



International Commission of Jurists, Swedish Section

## PALESTINIAN CHILDREN BEHIND BARS



Palestinian refugee children behind the wall in Aida refugee camp, Bethlehem

Report from the West Bank, 12-20 December 2004

- hearings in Israeli Military Courts
- ex-prisoners' experiences
- the impact of bars and inhuman treatment

Birgitta Elfström and Arne Malmgren, jurists  
Gothenburg, Sweden 31/01/2005

**Table of Contents**

Programme for the delegates..... 3

Introduction ..... 4

Hearings in military courts..... 5

    Ofer Military Court..... 5

    Salem Military Court..... 6

    Israeli Military Order..... 9

    Plea bargain ..... 9

    Comments on the hearings..... 10

Statements from child victims ..... 10

Restrictions of movement and other inhuman treatment..... 13

    Bethlehem area ..... 13

    Hebron..... 18

Facts ..... 20

Selected articles of International Law ..... 21

Comments ..... 23

## PROGRAMME FOR THE ICJ DELEGATES 12-20 DECEMBER 2004

- 12/12 hearings in Ofer Military Court
- 13/12 visit to the schools in Beit Ur Al-Tahta and Beit Ur Al-Fouk, meetings with school children
- 14/12 hearings in Salem Military Court
- 16/12 hearings in Salem Military Court
- 17/12 meetings with ex-prisoners and families in Bethlehem area
- 18/12 meeting with DCI-PS in Hebron, meetings with children in Kortoba and Al-Fihak girls' schools
- 19/12 visit to the wall in Abu Dis, East Jerusalem
- 20/12 meeting with DCI-PS in Ramallah



Palestinian refugee children playing behind the wall in Bethlehem

## INTRODUCTION

At the request of the children rights' organization Defence for Children International, Palestine Section (DCI-PS), the Swedish section of the International Commission of Jurists (ICJ) appointed us as delegates/trial observers in the West Bank. Our mission was to attend trials in Israeli Military Courts in the West Bank regarding cases where Palestinian children were detained for stone-throwing, military actions and membership of militant groups.

It was also included in our mission to interview ex-prisoners and relatives of detained Palestinian children and to observe and interview Palestinians on how the wall, checkpoints and roadblocks affect them and in particular the children.

The visit began with preparations for the hearings. Meetings were held with the host organization DCI-PS.

The aim of this report is:

- to describe the situation of Palestinian children under arrest, interrogation and during trial in relation to international law, with special focus on the Fourth Geneva Convention and the UN Convention on the Rights of the Child.
- to describe the impact of the wall, roadblocks, checkpoints and house demolitions on the Palestinians and, in particular, on the children.

### **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: [dci@dci-pal.org](mailto:dci@dci-pal.org))

### **Background**

We were appointed as trial observers in Israeli Military Courts in December 2003 concerning detained Palestinian children. The report, named "Palestinian Children Without Rights", can be found on the web site: [www.icj-sweden.org](http://www.icj-sweden.org).

The situation today concerning the procedure in Israeli Military Courts; - the system with "plea bargain", the restrictions on family visits, the harassment and torture which children face during investigations – has not changed at all.

## HEARINGS IN MILITARY COURTS IN THE WEST BANK

### Ofer Military Court



The Israeli Military Court and Detention Center in Ofer near Ramallah

A judge, a prosecutor and nine armed Israeli soldiers were present in the courtroom. All of them were dressed in military uniforms. A DCI-PS lawyer attended the trial and so did we as observers together with our interpreter. It was very noisy, soldiers came and went. The judge and the prosecutor talked sometimes to each other without translation into Arabic. One of the female soldiers, who was taking minutes, needed a lot of help from the judge to handle the computer.

#### **Jihad, 16 years old from Bethlehem.**

Jihad's father told us that Israeli soldiers stormed their house at one o'clock a.m., broke the door and the windows and arrested Jihad. He also said that he had not been allowed to visit Jihad in the detention centre.

