

**Report from the West Bank,  
29/11 -13/12 2003 on  
Hearings in Israeli Military Courts,  
Ex-prisoners' experiences,  
the impact of the Wall, Settlements, Checkpoints, Roadblocks  
and  
House Demolitions  
From a Humanitarian Law and Human Rights perspective**



**Birgitta Elfstrom and  
Arne Malmgren**  
Jurists,  
Gothenburg,  
Sweden

12/02/2004

## **Program for the ICJ delegates 30 November 30 - 13 December, 2003**

30/11

09.00 meeting with Dalia Kerstein, Hamoked. Introduction to the hearing at High Court of Justice (HCJ)

13.00 meeting with DCI-PS in Ramallah, introduction,  
overview of the situation for prisoners and the conditions in prisons

01/12

09.00 hearing in the High Court of Justice, Jerusalem

02/12

09.00 hearings in Salem Military Court

03/12

10.00 meeting with Al-Haq, Ramallah

11.00 meeting with Addameer, Ramallah

04/12

10.00 meeting at TIPH Headquarters in Hebron and a tour in the city with TIPH

12.00 meeting with DCI-PS, Hebron

05/12

10.30 meeting with DCI-PS, Hebron, meeting with ex-prisoners, information about Israeli settlers and the Wall

06/12

09.00 visit to a refugee camp in Bethlehem, meeting with child ex-prisoners, information about settlements and the Wall in the area

07/12

09.00 Meeting with Land Research Center (LRC) in East Jerusalem and meeting with families

08/12

09.00 Hearings in Ofer Military Court, Ramallah

09/12

08.00 Meeting with the Negotiations Support Unit, Negotiations Affairs Department (PLO) about the Wall and a visit to Qalqilia and Jayyous together with them

10/12

09.00 Hearings in Ofer Military Court, Ramallah

11/12

Visit to Jenin and the refugee camp

12/12

Meeting with HaMoked

13/12

Leaving

## **INTRODUCTION**

At the request of the children rights' organization Defence for Children International, Palestine Section (DCI/PS), we were appointed by the Swedish section of the International Commission of Jurists (ICJ) as delegates/trial observers to the West Bank to be present at trials in Israeli Military Courts in the West Bank regarding cases where Palestinian children were detained for trying to kill settlers, stone throwing, military actions and membership of militant groups. Our intention was also to interview relatives of detained Palestinian children and ex-prisoners.

Another intention was to observe and interview Palestinians on how the Wall, checkpoints, roadblocks and house demolitions have affected them and in particular the children.

The visit began with preparations for the hearings. Meetings were held with the host organization DCI/PS; Addameer (a Palestinian non-governmental organization which focuses on offering support for Palestinian prisoners); Al-Haq (Affiliate, International Commission of Jurists-Geneva, a Palestinian human rights and legal research organization located in Ramallah); HaMoked (Center for the Defence of the Individual).

We were also trial observers in the High Court of Justice in West Jerusalem concerning the secret prison "Facility 1391" at the request of the Israeli organization HaMoked. A special report is written about this hearing.

A meeting was also held with the Negotiations Support Unit, Negotiations Affairs Department (PLO) about the Wall.

### **The aim of this report is:**

- to describe the situation for Palestinian children under arrest, interrogation and during trial in relation to international law with special focus on the IV Geneva Convention and the UN Convention on the Rights of the Child
- to describe the ICJ delegate's impressions of the court hearings
- to describe the impact of the Wall, checkpoints, roadblocks, settlements and house demolitions on the Palestinians and, in particular, on the children
- to briefly report, on the humanitarian and human rights situation in the Occupied Territories

### **Defence for Children International, Palestine Section (DCI/PS)**

Defence for Children International, Palestine Section is an independent, Palestinian, non-governmental organization, established in 1992 to promote and protect the rights of Palestinian children as stated in the UN Convention on the Rights of the Child and other international instruments.

([www.dci-pal.org](http://www.dci-pal.org), email: [dcipal@palnet.com](mailto:dcipal@palnet.com))

### **Addameer**

Addameer is a Palestinian non-governmental organization, which focuses on human rights issues and in particular advocating the rights of political prisoners.

(email: [addameer@planet.edu](mailto:addameer@planet.edu))

## **Al-Haq**

Al-Haq, the West Bank Affiliate of the International Commission of Jurists-Geneva, is a Palestinian human rights and legal research organization located in the West Bank City of Ramallah. Its aim is to protect and promote Palestinian human rights and respect for the rule of law.

(www.alhaq.org, email: haq@alhaq.org)

## **HaMoked**

HaMoked is an Israeli humanitarian organization founded in 1988 to defend human rights in the Occupied Territories. It has provided assistance to several thousand Palestinian victims of violence, human rights abuses and bureaucratic harassment.

(www.hamoked.org, email: mail@hamoked.org.il)

## **Negotiations Support Unit**

The PLO Negotiations Affairs Department (NAD) was established in 1994 in order to follow up on the implementation of the Interim Agreement signed between Israel and the PLO. In late 1998 NAD established the Negotiations Support Unit to provide highly professional legal, policy and communications advice to the NAD.

(www.nad-plo.org)

## **HEARINGS IN ISRAELI MILITARY COURTS IN THE WEST BANK**

### **Salem Military Court in the north of the West Bank.**

The trial took place in a small court room in an Israeli military barrack surrounded by a fence and barbed wire. There was no problem for us to enter the court room. The soldiers did not even ask for our ID-cards.

Present were: a military judge, two military national servicemen responsible for taking minutes, a military prosecutor, seven prisoners, three Palestinian lawyers, a Hebrew-Arabic interpreter (a national serviceman), 12 armed military soldiers aside from us and our Palestinian interpreter (Jerusalem ID-card). Many relatives of the detainees were also present.

