first four days. The cell was dark and full of roaches and rodents. Interrogators would yell and insult me using profanities. Disturbing sounds came from the ceiling vent. Food was very poor. I was denied family visits. My family could only see me during trial on 11 November 2002. My kid brother tried to shake hands with me. A guard pushed him and he fell backwards. A policeman pulled me to the waiting room and re-cuffed my hands behind my back. Another policeman joined him and both threw me on the floor and savagely beat me. They insulted me and cursed my family and God. They pulled me to a police vehicle and continued to beat me all the way back to the Russian Compound. At the door, one of the guards pushed me in violently and told the other guards that I tried to hit the judge."

In considering the above forms of abuse to which Palestinian child political detainees are subjected, several issues must be kept in mind.<sup>90</sup>

a. That each individual abuse is but one part of the arrest and interrogation process that is designed to cripple and defeat the detainee. Taken individually, particular acts may not constitute torture. Considered as a whole, however, the combined abuse, which succeeds in physically and psychologically exhausting and terrifying the child, constitutes torture. Children deprived, for extended periods, of sleep, food, access to a toilet, or a change of clothes, quite rightly experience this treatment as utterly dehumanizing. In this vein, it is necessary to consider the interconnection between physical and psychological mistreatment, whereby the former is applied in order to physically exhaust the child, which subsequently effects the child's psychological state, thus exacerbating the effects of both types of mistreatment.

b. That such abuse takes place within the context of a 34 year long military occupation of approximately three million civilians. An occupation characterized by systematic violence against the child's ethnic, religious, and national group, adding to

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<sup>89</sup> Affidavit to the Mandela Institute.

<sup>90</sup> According to Defence for Children International, Palestine Section.

the fear the child feels at the time of arrest and exacerbating the effects of the treatment.<sup>91</sup>

c. Finally, one must continually remember that the subjects of such abuse are children. Similar methods applied to a 30-year-old adult may not have the same consequences as they do on a child. The entire process results not only in physical injury, but in psychological terror. The child is repeatedly placed in frightening situations, designed to increase feelings of loneliness and isolation from the outside world. Moreover, it is clear to the child that the quickest way to end the abuse is to confess. In employing such an approach, Israeli interrogators are targeting children's vulnerability, creating a situation wherein they fear for their lives and believe no one can or will intervene to protect them.

### **3) House demolitions:**

The UN Committee against Torture found that house demolition/property destruction could constitute cruel, inhuman or degrading treatment in its Conclusions and Recommendations concerning the last report of Israel.<sup>92</sup> The Committee concluded, in subject of concern point 6.j, that policies on house demolitions "may, in certain circumstances, amount to cruel, inhuman or degrading treatment or punishment (Article 16 of Convention against Torture).

The UN Committee against Torture came to the same conclusion in an individual complaint against Yugoslavia,<sup>93</sup> in paragraph 9.2 of its decision: "The Committee considers that the burning and destruction of houses constitute, in the circumstances, acts of cruel, inhuman or degrading treatment or punishment." The European Court of Human Rights reached the same conclusion in two cases against Turkey.<sup>94</sup>

Palestinian home demolition continues to be one of the cruelest Israeli occupation policies against the Palestinian people. There are, broadly-speaking, two different pretexts for Israel's demolition of Palestinian homes; 1) lack of building permit (this is particularly significant in East Jerusalem), and 2) "security" needs (or as punitive a measure to deter "terrorism"). In both cases, the IDF carry out a premeditated act of

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<sup>91</sup> During the first Intifada "the rate of incarceration in the territories [OT] was by far the highest known anywhere in the world: close to 1,000 prisoners per 100,000 population, or one prisoner for every 100 persons" (Middle East Watch 1991.). One would be hard-pressed to find a Palestinian from the West Bank and Gaza who has not had a friend or relative in an Israeli prison at some point. By 1987, almost 20% of Palestinians in the Israeli occupied territories had been subjected to detention. (Lisa Hajjar, *Authority, Resistance and the Law: A Study of the Israeli Military Court System in the Occupied Territories*, Ph.D. dissertation, Department of Sociology, The American University, 1995, p. 612.). The Israeli human rights organization, B'Tselem, estimates that 85% of all Palestinian prisoners and detainees were tortured during their incarceration. (B'Tselem, *Routine Torture: Interrogation Methods of the General Security Service*, B'Tselem, Jerusalem, 1998, p.8.). Interviews conducted between 1988 and May 1992 with more than 700 Palestinians indicate that at least 94% of those interrogated by the GSS were tortured. (Melissa Phillips, *Torture for Security: The Systematic Torture and Ill-treatment of Palestinians in Israel*. Al Haq Ramallah, West Bank, 1995. )

<sup>92</sup> 27th session, 23/11/2001.

<sup>93</sup> UN Committee against Torture. Individual complaint no. 161/2000-Yugoslavia 02/12/2002.

<sup>94</sup> Selcuk and Asker v. Turkey; Bilgin v. Turkey.

demolition, in which entire families are robbed of a most basic human right, the right to food and shelter.

The following figures demonstrate the magnitude of the damage inflicted by the Israeli government upon the Palestinian population of the West Bank, the Gaza Strip, and East Jerusalem during the current Intifada.<sup>95</sup> Please note that these figures exclude homes that were completely/partially destroyed by Israeli shelling of Palestinian areas. Also note that some homes are uninhabited, therefore no person/s were made homeless.

**Year: 2001**

**Palestinian homes demolished under the pretext of having “no Permit”**

<b>Month</b>	<b>No. of homes demolished in the West Bank</b>	<b>No. of homes demolished in East Jerusalem</b>	<b>No. of people made homeless in the West Bank</b>	<b>No. of people made homeless in East Jerusalem</b>
January				
February	2			
March	4	1	8	
April	25		16	
May		3		
June		1		12
July	68	18	131	
August		2		
September	10	3		16
October		9		49
November				
December	2			
<b>TOTAL</b>	<b>111</b>	<b>37</b>	<b>155</b>	<b>77</b>

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<sup>95</sup> These figures are according to MIFTAH researches, with sources from various organizations: the Israeli Information Centre for Human Rights in the Occupied Territories Btselem [www.btselem.org](http://www.btselem.org); the Israeli Committee Against House Demolitions [www.icahd.org/eng](http://www.icahd.org/eng); Al-Haq [www.alhaq.org](http://www.alhaq.org); LAW [www.lawsociety.org](http://www.lawsociety.org); the Palestine Monitor [www.palestinemonitor.org](http://www.palestinemonitor.org); Human Rights Watch [www.hrw.org](http://www.hrw.org).

**Year: 2001****Palestinian homes demolished under the pretext of “security”**

<b>Month</b>	No. of homes demolished in the West Bank	No. of homes demolished in the Gaza Strip
January	7	19
February	1	8
March	2	5
April		43
May – September		
October	5	
November	1	
December	2	
<b>TOTAL</b>	<b>18</b>	<b>75</b>

**Year: 2002****Palestinian homes demolished under the pretext of having “no Permit”**

<b>Month</b>	No. of homes demolished in the West Bank	No. of homes demolished in East Jerusalem
January		12
February		7
March	5	
April		
May		3
June		7
July – December		
<b>TOTAL</b>	<b>5</b>	<b>29</b>

**Year: 2002****Palestinian homes demolished under the pretext of “security”**

<b>Month</b>	<b>No. of homes demolished in the West Bank</b>	<b>No. of homes demolished in the Gaza Strip</b>
January		60
February	1	20
March	3	15
April	230*	
May	2	
June		
July	3	
August	25	2
September	9	
October	16	1
November	34	1
December	21	36
<b>TOTAL</b>	<b>344</b>	<b>135</b>

\* Estimated number of homes demolished in Jenin refugee camp during the massacre.

**Year: 2003****Palestinian homes demolished under the pretext of “security”**

<b>Month</b>	<b>No. of homes demolished in the West Bank</b>	<b>No. of homes demolished in the Gaza Strip</b>
January	80 (including the razing of 62 shops in Nazlat Issa near Tulkarem)	
February	1	
<b>TOTAL</b>	<b>81</b>	

By the end of 2001, Israeli shelling had caused various degrees of damage to approximately 3,750 civilian sites, 3,000 of which were civilian homes. Of these homes, 1,013 were completely destroyed<sup>96</sup>. The IDF justified this shelling by claiming that Israeli soldiers had been shot at from those locations. However, in fact, most of the shellings were reprisals.

The demolition of homes was concentrated in the flashpoints near settlements and Israeli army encampments, particularly in the Gaza Strip. For example, IDF tanks and bulldozers demolished 21 Palestinian homes near the Egyptian border in Rafah on 23

<sup>96</sup> According to the *Report of the Palestinian Bureau of Information*, and until 30 September 2001.

June, 24 homes on 10 July, 15 homes on 27 August, seven homes on 29 August, and eight homes on 30 August 2001.<sup>97</sup> On 11 April 2001, Israeli forces penetrated Khan Younis with tanks and bulldozers and demolished 28 homes; they demolished 36 homes on 14 December. On 24 and 25 October 2001, the Israeli army penetrated Bethlehem with the support of tanks and planes, claiming that there had been shooting at the neighbouring Gilo settlement. The shelling lasted for two days and destroyed scores of homes, hotels, and churches, and also damaged Bethlehem University.<sup>98</sup>

During January-March 2002, the IDF demolished 111 houses and damaged hundreds of others. On 10 January 2002, the IDF penetrated 200 meters into Rafah Camp/Block O, near the Egyptian border, with armored military machines and completely demolished 59 houses; more than 100 Palestinian families became homeless as a result. Concurrent destruction of the electricity, telephone, and water grids resulted in these services being cut off in Block O of the camp. All of this was done on the pretext that there were tunnels running under the houses that were used to smuggle weapons from Egypt.<sup>99</sup>

The IDF during March-May 2002 demolished more than 600 housing units in the Jenin Refugee Camp. Israeli bulldozers flattened the houses after fierce resistance on the camp's main roads and narrow back alleys prevented the army from entering the camp. The army bulldozed some of the houses on top of the people who were inside them. The IDF also used heavy machinery to destroy dozens of homes in the old city of Nablus. In addition, 13 other homes were destroyed in various parts of the Gaza Strip and in the city of Qalqilya.<sup>100</sup>

In April-May 2002, a donor-led damage assessment exercise estimated the number of damaged and destroyed private and refugee housing at over 40,000. 2,800 of these dwellings had been destroyed as a result of military activity or demolished by the IDF and the rest - 37,200 had sustained moderate or serious damages. Moreover, the number of damaged and destroyed private housing and especially refugee shelters continued to rise after June 2002, when the IDF launched a new military campaign followed by reoccupation of major Palestinian urban areas.<sup>101</sup>

During May-August 2002, the IDF demolished 58 houses in the West Bank and Gaza Strip. During September-December 2002, the IDF demolished 57 Palestinian houses on the pretext that a family member had participated or assisted in carrying out or planning operations against Israeli targets in the occupied territories or inside Israel.

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<sup>97</sup> For detailed statistics on home demolitions in the West Bank and Gaza Strip, see the reports of the Palestinian Centre for Human Rights, available on the internet, *ibid*. Also see the report, *Destruction of Homes and Industrial Complexes by the Israeli Occupation Forces during the Al- Aqsa Intifada, 28 September 2000 – 31 August 2001*, Palestinian Independent Commission for Citizens' Rights, Ramallah: 2001.

<sup>98</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 26.

<sup>99</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 1 January – 28 March 2002*, p 15.

<sup>100</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 29 March – 31 May 2002*, p. 11.

<sup>101</sup> *Information from the United Nations Technical Assessment Mission-October 2002*, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000*.

Those whose houses were demolished included individuals who were wanted by the occupation forces, individuals detained in occupation prisons, or killed by the IDF during campaigns to storm cities, villages, and camps, or during assassination operations.<sup>102</sup>

In September 2002, it was estimated that there were over 12,000 damaged and 1,800 demolished homes. This represented some 80,000 persons rendered homeless throughout the occupied Palestinian territory. The majority of households whose dwellings had been demolished (95%) did not have alternative accommodation.<sup>103</sup>

The Palestinian Ministry of Housing reports that approximately 720 homes were destroyed by the IDF and another 11,553 damaged from September 2000 – February 2002. 73,600 people were affected. The March – April 2002 incursions destroyed another 881 homes and damaged some 2,883 houses in refugee camps. An estimated 22,500 people were residents of these homes.<sup>104</sup>

From January 2001 until January 2003, Israel demolished a total of 835 Palestinian homes, 182 because they were allegedly built without the required permit (i.e. administratively demolished), and 653 for alleged “security” precautions. Thousands of other Palestinian homes have been either partially or completely destroyed by Israeli shelling and shooting since January 2001.<sup>105</sup> Statistics published by Al-Mezan Center for Human Rights in Gaza show that about 2249 houses were demolished during the years 2000-2002, leaving 21590 individuals (3092 families) without a house.

This policy can obviously be considered as degrading treatment for the persons affected.

### Article 9

- 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.**
- 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.**
- 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release**

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<sup>102</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 1/6-31/8/2002*, p. 24.

<sup>103</sup> *Information from the United Nations Technical Assessment Mission-October 2002*, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000*.

<sup>104</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 29 March – 31 May 2002*, p. 11.

<sup>105</sup> According to MIFTAH.

may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

**4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.**

**5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.**

***1) Palestinian civilians:***

The number of Palestinian activists arrested by the IDF has increased since 2001. Numerous Palestinians were arrested under administrative detention orders, including several human rights defenders. The IDF kidnapped a number of Palestinians from their homes within the territories of the Palestinian Authority.

The number of Palestinians under administrative detention was of 14 on 31 December 1999 and 1007 on 31 December 2002.<sup>106</sup>

Israel arrests Palestinians from cities and villages throughout the Occupied Palestinian Territories, including the West Bank, the Gaza Strip, and Occupied Jerusalem, and also at Israeli military checkpoints and border crossings. Arrests typically take place at night, with a group of soldiers knocking forcefully on the door or breaking it and then entering the house of the person they want to arrest. The soldiers terrify the women and children in the house and beat and humiliate the arrestee in front of his household. In many instances, such arrests result in the killing of the wanted person in front of his family, on the claim that he attempted to escape. On 18 December 2001, Yacoub Idkidik, age 28, from Hebron city was shot in front of his mother, wife, and infant daughter by Israeli special forces who broke into his house located in the Palestinian-ruled area at about 2 a.m. in the morning. The IDF claimed that he had tried to escape in fear of being arrested. Israeli arrests sometimes lead to the beating or killing of other people in the house of the wanted person. On 29 December 2001, Najoud Muhammad Ghanim, age 26, died from wounds caused by the severe beating she was subjected to during the arrest of her brother in the town of Khadr near Bethlehem city.<sup>107</sup>

By the end of 2002, the number of administrative detainees in Israeli prisons reached 1007. With this type of detention, no specific charge is made against the detainee and detention is based on secret evidence submitted by the Israeli General Security Services (GSS/ISA). Detainees are issued administrative detention orders based on this secret evidence, without being able to defend themselves against specific charges. Administrative detention orders range from 1-6 months, and are renewable indefinitely. These detentions form an obvious violation of the principles of fair trial. The IDF also detained a number of activists from human rights organizations,

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<sup>106</sup> According to Mandela statistics. For a statistical breakdown on the number of detainees held in Israeli prisons in October 2002, see Addameer Prisoners Support and Human Rights Association, Annex D.3.

<sup>107</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 15



detaining some for extended periods without trial or placed in administrative detention.

On 23 April, Israeli soldiers arrested Adnan Al-Hajjar, a lawyer at the Al-Mezan Center for Human Rights. Al-Hajjar was arrested while returning from Cairo with nine other Palestinians who took a training course on drafting legislation. When the Israeli authorities were questioned about his detention, they said they believed he was involved with Osama bin Laden's organization. Al-Hajjar appeared before a judge on 30 April, and was not charged with any crime, but because the GSS/ISA claimed that there was secret evidence, he was imprisoned for 30 days for interrogation. Al-Hajjar said that he was only interrogated about his political activities as a student and the sources of funding for Al-Mezan. During his detention in Ashkelon prison, he remained chained to a chair and was interrogated 20 hours a day for 14-15 days, with breaks only on the weekends. He was deprived of sleep for four days during the interrogation, and the guard screamed in his ear, causing him real pain. He was released on 23 May, without ever having been charged or brought to trial.<sup>108</sup>

On 28 April 2001 in Nablus, the IDF arrested Hashim Abu Hassan, age 37, a field researcher for B'Tselem, the Israeli Center for Human Rights Information in the Occupied Territories. After the soldiers inspected the identity cards of passengers in Abu Hassan's taxicab, they realized that he had been held for several days of interrogation 10 years ago. They detained him for this reason, even after he showed them his B'Tselem field researcher card. On 10 September, the IDF arrested Dawud Dar'awi, a 27 year-old lawyer and researcher at the Palestinian Independent Commission for Citizens' Rights. He was arrested while returning from a family visit in Jordan, and was transferred to the central department of interrogation in Ashkelon prison. The Israeli military judge extended his detention on the basis of a secret file, and he was placed in a small cell and tortured during the interrogation. He was seated on a chair and his hands and feet were tied throughout the first week of his detention, and although it was well known that he was suffering from back pain that increased due to this torture, he was denied medical treatment. On 25 October, a ruling was issued for Dar'awi's administrative detention for six months, without any particular charge being brought against him.<sup>109</sup> After serving his administrative detention and being released, Dar'awi was again detained on 21 February 2003, in Jerusalem, whilst taking his daughter to the hospital with his wife. He remains in interrogation as of the end of February, and has been subjected to torture, including violent beatings that led to his jaw being broken.<sup>110</sup>

By November, 15, 2002, 912 Palestinians had been placed under administrative detention, while at least five thousand individuals have been placed under this form of detention since April 2002.<sup>111</sup> The specific nature of administrative detention, often described as preventative detention or internment, allows for prolonged detention of

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<sup>108</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 16.

<sup>109</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*, p. 16.

<sup>110</sup> DCI/PS Press Release: *Urgent Action required to stop torture and detention of Palestinian human rights lawyer by Israeli soldiers*, 1 March 2003.

<sup>111</sup> These figures are according to Mandela Institute whose lawyers visit regularly the Israeli jails and detention centers.

Palestinians without them understanding the reason for their arrest. In this regard, it should be noted that administrative detention was renewed for an additional six months for 31 out of 49 detainees (63 %) between 9 and 29 July 2002.<sup>112</sup> In most cases, the renewal occurred in the last few hours of the detention and, in a few cases, detainees were rearrested again immediately after their release and even before they could reach their homes and meet their families. The Israeli military regime vested executive powers in military commanders of specific ranks, who are thus entitled, *inter alia* to issue administrative detention orders against individuals alleged to pose a danger to the public security or public interest of the State of Israel.

#### Administrative detention under Israeli Law:<sup>113</sup>

Administrative detention was used in Palestine during the British Mandate era under Articles 108 and 111 of the Defense (Emergency) Regulations of 1945. These regulations give a military commander the power to issue an administrative order without limiting its duration, or prescribing rules of evidence, or restricting the power of the commander. These regulations have been incorporated in the Israeli military regulations since 1970. Articles 84A and 87 of Military Order 387 of 1970, an Order Concerning Security Regulations, as amended by numerous subsequent military orders, are the Israeli legal basis governing administrative detention. The power to issue an administrative order was, prior to the first Intifada, in the hand of the Area Commander of the West Bank or Gaza Strip. A significant change was introduced in 1988 by Military Order (M.O) 1229 and more recently by M.O 1466 (June 1999), when the power to issue such orders was given to lower- ranking Israeli military commanders and officers. Although the duration of the administrative detention orders issued since April 2002 has been up to six months, there is a possibility to increase this period to up to one year, as it was possible during the previous Intifada, under M.O 1281 of 4 August 1989.

#### Review procedures:

The review procedures set up by military orders are insufficient and violate the rules of justice articulated in human rights law and humanitarian law. Experience has revealed that these procedures make it very difficult and provide very limited room for a detainee to challenge administrative detention effectively. Although these procedures have been subjected to subsequent amendments, they remain essentially the same in content, since these amendments failed to change the overall authority of military commanders or the merit of this measure.

The military orders change frequently. For example, in 2002, Military Order 1503 of 1 May 2002 decided that a detainee should be brought before a military judge for review of the detention within 18 days of the initial detention. Under M.O. 1500 however (of 5 April 2002), any military commander or police officer was authorized to issue a normal detention order up to 18 days for interrogation purposes without court review. In this case, a military commander could first order such a detention and on day 18 issue an administrative detention order, which could be reviewed after

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<sup>112</sup> According to Mandela records.

<sup>113</sup> Information from Mandela.

another 18 days. As a result, an individual could be, according to these orders, arrested for 36 days without any judicial review regardless of the legality and efficiency of the Israeli military judicial system.<sup>114</sup> M.O. 1506 (4 December 2002 until 4 June 2003) revised the time period so that any detainee detained under M.O. 1500, who is given an administrative detention order, must be brought for judicial review within ten days from the issuing of the administrative detention order. M.O. 1505 (10 June 2002) changed the time period that any detainee can be held before judicial review to 12 days instead of 18 days. Therefore, an administrative detainee can be held to up to 22 days without judicial review.<sup>115</sup>

The military judge has the power to approve or cancel the detention or reduce its duration. If the review has not taken place within the specified time, the detainee should be released unless there is another security reason that prevents his release (M.O 1466, 6 June 1999). The judge is entitled to cancel the detention order if it is proven to him that the reasons for the detention were not imperative for the security of the area or the issuance of the order was not in good faith or for objective reasons (M.O 1466 and successive military orders). These orders also provide, in case of approval of the detention order, for another review by a military judge not later than three months from the decision (approval decision), and thereafter at least every three months. Furthermore, the decision of the judge can be appealed by both the military and the detainee to a judge of the military court of appeals as articulated in M.O 378.

However, if the judge in the review session decides to cancel or reduce the detention and the representative of the military commander expresses his wish to appeal the decision, the judge in this case can delay the release up to 72 hours (Article 5A of M.O. 1466). If the military representative appeals the judge's decision, the judge has the power to delay the release until the appeal decision is made (Article 5B of M.O. 1466). In addition, release can be delayed for 72 hours upon a request from the military representative for particular reasons that should be registered by the judge (Article 5c of M.O. 1466). The type of reason necessary is not clarified and apparently is left to the whim of the representative of the military commander.<sup>116</sup>

Moreover, the review can be based on "secret evidence" that may be revealed to the detainee or his lawyer or may even be presented to the appeal committee in their absence, if the committee is convinced disclosure might harm area security or public interest (M.O. 1311, 30 July 1990). Such practice violates a basic principle of Due Process, as well as evidence rules. It is worth noting that M.O. 1503 (1 May 2002) gives the military judiciary system 10 days to complete the judicial review of all detention orders that have been issued and have not been reviewed within the specified time. This military order prevents the release of those detainees who have not been brought for review within the time limits specified by prior military orders. This is indicative of the extent to which the military legislator will go to eliminate any avenue that a detainee might possibly pursue to challenge his detention order and to

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<sup>114</sup> Information from Mandela.

<sup>115</sup> Information from Addameer.

<sup>116</sup> Information from Mandela.

accommodate military orders to meet the emerging needs of the military occupation, regardless of their compliance with the minimum standards of international law.<sup>117</sup>

Number of Palestinian and Arab prisoners in Israeli Prisons and Compounds (31 January 2003)<sup>118</sup>

<b>Prisons</b>	<b>Number of prisoners</b>
Central prisons	2227
Detention compounds	3075
Arrest- Detention centers	342
<b>Total</b>	<b>5644</b>
Including:	
Juveniles	130
Women	58
Administrative detention	1171
Solitary confinement	90

The Israeli authorities still hold about 5644 Palestinian prisoners distributed among Central Prisons, Detention Centers, and Interrogation Centers. Among these confined there are five in Talmund prison.<sup>119</sup> In April 2002, after the opening of the Ansar 3 military detention camp in the Negev desert (Ketziot), detainees held at Megiddo compound, including 80 administrative detainees and approximately 200 Palestinian charged prisoners, were transferred to Ketziot.