Jihad entered the courtroom dressed in jeans and a black cap. The soldier took off Jihad's foot chain before he entered the courtroom. Jihad was thin, pale and looked very frightened. We were able to talk a little to Jihad before the judge entered the courtroom. Jihad told us that soldiers had beaten him during the whole first night. He had recently gone through an operation of his nose, so he was very afraid of being beaten and therefore he almost immediately confessed to having thrown stones. He did not dare to say that he had had an operation, because he thought he could be even more beaten then. Jihad was suspected of throwing stones ten times at an Israeli jeep and to having had set fire to car tires.

Before the hearing the lawyer and the prosecutor agreed on settling the case in a so-called plea bargain deal. The lawyer had argued in favour of a lenient sentence. Finally the prosecutor and the lawyer came to the agreement that Jihad had thrown stones only twice.

Jihad was sentenced to four and a half months' imprisonment and a fine of 1500 shekel.

#### **Bian, not yet 16 years old from Bethlehem.**

Bian was dressed in jeans and a blue sweater and had foot chains when he entered the courtroom. He was pale and looked very frightened. He had a wound on his chin and he told us that he had been beaten during the interrogation. When he saw his parents in the courtroom he was very happy, but he was not allowed to talk to them.

Bian was sentenced to four months' imprisonment for throwing stones. The prosecutor and the lawyer came to this agreement in a plea bargain deal.

The lawyer told us that the two boys, Jihad and Bian, are close friends and that they had informed against each other during the investigation.

### **Salem Military Court**



The Israeli Military Court and Detention Center in Salem near Jenin

The prosecutor Raad Shamali in Salem Military Court reminded us of the booklet "Child Convention", which we gave him during an ICJ-mission last year, and said that he would never forget the Convention.

Before the hearings the prosecutor told us that the policy of the court is;

- not to detain a child under 14 years
- a child between 14-16 years can be sentenced to a few days to up to one month's imprisonment for throwing stones
- a child above the age of 16 can be sentenced to up to four months' imprisonment.

However, the prosecutor also said that the High Court of Justice once sentenced a 14-year-old child to five months' imprisonment for throwing stones a third time.

In Salem Court they have two to three cases of stone-throwing every month. Ofer Military Court has more cases, maybe because children in that area are more affected by the wall. According to the prosecutor the wall is the main reason for children throwing stones.

The prosecutor also said: " The second Intifada has shifted from public to military actions. Now Palestinian organizations more often use children and women in terrorist attacks. I suffer when I see children and women involved in these attacks, which have increased the last year. I find it difficult to see an end to the Palestinian resistance in the Occupied Palestinian Territory, and I think that the punishments may become harder in order to deter Palestinians from making resistance".



The wall in Abu Dis, East Jerusalem

When we entered the courtroom in one of the military barracks we heard an explosion outside. Some of the soldiers left the room. A lawyer told us that Israeli soldiers had blown up a “bomb”, which they had been given by three Palestinian boys. The three boys had constructed this “bomb”, which consisted of an iron pipe filled with more or less explosive materials. But the boys got scared and changed their minds. They handed over the bomb to the soldiers, who then arrested them.

When we left Salem Court, we saw three very young blindfolded boys sitting on their knees on the ground inside the military court area. A DCI-PS lawyer has taken on this case.

**Yousef, born 1987, from Jenin refugee camp.**

Yousef was arrested in July 2004, accused of killing a settler. When he entered the courtroom his feet were fettered. He was dressed in prison-clothes, brown trousers and a brown waistcoat, a black sweater and sneakers. He was pale and looked very weak.

As Yousef did not confess to anything, the three judges decided to adjourn the trial in order to call a witness.

Yousefs mother came to the hearing, but she was not allowed to enter the courtroom. We talked to her after the session. For security reasons there was a fence between us. She was very sad and cried a lot, because she had just seen soldiers beating Yousef, when he left the courtroom. She asked the soldiers for permission to talk to her son. At first they refused, but the lawyer intervened and was told that she might get permission later that day.

She told us the following: “Yousef left our house to go shopping with his friend Khaled. They did not come back. I believe that Israeli soldiers came to arrest Khaled and when Yosef saw that, he got afraid and ran away. Soldiers fired with machine guns and killed Khaled. Yousef took shelter in a house, but the soldiers found him and shot at him. One of his legs and one of his arms were hit. He fell down from the second floor onto the ground and was badly injured.