The detainees were handcuffed and foot chained when they entered the court room. The handcuffs were removed when the trial started. Everyone had to stand up when the judge entered. Due to the number of people present, the court room was very crowded. Armed soldiers went in and out. It was very noisy in the court room. The Hebrew-Arabic interpreter tried to silence the audience. He knocked on his desk very loudly and shouted "silence". There was no problem for our interpreter to interpret from Arabic to English but he had to do it in a very low voice. Our interpreter said that the Hebrew-Arabic interpreter was "very good, decent, precise and humane". Our interpreter sensed a hostile attitude from some of the Israeli soldiers towards the Hebrew-Arabic interpreter. During a short break in one of the hearings one woman lawyer who stood near the prosecutor suddenly started to talk to the judge. They smiled as if they had a very good relation.

**Case 1** Anas Odeh, age 16, date of arrest 09/04/03, from Tulkarm. Facts about the case: DCI informed us that Anas had confessed to planning a suicide attack. He is held in Telmond prison.

The prosecutor informed the court that he and the Palestinian lawyer had reached an agreement. The agreement was 32 months' imprisonment, 3000 shekel (which is part of the punishment) and 30

months' suspended sentence. Anas accepted and so did the judge who took into consideration Anas age and the personal circumstance that his father is dead.

**Case 2 and 3** Osama Adnan Harashi, age 15, from Qaffin village in Tulkarm and Abdel Rahman Fathi Al Khatib, age 15, from the same village. Facts about the cases: DCI informed us that the two boys had confessed to trying to kill an Israeli Wall guard.

### **Osama Adnan Harashi's hearing**

The prosecutor informed the court that he and the Palestinian lawyer had reached an agreement of nine years' imprisonment and five years' suspended sentence and said that this should be respected. The prosecutor stated that Osama was only 15 years old when he committed the crime and that the victim was only slightly injured and could return to normal life a short time after the attack. Taking that into account as well as the public interest he agreed to nine years' imprisonment instead of ten years, which is the maximum for such a crime.

The lawyer said, "the judge must take into consideration that Osama had not committed any crimes before. He is a young boy and to be sentenced to many years of imprisonment would be painful for him". He also said that Osama had approved the agreement.

The judge said. "It is a serious crime to attempt to kill a guard with a knife. The guard was injured. It is therefore good to accept the agreement even if Osama is a young boy. The maximum sentence is 10 years of imprisonment and I have taken into consideration the injuries of the guard and Osama's confession. Therefore nine years of imprisonment and one year suspended sentence is relevant for such a crime. I do not accept five years' suspended sentence".

### **Abdel Rahman Fathi al Khatib's hearing**

The prosecutor and the lawyer reached the same agreement as in Osama's case. Abdel had also confessed and accepted the agreement.

### **The judgments**

The judge sentenced both Osama and Abdel to nine years' imprisonment and one year suspended sentence.

### **Definition of a Palestinian Child**

Israeli law stipulates that "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".

Palestinian children in the Occupied Territories are not covered by this Israeli law, but instead by Israeli Military Order #132 which defines a Palestinian child as follows.

A child is a person under 12 years.

A teenager is a person above 12 years and under 14 years.

An adolescent is a person above 14 years and under 16 years.

An adult is a person 16 years and above.

## **Israeli law**

According to Israeli Youth Law 1971, it is possible to impose a punishment of imprisonment on an Israeli child who is age 14 at the time of his/her sentencing. However, as the Israeli report to the Committee on the Rights of the Child has made clear, "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".

The Israeli official report says that "a suspect being minor must be considered when deciding upon arrest until the termination of proceedings, although this does not in itself create grounds for immunity." According to the Alternative Report, submitted by DCI-PS to the Committee on the Rights of the Child, the Supreme Court of Israel has also held that there is no obligation to keep a minor under arrest until the termination of proceedings, even in the case of murder. (Alternative Report to the State of Israel's first Periodic Report to the Committee on the Rights of the Child, March 2002, page 4-5).

## **Observations after the trial**

Soldiers handcuffed the boys and they left the court room. Outside the court room Abdel was allowed to talk to his three brothers and his uncle for some minutes. There was a high fence between them and armed soldiers watched them.

Osama was allowed to talk to his father. We asked the lawyer and the soldiers if we were allowed to talk to Abdel and Osama but we were refused.

The lawyer (the lawyer appointed by DCI-PS to handle the case could not attend because of movement restrictions imposed on Palestinian residents of the West Bank by the Israeli military.) told us that the agreement of nine years' imprisonment was "the best for the boys". If they had not reached an agreement maybe the two boys could have been sentenced to ten years' imprisonment. He also said that "it is difficult for a lawyer to prove that a detainee has been subjected to torture or ill treatment and it is risky to ask the prosecutor for evidence because that could lead to an even harsher punishment". The two boys are on hunger-strike since one week.

Later on, the lawyer appointed by DCI-PS told us that he thinks it was wrong to accept the agreement of nine years of imprisonment due to the boys' young age.

He also told us about the following case. Rakan, a 12-year old boy, was arrested on 29 September 2003 while traveling to his home in Jericho from Bethlehem. Israeli troops detained him at the Container checkpoint near Qeda settlement and took him to the police station in the Ma'ale Adumim settlement where soldiers threatened him with electric shocks. From Ma'ale Adumim, Rakan was transferred to Atzion detention center near Bethlehem where he was put in solitary confinement for 12 days in a cell that only measured 2x2 meters. In his affidavit to one of DCI's lawyers, Rakan said that he was so frightened during this period that he twice tried to commit suicide. On 12 October he was moved to Ofer military prison. He described what happened to him there: "When I arrived the soldiers asked me to take off my clothes and I was standing in my underwear. Then one of the soldiers took off even my underwear and started to use the metal detector on my naked body. While he was doing that he used his other hand to touch my body, concentrating on my back and bottom. This continued for a while and I was crying being terrified that something would happen". After this Rakan has twice again tried to commit suicide.

(After a decision from the appeal court, Rakan was released from Ofer military prison on 25th of December 2003.)