**2) Palestinian Juveniles in Israeli Custody:**

Since 1967, the IDF have consistently arrested, interrogated, tortured and incarcerated Palestinian children for their political activity.<sup>120</sup> It is a universally accepted standard of international law that the detention of a child should be used only as a measure of last resort and for the shortest appropriate period of time. But the Israeli policy towards Palestinian children is that detention is a measure of “first resort.” A prison sentence is the only sentence given to Palestinian children.

Israeli violations of Palestinian human rights escalated, particularly against juveniles, since the beginning of the current. Hundreds of juveniles have been sent to various detention facilities, most of them were sentenced to long terms.

Israeli military authorities lowered the age at which a child could be tried before a military court from 14 to 12 years and increased the punishment for children accused of throwing stones from four weeks to four months. 17% of all child prisoners are

<sup>117</sup> Information from Mandela.

<sup>118</sup> According to Mandela, statistics available on the website of Mandela at <http://www.mandela-palestine.org/>.

<sup>119</sup> Mandela, *Administrative Detention*, November, 15, 2002, available on the website of Mandela at <http://www.mandela-palestine.org/>.

<sup>120</sup> See table 0: *Arrests, Child Arrests, Women Arrests by the Israeli Authorities, 1992-2001*, for a breakdown of arrests 1992-2001.

now between the ages of 12 and 14. At the outset of 2001, more than 350 Palestinian children were held by the Israeli occupation forces, and most of them were still being detained by the year's end.<sup>121</sup>

During the last two years, Israeli forces arrested over 2000 Palestinian children between the ages of 12 and 18 whose only crime was throwing stones at the Israeli occupation forces.<sup>122</sup>

Arrest:

The Mandela Institute documented three methods used by the IDF and/or its intelligence services to arrest Palestinian activists, including children. First, soldiers arrest activists, particularly juveniles, on the streets simply on suspicion of throwing stones. Secondly, activists whose names appear on "wanted" lists are arrested at checkpoints or at border crossings. There is no way for a child to know if his or her name appears on such a list. These lists are periodically updated with the aim of gathering information about political activities in the occupied territories. The children are not informed of the reason for their arrest and are often forced to stand blindfolded with their hands tied as they wait for transportation to an interrogation center.

The third method, which is frequently used with children, is carried out by Israeli intelligence agents in cooperation with the military occupation forces to arrest juveniles from their family homes. Often, agents aided by army patrols raid the family home during the late hours of the night, terrorizing family members including youngsters. The night arrest enables Israeli interrogators to obtain confessions. The sight of heavily armed Israeli soldiers wreaking havoc inside their homes, terrorizing younger brothers or sisters and subjecting parents to degrading treatment immediately puts many youngsters on the defensive. Upon a signal from the intelligence officer, soldiers cuff the child's hands and blindfold his eyes in front of his family. Often, children are not given a chance to change clothes. They are taken in their pajamas in the cold winter temperatures. Arresting officers do not inform the families where the children are being taken. The following excerpt from the affidavit provided to DCI/PS by 17 year old Murad Abu Judeh is typical of what many Palestinian children arrested from their homes endure:

"At 12:40 a.m. on 15 December 2000, my family and I were asleep at home. We heard a very loud knock on the door of the house that woke the whole family. After five minutes my father went to the door and we discovered that Israeli soldiers had broken the glass in the door. Fifteen soldiers entered the house, three of them were masked and wearing civilian clothes. There were also two members of the Israeli Intelligence dressed in civilian clothes. One of the masked soldiers asked me my name and for my ID card. I went to my room in order to bring the ID and one of the soldiers followed me. When I bent over to get the key for my drawer he kicked me on my back six times, pushing me to the ground. After that, I got my ID and gave it to

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<sup>121</sup> According to DCI/PS.

<sup>122</sup> Mandela, *Palestinian Juveniles in Israeli Custody*, January 2003, available on the website of Mandela at <http://www.mandela-palestine.org/>.

the soldier. The soldier saw a ticket I had from a trip to Canada that I made in September for study purposes. The soldier said I went there to learn how to throw stones. He searched my drawer, then grabbed me by my neck and took me back to the main room where I found the soldiers had overturned our furniture. The masked soldier whispered in my ear, 'We'll rape you one by one' ..."<sup>123</sup>

DCI/PS affidavits indicate that many children are forced to wait handcuffed for long periods of time without food, drink or shelter and sometimes in the direct sun.

#### Transfer:

Once apprehended, the suspect often has his or her identity card taken away. He or she is most often blindfolded, handcuffed, and placed into a military van, usually made to sit on the floor, and transported to an interrogation center. As the case of 17 year old Mohammed Al-Jaberi indicates, the youth is sometimes beaten in this vehicle and verbally insulted. In an affidavit provided to DCI/PS, Mohammed recounts the initial period after his forced removal and arrest from home in the middle of the night:

"After that they took me to the street, blindfolded me and tied my hands with plastic ties behind my back... they forced me to walk quickly for around 1km. If I slowed down, they pushed me. When we reached the jeep, they pushed me inside and I hit my head on the roof. My brother Abed was inside the jeep. They forced us both to sit on the floor of the jeep. There were four soldiers who beat us while the jeep drove for about half an hour. They swore and insulted us throughout the journey and threatened to sexually assault us..."<sup>124</sup>

Families are most often not told where their child has been imprisoned. During extended prison sentences, prisoners are often relocated to new prisons and their families are not notified. This continues the process of isolation and disorientation of the prisoner which began in the home, reinforced now by the child's knowledge that his or her family might not be able to track him down for some time.

#### Interrogation:

When a child is arrested, he or she is transferred to one of the seven Israeli Civil Administration centers in the West Bank and Gaza. There, the child is either interrogated within one of the military camps or settlements or, in special cases, he is sent to one of four GSS<sup>125</sup> Interrogation Centers. Palestinian children from East Jerusalem are treated differently than those from the West Bank and Gaza Strip due to Israel's illegal annexation of the area and the imposition of Israeli domestic law on the

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<sup>123</sup> DCI/PS affidavit, Murad Abu Judeh, from Al Arroub Refugee Camp. Date of Arrest, 15 December 2000. Murad was charged with throwing stones several times. He was sentenced to ten months in Megiddo Prison in addition to one year suspended sentence for the next five years. He also received a fine of 3000 NIS (approximately US\$690).]

<sup>124</sup> DCI/PS affidavit of 17 year old Mohammed Al-Jaberi. Arrested 17 August 2001. This was Mohammed's second arrest. He was first arrested in December 2000 and sentenced to 8 1/2 months in Megiddo Military Prison.

<sup>125</sup> In 2001, the name of the General Security Services was changed to Israel Security Agency. The acronym GSS has been retained throughout this report.

Palestinian population residing there. East Jerusalemite children arrested for activities outside of the West Bank or Gaza can be detained for a maximum of 24 hours and are brought before a specialized juvenile court, rather than before a military court. If they are arrested for activities in the West Bank or Gaza Strip, they are dealt with under the Israeli military law in effect in those areas.

The three main bodies that may interrogate Palestinian child detainees are as follows:

*Police:* The Israeli Police, under the responsibility of the Ministry of Public Security, deal with the vast majority of child detainees. Children brought to police stations are mostly accused of less serious offences, such as stone-throwing. Here, interrogation is carried out by police, although there are often GSS agents supervising the process. Torture is widespread in these situations.

*Military Intelligence:* The Israeli Military Intelligence, under the authority of the Ministry of Defence, is widely known for its use of physical forms of torture, such as severe beatings, burning with cigarette butts and other painful, physical abuse. As in the case of police interrogations, GSS agents are often present. If a confession is extracted from the child during interrogation, they are sent to the police station in order to make the same confession. This is done in order to cast a veneer of legality over the interrogation as only confessions signed in the presence of police officers are allowed before the court. If a child refuses to make the same confession in the presence of the police, they are sent back to interrogation by the Military Intelligence.

*General Security Services (GSS or Shabak):* The GSS is a quasi-independent body within the Israeli State and reports directly to the Israeli Prime Minister. The GSS generally supervises the interrogation performed by the Israeli Police or Military Intelligence. It directly interrogates Palestinians who are accused of more serious offences, or are particularly politically active. Torture is regularly carried out by the GSS, and includes particularly insidious forms of psychological torture, such as sleep deprivation and prolonged position abuse. As in the case of interrogation by Israeli Military Intelligence, children who confess during interrogation by the GSS are sent to the police to make the same confession. If they refuse, they are returned to interrogation carried out by the GSS. It is important to note here that the 1999 Supreme Court ruling that banned specific forms of torture only applied to the GSS and does not constitute a comprehensive ban against torture, in the opinion of the UN Committee Against Torture.

#### Sentencing of Juveniles:

Sentences by the military tribunals fall into four categories:<sup>126</sup>

1- Some sentences provide for actual imprisonment of six months or longer. In certain cases like those of Mahmoud al-Qudsi and Mohammad Said Bsharat, life sentences were issued. Sometimes, the length of sentences imposed depends on the political climate. For instance, juveniles accused of throwing stones during the

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<sup>126</sup> Mandela, *Palestinian Juveniles in Israeli Custody*, January 2003, available on the website of Mandela at <http://www.mandela-palestine.org/>.

beginning of the current uprising were sentenced to 6-month imprisonment. Recently, juveniles accused of the same charge have gotten 1-3 months prison terms.

2- Suspended sentences: The military authorities consider the period a juvenile spends in jail awaiting trial as enough punishment. Military tribunals issue a suspended sentence with a warning to the juvenile and his/her family. Should the juvenile repeat the offence, police authorities would re-invoke the suspended sentence.

3- Fines: Tribunals may set a fine in lieu of prison term especially for those juveniles between the 12-14 years of age. Families are warned to execute strict surveillance of their children.

4- Administrative detention: Israeli military authorities may imprison a juvenile without charge or trial by administrative rather than judicial procedure. Some are ordered into administrative detention for periods of 3-6 months. These orders can be indefinitely renewable. Military tribunals issue sentences based on what is termed as the "Shabak secret file." Shabak agents often claim that producing a charge list would jeopardize the identity of their informers or collaborators. Currently, 10 Palestinian juveniles are under administrative detention at Ketzi'ot detention camp in the Negev desert.

Experience from the last two years alone indicates that instead of adhering to the principle of the "shortest appropriate period of time," the length of sentences issue to Palestinian children is actually getting longer. In 1999, 43.51% of the cases Mandela represented received a sentence of less than one month. In the year 2001, that percentage has decreased to 20.21%. Conversely, in 1999 only 19.08% of cases received a sentence of six months to one year, and 6.88% received sentences of more than one year. In 2001, however, 48.94% of cases were sentenced to between six months and one year and 15.96% to more than one year.<sup>127</sup>

In the past two years, the average length of sentence received by Palestinian children increased, from less than six months in 1999, to six months to one year in 2001.<sup>128</sup> Again, the majority of these children are sentenced for stone throwing. Historically, the sentences issued to Palestinian children through the Military Court system have depended more on the political situation than on the skills of a given attorney.

### **Article 10**

**1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.**

**2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;**

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<sup>127</sup> See Tables 1-5, for detailed statistical breakdown for children arrested in 2001.

<sup>128</sup> In 1999, in 1999 only 19.08% of cases received a sentence of six months to one year, and 6.88% received sentences of more than one year. In 2001, however, 48.94% of cases were sentenced to between six months and one year and 15.96% to more than one year.



**(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.**

**3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.**

***1) Palestinian civilians in the OPTs:***

Palestinians held in administrative detention do not enjoy from adequate conditions of confinement; nor are they detained in conditions that identify them as detainees who have not been convicted of any offense. One example of this is the conditions of detention at the Ansar III (Ketziot) detention center. This center was established on 18 March 1988, shortly after the beginning of the first Intifada. It was closed in May 1995, but reopened on 12 April 2002, shortly after the Israeli military incursion into the Palestinian cities, villages and refugee camps, which was accompanied by the detention of thousands of Palestinians. Ansar III is the Palestinian name of the center, while “Ketziot” is the Israeli official name. Ansar III is located in the Negev desert in a closed military area, outside the Occupied Palestinian Territories (O.P.T), 180 km south of Jerusalem.<sup>129</sup> The prison is administered by the Israeli military, rather than the Israeli Prisons Authority, which is generally responsible for prison administration within Israel.

At the date of 10 September 2002, there were approximately 960 detainees in Ansar III; 726 of them were administrative detainees, and the remainder sentenced prisoners, according to Mandela. More than 2000 detainees have been kept in Ansar III since its reopening. The prison is divided into four sections, section A, B, C and D. Each section consists of four units, each of which consists of three prisoners’ tents. Each of the prison tents holds approximately 20-22 detainees, with a total of 60-66 detainees held in each of the 4 units within a section. However, this number increases as new detainees are brought in and as many as 70 detainees have been in a tent at one particular time. The area of the sub-section is about 200 square meters; two-thirds of this area is for the tents and other related services. The rest of the area (70 s.m.) is left for the movement of detainees with an average of one square meter for each one. This illustrates the extent to which the sections and tents are overcrowded.

The sections and the sub-sections are surrounded by fences and barbed wires and guarded by armed soldiers. The tents do not provide adequate protection from the extreme climate in the Negev desert.<sup>130</sup> Detainees suffer from lack of adequate drinking water, lack of adequate food, both in terms of quantity and quality, lack of adequate sanitation facilities and clothing.<sup>131</sup> They are also faced with infestation by

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<sup>129</sup> Its location outside the O.P.T violates international humanitarian law. Article 76 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War Of 1949 stresses that “protected persons accused of offences shall be detained in the occupied country...”.

<sup>130</sup> Information from Mandela.

<sup>131</sup> For more detailed information on the conditions at Ansar III, see “Conditions of Detention at Ansar 3 – 23 October 2002” Addameer Prisoners Support and Human Rights Association, Annex D.4.

the following insects and reptiles, some of which are dangerous: rats, mice, scorpions and mosquitoes.<sup>132</sup>

On 28 June 2002, a petition was submitted to the Israeli Supreme Court by seven Palestinian detainees and ten Palestinian and Israeli human rights organizations protesting the inhumane conditions faced by close to 1,000 Palestinian detainees held at the Ansar III Detention Center.<sup>133</sup> The petition was subsequently dismissed on 15 December 2002. In its judgment, the court held that detainees must be treated humanely, in recognition of their human dignity, according to the provisions of Israeli and international law, and that the conditions in the facility did not meet minimum standards.<sup>134</sup>

On the same day, the Court also decided a similar petition regarding inhumane detention conditions at the Ofer Detention Camp. In the summary of the judgment, the Court stated that “even those suspected of terrorist activity of the worst kind are entitled to conditions of detention which satisfy minimal standards of humane treatment and ensure basic human necessities. We would not be human ourselves if we did not guarantee a standard of humanity to those detained within our custody. Such is the duty of the commander of the area in accordance with the foundations of our administrative law.”<sup>135</sup> As in the previous petition, the court ruled that detention conditions did not meet minimum standards, and that there was no justification for the conditions as “Operation Protective Wall”, during which the majority of detainees were arrested, was planned in advance.

In addition to harsh conditions of detention, family visits to detainees are also denied. The only means detainees have to contact their families is through lawyers who are incapable of satisfying the need, due to their small number and the restricted lawyer visit system.<sup>136</sup> Medical care is also inadequate. Treatment in most cases is limited to painkillers. Only one doctor is available during the day to meet with ill detainees, and the meeting itself requires a long process of coordination with a nurse. For example, when detainee, Loay Hammad who was complaining of tonsil inflammation and severe headache, finally managed to meet with the doctor, he was told: “If you need medicine now, I’ll give you Acamol. Otherwise you have to wait until next week to see whether you continue to suffer or not.” Transferring serious cases to hospitals is extremely difficult and occurs rarely, and then, only after a deliberate delay. 57 of the

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<sup>132</sup> Therefore, these conditions constitute a flagrant violation of the Fourth Geneva Convention in specific Article 85 which obliges the detaining power “to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against rigors of climate and the effects of the war.”

<sup>133</sup> Adalah: The Legal Center for Arab Minority Rights in Israel Press Release: “Seven Palestinian Detainees and Ten Human Rights Organisations Submit Petition to Supreme Court Protesting Detention Conditions in Ansar III”, from [http://www.adalah.org/eng/pressreleases/02\\_06\\_28.htm/](http://www.adalah.org/eng/pressreleases/02_06_28.htm/)

<sup>134</sup> *Summary of the Judgment Regarding the Detention Condition in “Kziot” Camp*, HC 5591/02. See Appendix D.5. for the full summary.

<sup>135</sup> *Summary of the Judgment Regarding the Detention Condition in “Ofer” Camp*, HC 3278/02, para.24 of the verdict. See Appendix D.6. for the full summary.

<sup>136</sup> Denial family visit contradicts article 116 of the IV Geneva Convention which affirms that “every detainee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible”.

detainees suffer from bullet injuries and thus the suitable place for them is a hospital, not a detention center. There is no proper clinic in Ansar III; a small tent with a cupboard for medicine and two apparatus make up the clinic.<sup>137</sup>

Similar conditions have been experienced by Palestinian political female detainees in Ramle (Neve Tertze) prison. In early April 2001, during an attack on Palestinian political detainees by riot police, Su'ad Ghazal, then 17 years old, was placed in an isolation cell for a period of 4 days. The isolation cells are two meters square with an open toilet and during these four days, she was prevented from any contact with others and prohibited from leaving the cell. In early May, prison guards again attacked Palestinian political prisoners and for two days, Su'ad was placed in a small room, measuring 2 meters by 1 meter with very little air circulation. After two days, she was moved to another cell that measured three meters by 1 meter, which she was forced to share with another prisoner. The stifling hot, rank room had only one bed, forcing one prisoner to sleep on the floor. The prisoners reported that the blankets they were given were covered with mites, causing rashes on their skin. Another girl prisoner, Sanaa' Amer, then 14 year old, had her arms and legs tied to her bed continuously for 8-hours/day for two consecutive days.

In late June 2001, the female Palestinian political detainees launched a hunger strike to protest deteriorating conditions of detention. According to DCI/PS, the Prison Administration refused the demands of the hunger strikers and more than 20 police attacked the detainees with tear gas and heavy batons. The prisoners were taken to isolation and beaten, and all their belongings were removed from their rooms. During the attack, 14 year old Sanaa' Amer was beaten with batons on her arms and legs. Her arms were tied behind her back and she was kicked by police in her stomach, inducing her to cough up blood.

Palestinian detainees are also quite often placed in cells or sections with criminal prisoners, rather than in special sections denoting their status as political or unconvicted prisoners. This has often been used as a form of punishment. For example, on 30 January 2003, both 'Abla Sa'adat and Iman Abu Farah, two Palestinian women who were given administrative detention orders and placed in facilities that are not adequate for female detainees, were transferred to Ramleh Prison. Upon their arrival at the prison, they were immediately placed in a section holding Israeli female criminal prisoners. They remained in the section until 4 February 2003, suffering extreme harassment and death threats from the criminal

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<sup>137</sup> Inadequate medical care and treatment constitute a violation to Article 91 of the IV Geneva Convention which states : “ every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as an appropriate diet...internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population ”. Moreover, the right of detainees to receive adequate medical care is guaranteed by the UN Standard Minimum Rules for the Treatment of Prisoners of 1957 (Article 22) and UN Body of Principles (Principles 24, 25 and 26).

prisoners, encouraged by the Israeli prison guards.<sup>138</sup> By the end of December 2002, there were 53 Palestinian women being held in Israeli prisons.<sup>139</sup>

## 2) Juveniles:

### Treatment during Arrest and Interrogation

During arrest and interrogation, Palestinian child political detainees are exposed to violent physical and psychological mistreatment. The overwhelming majority of children with whom the DCI/PS Legal and Social Programs deal with attest to having been subjected to one or more forms of mistreatment during their period of arrest and interrogation, including: beating, isolation, sleep deprivation, threats, position abuse (shabeh), exposure to humiliation and degrading situations, food and drink deprivation, being prevented from using the bathroom, being doused with cold and hot water, Shaking, deprivation of family and attorney visits, pressure to collaborate with the Israeli security services, forced signing of confessions, and collective interrogation.

Children are often placed for long periods of time in small isolation cells, with little ventilation and an open toilet. Children are also repeatedly threatened with long prison terms, imprisonment of family members, demolition of family home, and/or rape of female members of the family.

According to interviews with 50 child ex-detainees aged between 10-17 who were arrested in the years 1999 and 2000, DCI/PS found that:

- 60% had been arrested in streets without prompt notification of their families.
- 84% were exposed to aggression while being arrested by soldiers who were sometimes masked and disguised as Arabs.
- 100% were exposed to interrogation and physical and psychological torture in detention centers.
- 96% had been handcuffed.
- 92% had their eyes blindfolded and 15% had their heads put in dirty sacks.
- 50% had scars due to torture
- 20% had been imprisoned with criminal prisoners.

The rate of attacks by prison guards on Palestinian child prisoners is increasing. From the beginning of the year 2000 until September 2001, prison guards repeatedly attacked Palestinian child prisoners in Telmond Prison with tear gas and heavy batons. One attack, which occurred on 26 June 2001, left three children unconscious and 11 with severe injuries to their bodies. According to the affidavit provided to DCI/PS by Nasser Zeid, he fell unconscious after being beaten. At around 4am, he woke up outside of his room with his hands tied behind his back and his feet bound together. He was being beaten by 3 prison police officers when he gained consciousness. His clothes were torn and he was bleeding from his nose and face. He suffered from pain

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<sup>138</sup> Addameer Prisoners Support and Human Rights Association, *Press Release: "Palestinian Female Detainees harassed and threatened"*, 6 February 2003.

<sup>139</sup> According to Mandela.

all over his body. After the beating, he was taken to the waiting room of the prison and a physician came to the room. The physician, who did not examine or treat his injuries, informed him he was fine and photographed his injuries. Marks of beating were witnessed ... by the DCI/PS attorney on his back, hands, and face.”<sup>140</sup>

#### Conditions of Detention for Palestinian juveniles:

Israeli military authorities transfer juveniles to temporary detention facilities pending trial. The type of the detention facility depends on factors like age, sex and residence. Recent visits made by Mandela lawyers to Israeli detention centers revealed the number of juveniles held by Israeli occupation authorities had reached 300 by the end of November 2002. They are distributed among three centers Ramla, Megiddo and Tal Mund. Some juveniles were also held at 'Ofar, a military camp west of Ramallah, and at the Ansar III facility, in the Negev desert.

##### *a. Ofer Detention Center:*<sup>141</sup>

Originally a military base located west of Ramallah in the occupied West Bank, Ofer is run by the Israeli Prison Authority. The camp includes a section for juveniles, holding about 30 inmates under the age of 18, at the end of 2002. Most of these are awaiting trial. The rest are doing short terms of few months. Conditions at this camp are no better than any other Israeli facility. Juveniles are totally isolated from the outside world and are denied family visits. Lawyer visits are also scarce. For the first several weeks, there was no electricity, no radios, TV, newspapers or books. There was nothing to do inside the tents, except sit and talk. Conditions have improved somewhat, but they are still the worst of any Israeli military detention camp. Clothing is supplied by the ICRC and other charitable organizations, newspapers and books have been brought in by Mandela, supplied by the Al-Bireh municipal library.