During the Israeli invasion of Jenin refugee camp, Yousef was shot in the stomach and two of his brothers were shot to death and then a military tank ran over one of the bodies. Our house was totally destroyed. Seven family members were killed, and my family is still suffering a lot.”

The lawyer told us that Yousef was badly injured, but had been denied access to a doctor for the last two months despite problems with his wounds. In the prison Yousef and other detainees have demonstrated against the inhuman treatment of girls in the prison. As a result, they have been beaten and sprayed with gas by the guards.



The wall in Qalqilia in the West Bank

**Ahmed, born 1987, from Qalqilia.**

Ahmed was suspected of “conspiracy”. The judge told us that he would not allow any interpretation in the courtroom. When the hearing was over, the lawyer informed us about the case. The lawyer pleaded that Ahmed had not been involved in any conspiracy and that he had not caused any damage. He had given himself up to the police, as soon as he knew that they were looking for him.

The prosecutor and the lawyer came to an agreement in a plea bargain deal. The judge asked if Ahmed accepted the deal. At first Ahmed did not accept the deal of 32 months’ imprisonment but changed his mind and agreed. The final decision was 32 months’ imprisonment, a fine of 2000 shekel and 21 months’ on probation for three years.

The lawyer told us that Ahmed could have been sentenced to a much harder punishment if he had not accepted the deal.

**Next case**, still without interpretation, concerned a young boy who was suspected of “carrying guns”. The lawyer pleaded that the boy had not fired a shot and that he had not caused any damage. After a plea bargain deal the boy accepted the deal and was sentenced to 45 months’ imprisonment.

We were not able to be present at the following hearings because of very heavy traffic on our way from Jerusalem to Salem Court. The children were sentenced to imprisonment after plea bargains.

**Heba, born 1987**, sentenced to 15 months’ imprisonment for planning a terrorist attack.

**Ihab, born 1987**, sentenced to 32 months’ imprisonment for being a member of a terrorist organization and for planning terrorist attacks.

**Ayawas, born 1987**, sentenced to 24 months’ imprisonment for planning a terrorist operation.

**Iptihad, born 1986**, sentenced to 18 months’ imprisonment for planning an attack.

**Ahmed, born 1987**, sentenced to 22 months’ imprisonment for carrying explosives.

**Ahmed, born 1987**, charged for planning a suicide attack. The trial was adjourned till 27 February 2005. The DCI-PS lawyer demanded a witness examination. Ahmed suffers from cancer.

## **Israeli Military Order**

The Israeli Military Order No.132 contravenes 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 Military Order No.132 is a discrimination against Palestinian children. This Military Order 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

Unlike Israeli children who are tried in Juvenile Courts, Palestinian children are tried in the same Israeli Military Courts as adults. The Military Orders used against them are much harsher than the Israeli law used against Israeli children.

The Palestinian Authority has a juvenile justice system that can deal with children in conflict with the law.

## **Plea bargain**

The following information about plea bargain is quoted from the Free Encyclopedia Wikipedia ([www.wikipedia.org](http://www.wikipedia.org))

A plea bargain is an agreement in a criminal case in which a prosecutor and a defendant arrange to settle the case against the defendant. The defendant agrees to plead guilty or no contest (and often allocute) in exchange for some concession from the prosecutor. This concession can include reducing the original charge or charges, dismissing some of the charges against the defendant or limiting the punishment a court can impose on the defendant. Generally, a plea bargain allows the parties to agree on the outcome and settle the pending charge.

The reasons for plea bargaining by either side may be several. In most cases, the plea bargain is to avoid the uncertainty of the trial, and minimize the risk of undesirable results for either side. Prosecutors generally have wide discretion regarding the charges they may bring, and therefore tend to charge the defendant with the most extreme charges that are applicable to the situation at hand. Thus in a plea bargain, the defendant is left to choose between the certainty of accepting sentencing for a much less serious charge, or the uncertainty of a jury trial in which the defendant might be found not guilty, but which also carries the risk of being found guilty of the original, more serious charges.