## **Conversation with the Israeli military prosecutor**

The military prosecutor Raid Shamali said that he was very well informed about the Convention on the Rights of the Child (CRC) and before a decision he always takes into consideration "the best for a child". He also said "look in these two heavy cases. I did not even ask for the maximum sentence which is ten years of imprisonment".

We suggested to him that there should be a special court room for children. He promised to talk to the judge about it. We gave him a copy of the CRC in order to remind him of the rules concerning "the best for a child". He said that he remembered Birgitta Elfstrom, from a trial in Bet El Military Court in Ramallah two years ago and the discussions about the CRC.

## **Conversation with relatives of the detainees**

A brother of Abdel, who came to the court hearing, told us that their father recently was sentenced to lifetime and the family's two houses had been demolished by IDF. Abdel got very furious about what happened so he and his friend went out and tried to stab an Israeli wall guard. The family's houses are situated close to a kibbutz and to the Wall, which has now been built around the area. After the family's houses were demolished they have to rent a house.

The brother is allowed to visit Abdel in Telmond prison once every fourth night. Abdel has told him the following. He was severely beaten during the interrogation and was taken to hospital for an operation on his head. Even after the operation he was beaten on his head. The conditions in the prison are very bad, only one meal a day, shortage of clothes and medical care and poor education. For many days they refused him to have a shower or to shave.

The father of Osama said that he had asked for permission to visit his son in the prison. He was refused but Osama's mother got permission. Osama has told his mother that he had asked the prison guard if he could see a doctor but he was refused. Osama had been beaten during the interrogation so severely that he had difficulties to stand on his legs. Osama and Abdel are now in the same cell in Telmond prison.

## **Comments**

The Military Order #132 is contravening the internationally accepted definition of a child as anyone below the age of 18. The Israeli domestic law defines a child as anyone under 18, which is in accordance with the international standard. The Israeli military order #132 is a discrimination against Palestinian children.

In January 2001 a Palestinian girl child was sentenced by an Israeli Military Court to six and a half years' in prison on the charge of stabbing an Israeli settler. At the same time, the Jerusalem district court sentenced a 37 year-old Israeli settler, found guilty of brutally beating to death an eleven year-old Palestinian boy, to six months' community service and a fine of approx. 17.000 USD. (Alternative Report to the State of Israel's First Periodic Report to the Committee on the Rights of the Child, submitted by DCI/Palestine Section, March 2002)

In contrast to Israeli children who are tried in Juvenile Courts, Palestinian children are tried in the same Israeli Military Courts that try adults. The Military Orders applying to them are much harsher than the Israeli law applying to Israeli children. For the last 10 years, Military Court practice has been to sentence convicted Palestinian children over the age of 14 to imprisonment. There are even

cases where younger Palestinian children have been sentenced to imprisonment. This is discrimination and contravenes [1]

- article 2, of the Convention on the Rights of the Child (CRC) which says "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind..."

- the UN Rules for the Protection of Juveniles Deprived of their Liberty, General Assembly (GA) res. 45/113 which says, "Imprisonment should be used as a last resort..." which is in line with article 37 b, CRC which says "... shall be used only as a measure of last resort and for the shortest appropriate period of time".

Our opinion is that the Israeli Military Court does not take into consideration "the best interest of a child" according to article 3, of the CRC when they sentence young Palestinian children after a so called "plea bargain" without any discussions with the parents of the children. Israel has ratified the CRC but it has not implemented as regards Palestinian Children in the Occupied Territories.

Article 37, CRC says "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment". This is also in line with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Israel has ratified. Article 2, CAT states ... "prevent acts of torture in any territory under its jurisdiction"...

Article 33 of the Fourth Geneva Convention provides (about collective punishment): "No protected person may be punished for an offence he or she has not personally committed". (This is further developed in the report "In need of protection", Al-Haq, page 177, ISBN 965-7022-25-8)

It is always the children who are the most vulnerable in situation of conflict. Art. 38 CRC, states "State Parties undertake to respect and to ensure respect for rules of international humanitarian law..."

Israel does not respect the Fourth Geneva Convention in the Occupied Territories. But Palestinian people are protected under the Fourth Geneva Convention (see Al Haq "In need of protection" page 13).

When we left the military compound an Israeli military jeep arrived and we saw a handcuffed and blindfolded man with foot chain sitting in the back seat.

### **Ofer Military Court in Ramallah, 08/12/03**

The trial took place inside the Israeli military compound in the West Bank. The court room and the procedure were almost the same as in Salem Military Court but the hearing in Ofer court had three appointed judges (two military male judges and one military female judge).

**Case** Aysar Mohammed Maraka. Date of birth: 08/10/85. Date of arrest: 01/07/03. Facts about the case: DCI-PS informed us that there would be three judges in the trial because of the many and complicated charges. It was expected that Aysar would receive a sentence of at least ten years' imprisonment. Aysar was accused of being an activist, involved in military training, stone throwing and pipe bombing. He was also accused of trying to kill Israeli settlers and planning to carry out a suicide operation.

The female judge started to read the list of the charges. "You have been a member of Hamas since 2002. Together with two activists you have planned to make a suicide bomb. But another person



should execute the operation. You have trained twice on an M16 and on a Kalashnikov. You have written a testament about a suicide operation in the Ibrahim Mosque. Then you have planned to go to the Ibrahim Mosque to kill Jewish people with an explosive belt but you failed because your partner was arrested. You tried to find a Hamas member who could carry out a suicide operation but you did not find any so you dropped the plan. In April 2003 you found a cell of Hamas to do it. You have made four explosive iron pipe bombs. You blew up one of the bombs aimed at a military unit and one at a border police unit. The third bomb did not work and the fourth was found in your house".

Then the judge summarized the charges: "You are a member of a hostile illegal organization. You have trained on weapons and you have had explosives in your house. Your intention was to kill deliberately".