The detention center consists of nine sections each with four tents that house 23-25 prisoners each. The sections are separated by barbed wire covered by heavy cloth that prevents communication between each section. The tents are in poor conditions and are erected over an asphalt surface. They are filled with dust and insects. Each tent contains wooden pallets with a thin sponge mattress on which the detainees sleep. Each detainee is given four dirty blankets to use as bedding. There are no pillows provided. There is nothing to do inside the tents except sit and talk. The tents do not keep out the extreme winter cold or the scorching summer heat.

The food provided for the detainees is unfit for human consumption and provided in very small quantities. Until 13 May 2001, the detainees were not provided with any hot meals or beverages at all. Instead, they were given frozen schnitzels which they had to place in the sun to defrost. They were provided with powdered coffee and tea bags and told to take hot water from the bathroom in order to make drinks. Each 10 prisoners were provided 1-2 cucumbers, a couple of pieces of fruit and a small tub of yogurt. Detainees who suffer from chronic diseases such as diabetes and blood pressure problems were not given any special food, so other detainees had to give

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<sup>140</sup> DCI/PS Press Release 0017/01, 5 July 2001, *Palestinian Child Prisoners Beaten by Prison Police*.

<sup>141</sup> Information dated from March 2002, from Mandela.

them their food portions in order to ensure an adequate diet for these sick detainees. Following the 13 May 2001, detainees were provided with hot meals but the quantity and quality of this food is unknown. The detainees are not given plates and instead each eight prisoners are forced to eat collectively from a large bowl. Charitable Palestinian non-governmental organizations often donate food supplies to the prisoners. But, at times, the camp administration restricts its admittance. On 7 November 2002, for example, the Mandela Institute obtained permission for a shipment of fish. The camp administration returned the shipment without giving any reasons.

The detainees spend most of the time sitting in the tent talking amongst each other. After nightfall, movement between the tents in each section is forbidden. At night, soldiers harass the detainees by firing bullets in the air, throwing gravel at the tents and yelling at the prisoners. The detainees have been forbidden from electing a representative to deal with the authorities (as is the usual practice inside prisons) and they reported that they are regularly exposed to beating by soldiers, especially while being taken to and from interrogation.

*b. Megiddo<sup>142</sup>*

Megiddo is a military camp situated inside Israeli borders with the northern West Bank and is directly controlled by the Defense Ministry. This camp was used as a detention facility for Palestinian activists during the 1987-1993 uprising. There were 60-70 juveniles at Megiddo as of March 2002. Most of them are between 16-18 years old and are serving prison terms, including life. They are incarcerated under harsh conditions. Food is of poor quality and lacks basic nutrients. They sleep on wooden warehouse-type racks with hardly any covers. The camp is made of army tents that do not keep out the winter cold out or the scorching summer heat. Israeli soldiers guarding the camp often subject prisoners to degrading ill treatment. They are denied family visits because of the strict siege imposed on the Occupied Palestinian Territories. Medical care is almost non-existent. Infirm cases, even the chronic ones, are only provided with painkillers. The camp's recreational facilities are inadequate.

Palestinian boy children who have reached the age of 16 at the time of their arrest are detained in Megiddo prison and are detained as adults, pursuant to Israeli military orders that violate international standards regarding the definition of a "child." As of February 2000, there were between 70 to 80 Palestinian boys detained in Megiddo prison. Palestinian boy children who are below the age of 16 at the time of their arrest are detained in Telmond prison. There are currently around 50 Palestinian boys detained within 3 sections of Telmond. Palestinian girls are detained in Ramle (Neve Tertze) prison.

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<sup>142</sup> Information from Mandela.

*c. Tal Mund Central Prison*<sup>143</sup>

Most of the juveniles held at Tal Mund are under 16 years of age. This prison is located inside Israeli borders and is run by the Israeli Prison Authority. There are approximately 68 Palestinian juveniles confined there under harsh conditions. On 3 January 2002, juvenile prisoners went on a hunger strike to protest these harsh conditions. Palestinian juveniles are held among common Israeli criminals, mostly drug addicts and traffickers, in clear violation of international norms and principles. Israeli prisoners often assault, provoke and even attempt to molest Palestinian juveniles. Food is of poor quality. The prison administration restricts food supplies provided by families. Medical care is inadequate. Several inmates with gun wounds sustained prior to or at time of arrest need appropriate medical attention badly. Windows are sealed with metal sheets preventing sunlight from coming in. Ventilation is also very poor. Exercise time is limited to 15 minutes per day. Lice infest the inmates, as the administration restricts cleaning and hygiene materials. The prisoners' representative was thrown into solitary confinement and was threatened with bodily harm for demanding such materials.

*d. Ramla Central Prison*<sup>144</sup>

This facility is also located inside Israel and is run by the Israeli Prison Authority. About 16 Palestinian females including six under the age of 18 are held there. These youngsters are held in a separate section. Palestinian females are totally isolated from the outside world. They are denied family visits and access to lawyers. Medical care is inadequate. Several chronic cases need hospitalization and/or surgery but the administration only provides them with painkillers. The women are often subjected to arbitrary and collective punishment. In April 2002, for instance, guards raided the holding cells and conducted a surprise search, vandalizing personal belongings. Ten inmates were transferred to solitary confinement for six consecutive days, where they lived in cells 1x2 meters, with a little opening in the door. The administration cancelled exercise time, family and lawyer visits, confiscated the TV and the cooking stove and denied inmates access to the library.

*e. Ketzi'ot (Ansar III)*<sup>145</sup>

Ketziot is a military camp located south of Beer Sheba' in the Negev desert, next to the Egyptian border, which houses approximately 1150 Palestinian activists who are under administrative detention. This number includes 65 juveniles under the age of 18. Ten of them are held under administrative detention orders. Living conditions at Ketzi'ot are unbearable due to the harsh desert climate. In addition to frequent and sudden changes in temperature that affect the health of many prisoners, the camp is full with rats, snakes and spiders. After a recent visit, advocate Buthaina Duqmaq of the Mandela Institute affirmed 58 inmates are infirm. Several prisoners, including juveniles, suffer from gun wounds sustained prior to or at time of arrest. The camp

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<sup>143</sup> Information dated from January 2003, from Mandela.

<sup>144</sup> Information dated from January 2003, from Mandela.

<sup>145</sup> Information dated from January 2003, from Mandela.

administration denies them necessary medical care.<sup>146</sup> For more information, please see annex D.4. Conditions of Detention at Ansar 3 – 23 October 2002, information from Addameer.

### **Article 12**

- 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.**
- 2. Everyone shall be free to leave any country, including his own.**
- 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.**
- 4. No one shall be arbitrarily deprived of the right to enter his own country.**

#### **The Israeli policy of curfews and closures in the OPT:**

During periods of violent protest in the West Bank or Gaza, or when Israel believes that there is an increased likelihood of unrest or attacks on Israel, it imposes a tightened, comprehensive version of external closure, generally referred to as total external closure. Total external closures also are instituted regularly during major Israeli holidays. During such closures, Israel cancels all travel permits and prevents Palestinians—even those with valid work permits—from entering Israel or Jerusalem. Due to the ongoing unrest in the occupied territories, Israel imposed 210 days of total external closure and 155 days of partial external closure during the year 2001, compared with 88 days of closure in 2000 and 15 days in 1999. The safe passage route was not open at all during the year, despite the fact that its existence is stipulated to in the 1995 Interim Agreement, signed by both parties.<sup>147</sup>

In periods of unrest in the West Bank and Gaza or heightened violent activity in Israel, the Israeli Government also prohibits most travel between cities, towns, and villages within the West Bank—an "internal closure"—impeding the movement of goods and persons. During the year 2001, Israel expanded its use of internal closure further in response to the sustained violence of the Intifada. The internal closures may be severe, prohibiting Palestinians from using primary roads and closing off many secondary roads with physical barricades, or limited, allowing access to Palestinians on most secondary roads, but only some main roads, with roadblocks and checkpoints dispersed along those roads that are open. The Government of Israel imposed approximately 87 days of limited internal closure and 278 days of severe internal closure in the West Bank during the year 2001, compared with 81 days of internal closure in 2000 and no days in 1999. During the year 2001, the Israeli Government imposed roughly 361 days of limited internal closure and 4 days of severe internal closure in Gaza. Israeli forces further restricted freedom of movement of Palestinians

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<sup>146</sup> Information from Mandela.

<sup>147</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 35.



by imposing curfews, often for extended periods, on specific Palestinian towns or neighborhoods.<sup>148</sup>

The total number of days of siege and closure since the beginning of the Al-Aqsa Intifada on 29 September 2000 until 31 December 2001, was 215, according to the statistics of the Palestinian Red Crescent Society.<sup>149</sup> Each day, hundreds of thousands of Palestinians who wish to travel between Palestinian towns and villages must pass through one or more of the approximately 130 Israeli checkpoints across the occupied territories. Credible anecdotal stories of checkpoint abuse recounted by international humanitarian aid groups and by hundreds of Palestinian citizens throughout the year, suggest that abuse is common, and that as many as several thousand Palestinians have encountered some form of abuse from soldiers at checkpoints. There were numerous reports of extreme cases, in which soldiers forced Palestinians to hit or spit on other Palestinians in line, to strip off their own clothing, or to eat or drink during the Ramadan fast, before being allowed to pass through the checkpoints.<sup>150</sup>

Human Rights Watch estimated that in the first two months of 2002, hundreds of Palestinians in the West Bank and Gaza were subjected to serious beatings, tire slashings, and gunfire directed against them or their vehicles because they were traveling on, or trying to circumvent, roads on which the IDF blocked passage to Palestinians, as it attempted to enforce internal closures between Palestinian cities and towns in the West Bank and Gaza.

Closure restrictions include the internal closures within the West Bank and Gaza, closure of the border between Israel and the occupied Palestinian territories, and closure of international crossings between the occupied territory and Jordan and Egypt. Israel has steadily tightened each form of closure, particularly since the events of March and April 2002, resulting in the most severe and sustained mobility restrictions since 1967. Closure is now so pervasive that the West Bank is effectively divided into about 50 separate pockets, and movement between them is difficult and sometimes perilous. Earth mounds and concrete blocks have been put up on the roads leading into Palestinian villages. Deep trenches have been dug into roadbeds, and barriers, such as heavy gates have been placed across roads, particularly in the vicinity of Israeli settlements.

There are now between 70 and 80 permanent checkpoints manned by IDF troops in the West Bank and a permit system effectively prevents most Palestinians from moving on most roads and even from crossing certain roads. The occasional movement of goods within the West Bank is further restricted by a back-to-back system that requires Palestinians to offload non-local trucks at designated places and upload these goods onto local trucks. The IDF has frequently divided the Gaza Strip into two, and sometimes three areas, by placing roadblocks and checkpoints along the main traffic arteries running North to South. At such times, it is difficult if not impossible for Palestinians, including school children, patients and aid personnel, to

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<sup>148</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 35.

<sup>149</sup> [http://www.palestinercc.org/Presentation%20PowerPoint%20Curfew%20Tracking%20July%202002\\_files/frame.htm](http://www.palestinercc.org/Presentation%20PowerPoint%20Curfew%20Tracking%20July%202002_files/frame.htm)

<sup>150</sup> *Ibid.*

move. The activities of settlers, particularly in the West Bank, have further restricted Palestinians' freedom of movement and heightened levels of anxiety.<sup>151</sup>

Prolonged curfews, during which the entire population of cities, towns and villages is confined to their homes, are the ultimate form of closure and collective punishment. The curfews are often in force round-the-clock and lifted only periodically, resulting in some West Bank locations being under curfew for 90 percent of the time. During curfews, the population is not permitted to leave their houses and IDF soldiers are authorized to shoot-to-kill any violators, resulting in a substantial number of civilian casualties. While curfews have been eased or lifted in some locations, the total number and duration of curfews remains very high. During September 2002, approximately 688,000 Palestinians in 39 towns, villages and refugee camps in the West Bank were confined to their homes under curfew for a varying numbers of days. A total of 639 curfew days were counted in the northern West Bank (28 locations), in the vicinity of Jerusalem (six locations) and in and around Hebron (five locations). More recently, in the second week of October, some 629,000 residents in 30 locations were confined to their homes under curfew for a combined total of 168 days.<sup>152</sup>

Curfews have been imposed in several areas of Gaza, as well. For some nine months beginning in December 2001, residents of Al-Mawasi in the southern Gaza Strip were under curfew from late afternoon until the early morning. The area has also been frequently subject to complete closure. Palestinians residing in areas close to Israeli settlements in northern Gaza have been subject to equally stringent restrictions. Residents have been under partial curfew since 9 July 2001. They are permitted to enter and leave the area only four hours a day, between 6.30 and 8.30 a.m. and 2.00 and 4.00 p.m.

As seen under Article 1, the Apartheid wall will restrict the freedom of movements of hundreds of Palestinians even more.

### **2001:<sup>153</sup>**

As a collective punishment of the Palestinian people, the IDF has enforced tight closure on all Palestinian cities and villages since October 2000. Throughout 2001 and 2002, tanks and heavily armed forces were stationed around all Palestinian areas of the West Bank, on a scale unprecedented since the Israeli occupation of the West Bank and Gaza Strip began in 1967<sup>154</sup>. The IDF also divided the Gaza Strip into three separated cantons in the north, center, and south.

To seal off Palestinian areas, the IDF used mounds of stone, earth, and cement blocks, and dug vast trenches around some of the besieged areas. These sieges and closures

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<sup>151</sup> Report of the United Nations Technical Assessment Mission-October 2002, cited by the Palestine Red Crescent Society.

<sup>152</sup> Report of the United Nations Technical Assessment Mission-October 2002, cited by the Palestine Red Crescent Society.

<sup>153</sup>All the information in this section is based on PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 2001*.

<sup>154</sup> For historical background on the Israeli siege of Palestinian Territories, see Amnesty International, *Broken Lives*, pp. 72-74, *ibid*.

led to the paralysis of transportation between Palestinian areas, forcing Palestinian citizens to take rugged, remote roads, or to walk in order to cross Israeli checkpoints. In many instances, the IDF prevented Palestinians from crossing checkpoints even on foot, and blocked many of the back roads. In an unparalleled measure, the IDF established isolated areas by encircling Palestinian towns with barbed wire and placing gates at the main entrances. Palestinian citizens were forced to pass through these gates, undergoing a series of searches, delays, degradations, and even detention.

There has been a separation between the West Bank and the Gaza Strip, as well as between these two areas and East Jerusalem, since 2001. The IDF also subjected tens of thousands of Palestinians to curfew in 2001 and 2002, particularly in the Palestinian-ruled section of Hebron and some of the villages, in addition to Areas “A”, which were re-occupied.

Under the pretext of security, Israel isolated Palestinian cities and villages from each other by placing piles of stones, dirt, and concrete blocs in main roads and at the entrances to every city and village. The Israeli army dug deep trenches and placed cement walls and barbed wire fences around some of the towns and closed the rugged dirt side roads that citizens sometimes used for transport. Large army contingents, reinforced by tanks and armoured cruisers, were stationed at the entrances of Palestinian towns to prevent the movement of citizens. In many cases, the IDF prevented citizens from entering or exiting their places of residence or employment, even on foot or via rough dirt side roads. The IDF shot at Palestinians passing on side roads, killing and wounding numerous citizens.<sup>155</sup> Israel placed gates and iron obstructions to establish isolated areas within some cities, such as Bethlehem, Ramallah and Jenin.<sup>156</sup>

Israeli soldiers search citizens and their belongings, humiliate them with beatings and coarse verbal abuse, and detain or delay them upon entering or exiting. Travel that would typically take 20 minutes began to require two or three hours, and every Palestinian town and village became a virtual prison. The Israeli siege and closure also applied to the border crossings that connect the Occupied Territories to the outside world, in particular, the Rafah crossing that connects the Gaza Strip to Egypt and the Karama crossing that connects the West Bank to Jordan. This closure was repeated numerous times throughout 2001 and 2002. Israel also closed the Gaza International Airport, which was later shelled by Israeli aircraft and its runways were destroyed by tanks and bulldozers. The IDF arrested a number of Palestinians passing through border points, and prohibited some citizens from travelling outside of or entering the Occupied Territories on the pretext of security.

In an unprecedented measure, the Israeli Ministry of the Interior decided at the end of December 2001 to prohibit Palestinian citizens carrying Palestinian passports from using Israeli airports. A number of Palestinians who actually reached the airport were forced to return to whence they had come. Israel also withdrew the identity cards of

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<sup>155</sup> For example, Rami ‘As’ousi was killed on a side road near the Jenin military post on 1 December 2001.

<sup>156</sup> PICCR’s *Report on the Israeli Violations of Palestinian Citizens’ Rights During 2001*, p. 35.

some residents in Occupied Jerusalem and refused to grant Israeli work permits to Palestinian labourers<sup>157</sup>. Occupied East Jerusalem continued to be isolated from its Palestinian surrounds, the West Bank and Gaza Strip remained separated, and even ministers and PLC members were prevented from travelling between these two areas.

In addition to the closures and sieges, the Israeli army imposed a curfew on some of the cities and villages that either remain under Israeli control or have been re-occupied. The occupied part of Hebron has been particularly affected, and was placed under curfew for most of 2001, thus restricting the freedom of movement for more than 40,000 Palestinians. This collective punishment aims at protecting the illegal presence of 400 settlers living in settlement blocs in the middle of Hebron.<sup>158</sup> Curfews were also imposed on Palestinian areas that were re-occupied by the Israeli army for varied lengths during 2001. Curfews force large numbers of citizens to stay within their homes 24 hours a day, prohibiting free movement in and out for days and weeks at a time. Curfews completely suspend civil, social, and economic activity because all public institutions, schools, and shops are closed<sup>159</sup>.

Under the 1952 Law of Entry to Israel, any citizen or resident granted or retaining Jerusalemite identity must reside in Israel on a permanent basis. In accordance with the regulations issued in tandem to this law, the Israeli Ministry of the Interior withdraws the identity cards of citizens from East Jerusalem who reside outside of the city for purposes of work or study.

Many Palestinians have also been forced to leave the city due to their inability to obtain permanent residency for their spouses or children. In accordance with the Law of Entry into Israel, Palestinian residents of Jerusalem are not able confer the right of residency upon their relatives unless this is considered necessary for family reunification. However, in accordance with the regulations of the Israeli Ministry of the Interior, most requests for family reunification filed by spouses in 2001 were rejected. This biased policy forces Palestinian families who wish to remain united to choose between illegal residence in Jerusalem and facing the threat of fines, prison, or expulsion, or residence outside the borders of Jerusalem and risking loss of their right of residency. In 1982, the Israeli Ministry of the Interior began refusing to register Palestinian children as residents of Jerusalem if their fathers did not have an Israeli identity card. This occurred despite the 1974 Law of Entry into Israel, which permits registering children under their mothers' identity cards. As a result, many Palestinian children in Jerusalem have been deprived of their rights to health care, treatment under the national insurance system, and public education.

The IDF continued to close all entrances and roads leading to Jerusalem, and prevented Palestinians in the West Bank and Gaza Strip from entering without a permit from the Israeli military authorities. Through this policy, Israel aims to reinforce the occupation of the city and completely separate it from the Palestinian

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<sup>157</sup> For details, visit the website of the Jerusalem Center for Social and Economic Rights, <http://www.jcser.org/>

<sup>158</sup> On Palestinian suffering in Hebron due to the siege and curfew, see: Human Rights Watch, *Center of the Storm*, pp. 111-129, *ibid.*

<sup>159</sup> Amnesty International, *Broken Lives*, pp. 81-83, *ibid.*

Occupied Territories. These measures led to commercial, economic, and cultural inactivity in Occupied Jerusalem.

**2002:<sup>160</sup>**

The Israeli military forces have imposed a strangling siege on the Palestinian areas of the West Bank and Gaza Strip since the outbreak of the Al-Aqsa Intifada on September 29, 2000. Balata and Jenin Camps were subject to strangling siege coupled with the imposition of curfew from 28/2 – 13/3/2002, during which time aid shipments and ambulances were prevented from entering the camps. Further, the IDF increased the number of temporary checkpoints that obstructed the movement of cars and people for many hours and exposed Palestinian civilians to danger, humiliation, and harsh treatment. The siege also prevented Muslims and Christians from reaching places of worship in Jerusalem and Bethlehem, especially during the month of Ramadan, the days of Eid Al-Fitr, and Christmas.

In addition, Israel repeatedly sealed off the border crossings connecting the Palestinian territories to the outside world: the Rafah crossing connecting the Gaza Strip to Egypt and the King Hussein Bridge connecting the West Bank to Jordan. From 1 June to 31 August 2002, the IDF went to extremes in humiliating Palestinians at the Rafah border crossing, after having reduced the number of Palestinians permitted to exit via this crossing and having subjected them to complicated exit procedures. For example, on 6 August 2002, the IDF impeded Palestinians from traveling across the Rafah crossing. As a result, more than 500 Palestinians were forced to wait at the crossing for three or more days under dire conditions. Palestinians also suffered at the King Hussein Bridge in Jericho because of the Jordanian Government's measures reducing the number of Palestinians allowed entry.

In the wake of the operation at 'Ein 'Arik checkpoint, west of Ramallah on 19/2/2002, in which 6 Israeli soldiers were killed, the IDF prevented Palestinians from crossing the checkpoints or even the rugged dirt roads. Anyone who approached the checkpoints did so under threat of live ammunition fire.

During the period 29 March – 31 May 2002, Israel tightened the closure, and imposed curfew on the areas that it reoccupied. It even prohibited food aid and ambulances from entering these areas. It also increased the number of checkpoints.

In general, since the beginning of the second intifada, the tight siege and closure of West Bank cities and villages has had a severe negative impact on the educational process, as neither primary and secondary, nor university students were able to proceed with their schooling. The spring semester was consequently extended until the end of August 2002. The siege also impeded secondary students from taking their Tawjihi exams because of the curfews imposed on most Palestinian cities, villages, and camps. This delayed the posting of secondary schools' final exam results, the registration of students at universities, and the commencement of the 2002/2003 academic year.

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<sup>160</sup> All the information in this section is based on the four PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights* published in 2002.

The closure also paralyzed the work of governmental and non-governmental institutions alike. Palestinian economic losses due to the closure, were immense.

The curfews brought much of daily life to a standstill. In Nablus, for example, a curfew was imposed beginning on 21 June 2002. It was lifted for the first time after 3 days for a period of 6 hours, during which time the occupation forces opened fire on and lobbed tear gas at city residents. The curfew was lifted a second time after 4 days, for another 6 hours, during which time the IDF encircled the city from all directions and prevented residents from the surrounding villages from entering. During July, the curfew was lifted only 3 times. During August, the curfew was continuous until 17 August 2002, when it was lifted for a mere 6 hours and then reimposed until 30 August, when it was lifted for another 6 hours.

The following displays the areas placed under curfew and the curfew's duration for 2002:<sup>161</sup>

**a. Ramallah Governorate**

- Cities of Ramallah and Al-Bireh 12 –14/3/2002, 29/3–21/4/2002, 10/6/2002–12/6/2002, 24/6/2002–31/8/2002, 23 days (September-December 2002)
- Area around President Arafat's Compound in Ramallah 29/3–2/5/2002

**b. Tulkarem Governorate**

- City of Tulkarem: 21/1/2002, 7 – 8/3/2002, 1/4 - 9/4/2002, 21/6/2002 – 31/8/2002, 50 days (September-December 2002)
- Far'oun and Artah /South Tulkarem 13/5/2002
- Nur Shams and Tulkarem Refugee Camps/Tulkarem 7 – 8/3/2002, 24/5/2002

**c. Qalqilya Governorate**

- City of Qalqilya 11/3/2002, 1/4 – 9/4/2002, 19/6/2002 – 31/8/2002, 30 days (9-12/2002)
- Azoun/East Qalqilya 10/5/2002

**d. Jenin Governorate**

City of Jenin and Jenin Refugee Camp 27/2/2002, 3/4 – 21/4/2002, 19/6/2002 – 31/8/2002, 37 days (September- December 2002)

**e. Nablus Governorate**

- City of Nablus 3/4 – 22/4/2002, 21/6/2002 – 31/8/2002, 28 days (September-December 2002)
- Balata and 'Ein Beit Al- Ma'a Refugee Camps/Nablus 27/2/2002, 31/5/2002

**f. Bethlehem Governorate**

- City of Bethlehem 8 – 9/3/2002, 2/4 – 10/5/2002, 20/6/2002 – 20/8/2002, 39 days (September-December 2002)

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<sup>161</sup> Statistics according to the Palestinian Independent Commission for Citizen's Rights.