Critics of the system point out that the plea bargain system puts strong pressure on defendants to plead to crimes that they know that they did not commit, and the outcome of a plea bargain may depend strongly on the negotiating skills and personal demeanor of the defense lawyer, which puts persons who can afford good lawyers at an advantage. Furthermore, the system encourages prosecutors to overcharge at the start of a case which leads to caseload pressures or unusually severe penalties.

## Comments

On the first day in Salem Military Court our interpreter was not allowed to interpret, even if he spoke in a very low voice. When we arrived at the court on the second day, soldiers tried to stop us because they had seen us in the court the day before. One soldier said to another soldier: "maybe they want to make trouble". Another soldier contacted the prosecutor, who gave him order to open the gate for us.

According to information from DCI-PS and other human rights organizations, many children confess under torture or other inhuman treatment. A female lawyer told us that a judge once said openly in the courtroom to a defendant: "you will have one more year's imprisonment if you keep asking for a witness examination". Because of the risk of a harder punishment lawyers rarely ask for a witness examination. Instead the lawyers instead try to reduce the sentence in a plea bargain deal. We believe that a plea bargain deal should not be permitted in hearings concerning children, since many children confess under torture and other inhuman treatment although they are innocent.

A lawyer said; "In two almost similar cases a judge with extreme right-wing sympathies may pass a very severe sentence, while a judge with extreme left-wing sympathies may acquit the defendant".

There is no established punishment for stone-throwing. It differs from court to court, from prosecutor to prosecutor and from judge to judge. There is no statistic data on the punishments in the various military courts.

A DCI-PS lawyer told us that in one month he got 50 new cases concerning arrested Palestinian children, all of them suspected of throwing stones or of other similar protest actions against the wall.

We believe that our presence at the hearings had some impact on the prosecutor and the judges and benefitted the Palestinian children.

## STATEMENTS FROM CHILD VICTIMS



**Mohammad, born 1986,  
Dheisheh refugee camp, Bethlehem**

"In December 2002, the General Security Service (GSS) arrested me and my brother Mahmoud. I was at that time not yet 16 years old. We were brought to Atzion prison. After eight days my brother was transferred to Ahskelon prison. I was placed in solitary confinement for forty days. I was accused of being an enemy of the state of Israel. They said that they had a secret file on me.

I was tortured during the interrogations. They beat me with a stick, burned my legs with cigarettes, they urinated on me and they threatened to pull out my nails. I was placed in administrative detention for six months. The military commander extended the detention to 21 months altogether. I was placed in a tent with other detainees."



Mohammad's leg, burned by cigarettes

"In summer it was up to +45 degrees Celsius and in winter very cold and rainy. I was very cold since I only had two blankets

There were mosquitoes, snakes and scorpions in the tent. The food was insufficient and sometimes the food was poisoned. A few times the warders sprinkled us with gas.

Today I am a university student and I try to look forward to a peaceful future, but still I live in a place similar to a prison."

**Muhammed, born 1987, Aida refugee camp, Bethlehem**



Muhammed shows the scar on his left armpit

"One day in September 2004, I was in Dheishe refugee camp in Bethlehem. I heard explosions and saw some children near the wall. I ran out to bring them into the camp for security reasons. An Israeli security guard saw me and began to fire at me with his machine gun. I was hit on the left arm and fell down on the street. I noticed that one of the children also was wounded. A woman came and tried to protect the child and me. The security guard stopped shooting and we ran into the camp".

**Munjid, born 1987, Aida refugee camp**

"In October 2004, about thirty Israeli soldiers came to our house in the middle of the night. They arrested me. I was beaten, blindfolded and handcuffed. My younger sisters and brothers started to cry. The soldiers ordered them to leave the house. They did not give them time to put on their clothes, although it was very cold outside.

During the interrogation I was severely beaten. They kicked me and forced me to sit in a very uncomfortable position. I also had to stand up during the first two days with my hands tied behind my back. I was put in solitary confinement. The investigator claimed that I had thrown stones, but I did not confess. I was released after four days."

"I have been arrested four times before like my brothers. Israeli soldiers killed our father two years ago. Maybe the Israeli soldiers think that we are planning to take our revenge".