The lawyer requested the judge to postpone the hearing in order to let him study the charges. The lawyer also asked the judge to transfer Aysar Maraka from Telmond prison to another prison because the conditions in Telmond prison "are not good for such a young man as Aysar Maraka".

The judge decided to postpone the trial until 8th of January 2004, and she said "if the problem in Telmond prison continues I will see what can be done".

### **Conversation with the DCI-PS lawyer after the trial**

He informed us that the female military judge has an education in law and the other two judges are military officers. The lawyer's opinion was that our presence made great impression on the judges. They took time to listen to his plea and the judges agreed willingly to postpone the trial in order to let him study the charges.

Before the above-mentioned trial we had the opportunity to observe, parts of another trial concerning a 16 year-old boy. The boy told the judges that no lawyer had visited him in the prison. The judge clearly said that he had the right to meet a lawyer and even to change lawyer. She asked him if he wanted to postpone the trial in order to see a lawyer. The boy said it was difficult for him to decide this. The judge said that the court had no other alternative than to postpone the trial despite the fact that the boy had been in prison one year without any progress in the case. She told the boy that he had to meet a lawyer and to put pressure on the lawyer to act. The trial was postponed until 19th of January 2004.

Another Palestinian lawyer told us that in his opinion our presence in the trial had made great impression on the judges. He had never before heard judges so straightforwardly talking about a child's right to see a lawyer. He informed us that sometimes a judge and a prosecutor can reach a very dubious agreement. They can e.g. agree to give one person a very light sentence and instead give another person a very severe punishment e.g. lifetime. His opinion was that Palestinian children have better conditions in Israeli prisons in Israel than in Israeli Detention Centers in the West Bank. Therefore many lawyers do not complain about the transfers of detained Palestinian children into Israeli territory. The situation concerning education in Israeli prisons has improved.

### **Conversation with relatives of Aysar after the trial**

The father of Aysar Mohammed Maraka gave us the following information: He lives in Hebron together with his wife and four children. His six brothers with their families live in the same house. There are all together 17 children in the house. One night at 2.30 Israeli Defense Forces (IDF) soldiers together with one Shabak (Hebrew acronym for Israel Security Agency) officer and dogs broke into the house. They searched the whole house and turned it upside-down. All the children in

the house got very scared. Still they suffer from this. Aysar was arrested, blindfolded and handcuffed. After 28 days the family got information from a released prisoner about Aysa.

Later the IDF came back and searched the house once again. The father of Aysar did not think that his son had planned any attack but maybe his son had an idea of becoming a member of Fatah or Hamas. His son used a weapon once in order to get some experience. Aysar was excellent in his studies and planned to continue his studies at a university. Aysar's father has not been allowed to visit his son in the prison. He saw him in the court three months ago but was not allowed to talk to him. Before this trial started he was able to talk to his son for some minutes. Aysar told his father that he had headache and then he asked if he had passed his exam. The father said "yes" and then pointed at us and said "they are jurists from Sweden and will follow your case". Aysar smiled.

Aysar's father had no permission from the Israeli Authority to travel from his house in Hebron to the Ofer Military Court in the West Bank. He had to travel illegally. If the police stopped him on the way back to Hebron he would be arrested. He said that the Palestinian children are suffering a lot because of the Israeli occupation of the West Bank and Gaza. He was very thankful that "Sweden has turned its eyes on the situation for the Palestinian children".

## **Comments**

According to article 10, of the Universal Declaration of Human Rights (UDHR) and article 14, of the International Covenant on Civil and Political Rights (ICCPR) everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law"/ .../

"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;"

Article 37, CRC states "the right to have access to a lawyer, to a quick answer and the right to have contact with the family". Article 37 also states "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment."

We do not consider it to be a fair trial when a judge and a prosecutor agree to give one person a light punishment and then give another person a severe punishment. It was however a positive sign that the military judge mentioned "the rights of a child".

## **Ofer Military Court in Jerusalem, 10/12/03**

**Case 1** Yousouf Khalil Muteir, age 15, from Al Azariyya in the West Bank, date of arrest 27/10/03. Facts about the case: DCI-PS told us that the charges were: activism, helping the organization, stone throwing, planning with friends to kill Israeli civilians. Confession was extorted from pressure and torture.

One of the three judges asked Yousouf to stand up in the court. The lawyer immediately requested the court to postpone the hearing because he had got the written charges from the court only some minutes before the hearing. He insisted on the importance to study the charges before the hearing.

The judges agreed and the hearing was postponed. A new hearing will take place 15/02/04.

## **Conversation with the DCI-PS lawyer after the trial**

The lawyer Mohammed informed us about the following:

He was able to visit Yousuf three days after his arrest. Yousuf told him that he was arrested on 27th of October 2003 at 02.30 in the morning, blindfolded and transferred to the prison in Male Adumim settlement. During the interrogation they put a hood on his head and he was severely beaten with a stick on his head. They connected wires to his body and gave him electric shocks. Again he was beaten in order to extort a confession from him. He confessed. The lawyer did not think that the boy had committed any crimes. He and his friend had only thought about capturing a settler, but this was only in their minds. They had no real plans for this.

Yousuf was then transferred to Kfar Azion prison, which is infamous for its torture methods. There he was severely beaten. He was handcuffed behind his back and hanged up with a rope. Later on he was placed in solitary confinement for four days. Those days were like psychological torture for him. The cell was 1x1,5 meter. They refused him to go to the toilet. He got a very little food. They pounded on the door the whole nights so he could not sleep and the soldiers played discordant music. After those four days he was placed in a cell together with another prisoner.

The lawyer had requested the manager of the prison to not keep Yousuf in a solitary confinement. The manager said that they had no other place for the boy. After one month they transferred Yousuf to Telmond prison where he now stays together with other young boys in a large cell.

The lawyer's opinion is that Palestinian children should have the same right to a probation officer or a social worker as Israeli children. The Israeli Military Court sentences a Palestinian child from the West Bank based on the age of the day of the court hearing and not the age of the child when he/she committed a crime. An Israeli child will be sentenced according to the age when he/she commits a crime.