- Beit Jala and Beit Sahur 8 – 9/3/2002, 30/3 – 10/5/2002, 20/6/2002 – 20/8/2002, 39 days (September-December 2002)

**g. Hebron Governorate**

- City of Hebron 4/4 – 6/4/2002, 25/6/2002 – 31/8/2002, 39 days (September-December 2002)
- Yatta and Al-Fawwar Refugee Camp/South Hebron 6/4/2002
- Dura/South Hebron 9/4/2002
- Al-Dahiriyyeh/ South Hebron 11/4/2002
- Tafuh/West Hebron 27/4/2002

**h. Tubas Governorate**

City of Tubas 24/6/2002 – 31/8/2002

**i. Salfit Governorate**

City of Salfit 1/7/2002 – 2/8/2002

**j. Jerusalem Governorate**

Abu Deis and Al-Izzariyya 18/6/2002 - 20/6/2002, 23/6, 25/6/2002, 27/6, 30/6/2002, 9/7, 24/7/2002, 1/8, 14/8, 16/8/2002, 4 days (September-December 2002)

**Total Hours Curfew from 18 June, 2002, to January 20, 2003<sup>162</sup>**

Tulkarem: 3,524 hours

Bethlehem: 2,156 “

Qalqilia: 1,870 “

Hebron: 2,478 “

Jenin: 2,622”

Nablus: 3,776 “

Ramallah: 2,386 “

**Total: 784 days**

Consequences for the Palestinian population:

The policy of Israeli closure and curfews of Palestinian areas leads to a number of violations of the right of Palestinians to attain the highest standards of physical and mental health, including reproductive and sexual health. Continued separation of the West Bank from the Gaza Strip, as well as separation of Jerusalem from other Palestinian areas, together with closure and dismemberment in Gaza and the West Bank have deprived many patients of access to health facilities and services outside their living areas. Closure has also prevented large numbers of unarmed civilians injured by the occupying Israeli forces from being transferred from their towns and villages to health centers and hospitals, leading to death or serious complications as a result of delays in proper hospital treatment. In addition, many health workers have

<sup>162</sup> From the Palestinian Red Cross website:

[http://www.palestinercs.org/Presentation%20PowerPoint%20Curfew%20Tracking%20July%202002\\_files/frame.htm](http://www.palestinercs.org/Presentation%20PowerPoint%20Curfew%20Tracking%20July%202002_files/frame.htm)

faced difficulties getting from their homes to their workplaces in hospitals and health centers.<sup>163</sup>

The disastrous impact of the current regime of closures and curfews on the Palestinian economy has been well documented by UNSCO and the World Bank. The decline in economic activity has further accelerating in 2002, and prospects for any short-term economic recovery are now grim. The resulting loss of income is one of the primary causes of the deepening humanitarian crisis. The following provides a brief summary of the economic collapse that has occurred over the past two years:<sup>164</sup>

**Domestic Production and National Income:** The World Bank estimates that real Gross Domestic Product (GDP) declined by 16% in 2001 and forecasts a further 20.8 % decline in 2002, to US\$2.65 billion. 56.5% of Palestinian households have lost over half their usual income over the past two years. According to UNSCO, total income losses stand at US\$7.6 million per day, for a total of almost US\$3.3 billion dollars since October 2000. This includes income from jobs in Israel as well as from domestic productive activities.

**Unemployment and Decline in Wages:** Since September 2000, almost as many jobs were lost as were created in the five years before September 2000. UNSCO estimates that the overall adjusted unemployment rate for the West Bank and Gaza during the second quarter of 2002 increased from roughly 36% to approximately 50 %. Expressed on a per capita, rather than per employee basis, monthly wage income now stands at NIS 186 (US\$38) – 62.6% of the pre-September 2000 level. This decline mirrors the growth in dependency ratios – the number of persons per employed person – which have risen from 4.3 in the third quarter of 2000 to 6.9 persons in the second quarter of 2002 in the West Bank, and from 5.9 to 9.4 persons in Gaza.

**Poverty:** On the basis of household consumption data, the World Bank estimates that 45.7% of the Palestinian population fell below the poverty line by the end of 2001, almost double the 23.2% poverty rate in 1998. Forecasts predicted that 59.9% of the population will fall below the poverty line by the end of 2002. Using household income data, PCBS reports that 66.5% of Palestinian households are now living in poverty: 57.8 percent in the West Bank, and 84.6 percent in Gaza.

The Israeli imposed curfew on the major towns throughout the West Bank is having a devastating effect on the population's health, the Palestinian economy, Palestinian society and the lives of over 2 million people. So too is the draconian closure and restriction on Palestinians freedom of movement; checkpoints, roadblocks and military blockades which divide the West Bank and Gaza Strip into cantons, making access from one area to the other a humiliating struggle, at best, and a life threatening experience at worst.<sup>165</sup>

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<sup>163</sup> Report of the United Nations Technical Assessment Mission-October 2002, cited by the Palestine Red Crescent Society.

<sup>164</sup> Information from the Report of the United Nations Technical Assessment Mission-October 2002, cited by the Palestine Red Crescent Society.

<sup>165</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 35-36.



According to a report issued by the U.S. Agency for International Development (USAID), the percentage of malnutrition among Palestinian children reached 30%, as compared to 7 % in a survey that the agency conducted two years ago.<sup>166</sup> Malnutrition among children is, beyond doubt, a clear indicator of deterioration in economic conditions. This deterioration has primarily been caused by the siege and curfews imposed on the occupied Palestinian territories.

### **Consequences on women:**

The deteriorating economic conditions and the restrictions imposed on the right to movement have caused more families to experience psychological and nutritional problems. According to a Johns Hopkins University report prepared jointly with Al Quds University in August 2002<sup>167</sup>, 16% of non-pregnant women of childbearing age and 19.7% of children are suffering from moderate to severe anemia. At the same time, according to an estimate given by the Ministry of Health<sup>168</sup>, there has been a decrease in antenatal and post-natal clinic attendance rates, so that only about 30% of all eligible women now benefit from maternity services.

The World Bank estimates that the poverty rate has doubled to 45% as compared to figures in 1998. By the end of 2002 poverty was expected to rise to 60%. Some of this is due to the inability of the Palestinian Authority to pay full salaries to civil servants as a result of the “continuing freeze on its tax revenues by the Government of Israel.”<sup>169</sup>

### Deaths at Military Checkpoints:

During 2002, 16 Palestinians were killed at military checkpoints by the IDF.<sup>170</sup> Their names are as follows:

1. Nura Jamal Shalhoub, age 16, of Tulkarem;
2. Mohammad ‘Abdullah Al-Hayek, age 22, of Zeita Jama‘in;
3. Firas Khaled Mohammad Al-Bou, age 21, of Halhoul;
4. Walid Khaled Al-Sheikh, age 27, of Ramallah;
5. Nassar Hasan Yehya Abu Salim, age 29, of Rantis, who was hit at the ‘Ein ‘Arik checkpoint on 26/1/2002 and left to bleed to death when the occupation forces prevented the ambulance from transporting him to the hospital;
6. Baha’ Khaled Al- Sharqawi, age 22, from the village of Zababdeh near Jenin;
7. Jibril Ma’ruf Ratib ‘Alawneh, age 35, from the village of ‘Azmut near Nablus;
8. ‘Aziz Abdel Hamid Samarah, age 50, from Tulkarem;
9. Khalil Yusef Ibrahim ‘Ammour, age 29, of the village of ‘Anza/Jenin;
10. Wa’el ‘Adnan Saleh ‘Ajour, age 33, of Al-Tufah Neighborhood/Gaza;

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<sup>166</sup>See the USAID report issued on 5 August 2002, which is available on the website at <http://www.usaid.gov>.

<sup>167</sup>Nutritional Assessment and Sentinel Surveillance System for West Bank and Gaza. Johns Hopkins University, Al Quds University. August 5, 2002

<sup>168</sup> Source: UN Office for the Coordination of Humanitarian Affairs (OCHA). – Relief Web.

<sup>169</sup> Appeal sent out by the Humanitarian Action Plan for Occupied Palestinian territory, 2003. Relief Web

<sup>170</sup> This information is based on the four PICCR’s *Report on the Israeli Violations of Palestinian Citizens’ Rights* published in 2002.

11. Isma'el Khamis Jibril Al-Sharafi, age 30, of Jabalya Camp;
12. Hatem Mahmoud Nasir, age 26, of Beit Hanoun;
13. Anas Banan 'Abd Al-Karim Abu 'Elba, age 25, of Qalqilya;
14. Tamer 'Abd Al-Nabi Abu 'Armana, age 19, of Al-Bureij;
15. Ahmed Jaber 'Ayish, age 21, of Al-Nuseirat;
16. Marwan Jamal Khayal, age 60, of Gaza.

Many others were injured at checkpoints. Since the beginning of the Intifada, 65 Palestinians have lost their lives after they were prevented from accessing life saving medical treatment. The victims include newborn babies, diabetics, people needing kidney dialysis and old people suffering from heart problems. During 2002, the following 23 wounded Palestinians died at Israeli military checkpoints because they were delayed or prevented from crossing the checkpoints and reaching health centers:<sup>171</sup>

1. Kayed Sabri Al - Srouji, age 44, of Tulkarem, who suffered from a kidney illness and who died on 25/1/2002, when the ambulance transporting him was prevented from crossing the military checkpoint on the Deir Sharaf Road, Tulkarem.
2. Mohammed Zekin, one week old, of Al-Yamoun/Jenin. He died on 6/2/2002, when he was prevented from reaching Jenin Hospital to receive treatment after being born in a village medical clinic.
3. Rana 'Adel Hammad, age 18, of the village of Kour/Qalqilya. She died on 9/3/2002, when the ambulance transporting her to the hospital in Tulkarem to give birth was prevented from crossing the military checkpoint at the eastern entrance to Qalqilya, resulting in the deaths of both her and her baby.
4. Ayman 'Ala Abu Zeid, 2 days old. He died on 15/3/2002 at the military checkpoint south of Gaza City, when the ambulance transporting him was prevented from crossing to reach the Al-Nasr Children's Hospital in Gaza.
5. On 16 April 2002, Tabarak Jaber 'Odeh, one and one half years of age, died when she was prevented from reaching the city's hospital to receive treatment.
6. On 18 April 2002, Israeli soldiers stopped an ambulance at the military checkpoint at the entrance to the city of Nablus and prevented it from transporting Dunya Naser Ishtayya, one week of age, from receive treatment at the Nablus Hospital. She died as a result.
7. On 22 May 2002, Israeli soldiers stopped 'Aisha Ali Hasan, age 21, from the village of Qibya west of Ramallah, at the 'Ein 'Arik checkpoint. She was prevented from reaching the hospital to have a kidney dialysis and died as a result.

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<sup>171</sup> This information is based on the four PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights* published in 2002.

8. On 22 May 2002, Israeli soldiers caused the death of 'Aref Ali As'ad Hinni, age 60, from the village of Beit Furik, when the ambulance in which he was riding was prevented free access at Beit Furik military checkpoint.

9. On 5 May 2002, Rahma Mar'i, age 33, from 'Anin near Jenin, gave birth at the 'Anin checkpoint, northwest of Jenin. She died moments afterwards. On 25 May 2002, Fadia Najajreh, age 33, from Bethlehem, gave birth at the Nahalin checkpoint in the Bethlehem Governorate. She died moments afterwards.

10. On 26 May 2002, Tarab Ghalib Fayez Mansur, age 29, from the village of Jurish near Nablus, gave birth to a stillborn child when she was stopped at the Hawara checkpoint near Nablus and was prevented from reaching the Nablus city hospital.

11. On 9 June 2002, the IDF stationed at Al-Hamra checkpoint in the northern Aghwar prevented an ambulance from crossing. This resulted in the death of Yousef Muhammad 'Abd Al-Rahman Abu Tabikh, age 78, of Jenin, after his return from a trip abroad for treatment.

12. On 18 June 2002, the IDF stationed at Surda checkpoint near Ramallah prevented an ambulance from crossing. This resulted in the death of 'Odeh Ya'coub Shehadeh, age 57, of the town of Birzeit, north of Ramallah.

13. On 1 July 2002, the IDF stationed at the Huwara checkpoint, at the entrance to Nablus, prevented an ambulance from crossing. This resulted in the death of Zahir Toufiq 'Awad, age 60, of Salfit.

14. On 30 July 2002, the IDF stationed at the Beit Fourik checkpoint, at the entrance to Nablus, prevented an ambulance from crossing to reach the city hospital. This resulted in the death of a child, Madlein Madin Yousef Nasasra, age 9, of the town of Beit Fourik/Nablus.

15. On 30 August 2002, the IDF stationed at the Ni'lin/West Ramallah checkpoint refused passage to a car that was transporting Ribhi Roubin, age 32, of the village of Jammala/Ramallah to the hospital. He died as a result.

16. On 9/2/2002, Islam Ghanem, age 3, of the village of Amatin/Nablus, died when he was prevented from crossing the Deir Sharaf checkpoint, located at the entrance of the city of Nablus, in order to reach the Nablus Hospital.

17. On 9/23/2002, Rawan Murad Issa Hreizat, 3 days old, of the town of Yatta/Hebron, died when she was prevented from crossing the checkpoint at the entrance of the city of Hebron in order to reach Al-Muhtasib Hospital.

18. On 10/20/2002, Isma'il Khalil Salim Haboush, age 63, of Gaza City, died when he was prevented from traveling from Gaza City to Al-Maqasid Hospital in Jerusalem for surgery.

19. On 10/21/2002, Munir Mithqal ‘Allan, age 48, of the village of Einabous/Nablus, died when he was prevented from crossing the checkpoint at the entrance of the city of Nablus to reach the hospital.

20. On 11/21/2002, Shahd Basem Abdul Latif Abu Zeitoun, 20 days old, of the village of Beita/Nablus, died when soldiers stationed at one of the checkpoints at the entrance to the city of Jenin prevented her from reaching one of the city’s hospitals.

21. On 12/8/2002, Azzam Abdul Qadir Alawneh, age 45, of Azmout/Nablus, died when he was prevented from crossing the checkpoint at the entrance of the city of Nablus to reach the hospital.

22. On 12/12/2002, Hammad Sa`id Hamid Kheir Al-Din, age 59, of Al-Jalazoun Camp/Ramallah, died when he was prevented from crossing the checkpoint at the northern entrance of the city of Ramallah to reach the hospital.

23. On 12/29/2002, Hussein Mohammad Al-Tamimi, age 57, of Al-Nabi Salih/Ramallah, died when he was prevented from crossing the checkpoint at the entrance of the city of Ramallah to reach the hospital.

#### Deportation and Exile of Palestinians:

During 1 September – 31 December 2002, the IDF resorted to deporting Palestinians from the Palestinian territories as a form of collective punishment aimed at deterrence. On 9/3/2002, the Israeli High Court issued an order permitting the deportation of Palestinian citizens from the city of Nablus to the Gaza Strip. Those deported included Intisar and Kifah Al-Ajourri, the sister and brother of Ali Al-Ajourri, whom the Israeli occupation forces assassinated on 8/6/2002, under the pretext that he was involved in carrying out operations against Israeli targets. It is worth noting that the IDF held Intisar and Kifah without charge or trial. The Israeli government’s excuse for not holding trials was that doing so would disclose the sources of evidence or open what is known as “the secret file”.<sup>172</sup>

#### Article 14

**1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest**

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<sup>172</sup> PICCR’s *Report on the Israeli Violations of Palestinian Citizens’ Rights During 1 September – 31 December 2002*.

of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

**2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.**

**3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:**

**(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;**

**(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;**

**(c) To be tried without undue delay;**

**(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;**

**(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;**

**(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;**

**(g) Not to be compelled to testify against himself or to confess guilt.**

**4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.**

**5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.**

**6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.**

**7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.**

As seen in Article 9, a large number of Palestinians are detained in administrative detention without being tried, without being charged for a recognizable crime, without having the opportunity to defend themselves based on evidence brought before a judge. Moreover, they can be held for indefinite periods of time based on the renewal of administrative detention orders. In many cases, they are also denied lawyers' visits. Since 5 July 2001, all Palestinian lawyers from the West Bank and Gaza Strip have been prevented from visiting their clients in Israeli prisons. On 19 February 2002, a coalition of human rights organizations including DCI/PS, Association for Civil Rights in Israel (ACRI), Public Committee Against Torture in Israel (PCATI) and Hamoked, petitioned the Israeli High Court to allow visits from these lawyers.

The court replied that visits were permitted provided they complied with the procedures outlined by the Prison Administration. These procedures, however, amount to a flagrant violation of legal rights and include the following:

- Lawyers must have permission from the Israeli military to leave the West Bank and Gaza Strip and it must clearly state that they have been given permission because they are a lawyer. However, when the DCI/PS lawyer requested such a permit from the Israeli military, he was told that they do not give permission for this reason.
- The lawyer must prove that he/she is representing the individual in court. In order to prove this, the person must sign a form; however, the Prison Administration will not allow the lawyer to meet face-to-face with the client before the form is signed. Instead, the lawyer must fax a form to the prison where the guards will ask the prisoner to sign it. In at least one case, the prison guards deceived the detainee into signing a confession along with the form.
- For people who have been sentenced, the lawyer must send his ID card, proof of power of attorney and a permission to enter Israel as a lawyer to the prison 48 hours before the visit. This means that it is impossible to visit the prison quickly in cases of emergency.
- Palestinians from Jerusalem are forbidden from utilizing the services of Palestinian lawyers from the West Bank or Gaza Strip. In many cases, children from the West Bank who are arrested in Jerusalem are tried in Jerusalem courts are thus refused the services of a West Bank lawyer.

All these conditions place impossible barriers before Palestinian lawyers in the West Bank and Gaza Strip. Given the almost total ban on family visits in place since the beginning of the Intifada in September 2000, lawyers are often the only link a Palestinian prisoner has with the outside world. In cases of repeated attacks on detainees by prison guards, it is imperative that a lawyer have unimpeded and immediate access to the prisons. The sanctity of the lawyer-client relationship is broken without this type of access. This system also allows prison guards and the administration to act towards detainees without any form of outside monitoring or observation.

Further violation of the right to legal access occurs in the legal process that occurs inside the detention centers. For instance, in the main detention center in the West Bank, Ofer Detention Center near Ramallah, a tent has been converted into a makeshift military court that is presided over by a military judge. The purpose of the court is to decide whether or not to extend the detention of a prisoner for further interrogation by issuing administrative detention orders. The court hears around 40 cases each day and passes its decisions regardless of whether a lawyer is present to represent the detainee. There is no systematic procedure to inform lawyers about the court hearings. Often the court hearings take place on Friday (a day when most Palestinian institutions are closed) and sometimes the court sessions are held at

midnight. It is unclear how many people inside the prison have received administrative detention orders, however this number is believed to be significant.<sup>173</sup>

A DCI/PS lawyer was told by one of the detainees that he visited in Ofer that he had been taken to the court and discovered that there was no lawyer present. When he asked the judge for legal representation, he was told, "Don't worry about that, I am the one who makes the decisions - lawyer or no lawyer." DCI/PS was also informed that lawyers are sometimes kept waiting outside the detention center for hours and are only allowed into court half way through the hearing.

### **Article 16**

**Everyone shall have the right to recognition everywhere as a person before the law.**

In any particular country, while citizens may have different kinds of benefits than non-citizens, the legal system must recognize everyone, including a non-citizen, as a 'person before the law,' ensuring equal legal protection of rights to all under its effective control. However, Israel practices two very different sets of laws for its Jewish citizens and for Palestinian residents of the Occupied Palestinian Territories.

The Israeli military courts are merely another arm of Israeli occupation policy and, in practice, they constitute the antithesis of a justice system based on equality and human rights. These courts are not based on any objective legal standards but rather come under the system of Israeli military orders that are issued by the Israeli Military Authority. These military orders apply only to Palestinian residents of the West Bank and Gaza Strip, not to the Israeli settlers living in the same area. This opinion was confirmed by a recent article appearing in one of Israel's leading English language newspapers, *Ha'aretz*, which reported that many judges serving in Israeli military courts in the West Bank and Gaza Strip lack any legal background or training. Instead, these judges are career military officers from military intelligence. The *Ha'aretz* article reports that the officers complained to their superiors that "they were simply serving as "rubber stamps" in these legal proceedings."<sup>174</sup>

Not only are the rulings of judges completely subjective, the discrepancy between sentences received by Palestinians and those received by Israelis in Israeli courts are blatantly discriminatory.

Take for instance the case of Majdi Mansour. Majdi, who comes from a village near Ramallah and was arrested on 15 November 2000, when he was 16 years old. Majdi was hit by a car in 1996 and as a result is severely mentally disabled. He has learning difficulties, trouble speaking and cannot remember events properly. Following his arrest in late 2000, Majdi was charged with throwing stones and two molotov cocktails at Israeli soldiers. Despite his very obvious disabilities, the prison administration stated he had no medical problems. He was found guilty and sentenced to 3 years and 2 months in prison.

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<sup>173</sup> According to DCI/PS.

<sup>174</sup> Thursday 21 March, 2002, *Ha'aretz*, Amos Harel.

Majdi's sentence is all the more remarkable given the release on 20 March 2002 of Israeli businessman Ofer Nimrodi. Nimrodi was found guilty of obstruction of justice, falsifying documents, breach of trust, and intimidating a witness as part of a plea bargain agreement. He was initially accused of conspiracy to commit murder. He was released early, having served only 2/3 of a 25-month sentence. It seems remarkable that the sentence of a 16-year old mentally disabled Palestinian boy accused of resisting the Israeli occupation should be more than twice the length of one of the most high profile criminal cases in Israeli history.

And this situation is not unique. In January 2001 Su'ad Hilmi Ghazal, a Palestinian girl child was sentenced to 6 ½ years in prison on the charge of stabbing an illegal Israeli settler. At the same time, the Jerusalem District Court sentenced Nahum Korman ,a 37 year old Israeli settler, found guilty of brutally beating to death an 11 year old Palestinian boy in 1996, to 6 months of community service and a fine of around \$17,000. Another Israeli setter, Yoram Skolnik, was sentenced to life in prison for murdering Moussa Abu Sabah, who was lying motionless and bound on the ground, in March 1993. His life sentence was twice commuted by then Israeli President Ezer Weizman – first to 15 years, then to 11years. On top of this, a parole board gave Skolnik one-third off his sentence for good behavior. On 18 February 2001, Skolnik was released after serving less than 8 years of his life sentence.<sup>175</sup>

Israel consistently discriminates between Jewish and Palestinian murderers. No Palestinian found guilty of murdering a Jew has ever had his sentence commuted by the Israeli President; nor has the Prison Services' Parole Board ever deducted a third of the sentence of any Palestinian defendant for good behavior. Palestinians are prosecuted to the fullest extent of the law, often including measures that violate international law.

By its very nature, the use of administrative detention against Palestinians derogates their basic legal rights. In its concluding observations on Israel's Report on the application of the ICCPR, the committee stated that it "...considers the present application of administrative detention to be incompatible with articles 7 and 16 of the Covenant, neither of which allows for derogation in times of public emergency ... The Committee stresses, however, that a State party may not depart from the requirement of effective judicial review of detention."<sup>176</sup> Five years after the committee's recommendation, Israel, rather than decrease the use of administrative detention in accordance with such recommendations, has in fact significantly increased the use of this form of detention.

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<sup>175</sup> Jpost Editorial, *Miscarriage of Justice*, Jerusalem Post Daily Internet Edition, 20 February 2001, <http://www.jpost.com/Editions/2001/02/20/Opinion/Editorial.21700.html/>.

<sup>176</sup> *Concluding observations of the Human Rights Committee: Israel*, UN. Doc CCPR/C/79/Add.93 18 August 1998.



## Article 17

**1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.**

**2. Everyone has the right to the protection of the law against such interference or attacks.**

### House demolitions:

The Israeli government is now systematically implementing a policy of demolishing houses of Palestinians who are accused of involvement in military operations against Israelis. This policy of house demolition has been explicitly defended by the Israeli government as a means of collective punishment and deterrence. In some cases, the Israeli military has demolished houses or buildings on the mere suspicion that activists who are considered wanted were living or hiding in the residence. Sometimes, the residents are not even permitted to remove their belongings before the building is destroyed (see Article 7). These attacks can be considered as arbitrary or unlawful interference with the privacy and home of the Palestinian citizens.

### Arbitrary attacks on property:

During the March – April 2002 invasion of West Bank localities by the Israeli military forces, Israeli soldiers engaged in arbitrary attacks against the homes and property of Palestinian citizens in a way not justified by any military necessity. During searches of shops and commercial shops, Israeli soldiers and officers stole valuables, expensive electrical and electronic devices, in addition to destroying furniture and belongings. The Democracy and Workers Rights Center documented more than 200 cases of theft carried out by the Israeli forces from houses and shops in Ramallah, Nablus and Jenin, as well as 168 cases of destruction of property and personal belongings. The total value of stolen property, based on affidavits given by the victims to the Center was estimated at \$1,300,499 US. The Center submitted 100 files during May and June to the Israeli Ministry of Defense, of which 40 files were accepted for further inspection on 9 June 2002. Moreover, the Democracy and Workers Rights Center was notified that another 40 files would be verified, whereas 20 files were rejected under the pretext that the attacks against property occurred in a situation of war.

The Center decided to file additional litigation before the Israeli court, and its lawyers have filed 70 cases in the district courts of Jerusalem, Haifa and Netanya. These lawsuits are based on the Israeli penal law of 1977, which provides for sanctions for the following acts considered as crimes:

- Breaking into houses and detaining its occupants in one room (article 406)
- Extortion under the threat of weapons (article 428)
- Theft (article 383)
- Housebreaking (article 402)
- Attack and damaging property (article 428)

- Concealing crimes (article 95)
- Negligence by officers and persons in charge (article 1)
- Use of weapons to intimidate and threaten (article 144)

However, the IDF still continues to attack property of Palestinian in the Occupied Palestinian Territories.

### Article 19

- 1. Everyone shall have the right to hold opinions without interference.**
- 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.**
- 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:**
  - (a) For respect of the rights or reputations of others;**
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.**

Several organizations have had problems with the IDF regarding their right to freedom of expression, especially since the beginning of the second Intifada. The following is an example from the Democracy and Workers' Rights Center:

On 18 January 2003, at approximately 12:30, the IDF confiscated informational materials at the Qalandia military checkpoint that the Democracy and Workers' Rights Center in Palestine planned to distribute during the World Social Forum being held in Porto Alegre, Brazil, between 23 and 28 January 2003. The confiscated materials included five reports from their Economic, Social and Cultural Rights Studies Series on the Right to Adequate Housing, the Right to Education, the Right to Health, Economic Rights and Environmental Rights. These reports have been available on their website <http://www.dwrc.org> since 2002.

In addition, there were copies of the Center's Annual Report 2002, copies of a poster explaining the situation of Palestinian workers and population under occupation through facts, figures and pictures, and copies of a series of 8 postcards depicting current Israeli violations of human rights, in particular economic, social and cultural rights in the occupied Palestinian territories. These postcards can be viewed at <http://www.dwrc.org/solidaritycampaign/postcards.htm>. All the information contained in the confiscated materials is public knowledge and well documented, and can be accessed from the Internet, through others organizations, or the media.

In addition to confiscating Democracy and Workers' Rights Center's materials, the Israeli soldiers at the Qalandia checkpoint also arrested the two employees of the JEF company who were carrying the materials, pursuant to the contract signed by the

Center and this company. The two employees were allegedly taken in to be interrogated about the source of these materials and subsequently released.

The Center's lawyer immediately contacted the Israeli DCO office in Beit El to inquire about the confiscations. The DCO office confirmed to him that the Israeli military forces would confiscate these materials because they considered them a first degree security case and believed that the materials blacken the reputation of the State of Israel at a time when Israel is working hard to improve its image worldwide. The Democracy and Workers' Rights Center lawyer was also told that Israel would investigate the people working for the Center and take measures against them, the least of which would be forbidding them from traveling abroad. As of the end of February 2003, the Center's materials are still in the hands of the Israeli authorities.

#### **Article 24**

- 1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.**
- 2. Every child shall be registered immediately after birth and shall have a name.**
- 3. Every child has the right to acquire a nationality.**

Palestinian children in the Occupied Palestinian Territories are discriminated against compared to the Israeli children in the Israeli settlements in the same areas. Two different sets of laws apply to Palestinian children and Israeli settler children in the Occupied Palestinian Territories (OPTs). The laws that apply to Palestinian children are military orders and are much harsher than those applying to Israeli children. In this way, Israel discriminates against children in the OPTs.

Section 3 of the 1962 Guardianship and Legal Capacity Law of Israel stipulates that, subject to specific rulings, "an individual who has not reached the age of 18 is a minor; an individual who has reached the age of 18 is an adult." However, Palestinian children in the West Bank and Gaza Strip are not covered by this or any similar law. Instead, Israeli Military Order #132 defines by omission Palestinian children who are 16 or 17 years old as adults. This military order does not cover Israeli settlers.

According to the Israel's Youth (Trial, Punishment and Modes of Treatment) Law of 1971, it is possible to impose a punishment of imprisonment on an Israeli child who is age 14 at the time of his sentencing. However, "In sentencing a minor, the Juvenile Court must consider, *inter alia*, the age of the minor when he committed the offense. For minors, the tendency of the court is to prefer methods of treatment that are not imprisonment."<sup>177</sup> Thus, although this law makes no express reference to arrest until the termination of trial proceedings, it is acknowledged in the Israeli report to the CRC that "a suspect's being a minor must be considered when deciding upon arrest until the termination of proceedings, although this does not in itself create grounds for immunity" (Miscellaneous Applications 190/79 *State of Israel v. Doron*, P.D. 33(3) 589). The Supreme Court has also held that there is no obligation to keep a minor

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<sup>177</sup> Israeli Report to Committee on the CRC, p. 60.

under arrest until the termination of proceedings, even in the case of murder (Miscellaneous Criminal Applications 23/89 *Ben Shimon v. State of Israel*, P.D. 42(4) 770).”

Palestinian children from the West Bank and Gaza Strip, however, are almost always held in prison while awaiting trial. This detention may extend for months and, considering that the vast majority of Palestinian children are arrested for the "crime" of stone throwing, it is clear that a double standard exists with respect to the different of Israeli and Palestinian children accused of crimes. There are no Israeli civilian juvenile courts in the West Bank and Gaza Strip and instead, children are tried in the same military courts as adults. DCI/PS has never dealt with a single case over the last 10 years in which a child over the age 14 received a sentence other than imprisonment. This represents well over 1,000 cases.

The redefinition of 16 and 17- year old children as adults is illustrated by the fact that, despite at least 70 Palestinian children aged 16 to 17 being incarcerated in Meggido Prison alongside adults in February 2002, Megiddo Prison denied that any children are being held there.

### **Article 26**

**All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.**

#### **Discrimination Against Palestinians living in East Jerusalem:**

As previously stated, the rights of the Palestinian residents of East Jerusalem are being violated and they are discriminated against by Israeli law. The Entrance Into Israel Law of 1952, classifies Palestinian residents of Jerusalem as "permanent residents," akin to non-Jewish immigrants, subject to special regulations restricting their travel, as well as their rights to land, building, and municipal services. Thus Palestinian residents are required to obtain ID cards, indicating their “permanent residence” status, in order to be allowed access to the city and the services offered by government institutions. This “permanent residency” status applies only to Palestinians – not to Israeli Jews living in Jerusalem.

The Center of Life policy, instituted by the Israeli Interior Ministry in 1995, requires Palestinian residents of Jerusalem wanting to renew their ID's or register a child, or any Palestinian placing a claim with the National Insurance Institute(NII), to prove that the city is his or her center of life through the presentation of extensive documentation. Any Jerusalemite unable to submit this documentation is subject to ID revocation. Between 1967 - 1998, over 6,000 ID's were confiscated. Because children under 16 are registered on their parent's ID, a much higher number of residents were denied residency status.

Palestinian children also suffer from the discriminatory family reunification procedures for families where one spouse is a non-Jerusalem resident. If it is the male partner who lives outside of Jerusalem and is applying for reunification with his Jerusalemite wife, she must satisfy the discriminatory “Center of Life” requirement. It is often very difficult for a woman to prove that the center of her life is in Jerusalem because many of the documents that would prove this fact (phone, electricity bills for example) may not be in her name. It is possible for an Israeli clerk in the Ministry of Interior to reject such an application without being required to state the reason. Thus, many Palestinian children are forced to live in divided families, where one parent lives in Jerusalem and the other outside of the city. It should be stressed that family reunification for Jewish families is an automatic right

According to the Israeli human rights organization, B’Tselem, “The National Insurance Institute holds the position that, unless proven otherwise, Palestinian residents of East Jerusalem are not residents, and that they in effect seek to take improper advantage of the state and benefit from its services without being lawfully entitled to them.”<sup>178</sup> Consequently, the NII investigates almost every case of a Palestinian applying for health insurance. B’Tselem argues that “The investigations are superficial, deny the individual's right to due process and privacy, and are motivated by pre-conceived notions of behavior in Palestinian society. The investigation takes months, during which the claimant does not receive the applied-for allotment or health insurance.”<sup>179</sup>

The NII also investigates cases where the individual is already insured but wants to register his or her children in a Health Fund. According to law, where the parents are recognized as residents, their children should also be recognized as residents. The additional investigation in these cases leads to children remaining without health insurance until the investigation is completed. Thus children and new-born infants may be denied health insurance for extended periods of time, even in cases of urgent necessity. Physicians for Human Rights estimates that there are currently some 10,000 Palestinian children residing in East Jerusalem who are not covered by medical insurance.<sup>180</sup>

Moreover, if a Palestinian child is born overseas to a resident, he or she is not automatically awarded residency. He must apply for family reunification, a long and often fruitless procedure. These requirements only apply to Palestinians living in Jerusalem. It is important to note that if a child does not acquire an ID number by the time he reaches 16 years of age, he or she could be expelled from Jerusalem.

### Children in the OPTs:

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<sup>178</sup> See B’Tselem, Revocation of Social Rights and Health Insurance, [http://www.btselem.org/English/Jerusalem/Social\\_Security.asp](http://www.btselem.org/English/Jerusalem/Social_Security.asp)

<sup>179</sup> B’Tselem, *Revocation of Social Rights and Health Insurance*.

<sup>180</sup> B’Tselem, *Revocation of Social Rights and Health Insurance*.

It must be reiterated that different sets of laws apply to Palestinian and Israeli settler children in the OPTs.

Refugees:

International law categorically prohibits selective denationalization of ethnic minorities (or majorities) based upon discriminatory grounds. International law recognizes that refugees have the right to return to their places of origin. States are not permitted to circumvent their obligation to repatriate refugees to their place of habitual residence by arbitrarily denationalizing them on discriminatory grounds.

Nevertheless, Israel selectively denationalized the 1948 Palestinian refugees through its 1952 Nationality Law, which it enacted four years after involuntarily displacing the refugees. The 1952 Nationality Law was written in such a way as to "screen out" the 1948 refugees based upon the fact of their displacement. Ever since, Israel has based its refusal to readmit or repatriate the 1948 Palestinian refugees on the 1952 Nationality Law. However, since Israel deliberately involuntarily displaced the 1948 Palestinian refugees based upon discriminatory grounds (ethnicity, race, religion, political belief), its 1952 Nationality Law which attempts to make permanent that illegal displacement is itself illegal under international law. Selective denationalization based upon discriminatory grounds is categorically prohibited under international law.

Discrimination concerning water resources:

As seen under Article 1, there is blatant discrimination between the large Palestinian population and the Israeli settler groups in the OPTs concerning the use of natural resources, and in particular, water.

The Apartheid Wall (see Article 1):

The frequent reference in the international media to a "fence" being erected to separate the "two sides" is a cynical, unrepresentative use of term. It does not accurately describe the actual Apartheid Wall, in terms either of its massive physical structure (8 meters high) or its implications in the lives of hundreds of thousands of people. This "Apartheid" - a word deliberately used to remind everyone of the Afrikaans word for separation - is not a reflection of any real geographic or historic physical divide between two peoples, but rather a result of Israel's continued campaign of forcible, unilateral separation and expulsion, done in total disregard of national or economic sovereignty for Palestinians.

The Apartheid Wall just increases the "bantustanization" of the West Bank into hundreds of small, dependent entities that cannot sustain themselves and that more closely resemble small, disconnected open-air prisons, surrounded by Israeli military checkpoints and settlements, than anything else.

The form of apartheid Israel applies against Palestinians fulfils all elements of the crime of apartheid, as defined in the International Convention on the Suppression and

Punishment of the Crime of Apartheid (1976). That Convention expressly states that the crime of apartheid “shall include similar policies and practices of racial segregation and discrimination as practiced in southern Africa”(art.2). The Apartheid Wall is designed to divide the population along racial lines, by the creation of separate reserves and ghettos for the members of one racial group.<sup>181</sup>

#### Curfews and closures:

The Israeli policy of curfews and closures, which only applies to Palestinian residents of the OPT and not to illegal Israeli settlers, does not comply with the principles of non-discrimination stipulated in this article of the ICCPR.

#### Land expropriation:

Since 1948, Israel has designed a maze of legislation and administrative procedures<sup>182</sup> providing a “vener of respectability”<sup>183</sup> to a program to confiscate the vast majority

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<sup>181</sup> The Apartheid Wall Campaign, *Report # 1*, November 2002, to be found at <http://www.pengon.org/wall/wall.html>

<sup>182</sup> For a thorough discussion of the legal framework of refugee property see: Hussein Abu Hussein and Fiona McKay. Access Denied, Palestinian Access to Land in Israel. Galilee Center for Social Research (Zed Books, Haifa, Israel, 2003). Following is a short summary:

\**Absentee Property Law* (March 1950). This law defines as Absentee “...A Palestinian citizen who left his ordinary place of residence in Palestine for a place outside Palestine before 1 September 1948 or for a place in Palestine held at the time by forces which fought against it after its establishment”. Article 27 provides an exception if the Custodian believes a person left his place of residence “for fear that the enemies of Israel might cause him harm” or for reasons “other than fear of military operations”. This, in effect, is the exception for Jewish properties. Property designated as ‘Absentee’ is taken over by the Custodian of Absentee Property. In principle, dividends from any sale of properties are to be held by the Custodian of Absentee Property until the law ceases to be operative. Article 1 states that the law will remain in force as long as the State of Emergency (declared May 19, 1948) remains in force. It has remained in force continuously since that time. Article 17 states that any transaction made by the Custodian in “good faith” shall not be invalidated, placing the burden on the property owner to prove bad faith. Article 30 places the burden on the property owner to prove to the custodian that he is not (was not) an Absentee.

. \**Article 125 of the Defense Emergency Regulations* (1945). Under these regulations, the military governor is empowered to declare a ‘closed area’ meaning that nobody can enter or leave it without a permit. These powers were used to prevent refugees from returning to their villages after a cessation of hostilities. The regulation has never been used to close an area of Jewish settlement. On the contrary, Jewish settlers have often settled on land vacated by Palestinians under these orders.

\* *Emergency Regulations (Cultivation of Waste Lands and Use of Unexploited Water Resources) 1948*. These regulations empowered the Minister of Agriculture to take over agricultural lands not being cultivated due to the war. A Palestinian would be prevented from entering the area under any one of the security regulations mentioned in this section; the land would then be declared uncultivated and given to neighboring Jewish agricultural settlements to farm.

\**Emergency Regulation (Security Zones) 1949*. This law empowered the Minister of Defense to declare areas bordering the frontiers of Israel ‘security zones’ and to order any persons to leave such areas. In the case of two villages, *Iqrit* and *Bir’am*, inhabitants were told that the measures were temporary and that they would be able to return in two weeks. Instead, despite High Court orders in their favor, villagers were prevented from returning and the villages were destroyed by the army. Title to the land of both villages was expropriated under the Land Acquisition Law of 1953, and farmland turned over to Jewish farming settlements. In 1981, the High Court refused a legal challenge stating that too much time had passed. See case law below for further developments in this particular case.

\**Emergency Land Requisition (Regulation) Law 1949*. This law empowered requisition of land or buildings “for the defense of the state, public security , the maintenance of essential supplies or

of land and property belonging to Palestinian/Arabs and transfer use of the properties primarily to Israeli Jews.<sup>184</sup> Hussein/McKay note that while the various laws have “frequently been used to take land away from Palestinian communities and used to benefit the Jewish population exclusively, the reverse has not occurred.”<sup>185</sup> Remedies exist in the rare cases of Jewish property confiscation. The failure to provide equivalent remedies to Palestinian property owners is an ongoing violation of Article 26 of the ICCPR.

Israeli property law includes concepts common to many legal systems: private property, state property, possession, licenses, and bona fide third party purchases for value. In practice, however, these concepts provide convenient legal fictions masking discriminatory practices. For instance, the transfer of absentee property from one branch of government, the Government Custodian, to another branch of government, the Development Authority<sup>186</sup> cannot constitute a bona fide sale. This is particularly true because the ‘purchaser’ is certainly aware that the mode of property seizure was discriminatory,<sup>187</sup> and therefore illegal. Nevertheless, they are considered bona fide sales by the Israeli courts. Similarly, the laws on adverse possession have been

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essential public services, the absorption of immigrants or the rehabilitation of ex-soldiers or war invalids.” Note that “immigrants, ex-soldiers or war invalids” indirectly ‘refers’ only to Jews. Half of the requisitions under this order by 1953 were for the purpose of settling new immigrants.

\**The Land Acquisition Law 1943* which was later amended and became the *Land Acquisition (Validation of Acts and Compensation) Law* (1953) This legislation allows confiscation of land in the public interest. While most states have such provisions, Israel has implemented this legislation in a discriminatory manner. Fertile land farmed by Palestinians has been targeted for expropriation even though alternative state-owned land was available. The land has then been made available for settlement by Jews. Powers of expropriation were not only granted to local authorities and the Development Authority but to the Jewish National Fund (JNF). The JNF works for the benefit of Jewish citizens only.

\* *The Land Acquisition (Validation and Compensation) Law 1953*, also authorizes the transfer from the Custodian of Absentee Property to the Development Authority of any property that “on 1 April 1952 was not in the possession of owners, and that within the period of 14 May 1948 and 1 April 1952 was used or assigned for purposes of essential development, settlement or security, and is still used for those purposes”. The burden of proof that a property was not used for development, settlement or security lies with the claimant.

<sup>183</sup> Patricia McBride used this expression to describe the role of the South African Judiciary under Apartheid in her testimony to the South African Truth Commission. Special Hearings. Legal. Day 1.

<sup>184</sup> Israel has never released detailed information regarding property expropriated from Palestinians. Israel’s estimate is approximately 4.2 million dunum See Hussein/Mckay. *ibid*). Badil estimates the number as 18.2 million dunum (belonging to both Palestinian refugees and Palestinian/Arab citizens of Israel). Badil calculations based on British mandate statistics in Sami Hadawi, *Palestinian Rights and Losses in 1948*, (London, Saqi Books, 1988) and S.H Abu-Sitta, *Al Nakba Register*, Palestine Return Centre, (London, 1998) also estimates that the approximately one million Arabs living in Israel control only 3% of the land. These numbers do not include land figures for West Bank and Gaza .

<sup>185</sup> Hussein/Mckay *ibid*.

<sup>186</sup> See Hussein/Mckay *ibid*. The vesting of absentee property in the Custodian as caretaker was only a temporary measure. Under an agreement, in 1953 the Custodian transferred all property under his control to a Development Authority and was authorised to pass good title. The Authority was in turn authorised to transfer property under its control to the state or to a local authority with the stipulation that the Jewish National Fund be given first option to purchase the land.

<sup>187</sup> However, to prove discrimination the plaintiff must prove discriminatory intent on the part of the administering authorities (*Nazareth Committee for the Defense of Expropriated Lands v. Ministry of Finance* HC. case 30/55. To the knowledge of this writer, the High Court has never found discriminatory intent on the part of authorities dealing with confiscation of land.



manipulated to benefit Jewish possessors, while making it practically impossible for Palestinians to prove ownership. These legal fictions have resulted in the absence of an adequate process of restitution/compensation for these properties.

By contrast, in 1998 it came to the Israeli public's attention that absentee property laws used to seize the majority of privately-owned Palestinian/Arab properties were also used to seize properties belonging to European Jews who died in the Holocaust.<sup>188</sup> A scandalized public sought immediate redress. A special Parliamentary Committee confirmed these findings,<sup>189</sup> and it is now possible to claim restitution/compensation for these seized properties.<sup>190</sup> In addition, Israel has played a significant role in worldwide efforts to recover Jewish assets seized during the Nazi period. In an address to the Washington Conference on Holocaust-Era assets, the Israeli Delegation stated: "...The State of Israel, the Jewish state, sees itself as the central representative of the (holocaust) survivors and their offspring...The matter of Jewish assets is not a material issue: it is a moral imperative. 'Thou shalt not steal' appears in the same Decalogue with the injunction against murder...People and institutions who knowingly acquired looted property should pay restitution."<sup>191</sup> Clearly therefore, Israel does not consider the passage of time since the mid 1940s to be an issue blocking restitution of ill-gotten assets.

This is not the first time Israel has approached issues of restitution/compensation in a discriminatory manner. After it annexed East Jerusalem in 1967, it created a legislative framework allowing Jews to claim properties lost in East Jerusalem in 1948, but preventing such claims by Arabs who had lost properties in West Jerusalem during the same period.<sup>192</sup> The absence of any restitution/compensation process for Palestinian/Arab properties taken by Israel, coupled with Israel's efforts to ensure restitution for Jewish assets taken both in Israel and abroad, constitutes an ongoing violation of Article 26 ICCPR.

The impunity with which Israel has been able to confiscate Palestinian/Arab properties in Israel in the past almost certainly plays a role in its continuing policy of seizing Palestinian properties in the West Bank and Gaza, albeit under a somewhat modified legal framework.<sup>193</sup> *B'Tselem* estimates that between the beginning of the occupation (1967) and today, Israel has taken control of hundreds of thousands of

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<sup>188</sup> Yossi Katz. "Forgotten Properties." (Yad Vashem Press, 1998).

<sup>189</sup> Interim Report of the (Israeli) Parliamentary Enquiry Committee into the Location and Restitution of the Assets of Holocaust Victims. Colette Avital, Committee Chair, 2 Aug. 2000.

<sup>190</sup> Claims Conference. Conference on Jewish Material Claims against Germany. [www.claimsinfo.org](http://www.claimsinfo.org).

<sup>191</sup> Israeli Delegation Statement. Proceedings of the Washington Conference on Holocaust-Era assets held November 30-December 3, 1998 in Washington D.C. Conference hosted by US Department of State and the US Holocaust Memorial Museum.