## **Conversation with the father of Yousef after the trial**

The father of Yousef, Khalil Mutier gave the following information. One night at around one o'clock the front door was flung open and 30 soldiers and Shabak men rushed into the house and searched the whole house. His son was sleeping on the upper floor but the soldiers woke him up, blindfolded him, handcuffed him and took him to their army vehicle. His son was very afraid and told his father that he had done nothing. The soldiers did not find any evidence in the house. His seven-year old daughter became so afraid that she fainted. He contacted the Prisoners' Club in order to get information about his son. After four days he got some information. He asked the Israeli authority to get permission to visit his son but they refused. In the court room they were not allowed to shake hands, hug or kiss each other. His son said "Why is my mother not here? Please send me a photo of my sisters and brothers". He saw that his son was not in good health.

## **Comments**

Since the beginning of the second Intifada, Israeli authorities have detained at least 2.000 children. As of 1 December 2003, approximately 360 Palestinian children, ages 12-18, are currently detained in Israeli prisons and detention centers mainly within Israel (statistic from DCI-PS).

The Palestinian children are tried before and sentenced by Israeli military courts, although the Palestinian Authority has a juvenile justice system that can deal with children in conflict with the law. The Israeli military courts implement military orders and not juvenile related legislation.

Unlike Palestinian child detainees, Israeli children who are in conflict with the law are dealt with by the Israeli juvenile justice system (information from DCI-PS lawyer). This is also discrimination against Palestinian children.

Palestinian child detainees are subjected to different forms of torture, cruel and inhuman treatment including beatings, sleep and food deprivation, position abuse, isolation-while undergoing interrogation. During the interrogation the child is not permitted to contact a lawyer or a relative. Lawyers are denied access during this period and it is very difficult to find out where a child is being held.

In our opinion every Palestinian child detainee is immediately in need of an International Child Protector from the very first day of arrest, during the interrogation period and in prison. Before this can be in effect at least every arrested Palestinian child should have the right to an independent probation officer/social worker during the above-mentioned period.

Article 37, CRC states "No child shall be subjected to torture" and "arrest, detention or imprisonment of a child shall be conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time" and "have the right to maintain contact with his or her family".

Article 40, CRC states "to be informed promptly and directly of the charges against him or her, if appropriate through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparations and presentation of his or her defense".

Article 40.3, CRC states "State Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law...."

## **THE IMPACT OF SETTLEMENTS, CHECKPOINTS, ROADBLOCKS, THE WALL AND HOUSE DEMOLITIONS**

Settlements in Hebron district

Qiryat Arba'	Giv'at Harsina	Tel Rumeida
Beit Hadassa	Avraham Avino	Osama Ben Munqes
Megdal Oz	Metsad Asfar	Ashkiliot
Metsad	Shem'on	Beni Hefer
Otnael	Karmiel	Ma'oun
Susya	Beit Ya'er	Shani Livneh
Sham'a	Tana Amarin	Ma'oun
Susya	Nahal Nagahout	Adora
Telem	Karme Tzur	

(see report "Settlement in Hebron", by Abdelhadi Hantash, email hantasha@hotmail.com)

### **Testimony of Sawsan Abu Turki, age 16**

I live in Hebron and every day, since many years, we are facing violence from settlers and Israeli soldiers. One day in September 2000 I was attacked by a group of settlers in the center of Hebron. I was injured and people took me to hospital. Then I asked myself why settlers and Israeli soldiers

always have the right to insult and beat us and why we do not have the right to defend ourselves. After that I felt I could not tolerate more violence and inhuman treatment. In my opinion Palestinians should have the same rights as settlers and soldiers, but we do not have.

My school is situated close to a settlement and has often been attacked by settlers who throw stones. The school has also been attacked by soldiers with bombs and tear gas. The 6th of September 2001, I went to school as usual but I took a knife with me in my bag. When I was on my way back home from school I went in front of a soldier and I held the knife behind my back. The soldier became suspicious and tried to catch me when I ran away. I heard soldiers shooting behind me. They caught me after half an hour. They humiliated me by bad words and told me not to talk to anybody who stood nearby. If I did they threatened to kill me. They put me in a military jeep and took me to Kiriya settlement. There they left me outside a military police station under the hot sun during one and a half hour. I got headache and my nose started bleeding. I felt I was going to faint. Later, during the interrogation, they shouted at me and started to hit me and asked who supported me. I asked them if I could call my parents but I was not allowed. Later they transferred me to Abu Kibir prison in Tel Aviv and during the three- hour transport the soldiers said bad words to me. In Abu Kibir prison the Israeli General Security Service, Shabak started to interrogate me and they also hit me all over the body with their hands and with a hard plastic cable. This method continued for 20 days. After these days they transferred me to Ramle prison and put me in a dark solitary confinement for eight days and nights. They tied my hands and legs very hard to the bed during the nights because, in their opinion, I was a very dangerous person. Later I was moved to a cell together with criminal adults and this affected me badly. One day a criminal Russian Jewish woman burned me with a cigarette on my back. This hurt me a lot. I still have scars on my back. The soldiers used tear gas in the cell and this hurt my eyes a lot and it smelled like fried chicken in the cell. Sometimes they cut off the water supply. They did not let me talk to a social worker as my lawyer demanded. It was a very hard time for me as a girl to be under arrest and to be subject to torture.

My parents were not informed about my arrest until after 7 days and I was not allowed to see a lawyer until after 20 days. My parents were not allowed to visit me in the prisons. I could not continue my studies because there was no teacher and no library in the prisons.

They brought me before a military judge about 25 times. Every time they said that the trial was postponed. At last the military judge in Bet El settlement sentenced me to four and a half months' imprisonment, five years' suspended sentence and 15 000 shekel fine. The judge forbade me to go back to my school and I was put in house arrest for one and a half year. I was released from the prison on 4th of January 2002.