<sup>192</sup> Terry Rempel. *Dispossession and Restitution in 1948 Jerusalem*. Jerusalem 1948. The Arab Neighborhoods and their Fate in War. Ed: Salim Tamari. Badil and Institute of Jerusalem Studies.2002 (second revised edition).

<sup>193</sup> The Israeli authorities responsible for the confiscation of Land in the West Bank and Gaza have relied less on Absentee property Laws and more on Requisition for "military needs" and Expropriation for "Public Needs". For a thorough review of these policies see: B'Tselem-The Israeli Information Center for Human Rights in the Occupied Territories. "Land Grab-Israel's Settlement Policy in the West Bank." May 2002.

dunums of land, amounting to 50% of the total land of the West Bank and Gaza. This land has been used to create settlements and the network of roads and security areas that service them. (See Article 1 for more information)

A remedy must be effective in practice, as well as in law. All cases challenging the absentee property, or public/military use laws that might have set a positive precedent for a significant number of Palestinians seeking restitution of their properties have failed in the Israeli High Court.<sup>194</sup> This was not the result of particularly strict and

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<sup>194</sup> See for instance:

\**Habab v The Custodian of Absentee Property* (1954), in which the High Court stated that the Custodian of Absentee property was not a trustee of the Absentees and therefore has no duty of care toward the absentees. Absentees are to be regarded as foreign enemies who may be deprived of their property by the state.

\**Hussein Ali Diab v. the Custodian of Absentees Property, the Developing Authority and an Opposing Petitioner*. Case number 1397/90 in which the Court decided that even if it can be proven that the Custodian made a mistake in decreeing a property as ‘Absentee’, the burden remains on the plaintiff to prove that this was done in bad faith before the Court will invalidate transfer of the property.

\**The Committee of the Iqrit Displaced v. The Government of Israel and the Defense Minister*. Case no. 141/81. (11/26/1981), in which the court refused to review the legitimacy of a military closure order in Iqrit resulting in Palestinian/Arab land confiscation even though Jews had since settled on that land. The Court argued that too much time had passed. In the late 1990s, the High Court offered to allow the villagers title to a small part of their original properties. This decision was based on a 1950s High Court decision stating that the villagers should be allowed to return which was in turn based on a verbal commitment of authorities to allow villagers to return. However, that Court decision was never implemented. Such a decision in the 1950s was so rare that this decision has no real precedential value.

\**The Committee for the Defense of the Confiscated Lands of Nazareth*. Case number 30/55. July 22, 1955, in which the Court refused to review whether the public need requirement for a confiscation of Arab/Palestinian property had been satisfied. The Court found that it sufficed that Administrator at the Development Authority had issued an order proclaiming that the confiscation would be for ‘public need’ to prove that the confiscation was authorized as a public need and there was no need for further inquiry. Specifically, the court found that “it was not enough that the plaintiffs claimed that they were Arabs and that only Arab land was taken when it was possible to take the land of non-Arabs or to use government lands. It would have to have been established that the fact that they were Arabs—that and not some other fact—was what motivated the respondents to take their land and not someone else’s...” Thus the burden is on the claimants to prove discriminatory intent.

\**In Mazen Hassan Zaki Noysaybah et al v. the Ministry of Finance and the State of Israel*, the plaintiff complained that a requisition order for his land had been issued in 1968 for public need but that the public use had not been specified until 1989 when it was decided to use the land to build a commercial center. The Court found that the burden of proof was on the plaintiff to prove that new circumstances required cancellation of the designation for public needs.

\**Younis v. Minister of Finance*, case 5/54. The Courts were reluctant to interfere in military or ministerial discretion exercised on the grounds of security. *Younis* also effectively closed the door to judicial review of decisions under the *Land Acquisitions Act*.

\* By contrast, it is worth noting the High Court’s decision in the *Beit Hadassah* case (as quoted in David Kretzmer, *The Occupation of Justice, The Occupation of Justice* (State University of New York Press, 2002), p.117. Beit Hadassah is a building in the center of Hebron that belonged to Jews before 1948. After 1948, the property was taken over by the Jordanian Custodian of Enemy Property who leased it to an organization that sublet part of the building to Palestinian shop owners. After 1967, a group of Jewish settlers moved in to the top floor of the building. In 1981, the buildings shopkeepers petitioned the High Court to evict the Jewish settlers, who they claimed were not only trespassers but had been harassing the storekeepers. The Court ruled that the petitioners had no property rights in the building and could therefore not challenge the settlers’ right to be there. It is inconceivable that the High Court would find that Jews occupying property that had been transferred to them via the Israeli Custodian of Absentee Property --but that had belonged to Palestinian Arabs until 1948—had no

clear legal language as lower courts were able to find outcomes more beneficial to Palestinian/Arab owners using the same legal framework. The High Court has often demonstrated a willingness to review cases in which lower courts found in favor of Palestinian/Arabs against the State, while refusing to review cases in which the lower courts found in favor of the State.<sup>195</sup>

This trend has continued with regards to High Court intervention in cases involving confiscation of property in the West Bank and Gaza. The vast majority of Israeli settlement planning in the West Bank and Gaza followed the Drobless Plan of 1978.

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property rights in the building, as such a decision would automatically deprive the vast majority of the Jewish population in Israel of any property rights.

\* Kretzmer (ibid) also highlights the decisions in *al-Naazer v. Commander of Judea and Samaria* and *Ayreib v. Appeals Committee*, two cases involving the use of “state land” in the occupied territories. *Ayreib* specifically challenges the Israeli use of land under article 55 of the Hague Convention 1907. The Hague Conventions have been found to be justiciable in Israeli Courts because they are considered to reflect customary international law. Kretzmer (p.91-2) summarizes the decisions in the two cases as follows: “the most glaring feature of these decisions is their total detachment from the context of the government’s land-use policy in the West Bank. The Court presents the system of certifying state land as a form of benign action by military authorities eager to fulfill their obligations under international law. In reality, however, the picture is entirely different. Public lands are not regarded as land reserves that are first and foremost available for use of the local population; they are regarded as land reserves that serve Israeli interests. Land reserves in the Occupied Territories are in effect administered by officials of the Israel Lands Administration set up under Israeli law to administer “government land” in Israel itself. These reserves are used for (Jewish) civilian settlements that are anathema to the local population”. Government policies that encourage Israelis to settle in these settlements are a separate violation of international law.

\*In *Bargil v. Government of Israel* (Kretzmer ibid p. 223) another case challenging the use of occupied state land under the Hague Regulations, the High Court found that the issue was too broad to be justiciable.

\* In *Tabeeb v. Minister of Defense* (1981) (Kretzmer ibid p.94) the High Court found that expropriation of land for a highway linking settlements was justified by its essentially ‘military purpose’: The High Court found “that the military and security considerations were dominant in choosing the present course, and there is therefore no problem with it from the point of view of international law. The consideration that benefit would accrue (to a future settlement) was minor and secondary” (Kretzmer, p.95)

\**Ja’mait Ascan v. IDF Commander in Judea and Samaria* was another case involving expropriation of land for highway construction prima facie for the primary benefit of settlers. In this case, the Court categorically declared that the applicable legal standards are the rules of belligerent occupation as developed in customary international law. Therefore the government must be guided by military need or the benefit of the local population. However, in interpreting this obligation it found that planning could be carried out only to serve the interests of the occupying power. In this way, because it was able to find that the highway would serve some of the occupied population, it did not address the fact that the dominant purpose of the highway was to serve the Israeli, and not the occupied, population. (Kretzmer p.98-99) notes the High Court decision in *Elon Moreh (FTN)*—in which the Court held against the seizure of private property that was explicitly described as a permanent seizure-- as being the exception rather than the rule. In many cases the Court could have relied on the dominant motive in order to block use of public land for settlements and prohibit expropriation of private land for highways. He adds that the Court could also rely on the finding in *Elon Moreh* that a belligerent occupant may not “Create in its area facts for its military purposes that are intended from the very start to exist even after the termination of military rule in that area”. Kretzmer concludes that the Court “provided legitimization for government actions that are highly questionable, not only on political grounds, but on legal grounds as well.”

<sup>195</sup> Alexandre (Sandy) Kedar, “The Jewish State and the Arab Possessor: 1948-1967” in *The History of Law in a Multi-Cultural Society: Israel 1917-1967* (Ron Haris, Alexandre Kedar, Asaf Likhovsky and Pnina Lahav Eds) Ashgate 2001.

The plan stated that the objectives of the settlements were “to reduce to a minimum the possibility of another Arab state in these regions,” and to make it difficult for the local Palestinian population “to form a territorial continuity and political unity when it is fragmented by Jewish settlements.”<sup>196</sup>

In response to a petition, that an order confiscating land from Palestinian private property owners to build an Israeli settlement did not fulfill the “military need” requirement, Judge Vikon stated: “In terms of the purely security-based consideration, there can be no question that the presence in administered territory of settlements -even “civilian”- of the citizens of the administering power makes a significant contribution to the security situation of that territory, and facilitates the army’s performance of its functions. One does not have to be an expert in military and security matters to appreciate that it is easier for terrorist elements to operate in territory inhabited only by a population that is either indifferent or sympathetic towards the enemy than in territory in which there are also persons who are likely to watch over them and inform the authorities of any suspicious movement... The matter is simple and there is no need to go into details.”<sup>197</sup>

The fact that privately owned Palestinian property was being confiscated for use by Israeli Jewish civilians did not in itself pose a problem for the Court. In a later case, the Court said it would assume sincerity on the part of the confiscating authorities and put the burden on the plaintiff to prove that an impending confiscation was not for security needs.<sup>198</sup> A High Court decision eventually blocking the confiscation of private property for the establishment of settlements<sup>199</sup> has neither stopped the establishment of settlements nor stopped the confiscation of Palestinian Arab lands. Administrative procedures for determining what is private property and what is state land are heavily skewed in favor of the state, and private property continues to be requisitioned to build roads.<sup>200</sup>

Finally, the planning system is so discriminatory that Palestinian homes are regularly demolished because they were built without the proper permits, although it is practically impossible to obtain such permits. At the same time, Israelis are easily able to obtain such permits, and in those cases where settlements are built on an ad hoc basis, permits are even issued retroactively.<sup>201</sup>

Some commentators suggest that these property issues will be sorted out in an eventual Palestinian-Israeli peace Agreement. There are several problems with this approach. First, an agreement on property was reached in the context of the 1949 Jordanian-Israeli Cease-fire Agreement. However, the Israeli government refused to comply with its political obligations and the High Court ruled that the agreement

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<sup>196</sup> M. Drobles, *Settlement in Judea and Samaria: Strategy, Policy and Planning* (Jerusalem, WZO Settlement Division, 1980) as quoted in David Kretzmer, *The Occupation of Justice* (State University of New York Press, 2002)

<sup>197</sup> *Beth El*: HCJ 834/78 as quoted in Kretzmer *ibid*.

<sup>198</sup> *Mattiyahu* case. *Amira v. Secretary of Defense* (1979) in Kretzmer.

<sup>199</sup> *Elon Moreh* case as quoted in Kretzmer.

<sup>200</sup> For a detailed analysis of the system regarding designation of state lands, and the planning system in the West Bank see: B’Tselem. *Land Grab: Israel’s settlement Policy in the West Bank*. May 2002.

<sup>201</sup> B’Tselem. “Planning and Building in the Occupied Territories” [www.btselem.org](http://www.btselem.org).

requiring Israel to protect certain properties was an international agreement not justiciable in Israeli Courts.<sup>202</sup> Following the Egypt-Israeli Peace Agreement of 1979, Israel did meet some of its political obligations, but when the Israeli government expropriated Bedouin land in order to relocate an airfield that had been based in the Sinai, the level of compensation was considerably lower than that paid to Israeli settlers to relocate from the Sinai as part of the same peace process.<sup>203</sup>

In addition, it is clear that when Jewish properties are at issue, the Israeli government adopts an approach recognizing individual rights despite the passage of time. When Palestinian properties are at issue, however, the approach appears to be the one articulated by Eliezar Kaplan, Israeli Finance Minister in the late 1940s: “Arab property was being sequestered as compensation from the states that waged war against Israel. They would be held responsible for indemnification to the refugees who had owned property in Israel.”<sup>204</sup> The issue remains framed in this collective manner to this day. The outcome is blatant discrimination based on ethnic origin.

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<sup>202</sup> In Hussein/Mckay *ibid.* Israeli High Court Appeals 25/55, 145/55 and 148/55, the *Custodian of Absentee Property v. Samarah and others*, HC 10. Also High Court Appeal 225/53, *Eliyosef v. Military Governor of Ara*, HC 8

<sup>203</sup> Hussein/Mckay. *Ibid.* p. 19.

<sup>204</sup> Rempel. *Ibid.*

**Annexes**

**TABLE 0: Overall Arrests, Arrests of Children and of Women by the Israeli Authorities, 1992-2001**

Year	No. of arrested in thousands	No of the sentenced in thousands	Average number of detainees	Administrative Detainees	Children detainees under 18 years	Women detainees	Notes
1992	25000	14600	10 000	500		70	20 underage
1993	13000	15300	10 400	319		60	10 underage
1994	6500	6245	5450	700		45	500 released After the Peace Accords
1995			4000	600	240	45	7 underage
1996	1600	1000	3500	375	250	30	4 underage
1997	1200	1450	2500	1900	120	27	
1998	1200	1500	1500	270	200	4	1 underage
1999					252	5	2 underage
2000	2500	1629	2377	25	450	10	3 underage
2001					600	12	4 underage

**TABLE 1: Distribution of DCI/PS Cases in 2001 according to Type of Case**

TYPE OF CASE	NUMBER	PERCENTAGE
Military Court	115	62.84%
Parole Committee	29	15.85%
Transfer to Other Prison	21	11.48%
Military Appeals Court	5	2.73%
Compensation Cases	3	1.64%
Administrative Detention	2	1.09%
Others	8	4.37%
<b>TOTAL</b>	<b>183</b>	<b>100%</b>

**TABLE 2: Distribution of Cases according to Geographic Region**

REGION	NUMBER	PERCENTAGE
South	111	60.66%
Middle	53	28.96%
North	19	10.38%
<b>TOTAL</b>	<b>183</b>	<b>100%</b>

**TABLE 3: Distribution of Cases according to Age Group**

<b>AGE GROUP</b>	<b>NUMBER</b>	<b>PERCENTAGE</b>
13 - 14 years	31	16.94%
15-16 years	79	43.17%
17-18 years	73	39.89%
<b>TOTAL</b>	<b>183</b>	<b>100%</b>

**TABLE 4: Distribution of closed cases according to Length of Sentence**

<b>LENGTH OF SENTENCE</b>	<b>NUMBER</b>	<b>PERCENTAGE</b>
Less than one month	19	20.21%
1 month to 6 mos.	14	14.89%
6 mos – 1 year	46	48.94%
More than one year	15	15.96%
<b>TOTAL</b>	<b>94</b>	<b>100%</b>

**TABLE 5: A Comparative Analysis of DCI/PS Cases from 1999 – 2001**

<b>Breakdown</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<i>Age Group</i>	<i>Cases/ Percentage</i>		
12 years	12 / 5.94%	-0-	-0-
13-14	20 / 9.90%	55 / 21.83%	31/ 16.94%
15-16	87 /43.07%	118 / 46.83%	79/43.17%
17-18	83 / 41.09%	79 / 31.34%	73/39.89%
<b>Total No. of Cases</b>	<b>202</b>	<b>252</b>	<b>183<sup>205</sup></b>
<i>Duration of Sentence</i>	<i>Cases / Percentage</i>		
Less than 1 month	57 / 43.51%	22 / 35.48%	19/20.21%
1 – 6 months	40 / 30.53%	9 / 14.5%	14/14.89%
6 months – 1 year	25 / 19.08%	25 / 40.3%	46/48.94%
More than 1 year	9 / 6.88%	6 / 9.7%	15/15.96%
<b>Total No. of Sentences</b>	<b>131</b>	<b>62</b>	<b>94</b>

<sup>205</sup> It is important to note that this number reflects only the number of cases received by DCI/PS in 2001. Though it represents a decrease in the number of cases received in previous years, we do not believe that this indicates a decrease in the frequency of child arrests. Rather, we believe it is due to restrictions on freedom of movement and the inability of families to arrive to Ramallah to request the organizations assistance.

**TABLE 6: Forms of Abuse to which Palestinian child political prisoners, represented by DCI/PS, were exposed in 2001**

<b>Form of Abuse</b>	<b>Number</b>
Sleep Deprivation	35
Beating	21
Position Abuse	44
Isolation	49
Blindfolding and Typing of Hands	150

**Annex A**  
**Treatment and Rehabilitation Center for Victims of Torture**

I. Mr. Sa'ed is a 24 years old single man. He is from the city of Ramallah. Mr. Sa'ed was imprisoned several times in 1990, 1993, 1994 1996 and in 1999. His total stay in prisons is about six years intermittently. He was subjected to all kinds of torture according to him. He said, "Every time I was arrested, I knew it was not going to be a trip. I was often beaten especially at my soles. I was exposed to harsh voices and bright light. I was deprived from food, sleep and even from fresh air to the degree of suffocation. I was called names as well. In the last time or the last two times, the investigators increased their pressure on me. They forced me to bark like dogs and to walk on four arms. They managed to make me feel "how much they hate us".

II. Mrs. I is a 38 year old married woman. She is a student in one of the Palestinian universities and lives in Ramallah. She was imprisoned by the Israeli authorities for 45 days, beginning in January 2001. She was arrested on the Palestinian / Jordanian border by the Israeli military and accused of being a member of one of the Palestinian political parties. The torture to which she was subjected included the following (she was interrogated repeatedly for 9 –12 hours a day):

- Extremely loud noise
- Deprivation of various types (food, sleep, toilet, etc.)
- Isolated in a dark room for long periods of time
- Denied needed medical attention
- Humiliation
- Violent threats against her family
- Pressure to implicate others
- Constantly mocking and humiliating her because of the fact that she cannot have children

III. Sami is a fifteen years old child. He lives in a small village in Ramallah district. Sami was arrested in November 2000. He was sentenced for six months. He was accused of throwing stones on Israeli troops, and participation in illegal demonstrations. He was arrested in a horrible way at 2:00 AM. His house was surrounded by a large number of Israeli soldiers. They destroyed the furniture at their house. They have beaten his father, and insulted his mother. He was kept in a cell with three other prisoners. He was beaten several times on sensitive areas in his body



(his head and testicles). He was threatened with being killed and thrown off a mountain. He was informed by his investigators that his mother had died in a car accident, which turned out to be untrue. Sami was released after four months.

IV. M.N. is a 23 years old married man, father for one child, from the middle class, who lives in Ramallah. He was arrested on the 9<sup>th</sup> of September 2002 by the Palestinian army, where he was imprisoned & tortured for 21 days. He was beaten by electric wires on allover his body, especially in sensitive places, including his head and stomach. He was hanged in a very dark toilet with his hands and legs tied. He was given only enough food and water to keep him alive. He was threatened with death if he didn't sign papers confessing that he betrayed his people and country.

V. Mr. Z. Sh. is a 26 years old single man. He is suffering from economic problems and can't work because his leg was broken due to torture. He was arrested on the 9<sup>th</sup> of April 2002, during the invasion of his village by the Israeli army. During arrest, he was beaten till his leg was broken, then he was tied and forced to walk on his broken leg. On his way to prison, he was beaten on his broken leg and after a day of screaming because of the non-stop pain, he was finally sent to the hospital to have surgery and then was immediately returned to prison. During the investigation, the investigator pressed and beat his broken leg. Also, he was threatened that it would be broken again. Each session of investigation lasted about four hours. Then he was sent to solitary confinement. He was forced to confess that he belongs to a political party and he was imprisoned for 4,5 months.

VI. Mr. R.B. is an 18 years old single student in his first year at school. He was arrested on the 31st of March 2002 in the middle of the night by the Israeli army. His house was besieged because his brother was "Wanted" by the Israelis. The Israelis entered in a vulgar and humiliating way, breaking and destroying everything in the house. Both he and his family members were taken away by the Israeli army. Neither he nor his brother knew about each other's arrest, as they were put in different prisons. He stayed 11 days under investigation, where he faced psychological and physical torture such as:

- Strong shaking of his body
- Beatings on the soles of his feet (falaqa)
- Being kept outside in the cold weather.
- Deprivation of food, water & sleep for a long period of time.

VII. Mr. R.J is a 18 years old single man. He is still a student in high school. Both he and other family members were arrested on the 2<sup>nd</sup> of April 2002. They were accused of hiding a wanted man. During his arrest, he faced different types of torture.

- His hands & arms were bound.
- Beaten on his body.
- Put under rain for a long time.
- Deprivation of food, water & sleep.
- Insulting him with bad & humiliating words.

VIII. Mr. R. M is a 14 years old single man. He is a student in his 9<sup>th</sup> grade, from a village in the Jerusalem area and he comes from a middle class family. He was

arrested on the 4<sup>th</sup> of October 2001, early in the morning while he was sleeping in his room. He was treated in a brutal and humiliating way. When his brother tried to interfere and ask the Israeli army what was going on, he was beaten. Then the Israeli soldiers damaged everything in the house. The Israelis beat him all the long way. He was tied and his eyes were bounded. He was put in a solitary confinement for 14 days. He underwent interrogation for 3 continuous days, during which he faced different kinds of torture methods (psychological & physical), such as:

- He was beaten cruelly and one of his frontal teeth was broken.
- He was beaten on his head with an iron chair.
- They humiliated him by cursing his parents & his family members.

IX. Mr. A.K. is a 22 years old single man. He was arrested on the 6<sup>th</sup> of July 2001. He was released after 8 days, and then he rearrested after 24 hours of his first release. He and his brother were arrested together at 3:30 after midnight and were driven to separate prisons. He was investigated for 41 days. During interogation, he faced different kinds of torture methods:

- Humiliation: he was forbidden to use the toilet or to clean himself for four days.
- He was tied & bound for eight continuous days.
- Imprisoned in solitary confinement. When a tear gas bomb was put in his small room, he became unconscious and had to be sent to the hospital for few hours, before being returned back to the small room.
- He tried to commit suicide four times because of his inability of withstand the ill treatment & the brutal forms of torture.
- He was threatened with death many times.
- Shabeh for a long period of time.

He was transferred to more than one prison interrogated by more than one investigator. Each interrogation was more difficult than the previous ones.

X. Mr. F.S is a 38 years old married man from a refugee camp in Ramallah. He was arrested on the 14<sup>th</sup> of September 2002 by the Israeli army from his house. He was under investigation for 62 days. He faced the following psychological & physical forms of torture:

- He was beaten on all his body, especially on his head, face, stomach and on his sexual organ.
- Shabeh for many days.
- Continuous investigation for 12 days.
- He was put in a solitary confinement, where he could not sleep or even sit because of the smell and filth;
- He was exposed to loud & noise day and night, which made sleep & rest impossible.
- Deprivation of food & water for very long periods of time, where he was given only enough to keep a person alive.

- Deprivation of medication & treatment. He was told that it was his choice and that in order to get medication, he had to confess and implicate others.

## **Annex B**

### **Gaza Community Mental Health Programme**

For reasons of confidentiality the names of the patients were changed.

**I.** Jamal is a man of about 42 years old and married. He lives in El-Nuseiarat refugee camp. Jamal is a soldier working for the national security forces in Gaza, a position he got after he was imprisoned in Israel for 5 years during the first Intifadah. One night while he was carrying out his duties at work, a group of 4 people attacked his office, brutally beat him and then tied his hands and threw him into a car. After taking him to another place, they continued beating him with their hands and feet. Later, the victim recognized the building as the offices of the preventive security agency. A few minutes arrival, Jamal found himself isolated in a prison cell without any contact with anybody except the man who was providing food. He spent a few days without any questioning or interrogation. Later, he was accused of belonging to a group opposing the peace treaty between Israel and the Palestinian Authority. He denied the accusation, after which they started torturing him. Jamal experienced different torture techniques. “My new experience reminded me of the old one when I lived in the Israeli prisons. I was subjected to the same torture methods”. Beating, sleep deprivation, humiliation and insult were the most frequent torture used against him. He was not allowed to receive any visit from his family.

**II.** Kamal is a 26-years-old man, married and has one son. He is a refugee living with his extended family in Jabalia camp. Israeli soldiers shot him in his back when he was on his night military duty. In this same incident, which took place seven months ago, his best friend was also shot and killed. Kamal was shot in his back from a distance, then shot again from close range, and tortured (i.e. beaten with the butts of rifles, and kicked by the Israeli soldiers). Following the shooting and torture, he remained unconscious for about twenty hours. After regaining consciousness, his cognition was normal. However, Kamal realized that he was unable to move his four limbs (he was quadriplegic). He also realized that his best friend had been killed. He was taken to a hospital where three surgical operations were done on his back to remove the bullets.

**III.** Anwar is a 32 year old male, living in Jabalia camp, unemployed and married with 3 children. Anwar was imprisoned in an Israeli detention center for about 3 years. He was arrested one month after getting married. During the arrest, Israeli soldiers beat his mother and wife in front of his eyes. At the beginning of his detention he was interrogated and tortured psychologically and physically by Israeli interrogators. The torture methods used against him included beating around the head and all over the body till losing consciousness, pressure on the chest, and testicles, food and water deprivation, and witnessing the torture of others.

**IV.** Khalil is a 28 years old male living in Gaza City, married with 2 children and employed as a worker. Khalil was imprisoned in an Israeli detention centre for two years, during which time he was tortured psychologically and physically by Israeli interrogators. The torture methods used were beating, deprivation of sleeping and food, standing for a long time, watching the torture of others and preventing his family to visit him at the prison.

**V.** Riyad is a 28 years old male, living in Khan Younis city, married with 4 children. He works in construction. In jail he was exposed to psychological and physical torture, like humiliation and beatings all over his body.

**VI.** Moaen is a 33 year old male refugee. He is married and has 5 children. He is living in Jabalya refugee camp and is currently unemployed. Moaen was arrested twice, the first time, at the age of 16 by the Israeli army and the second time, at the age of 28 years by PNA (Palestinian Nation Authority). During both imprisonments, he was exposed to physical and psychological torture including beatings, harassment, humiliation, threats to be killed and/ or being made infertile. He was deprived of sleep, food and use of the toilet.

**VII.** Abed is 21-year-old single man who is living in Gaza. Abed was arrested by the Palestinian Authority (general intelligence), because he was suspected of having been in contact with an Islamic group. During his imprisonment, he was subjected to various methods of torture such as beating, suspension, standing for long periods of time, exposure to cold water. He was also exposed to humiliation and threatening behavior. He was most affected by being tortured by the Palestinian Police, since this was his own people torturing him.

**VIII.** Yousef is a 45-year-old male, married with 8 children. During the Intifadah, several of his family members were directly exposed to violence from Israeli soldiers. The Israeli authority demolished his family's house. His mother was imprisoned and Yousef was arrested immediately after that. He was in different jails in Israel for 2 years and was exposed to many forms of torture, such as beating all over the body, being tied up, emersion in cold water, and pulling out of the nails, electrical shocks; witnessing others being tortured, sleep deprivation, isolation, and threats against his family.

### **Annex C**

#### **National Society for Rehabilitation in Gaza Strip**

**1- Mohammad Mahmoud Abu- Haseera:**

Age: 37 years.

Residence: Gaza city – Daraj Quarter.

Disability: Mental Retardation.

Site of killing: North of Beit Hanoun – near border with Israeli where he lost his way

Killed by: 20 bullets all over his body.

Date: Jan. 5, 2002.

## **2- Nasha'at Hamdan Abu Asi:**

Age: 21 years  
Residence: Gaza City.  
Disability: Acute psychological disturbances.  
Site of killing: Southeast Gaza City on eastern street between Karni and Natsareem settlements.  
Killed by: 2 bullets in the back and right arm at 11:30 am. Ambulances were not allowed to evacuate. Left bleeding for 3 hours. Found dead at 3 p.m.  
Date: March 1, 2002

## **3- Younis Mahammoud Abu Ghararah:**

Age: 25 years.  
Residence: Bedwin's village – North of Gaza, 700 meters from Nisanet settlement.  
Disability: Movement and Mental  
Site of killing: within 40 meters of his home, where he was standing when shooting from the settlement began.  
Killed by: Several bullets, one in the head. The Israeli soldiers and settlers took the dead body and delivered it 2 days later.  
Date: March, 2002

## **4- Mohammad Samir Eddibs:**

Age: 19 years  
Residence: Jabalia Refugee Camp. North of Gaza  
Disability: Blind and Mentally Retarded.  
Site of Killing: 800 meters southeast of Ely Sinay settlement, north of Beit Lahia village.  
Killed by: Many bullets in his body.  
Date: April 27,2002.

## **5- Ahmad Mahmoud Lubbad.**

Age: 49 years.  
Residence: Tuffah quarter – Gaza city.  
Disability: Mentally Retarded.  
Site of killing: Tuffah quarter, near his home.  
Killed by: During temporary occupation of the area, while the soldiers were demolishing a metal workshop, Ahmad was wandering in the area and was shot by the Israeli vehicles. Several bullets in the body, one in the left eye the dead body was found at 3.00 am., after the withdrawl of the Israeli army.  
Date: Sep. 19,2002

**Annex D**  
**Addameer Prisoners Support and Human Rights Association**

**D.1. Sworn Affidavit from Adel Al Hidmeh taken on 31 October 2002  
(Taken and translated by Addameer Human Rights Association)**

1. I am the detainee Adel Jamil Al Hidmeh, holder of ID Card #080499429
2. I am serving a 6-month administrative detention order in Nitzan Prison (Ramle), beginning from 22 October 2002, ordered by the Israeli Minister of Defence.
3. From the first day of my administrative detention, I was transferred to Nitzan Prison and held in Section 6, which according to my knowledge is a section for protected prisoners. Within this section, I was placed in a cell with a prisoner who claimed that he is an administrative detainee, who had just finished a five-year sentence and was then placed in administrative detention two months ago. His name, according to what he told me, is Ramzi Hammad from Jenin.
4. I declare that all the prisoners in this section are sentenced or awaiting trial. The man whom I share my cell with is a habitual drug user and continues to use drugs whilst in the cell.
5. I declare that prisoner Ramzi Hammad threatened to physically abuse me if I did not leave the cell. He claims that I am constantly harassing him and that because of this he went to the officer of the section and requested that they take me out of his cell.
6. I went to the officer of the section, who is female, and asked to be transferred to another cell so that no further undesirable acts take place and to avoid any attempts by that prisoner to cause me physical harm, particularly after he directly threatened me. The response of the officer was that these were the orders of the director of the prison and that they must be obeyed.
7. After I returned from the Central Court in Jerusalem, where they discussed my case, I went to the prison wardens, one of whom is called Salameh Kamal, in order to draw his attention to the content of the court's administrative detention decision. I told him that he should comply with the text of the law that specifies the conditions of detention for administrative detainees. However, the warden did not listen to me, but instead handcuffed me, grabbed me by force from the prisoner's holding room and put me back in the cell that I was in before with Ramzi Hammad.
8. As a result of the force they used on me, I sustained wounds on my left and right arm, in addition to under my arms. I also sustained wounds as a result of the tightening of the handcuffs used on me. I remained handcuffed in my cell for an hour and a half.

9. I was made to enter the room by force, and I stayed there, handcuffed, for an hour and a half.

10. A Druze officer named Sami, who was on shift at the time, told me that the Prison Director and representatives of the prison administration would come and talk to me, but they did not come that day.

11. I declare that from the moment that I was forced into the same cell again with Ramzi Hammad, I announced that I was on hunger strike and that I would continue my hunger strike until the decision of the Central Court in Jerusalem is implemented, and all articles of the law, particularly article 2 of the law, which states that administrative detainees must be kept separated from criminal prisoners, those who have been sentenced or are awaiting trial for criminal offences, in addition to drug abusers.

12. I declare that, based on the behaviour of and the insistence of the prison administration to keep me in this cell, I fear that they have intentions of causing me harm or threatening my life, and I warn that this could happen in the very near future.

13. I declare that what is happening with me in Nitzan prison, according to what I have stated above, is in agreement with the threats that I received from the Israeli General Security Services interrogation team while I was in the Russian Compound, especially those threats from the so-called 'Abu Sharif'. Before anything happens to me, I place all responsibility for any threats to my life on all those responsible for my safety as a detainee, and on the prison administration of Netzan Prison, which refused to obey the court order to abide by the above mentioned law.

14. This affidavit is given in order to be used in an appeal to the Israeli High Court.

Signed:

Adel Al Hidmeh

I, the undersigned, attorney Mohammad Na'amnt, confirm that Mr. Adel Al Hidmeh, who is known to me personally, gave the above declaration before me and I informed him of his rights before the law. He confirmed his declaration and signed it before me.

Attorney Mohammad Na'mneh

**Sworn Affidavit from Adel Al Hidmeh taken on 25 October 2002  
(Taken and translated by Addameer Human Rights Association)**

I am the detainee Adel Jamil Al Hidmeh, holder of ID Card #080499429, from Wadi Al Joze, Jerusalem. I have been advised to tell the truth or suffer the consequences, according to law. I declare the following:

1. I was arrested on 25 September 2002, at 11pm from my home in Wadi Joze, Jerusalem.

2. I was taken from my house and transferred directly to the Russian Compound Interrogation Center in Jerusalem.
3. My interrogation began immediately when I arrived at the interrogation center. Two interrogators, one called 'Cohen' and the other called 'Abu Yusif', took down information on my social status and began interrogating me about my relationship with another individual, who was identified only by his family name.
4. The following day, on 26 September 2002, they took me to the Central Court in Jerusalem, where they renewed my detention for a further 10 days.
5. Following my return from the court house, they asked me the same question about the above individual, and this time showed me a photo of him. I told them that I knew this person, but that his family name was different and that our relationship was a social one.
6. From the first day after my detention was renewed, I was told by my interrogators that they had a decision from the head of the General Security Services (Shabak) to use all means of torture because they have classified me as a 'ticking bomb'. This decision was based on the submission of secret information that they received in my case.
7. The interrogators punched me in my face, cuffed my hands and made me place them in front of my body. They forced me to lie on the floor, place my legs across the seat of a chair and through the back of the chair, and cuffed my legs to side of the seat back. They also forced me to squat for a number of hours, with my hands cuffed behind my back, without being able to move from this position.
8. Other forms of torture they used against me included forcing me to sit in a chair, with my hands cuffed and raised behind the seat back of the chair and placed on a table behind me. This and the other forms of torture were used in 8 to 10 hours sessions. I was very tired and couldn't stand or sit or rest my hands anywhere. I fell to the floor many times.
9. Following this, they placed cuffs just below my elbows and then squeezed the cuffs as far as they would go to cut off the circulation in my arms. I would faint and fall to the floor. Each time I fell to the floor, one of the interrogators would try to persuade me that he would remove the cuffs on my hands only after we started to discuss the accusations against me. He would do this, while at the same time punching me in the face, and slapping me across the face until my eyes would start to tear and after a while I stopped being able to move my left eye.
10. The next night, they used the same methods from 8pm until 7am the next morning.
11. On the fourth and the fifth day they also used the same methods. Throughout this entire period I was not allowed to sleep. All of these methods were used throughout



the five days of my continuous interrogation. The only break that was allowed was at lunch time, a period that never exceeded half an hour, and in the morning when they would leave me for 1 1/2 - 2 hours to rest.

12. Following this, they began to use psychological torture on me. They began to threaten that they would arrest my wife and make my children and other family members homeless. They also threatened to seal my house and demolish it. They threatened me with deportation. They threatened that they would kill me in the same way that Ibrahim al Ra'I was killed, by placing me in a cell with collaborators for a long period of time, ruining my reputation and my life to a point where I would want to commit suicide. They threatened to take away my Jerusalem ID card and to destroy my future, including ruining my academic career. They also threatened to destroy the future of my Arab colleagues and then tell them that this is all because of Adel Al Hidmeh.

13. These threats continued for several days. They then informed me that they had arrested my wife and that she was being held in a criminal section of a prison with drug addicts and some of the worst criminals.

14. The next week, they interrogated me continuously every day for 22 hours straight, without a break, for a period of five days. After the five days were over, they began to shorten the time of interrogations and would place me in a cell when they were not interrogating me.

15. From the beginning of my interrogation, they threatened to put me in administrative detention if I did not confess to what they wanted or to place me in solitary confinement with collaborators. This would have a great effect on my family, in that they would be obliged to visit me with the collaborator's families.

16. They threatened to make me live a life of despair to the point that I would want to commit suicide.

17. Yesterday, 24 October 2002, I was led out of my cell at midnight and transferred to an inhuman cell. The cell had a very strong stench, breathing was very difficult and there was no movement of air. The cell was very small, barely able to fit two mattresses and had a toilet in the cell.

18. They threatened that they would not withdraw from their desire to exact a confession from me after the interrogation period. They tried to convince me that if I confessed and worked with them, that I would be immediately released and allowed to return to my ordinary life and my studies. If I didn't confess, my family and my children would be exposed to danger and harm.

19. 'Abu Sharif', one of the interrogators, threatened that he would personally be responsible for working to destroy my life and the lives of my wife and children, in a way that they had never used before. He said that he would personally make sure that this would happen, particularly against my family and my children, including ruining my reputation and the reputation of my family.

20. On 22 October 2002, I was led outside of my cell again at midnight and into the holding room of the detention center. Some of the interrogators came to the room, including one who was called 'Soli', and another who remained unnamed but who was responsible for my detention. They asked me if I knew where I was going to go now. They then asked me about my brothers, and what the situation of my children, wife and family was. They asked me what condition my house was in and if I knew whether or not it was still standing. They asked again about my brothers and if I knew that they had been arrested. 'Soli' started to take photos of me using a video camera. They then took me by car driving towards the old city of Jerusalem, leading me to suspect that something bad had happened to my brothers. They drove to Salah Addin Street and asked me about the area, in addition to other areas. They started to take photos of me while I was in the car. I tried to cover my face with my hands, and they told me that they would not show the photos to my friends.

21. In practice, the interrogation ended on the morning of 23 October 2002.

Signed  
Adel Al Hidmeh

I, the undersigned, attorney Mohammad Na'amat, confirm that Mr. Adel Al Hidmeh, who is known to me personally, gave the above declaration before me and I informed him of his rights before the law. He confirmed his declaration and signed it before me.

**D.2. Case studies of torture and cruel, degrading treatment based on sworn affidavits taken by Addameer Prisoners Support and Human Rights Association  
15 May 2002**

***Case Study 1:***

Detainee G., Sworn Affidavit given to Addameer lawyer on 12 May, 2002 at Ofer Detention Camp

I was arrested from my house on 4 April, 2002 at approximately 11am. The soldiers acted well and took me to the Luluat Al Manara Buiding in Ramallah. There, they took me to the ground floor and kept me there until 8:30pm. The whole time I was alone with the soldiers. Two soldiers then came and untied my hands and wanted to give me food and cigarettes.

At around 12pm, they tied my hands and blindfolded me. I heard one of the soldiers ask, "What's his status?" and the answer, "There is blood on his hands." One of them beat me on my left leg with a club. I felt as though my leg had been broken and I started screaming and he began to beat me harder with the club. After that the soldier left.

After approximately 10 minutes, they began to hit me again. They repeated this around seven or eight times. Then one soldier arrived and began to strangle me with an old sheet while the other soldiers kicked me all over my body, especially in the

chest and the kidney area. They did this 4 or 5 times, and one time I passed out. When they hit me on the head I regained consciousness.

At one point another soldier came, he seemed new, and he asked the soldiers why they were beating me. They replied "He has blood on his hands." This soldier began to beat me hysterically and loaded a gun that he was carrying and pointed it at my head. One of the soldiers yelled, "Don't do it" and dragged him away with force. Then the soldier hit me on the head with the gun. He repeated this sequence several times.

I was kept in this situation until approximately 8:15pm. I heard one of the soldiers say they had found many people in another building and a large number of soldiers left and a small number remained with me.

I heard one of them say, "How about we kill him?" Another soldier replied, "It's better if we smash his skull and we should make sure that the nurse is here."

At this moment a bus arrived and soldiers took me to the bus before they could kill me. The soldiers had to carry me so that I could get into the bus. The bus took me to Ofer Detention Camp next to Beitunia. This is what happened to me when I was arrested.

***Case Study 2:***

Detainee A., Sworn Affidavit given on 14/5/2002 to Addameer lawyer.

A. had been sentenced to 9 months imprisonment and was incarcerated in Nafha prison. On 28 April he was brought to Ofer Military Camp because he had an appeal court in the nearby Beit El settlement. He testified to the following: I arrived at 10pm and an officer and policeman took me behind a caravan. The police officer was wearing gloves and he asked me to take off my pants. He was shouting, "I will do you". I refused to let him take off my pants. So the officer told me to take off my pants and T-shirt. He tied my hands with handcuffs behind my back and asked the police man to go. He put Vaseline on the gloves and he tried to take off my pants. I started to shout. He started to beat and hit me severely. I fell on the ground. Another officer came and the officer who tried to rape me claimed that I attacked him. I told the other officer what happened. The officer asked me not to talk about what happened. My hand was broken from the beatings and the kicking and I received a medical report. There are bruises on my body and back. I told the Red Cross who made a report. The next day the deputy head of Ofer Military Camp came and told me there was an investigation and a committee to investigate the case.

***Case Study 3:***

Detainee A., Sworn Affidavit Given to Addameer lawyer on 14/5/2002

I was arrested on 31 March on Sunday from Ramallah near the Cairo Amman Bank at 11am. As I came down from the Taboun building I was wounded by Israeli snipers who were nearby. I was hit in the kidney area on the left side of my body with a 250-bullet. For 2 to 3 hours I was lying on the ground bleeding. Some of the people with me called an ambulance but it couldn't reach me because the whole place was filled

with tanks. The people with me carried me to a nearby house. An hour later, Israeli soldiers came into the house to search it. They took me in an armored personnel carrier (APC) and they severely beat the owners of the house. They even beat the women, girls and children.

After they put me in the APC I was transferred to Beit El Settlement from there they transferred me to Hadassah Hospital in an ambulance. I'm not sure what time it was. They put me in an emergency section with Israelis who were injured in a suicide bombing. I was still in my police uniform. In the hospital I was attacked by settlers who beat me. It took one hour for the hospital security to come and rescue me from them. I lost consciousness and I think I stayed in coma for around 48 hours.

When I gained consciousness I found my hands and legs had been cuffed. In the hospital I stayed in this situation for four days with my hands and legs cuffed to the bed. After that I was transferred to Ofer Military Detention Camp and was kept for two days still cuffed and my eyes blindfolded. They did not give me any food or drink in this time.

After that they moved me to a military hangar that was used to store vehicles. My injury was still bleeding and it took four days before a doctor came to change the bandages. The conditions inside the hangar were unsanitary so they moved me outside and the doctor started changing the bandages without cleaning or examining the injury. Later, my wound opened and it took them ten days before they replaced the stitches. All that time they gave me no medicine except for painkillers. No special food was provided for me, and I received no milk or hot meals. I spent the time sleeping on a wooden board without a mattress and only two blankets. At that time the weather was raining and very cold and this made my wound hurt severely. At Ofer I was kept 27 days in the same clothes that I had been brought in from the hospital. I wasn't allowed to shower or clean my wound and my clothes were soaked with blood. After 19 days in Ofer I was told that I would be released. They called me for interrogation and I was interrogated for 2 days.

During the interrogation they beat me on my wound, which caused severe pain and opened the wound again. They stitched it again. During interrogation they beat me all the time on my wound and tried to get information from me concerning two soldiers who were killed in Ramallah at the beginning of the Intifada even though I was serving in Jericho at that time. Then they tried to pressure me while beating me on my injury to work for them and become a collaborator. After 48 hours interrogation they brought me back to the hangar. Eight days after the interrogation they released me. They brought me to the Ram area at 12 noon. I got to Qalandya checkpoint where they had informed the soldiers that I was coming. They kept me at the checkpoint until 2am the next morning while my physical condition was very bad. Finally I arrived at Ramallah and was treated in Ramallah hospital.

### D.3. Statistics of Palestinian Detainees Held in Israeli Prisons- October 2002

<b>Israeli prisons, detention and interrogation centers</b>	<b>Number of Palestinian detainees</b>	<b>Remarks</b>
Ofer Military Camp	500	--includes 100-150 administrative detainees --tents and hangars --under military administration
Ketziot (Ansar 3) Negev Desert	1050	-includes 850 administrative detainees -includes 200 sentenced detainees -tents -military administration
Megiddo	1100	- no administrative detainees (transferred to Ketziot) -tents and cells -military administration
Shatta	138	-Israeli prison authorities
Nafha	660	-Israeli prison authorities
Telmond	70	-only minors under 18 -Israeli prisons authorities
Hadoriym	88	-Israeli prisons authorities
Kfar Yuna	1	-Israeli prisons authorities -Lebanese detainee
Neve Tritze	47	-Israeli prisons authorities -only women
Askelan	600	-Israeli prisons authorities
Ramle Hospital	25	-Israeli prisons authorities
Ephraim Detention Center	34	-collection and dispatching center, including a police station -military administration -lot of movement
Etzion Detention Center	17	Idem
Erez Detention Center	21	Idem
Al Majnouneh Detention Center	11	Idem
Beit El Detention Center	22	Idem
Muscobiyeh Interrogation Center	25-30	-theoretically under police control for the detention purposes, but under Shabak's (*) control in cases of interrogation (**) (ambiguous)
Askelan Interrogation Center	20	Idem
Petakh Tikva Interrogation Center	15	Idem
Al Jalame Interrogation Center	20	Idem
Huwwarah Interrogation Center	--	Idem

Statistics compiled by Addameer Prisoners Support and Human Rights Association based on official IDF and IPS lists, in addition to cases taken by the Association.

\* Shabak is the Israeli secret service

\*\* A signed confession has to be a police document to be used in a court, the Shabak prepares the secret files used for administrative detention.

#### **D.4. Conditions of Detention at Ansar 3 – 23 October 2002**

##### **General Information on Conditions of Detention**

According to a recently released detainee, the following is a description of the general living conditions at Ketziot (Ansar 3) prison in the Negev Desert, where the majority of Palestinian administrative detainees are being held.

##### **Division of Prison**

The prison is divided into four sections, section A, B, C and D. Each section consists of four units, each of which consists of three prisoners' tents. Each of the prison tents holds approximately 20-22 detainees, with a total of 60-66 detainees being held in each of the 4 units within a section. However, this number increases irregularly as new detainees are brought in and as many as 70 detainees have been in a tent at one particular time. On 16 October 2002, a new half section was added to the prison.

##### **Prison Tents**

The prison tents which shelter detainees are those that existed when the prison was in use in 1988 during the first Intifada. The tents themselves are in extremely poor condition, with thinning material and holes. The prison tents are approximately 3 meters wide and 5.5 meters long. On 20 October 2002, additional used tents were brought in from a military camp by the prison administration and placed on top of the tents, with an additional thin layer of plastic atop the newer tents. However, during the coming winter months, this will be insufficient shelter to protect detainees from the harsh desert weather.

##### **Sleeping arrangements**

Each detainee is given a wooden shipping plank and a thin outdoor mattress to sleep on. The wooden planks are approximately 60 cm wide and 1.60 meters long, with gaps every 5 cm along the length of the plank. The plank is raised approximately 7 cm from the ground. The outdoor mattress is approximately 2 cm thick.