My parents supported me very much and helped me so I was able to continue my studies in another school. Today I am in a DCI-PS training course in order to strengthen my self-confidence. I am also a volunteer in the Red Crescent. My dream is to become a nurse or a journalist. But still I suffer a lot from the very bad treatment in the prisons. I am still in need of medical treatment but the medicine is very expensive and my parents cannot afford it.

### **Testimony of Islam Monzer Dana, age 12 from Hebron**

I and my sister Susan, age 9, now live with our parents, two sisters and two brothers in our great grandfather's house in Hebron. Our family's house is next to this building but we cannot live there because of an Israeli settlement opposite our house. The settlers often throw stones and even shoot at our house. Even girl settlers throw stones. We are not allowed to use the settlers' road but sometimes when we do not see any soldiers we take that road because it is only 15 minutes walk to our school. If we cannot take that road we have to walk over the hills to our school and it takes us more than one hour to reach the school. One day in September 2003 we could not see any soldiers

or settlers so we chanced it and took the settlers road. Coming half way to school soldiers came running after us. We started running for our lives. My sister dropped one of her shoes and her school bag. One of the soldiers grabbed my sister by her hair and clothes so she fell to the ground. She started screaming very frightened. I turned back to defend my sister and tried to get off the soldiers but they started to hit us and threatened us with their guns. This was very frightening and painful. We managed to run away from the soldiers. We stood still behind a house about 10 minutes and decided not to go back home because we were very afraid of being caught again. Then we rushed into the nearest house. The woman in the house gave us protection and helped us to take another way to our school. Since that day I and my sister have to take a long way to school, instead of the short way we used to walk. From that day we are very afraid of soldiers and we are scared to go to friends houses in case something happens.

The girls' father told us that his family is often harassed by the IDF (Israeli Defense Forces). Since 2002 there is an IDF watchtower opposite his house. Very often the soldiers are coming during nighttime to search the whole house and sometimes they use the roof of the house as a watchtower. His house was built three years ago on his grandfather's land but the family cannot live in it. It is too dangerous because of the settlers and soldiers.

None of the family members dare to stand before the windows facing the settlement because all are afraid of being shot at. He has seen soldiers picking up stones for settlers who throw them on his house. His two daughters are very afraid after what have happened to them. They have nightmares. When soldiers are coming they start running into the house and hide themselves very quickly. The family has no other choice than to live in Hebron as generations before they have done. The settlers came in 1968 and built houses on occupied land.

### **House demolitions**

Mr Jakob Aouda from Land Research Center (LRC) in Jerusalem informed us about the latest house demolitions and land confiscations in East Jerusalem. The LRC is a branch of the Arab Studies Society (ASS). Together with him we visited some of these places. At first he gave us written information from the Land Research Center about the following. On the 6th of February 2002 LRC got an order from Israeli Security Forces to close the office under the pretext of being affiliated to the Palestinian Authority. IDF confiscated all the office contents, including archives, library, computer network and floppy discs. LRC and ASS hold the Israeli authorities responsible for any loss of materials and documents, which belong to partner, organizations and founders, particularly the European Union.

### **House demolition in East Jerusalem**

House demolitions were carried out during three days in April 2003 in East Jerusalem as follows.

#### **On 2nd of April 2003**

- 2 houses were destroyed in Beit Hanina.

#### **On 3rd of April 2003**

- 8 houses, one barrack, walls and yards were destroyed in Sur Baher
- 1 house was demolished for the fourth time in the village of Anata Salam
- 1 house was demolished in Al Zuaim village
- 1 house was demolished in the village of Qatana

#### **On 6th of April 2003**

- 10 houses were destroyed in Al Issawiya Quarters

The total number of people who became homeless of the aforementioned demolitions is 144, including 75 children under the age of 16. The total area of the destroyed houses is 3.380 square meters, while the total area of the destroyed walls and yards is 2.540 square meters.

### **Testimony of Mohammed Sayad**

I am married and live on the Mount of Olive. I was born in East Jerusalem like my father, grandfather and great grandfather. I built a two-storied house with six apartments for my family but without a license from the Israeli Authority. On the 23 of September 2003 an Israeli army bulldozer destroyed my house completely with all furniture and other belongings. About 100 soldiers in 20 military cars closed the area around the house. No TV or journalists were allowed to enter the area. The Israeli Authority did not inform me about the demolition. They should inform 72 hours before in accordance with law. My family and I were not in the house at that time. One neighbor called me and told me what had happened. Only my house was destroyed at that time.

I have been working for the UN more than 42 years as a teacher but now I am retired. All what I had saved, at least 150.000 USD, has gone. If I had asked for a license to build a house the Israeli Authority would never have granted me a license. Almost 90 % of the houses in East Jerusalem are built without a license. If someone applies for a license it takes five years to get an answer. A license costs about 25.000 USD. The Jewish people do not need to pay for a license and they have to wait only six months for an answer. Almost all of the Jewish people get a positive answer but none Palestinian. Some months before my house was destroyed I heard on TV that a house cannot be destroyed before the owner has been informed about it. The worst thing is not that my house has been destroyed. The house demolition caused damage in my heart of hearts. I ask myself what's going on in Palestine. Maybe it is a war crime? Why is the world so silent?

### **Testimony of Imad Abu Mahdi**

I was born in East Jerusalem like my ancestors. On the 1st of June 2002, I got my house completely destroyed because I had built it without a license. I built a new 200 square meter house on the same ground. I got an order from the Israeli municipality to destroy this house no later than 27th of August 2003. I did not follow the order. One morning at 6.30, Israeli soldiers with dogs entered into my house and searched the whole house. My children woke up. They were very fearful and started to cry and the youngest one started to wee-wee (pee). I called for some workers to help me to take out our belongings. One soldier tried to steal a gold chain from one of my children's room. The bulldozer started to hit the balcony. My youngest son, four years old, said to me "tell him not to hit the house it is better to dig in the ground". One of my children was very anxious about her birds and asked me if her room should be destroyed. The police officer gave an order to stop the house demolition but the man who was responsible for the demolition said it was necessary to continue because it should be very dangerous to leave the house like it was.

### **House demolition in Ramallah**

The 1st of December 2003 Israeli Defense Force demolished a four-storied building in Ramallah. A social worker from Al Haq took us to the place and informed us that a Palestinian man wanted by IDF had visited a family in the house. The Israeli soldiers had surrounded the building and began to indiscriminately fire heavy machine guns at the ground floor of the building. Then the Israeli forces detonated several explosive devices inside the building. Two male civilians were killed by the explosion. Eight families including many young children became homeless. Three houses in the neighborhood were also almost totally destroyed.

## **House demolition in Bethlehem**

Seven blocks of flats in Beit Sahour were quite recently built by the Palestinian Authority, supported by the State of Japan. The Israeli Authority has now decided that these houses have to be destroyed at the latest by midsummer 2005 because the houses are too close to the Wall/fence and to an Israeli settlement.

## **The Wall**

Israel is building the Wall from the northwest to the southwest of the West Bank, in most cases inside the 1967 Green Line; The Wall is not being built on, or in most cases even near the Green Line. The Israeli government has proposed a second wall from the northeast to southeast west of the Jordan Valley. The Wall is expected to be at least 360 kilometers long maybe up to 750 kilometers. The Wall will be composed of various sections, of which the Wall will be either concrete and /or barbed wire. The concrete Wall will average eight meters high with armed concrete watchtowers, and a buffer zone of 30 to 100 meter wide to make way for electric fences, trenches, cameras, sensors and security patrols. The Wall's buffer zone has been deemed as a military no-man's land, paving the way for large-scale demolition. The Wall is located in many places only meters from homes, shops and schools. If completed without the expansions: 95.000 Palestinians will be isolated, 4,5 % of the West Bank population. About 200.000 in East Jerusalem will be totally isolated from the rest of the West Bank. The Israeli Government/settlers' proposal to modify the Wall will isolate another 110.000 Palestinians for a total of 405.000 isolated behind the Wall, including East Jerusalem.

The social impact of the Wall is, of course, closely integrated with the political, economic and environmental, in fact, they are all intertwined. The Wall is designed to divide the population along racial lines by creation of separate reserves and ghettos. The movement between the northern and southern West Bank is extremely difficult.

## **Land confiscation and uprooted trees**

At least 10% of the West Bank will be confiscated by and for Israel because of the route of the Wall. Some 150.000 dunums-2 % of the West Bank - are to be confiscated in the northern or "first phase" of the Wall, under the Israeli self-declared "security zone". At some points the Wall is being built 6 km inside the Green Line. The path of the Wall's first phase, which has been modified various times in favour of confiscating more land and annexing additional settlements, takes a route that annexes 10 settlements and the most fertile land of 30 villages in the northern West Bank. The Yesha Council of settlers proposed alternation for the Wall, from Qalqilya to northern Jerusalem, will bring the total number of settlers annexed to Israel to 343.000. As of December 2002, some 11.500 dunums of land have been razed for the footprint of the Wall, including the uprooting of 83.000 trees. Since the beginning of the second Intifada, in October 2000, thousands of acres of farm land and over 112.000 olive trees in the Palestinian Territories have been uprooted by the Israeli Army and settlers. These destructive practices continue daily.

## **The life in cities and villages in the north of the West Bank**

### **Jayyous**

The Wall wriggles and sprawls to swallow much of the land of Jayyous. Its footprint in the town of Jayyous alone will require the destruction of 500 dunums. The Wall, built well within the territory of the West Bank rather than on the internationally recognized 1967 border, will effectively depose 9.000 dunums, 2.500 of which are irrigated croplands. This will result in the loss of over 120 green



houses, over 15.000 olive trees, 50.000 citrus trees, 6 ground water wells (the village's main source of water) and livestock pasture. This land not only supports 550 village families but also provides products to 60.000 inhabitants of the West Bank.

## **Qalqilia**

The mayor of Qalqilia, Maa'rouf Zahran gave us the following information. The governorate of Qalqilia is comprised of 32 villages with approximately 85.000 Palestinians and 19 illegal Israeli's colonies with an estimated illegal Israeli settler population of 50.700. Qalqilia has a history of very good relations with Israel both with joint business and home to home relations. The business relation was very successful. But 1996 Israel started to uproot trees without noticing people. This led to demonstrations with killed and injured people. Israel started with ring roads and said it was just temporary. Israel does not say that they are confiscating land. They say "we put our hands on the land for security reason". Qalqilia tried to stop the confiscation but the High Court of Justice said it is a question for the Ministry of Defense to answer. But the Ministry said it is in the hand of the Cabinet. Today farmers have to ask Israel authority for a permission to come to their own land on the other side of the Wall. Many of them will never get permission. Israel has built huge water pipe lines from Qalqilia into Israel. This has led to water shortage in Qalqilia so we have to buy our own water from Israel.

Around Qalqilia there are 32 villages in three enclaves. Because of the Wall, Qalqilia and the villages are isolated from each other. From media we have heard that Sharon promised to build a tunnel but it has not been built yet.

The Wall has great impact on the economical situation. 600 stores have closed. 6.000 people used to work in Israel but no one is allowed to work in Israel today. About 80 % of the population of Qalqilia is depending on UNRWA relief and 5.000 people have moved from Qalqilia. There is only one entrance into the city and there is an Israeli checkpoint. Children from villages around the town have to pass this check point to reach their school. Sometimes the soldiers close the checkpoint and children cannot reach their school. Instead of 500 meters walk to school many children today have more than three kilometers walk because of the Wall.