Each detainee is given three thin blankets. However, the blankets are often not long enough to cover the length of the detainee, and as there are no pillows given by the military prison administration, one of the blankets is usually folded up and used as a pillow.

The area of the tent itself can accommodate approximately 18 planks laid side by side in two rows. Therefore, additional planks are placed within areas used as walkways in order to fit as many planks as possible within the space.

**Electricity**

Previously, there were no electrical facilities available for the prison tents. Detainees filed a petition in the Israeli High Court of Justice regarding this issue, in addition to other pressing issues. The high court ruled that the military prison administration was to review the possibility of electrical facilities, as the administration of Ketziot prison is under military rule as opposed to the Prison Administration. Approximately a month and a half ago, the military prison administration allowed 220 V electrical cords to be placed in each of the tents. However, the time of use is restricted from 11 pm in the evening until 6 am, and discontinuing electrical supply has been used frequently as a punitive measure by the military administration. The first television was allowed in three weeks ago, with one television available to each of the four sections.

**Head counts**

A head count of detainees is conducted three times a day, at 8 am, 2 pm and 7 pm. Detainees are told to exit their prison tents and made to sit in rows on the ground in the prison courtyard. A large force of armed soldiers administers the counting, with detainees made to shout out their assigned numbers whilst rifles are pointed in their direction. Head counts can take anywhere from 15 minutes to half an hour, throughout which detainees are made to sit outside in the desert heat. Detainees are currently trying to negotiate with the administration to conduct headcounts within the prison tents, particularly as the winter months are approaching.

**Toilet and Shower Facilities**

For each of the four units, one toilet facility made up of three makeshift toilets is available for over 60 detainees each. The toilet consists of an open dug out channel and one of the toilet areas includes a shower. Outside of the toilet area, there are 12 water faucets, which are also for laundry. Detainees are free to use the toilet at any time, but the conditions of the area are extremely unsanitary. One 1 liter bottle of Chlorine is given to each unit every 20 days for cleaning purposes.

**Personal Effects**

The military prison authority provides one bar of soap for every ten detainees, in addition to toothpaste, a toothbrush, and a shaving razor that is returned and replaced once a week. Detainees are not given a change of clothing and remain in the clothes they were wearing when they were arrested. Lawyers have been prevented from bringing any personal effects for detainees from family members.

**Food**

The military prison authority provides detainees with basic food rations once a month. The provided rations do not meet necessary daily requirement, both in terms of quality and nutritional value. For example, one bag of sliced bread was allowed for 12 detainees (this ration has now been changed to one bag per 4 detainees, after much protest from detainees), 1 small container of yoghurt was allowed for 8 detainees, and, very rarely, limited fresh fruits and vegetables. No sweets are provided. Special dietary needs are also not considered by the military authorities. There are 56 detainees who require special meals due to previous conditions, including ulcers, diabetes, lactose intolerance, etc.

Detainees are responsible for cooking their own food (see below), and each detainee is given a metal food tray and plastic spoon for food distribution. Steel spoons have been forbidden for security reasons and it is extremely difficult to replace broken plastic spoons. There are no burners provided for boiling water in the prison tents, and detainees have often resorted to taking apart parts of their plank beds, clothing, etc. to make small fires for heating water.

Eating times are set by the military guards, as food must be distributed under military escort. Often, if there are not enough soldiers to do this, meals are delayed for extended periods of time until more soldiers are available. Detainees are forced to eat in the prison tents, on their beds, as there is no designated eating area.

### **Kitchen**

One kitchen tent is designated for the entire prison, with 14 detainees assigned to cooking duty. Detainees are not allowed to move freely within the tent as they are under constant military supervision. Old pots and pans (left over from the period when the prison was last used in 1988) are made available for cooking purposes. Many of them have holes and are rusted. There is a very old gas stove with 8 burners, too few to quickly cook for the entire prison population. The sanitary conditions of the kitchen tent are extremely poor.

There are minimal cooking utensils, other than wooden spoons, etc. and knives and forks are prohibited. It is extremely difficult to obtain hot water from the military authorities, and there are too few burners available to use for both water and food. Condiments and spices available are limited, as a number of items are prohibited (such as sodium bicarbonate) for security reasons.

### **Searches**

Random searches take place from time to time. Detainees are forced to come out of their tents and wait outside as soldiers conduct their searches. Detainees have refused body searches, so are scanned with a metal detector before being allowed to reenter their tent.

### **Medical Attention**

There are approximately 60 detainees being held at Ketziot prison who require medical attention that has, as of yet, not been provided to them. Many of those who require medical attention were arrested during the Israeli invasions in April 2002 and sustained injuries during raids and mass arrest campaigns.

There is a makeshift medical clinic in the prison, comprising of the passenger cabin of an old Israeli military jeep, which offers general first aid care. However, detainees who have reported medical conditions have rarely received the necessary treatment.

### **Transport to and from Military Courts**

Detainees, until recently, have been transported to and from Ketziot to the military court at Erez to appear before the military judge for a review of their administrative detention orders. The buses leave from Ketziot at 6 am, with detainees handcuffed and their legs bound, to travel the 3 hour distance to Erez. Detainees have reported



being beaten by Israeli soldiers whilst on route to Erez. During the waiting period between the military tribunals, detainees are placed in a small isolation room. Often, the hearing of all detainees is not completed until 12 am, after which they are then handcuffed and legs bound again for the 3 hour journey back to Ketziot.

As of 20 October 2002, all military court proceedings take place at Ketziot detention center, and lawyers, if they are informed in time, must travel approximately 5 hours from the central West Bank to the detention center to be present during the tribunal.

### **Family Visits**

Since the re-opening of the Ketziot detention center, family visits to detainees have been systematically denied. During this past week, military prison authorities informed detainees that family visits were allowed, but they must be coordinated with the ICRC and a permit obtained from the Israeli District Command Office. Without this coordination, visits are prohibited, including family members who hold Jerusalem identity cards and do not require travel permits to reach the detention centers.

However, family members have reported to Addameer that the ICRC has refused to accept new restrictions placed on coordinating family visits and is currently negotiating with the Israeli prisons authorities. The restrictions placed on visits, in addition to the usual problems of family visits, include the following:

1. Any visitor must have a full body search before entering the detention center;
2. All ICRC buses that transport family members must have an Israeli military escort from the point of departure to the detention center and back to the point of origin;
3. All passengers on ICRC buses must get off the bus at any Israeli checkpoint and walk across the checkpoint, regardless of the fact that they hold valid permits;

There is no further information on the ongoing negotiations between the ICRC and the Israeli military authorities. No family visits to Ketziot have as of yet taken place.

### **D.5. SUMMARY OF THE JUDGMENT REGARDING THE DETENTION CONDITION IN "KETZIOT" CAMP (H.C. 5591/02)**

The Court ruled today on the petition directed against the conditions of detention of those persons detained in the area of Judea and Samaria, during Operation Protective Wall, and who are now being held in the Kziot Camp in the Negev.

As a result of severe terrorist activity in both the area and in Israel, the government decided to initiate a large-scale military operation against the Palestinian terrorist infrastructure in Judea and Samaria. Many arrests were made within the framework of this operation. The arrested persons were initially brought to temporary detention facilities. After their initial screening, some of the detainees were moved to the Ofer Camp, a detention facility in the area. As a result of overcrowding in that camp, it was decided that some of the detained should be moved to the detention facility at Kziot in the Negev. Most of those held there are administrative detainees.

A petition directed against the detention conditions in the Kziot Camp was submitted to the Court. The petitioners claimed that the conditions of detention are unsuitable and do not stand up to the minimum standards set by Israeli and international law. The respondents (the head of the facility and the Minister of Defense) argued that, though the conditions in the facility are not comfortable, they are reasonable with respect to the reality in Israel. During the first days of the operation of the facility, which was opened urgently and without warning, there were deficiencies. However, in time, the facility underwent many improvements. The conditions, as they are today, do not substantially differ from conditions provided to soldiers that carry out detention operations and security functions, or the facilities in which many IDF soldiers live. These standards are in accordance with the minimal standards set by both Israeli and international law.

The Court (President Barak, with Justices Beinisch and Engard concurring) held that it should be recognized that the people concerned are administrative detainees, who have not been brought to trial or convicted. They should enjoy the presumption of innocence. The Court emphasized that although administrative detention denies the detainees of their liberty, it does not strip them of their humanity. The balance between an individual's rights, on the one hand, and national security, on the other, as well as the fundamental idea of human dignity, the principles of the State of Israel as a Jewish and democratic state, and the demands of international law, all require that detainees be treated humanely, and in recognition of their human dignity. These minimal requirements, which must be provided during detainment, emerge from both Israeli Law (Basic Law: Human Dignity and Liberty, as well as other statutes and Supreme Court decisions) and the directives of international law, to which Israel is subject.

Against this background, the Court held, from the affidavits brought before it, that it appears that the opening of the detention facility in Kziot was done hastily, and without preparation. In addition, at first, detention conditions did not meet minimal standards. The Court noted that this deviation was unjustified. "Operation Protective Wall was planned in advance. Its primary goal was to uproot the Palestinian terrorist infrastructure...It was obvious to all – or at least should have been obvious – that one of the consequences of the operation would be a large number of detainees. It was therefore necessary to prepare detention facilities in advance, which would satisfy minimal standards. This was not done." (paragraph 15 of the verdict). However, the detention conditions were eventually improved, such that the conditions provided there now satisfy minimal required standards, and, in some cases, exceed them. Tents are no longer overcrowded, and the supply of the food is satisfactory both in its quality and quantity. During the summer, an adequate amount of ice is supplied. Changes of clothes are available. Both conditions of personal hygiene and the general level of sanitation are satisfactory. The medical treatment is satisfactory. There is a canteen in operation at the facility, and detainees are provided with games. As such, it was held that most of the detainees' claims had been met.

At the same time, the Court recommended that on a number of issues, the respondents reconsider their positions on the conditions provided in the detention facility. As to the detainees' being held in tents, the Court held that it should be examined whether,

in consideration of the length of detention, the quality of the tents and the local conditions, it is justified to continue holding the detainees in tents. This is in spite of the fact that administrative detainees in other facilities – as well as Israeli soldiers – reside in tents for long periods of time. With reference to beds, the Court noted that there seems to be a problem with regard to their relatively low height, and the incursion of various harmful animals into them. The Court held that detainees should be provided with reasonable sleeping conditions. It also held that the height of the beds does not raise any security issues. As to the conditions of hygiene, the Court noted that the issue of installing toilet seats should be reexamined. With regard to tables for eating, it was noted that, although the respondents justify their absence by appealing to security concerns, they should reconsider their position on the matter and find a satisfactory resolution to the problem. This should be done in accord with their legal obligation to provide detainees with minimal humane detention conditions.

For the reasons stated above, the petition was dismissed.

(Summary provided by Adalah website: <http://www.adalah.org/eng/optagenda.php/>)

#### **D.6. SUMMARY OF THE JUDGMENT REGARDING THE DETENTION CONDITION IN "OFER" CAMP (H.C. 3278/02)**

The Court ruled today on the petition directed against the conditions of detention of those detained during Operation Protective Wall and currently being held in Judea and Samaria.

Beginning in September 2000, Palestinians terrorist activity intensified in Judea, Samaria and Gaza, and within Israel itself. Hundreds were killed and wounded. On 29.3.2002 the government decided to carry out a large-scale operation: Operation Protective Wall. The goal of this operation was the destruction of the Palestinian terrorist infrastructure. The Israeli security forces entered Palestinians cities and villages and detained many suspects. At the height of the military activity about 6000 people were detained. After an initial screening took place in temporary facilities, which operated mainly during the first days of warfare, the detainees were moved to a central detention camp located in the area, the Ofer Camp.

A petition directed against the detention conditions in the temporary facilities and the Ofer camp, both located in Judea and Samaria, was submitted to the Court. The petitioners claimed that the conditions in the temporary facilities – and in the Ofer camp itself – were inhumane and stood in contradiction to local and international law. The respondent (the IDF Commander in the West Bank) claimed that at the beginning of Operation Protective Wall, as a result of the large number of detainees, it was impossible to immediately provide satisfactory detention conditions, as defined by conventionally accepted standards. At that time, there was, in the respondent's own words, "a big mess." However, this state of affairs lasted for only a short period of time. Soon after, the IDF rapidly equipped itself to deal with this situation. Most of the temporary facilities were shut down, and the conditions of detention in the Ofer Camp were improved, such that each of the detained persons was provided with reasonable detention conditions, in accordance with both Israeli and international law.

The court (President Barak, with Justices Beinisch and England concurring) held that the law regarding the detention of persons arrested during warfare, as opposed to convicted prisoners, is based on the law of the area, where the arrests took place and where the facilities are located, the principles of Israeli administrative law, and international law. The law reflects a balance between the individual's fundamental rights and society's need to defend itself. In spirit, the law states that, in recognition of their fundamental human dignity, detained persons should be treated humanely. The court stated that "even those suspected of terrorist activity of the worst kind are entitled to conditions of detention which satisfy minimal standards of humane treatment and ensure basic human necessities. We would not be human ourselves if we did not guarantee a standard of humanity to those detained within our custody. Such is the duty of the commander of the area in accordance with international law, and such is his duty in accordance with the foundations of our administrative law. Such is the duty of the Israeli government in accordance with its essential character – Jewish, democratic and fundamentally humane." (paragraph 24 of the verdict).

As such, the Court held that the detention conditions in the temporary facilities did not meet minimal standards. Even taking into account the large number of detained persons and the first few days of warfare, there was no justification for the conditions of detention – for example, handcuffing which resulted in fierce pains, keeping detained persons outdoors for up to 48 hours without access to bathrooms, and failing to document the possessions which were taken from the detained persons. These were unqualified breaches of the law, with no security justification. The Court emphasized that "Operation Protective Wall was planned in advance. One of its goals was to arrest as many suspected terrorists as possible. As such, the need for minimal detention conditions was an inherent requirement of the goals of the operation. There was no surprise in the matter. There was the possibility of preparing an area with suitable detention conditions. What was done a number of days after the beginning of the operation should have been done before its start" (paragraph 26 of the verdict).

With regard to the conditions at the Ofer Camp, the Court held that, in the first days of the operation, during which many detainees entered the facility, a number of minimal requirements with regard to the conditions of the detention were breached – there was unbearable crowding, a substantial number of the detainees were left unprotected outdoors, and there was an insufficient supply of blankets. These breaches of law had no security justifications. However, improvements were soon made at the Ofer Camp, such that the conditions provided there now satisfy minimal required standards, and, in some cases, exceed them. Nevertheless, the Court stated that two matters still demand improvement. First of all, the army should reconsider supplying tables at which the detainees can eat. The respondent did not offer satisfactory security justifications to explain the absence of such tables. "Detainees are not animals and they should not be forced to eat on the ground." (paragraph 28 of the verdict). Secondly, newspapers, books and games should be supplied to the detainees. Such is the duty of the respondent in accordance with the law, and this does not interfere with security.

For the reasons stated above, the petition was dismissed.

(Summary provided by Adalah website at <http://www.adalah.org/eng/optagenda.php>)

### **Annex E- Cases of detainees subjected to torture (Mandela International)**

**1- Mr. Rasem Inad Ahmad Obeidat** from Jabal El-Mukaber Village- Jerusalem District. Arrested on 30/03/2001 and suffers from severe pains in the backbone, as a result of torture (for 52 days) at Al-Mosqubiyyeh detention center (The Russian Compound-Jerusalem). According to a statement under oath signed by Mr. Obeidat " I was subjected to various physical and psychological torture, systematic beating all over my body, positional abuse in various positions, as an example I was forced to half sitting on my feet for 15 minutes, I was handcuffed to the back against a very small chair, while they were pressuring my neck and when I fell unconscious, they would throw water in my face; this happened each 20 minutes, and three times daily the first three days. I was forced to sit in very difficult positions for around 100 hours. They used to bring me food in the interrogation room and I was allowed to sleep only for few hours in the same room with interrogators shouting in my ear. They used to handcuff me to the front and put both hands on the ground and jump on them to the extent that I lost feeling in them. They used severe shaking. In my 32 day of detention I was transferred to El-Jalameh Interrogation center and I was interrogated for one day, then I was transferred to the Collaborators' Room for 9 days, then returned to the Masqubiyyeh and was subjected to 9 days interrogation using same methods. One interrogator named as " Abu Sharif" told me that Ibrahim El-Rai' was in this interrogation section for 130 days and then was killed in Ramleh prison and you are currently in the same cell where Abed El-Samad Hreizat died and you are going to die".

**2- Mr. Adel El-Hidmi** from Jerusalem was arrested on 25/09/2002 and endured intensive interrogation at El-Mosqubiyyeh, as he was forced to keep a 45 degree position for hours while handcuffed to the back and this resulted in him falling unconscious; each interrogation round lasted for 22 hours and the Shabak brought his wife to pressure him. The Shabak threatened that they are would demolish his house and deport him outside the country. They also threatened that his wife and children would be deported to the Gaza Strip. After the end of the interrogation period, Mr. El-Hidmi was placed under 6 months administrative detention and while serving this period, he was sent back (mid, November 2002) to El-Mosqubiyyeh for interrogation.

**3- Mr. Nidal Ahmad Ruslan Qu'od** from Abu Kash village near Ramallah. Arrested on 25/03/2002 and stated to Mandela: "I was arrested on the Bridge while coming back from Russia, after completing my university. I was taken from the bridge by a police car to El-Mosqubbiyeh. I was handcuffed to the back as well as my legs. I was hooded. I was held in a cell alone. After three days, I was taken to the Shabak at around 11.00 a.m. and they interrogated me until midnight. At that time, I was handcuffed. This lasted for 5 days and I did not sleep for more than one hour each time. My detention period was extended for another 15 days and I was taken to Betah Tikva interrogation center. I was forced to sit in difficult positions for three days, I was forced to sit in a very small chair, and I felt that I was losing consciousness.

They used severe shaking against me and threw water in my face. Five interrogators tortured me: Captain Mufaz, Major Belly from Iran, Captain Eftah Allah, Captain Jack, and Captain Vacilly, who interrogated me in Russian. All the time I was held in a small cell. In addition, once I was put in a small room like a cupboard. During the first three days, I was interrogated from 8.00 a.m. until 6.00 a.m. of the next day. During this period, interrogation lasted for 12 hours with 4-5 hours break, during which I was held in a cell. They cursed me and threatened to bring my mother and put her with those arrested for drugs; they said they would arrest my father and the son of my brother. They told me that I would receive a high sentence or will be placed under administrative detention. I was taken to the collaborator's room and I found there six collaborators. At that time I did not know where I was, but later I discovered that I was at El-jalameh interrogation center I was held there for a week. I was released on 6/5/2002 then re-arrested on 27/05/2002 at 1.00 a.m. when they raided my house and demolished everything inside it. I was taken to Beit El for two days and was beaten. Then I was taken to Ofer detention center, then to Ketziot Military Detention Center in the Negev Desert and placed under 6 months administrative detention which was reduced for 5 months. I was released on 25/10/2002.

4- **Obai' Mohammad Odeh** (17 years) from Jerusalem. Arrested on 20/11/2002 and, according to a statement made under oath: "I was arrested at 7.30 a.m. while going to school. An Israeli military car stopped the taxi I was in and asked for the ID cards. When I gave them mine, they informed me that I was under arrest, claiming that my ID card is not valid. They hooded me and took me to the Mosqubiyyeh. I waited and they took me to a clinic and the person there asked me to take off all my clothes in front of those present. In the first days (until 24/11/2002) they interrogated me for long hours and forced me to sit in a small chair. Such position was painful, I was handcuffed to the back. They threatened that they were going to arrest my mother and father. I was put in solitary confinement (Section 20) and this section is for those over 18 years. They allowed my lawyer to visit me. The cell where I was held was too small, with loud noise of ventilation, bad smell and poor light. While I was taken to Court on 11/11/2002, I was beaten when I tried to greet my parents. A soldier pushed my little brother, another one pushed me; they took me away, and three soldiers started beating me one using his wireless. When they took me to the waiting room, they all participated in beating me, and then they took me to the car and continued beating me in the car and while they drove me to the Mosqubiyyeh. They accused me trying to beat the Judge to justify their violations against me.

5- **Khader Hassan Dabaya** (19 years) from Jenin Refugee Camp was arrested on 3/5/2002 and according to his statement under oath: "I was arrested from El-Ram area near Jerusalem. I was injured with 8 bullets when Israeli soldiers opened fire on me. They first made sure that I am Khader, then ordered me to remove the hat on my head, which I did, and from a 2-meter distance, they shot me and kept me bleeding for more than one hour. After that they surrounded me and then put me on a stretcher and took me to a jeep, until an ambulance came and brought me to Hadassah Ein Karem Hospital. I was kept there for 5 days and was interrogated on the third day by an officer who identified himself as "Oren" who was shouting in my face. Due to my pain I was unable to talk. Oren used to interrogate me for long hours and he was typing on a laptop, and coming in and out and shouting. Then I was transferred to

Mosqubiyyeh and I was taken to a clinic where a person talked to me in Hebrew, a language that I do not understand. He gave me a pain relief tablets and I was taken to a cell. I was unable to walk on my feet so they gave me two sticks. I was then taken to another cell where I found a detainee who shared the cell with me for 15 days and whom I later discovered was a collaborator. Then I was taken to the interrogation room and they handcuffed me to the back. Interrogators interrogated me and prevented me from sleeping. Abu Yousef, Uri and Aishel used to interrogate me and this lasted for 45 days. Even when interrogation stopped, I remained for 85 days from my arrest and I was transferred to Tel-Mond prison. I asked to be transferred to a hospital, but with no success. Currently I am held in Hadareem Prison".

### **Annex F: The Apartheid Wall**

(The Apartheid Wall Campaign, information to be found at <http://www.pengon.org/wall/wall.html>)

#### **People and Livelihoods**

- Some 35,000 people live in the areas around the Wall in the northern West Bank.
- Some 13,140 of these individuals, from some 15 communities, will be trapped between the Wall and the Green Line.
- Another approximately 20,000 individuals, in some 3175 families, will be located east of the Wall, but their agricultural lands will be located West of the wall; they will consequently lose their livelihoods, sustenance, and heritage.
- The land confiscation, destruction, and severe restriction of movement will translate into the loss of 6,500 jobs.
- The olive oil production of the villages west of the wall, some 2200 tons of olive oil per season, will be destroyed.
- So will the production of 50 tons of fruits and over 100,000 tons of vegetables.
- Approximately 10,000 grazing animals will not have access to their grazing lands.
- To date some 100 buildings have been demolished, the majority of them being stores which were an important source of income and survival for a number of communities.
- Additional stores and homes have already received demolition orders which are expected to be implemented in the very near future.
- A number of small villages, or hamlets, which are only meters away from the Wall have been told by the military that their proximity to the Wall will result in most of their community being demolished.
- Case Study: Jayous, in the Qalqiliya District, has already had 72% of its lands confiscated, some 8,600 dunums and 7 groundwater wells. At least 300 families are losing their only source of income.

#### **Timeline**

- In April 2002, an order by the Israeli government steering committee for the Wall called for the immediate commencement of the Wall in the northern West Bank and the Jerusalem area.
- Construction of the Wall, including land confiscation and the uprooting of trees, began in June 2002, near the village Salem, west of Jenin.

- In September 2002, the first public map of the Wall, a portion of the northern part of the Wall, was made available to the public.
- In September 2002, the steering committee approved including Rachel's Tomb, in Bethlehem, within the borders of the Wall.
- On January 1, 2003, Israel officially celebrated the completion of the first 4 kms of the Wall.
- If not stopped, the Wall is expected to be completed by the end of 2003.