In August 2002 the Israeli government announced its plans for the Wall surrounding Qalqilia. The Wall will not be on the Israeli border but within the occupied West Bank. The eight-meter high Wall is surrounded firstly by a trench, 4 meters wide and 2 meters deep, then barbed wire and lastly a military road that will be patrolled by the Israeli army.

The mayor's opinion is that people can accept the Wall but it must be built on the Green Line and not on Palestinian land. Today Israel takes Palestinian land and water. This will create more violence against Israel. Israel's policy is destroying the Palestinians hope of an independent state. Israel is extending settlements and is connecting these with new highways and by-pass roads.

## **Jenin**

Information from a person in Jenin who, for security reasons, wishes to remain anonymous: Today Jenin has only one entrance, which is controlled by Israeli soldiers. The soldiers at the checkpoint are armed with rifles, heavy machine guns and armored vehicles and tanks.

Jenin has a population of 37.000 inhabitants. Out of this 13.000 live in the Jenin camp and they are 1948-refugees registered by UNRWA. In April 2002, Jenin was attacked by the Israeli army. From the hills above, tanks shelled the refugee camp and Apache helicopters fired the camp from the air. About 13.000 Israeli soldiers entered the city. The soldiers searched houses and shot to death some

children and adults. They blocked the entrance to the hospital and threatened to kill everyone who tried to leave or enter the hospital.

After the attack, big bulldozers, D-9, totally demolished 485 houses. Many other houses were partly damaged. During the attack 56 people were killed. Some of these were run over by tanks and bulldozers and were completely crushed. About 2.500 people became homeless. Many people were seriously injured and 112 became disabled. Because of roadblocks and curfews these people have difficulties to travel into Jenin for treatment. Jenin community has therefore opened three rehabilitation centers for disabled people in villages around Jenin. Today many are in need of psychological treatment. Jenin is in need of specialized doctors in orthopedics, pediatrics, gynecology, physiotherapy as well as psychologists for children. Jenin is also in need of a hospital. Many women are in need of income-generating projects. They became widows after the invasion. The life in Jenin is very hard, especially in the refugee camp. There is almost no opportunity to work and some families have shortage of food. There is no security. The police station is totally demolished and there are no police in the city. We have no protection at all. Israeli soldiers enter the city almost daily. Since the attack the children are playing with plastic guns and slingshots. They have no playground. The children's future is black.

### **Checkpoints/roadblocks**

Since September 2000, the State of Israel has imposed sweeping movement restrictions on the civilian population in the Occupied Territories, which have had the effect of isolating individual communities. A closure is imposed through the placing of checkpoints or other types of manned or unmanned barriers around a place with the aim of either prohibiting movements between that place and other areas, or making movement from that place to other areas as tedious as possible. Movement between different Palestinian villages and towns within the West Bank becomes almost impossible with primary roads blocked by Israeli soldiers and physical barriers placed on many secondary roads.

For Palestinians to travel with their own vehicle becomes almost impossible. They are forced to travel on makeshift dirt paths in order to avoid military checkpoints. Attending places of work and education may be impossible and medical personnel have often been prevented from reaching villages or towns in other areas. Closure affects the Palestinian society on a number of levels. The Palestinian economy is heavily reliant on access to Israel markets in terms of employment and material. Any measure that inhibits that access is bound to have a deleterious effect on the Palestinian economy.

### **Ambulances**

Any prohibition on movement severely affects those in need of emergency care. Many women have been obliged to give birth at or near checkpoints because Israeli soldiers have forbidden them to pass. Many medical emergency cases have been prevented from evacuating to a hospital outside their own residential area. People have died at checkpoints because of this. The same day as we visited Bethlehem we heard that three ambulances were prevented to pass the checkpoint out of Bethlehem to Hebron. The ambulances with their 17 very sick people had been waiting three hours to get a permission to pass. We had a discussion with the Israeli military captain in charge at the checkpoint. After about 30 minutes he let them pass.

## Comments

Article 24, 2b, CRC states... "to ensure the provision of necessary medical assistance and health care to all children ..."

Article 27, 1, CRC states... "State Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development".

Article 31, CRC states "...the right of the child to rest and leisure, to engage in play and recreational activities...."

International law prohibits acquisition of territory by force. Both the confiscation and destruction of land and the building of the Wall violate the Palestinian people's Right to Property, Right to Work, Right to Adequate Standard of Living and Right to Freedom of Movement, as guaranteed by international law.

The occupying power is prohibited from confiscating private property, which is clearly stated in article 23, of The Hague Regulations. Article 53 of the Fourth Geneva Convention, to which Israel is a signatory, forbids the destruction of private property unless the destruction is necessary for imperative military needs. The UN Security Council has in several resolutions reaffirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 is applicable to the Occupied Palestinian Territory, including Jerusalem, and other Arab territories occupied by Israel since 1967.

Article 16, Fourth Geneva Convention states "The wounded and sick, as well as the infirm, and expectant mother, shall be the object of particular protection and respect".

Article 33, The Fourth Geneva Convention states "no protected person may be punished for an offence he or she has not personally committed".

Destruction or seizure of property in Occupied Territories is forbidden as a collective punishment. Moreover, such extensive destruction of private property carried out wantonly and without genuine military necessity is a grave breach to article 147, of the Fourth Geneva Convention.

The occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies, article 49, Fourth Geneva Convention.

Article 55, the Hague Regulations, "The occupying state shall be regarded only as administrator and usufructuary of public buildings real estate, forests, and agricultural estates belonging to the hostile state, and situated in the occupied country.

[1] There are compelling arguments for the universal applicability of human rights law and therefore its potential applicability to situations of belligerent occupation. In most cases, instruments state their scope of applicability in terms of "territory" or "jurisdiction." If an instrument is applicable to the "jurisdiction" of the signatory, it is widely agreed that it is applicable wherever the signatory exercises its authority, including occupied territories, and not just within the signatory's own national territory. ("The Applicability of Human Rights Law in Occupied Territories, Al-Haq, 2003, s.55)