Munjid is still suffering from the inhuman treatment during the investigation

**Khaled, born 1987, Aida refugee camp**

"Israeli soldiers stormed our house in the middle of the night on September 8, 2004. I was arrested, blindfolded and handcuffed. A soldier put his machine gun in my back and shouted: "run or I will shoot".



Khaled in deep thoughts

"I ran and fell down on the street, got a wound in the face and started bleeding. I was put in solitary confinement for seven days and was only allowed to go to the toilet once a day. The soldiers never switched off the light in the cell. They threatened to demolish our house if I did not confess that I had been throwing stones. They said: "this is a place where people usually tell us a lot, so you had better confess".

Not until 30 days later did I have access to a lawyer. Later I found out that one of the detainees, a mentally retarded boy from Aida refugee camp, had given false information about me to the soldiers."

Khaled was released in the beginning of December 2004.

## RESTRICTIONS OF MOVEMENT AND OTHER INHUMAN TREATMENT

### Bethlehem area

The wall, the separation fence, roadblocks and the Israeli checkpoints at the two entrances to Bethlehem, have turned the city into a big prison. The wall has separated residents from their olive groves and farmland. The residents in Bethlehem cannot travel the short distance to Jerusalem without an Israeli permit. Many Palestinians from the Bethlehem area have emigrated to escape the violence and the very bad financial situation.



The Israeli Military checkpoint on the road from Bethlehem to Jerusalem

According to a report from the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the Bethlehem area is surrounded by 78 physical obstacles, including dirt mounds, checkpoints and concrete barriers.<sup>1</sup>

### Beit Sahour

The father of the Sahori family told us the following:

“Late at night on 26 November 2002, a large number of Israeli soldiers with dogs stormed our house in Beit Sahour. The soldiers, who had covered their faces with black masks, lighted up the house with phosphor matches. They turned the house into a heap of ruins. They shot randomly inside with at least 300 bullets, which destroyed the windows, furniture, clothes and the walls. They arrested a 27-year-old man, a member of the family who was suspected of being a leader of an illegal organization.

There is no final court decision yet. Since then my family’s six young children are severely traumatized. The youngest boy who is eight years old suffers from nightmares and is constantly terrified of a next visit. But he does not want to show that he is afraid. He wants to be a hero, like the film- stars. He beats other children, he refuses to sleep alone and sleeps between his mother and father. The sound of military tanks and shooting makes him aggressive. He likes to play with his home made weapon, a Kalashnikov made of wood and plastic. He sees a psychologist once a week to try to come back to a more normal life.”

<sup>1</sup> [www.un.org](http://www.un.org) Report: Costs of Conflict. The changing face of Bethlehem.



The home made weapon, a Kalashnikov, made by Ali

**Umm Khaled in Beit Sahour** told us the following. “My husband has been in prison for two years. He is a Fatah member and has taken part in actions during the Intifada many times. I am now alone with our four children and it is not easy for me. It took me more than six months to get the first permission to see him in the prison. A few years ago Israeli soldiers demolished our house because of my husband’s activities, but people came and helped us to repair it. My children hate the occupation. They feel that the occupation took their father to prison. It is very difficult for them to be away from their father. The wall is under construction very close to our house and life is more or less like a prison.”



Borod

Dahlia



Khaled

**Khaled, born 1987:** “ I am not allowed to see my father in prison. As I am older than 16, I have my own ID-card and cannot go together with my mother when she gets permission to see him. This is the rule”

**Borod, born 1998 and Dahlia, born 1991.** “We have meet our father in jail but there is a fence between us. We are not allowed to give our father food or sweets, only clothes. Life here is difficult. We cannot play, we cannot move. It is like a prison. We tried once to go to Jericho but it did not work. We have never been to Jerusalem”.

### **Lajee Center, Aida refugee camp, Bethlehem**

Lajee Center is a Palestinian NGO in Aida refugee camp. The organization started to arrange activities for children four years ago. <sup>2</sup>

We talked to a representative of Lajee and he told us the following:

"The wall is under construction only a few metres from the refugee camp. The children are very frustrated because of the wall. Many of the children have been involved in stone-throwing in protests against the wall. Every day Israeli soldiers come into the camp to arrest children. About 70 children from Aida refugee camp are, or have been, in prison during 2004. The youngest prisoner so far is Mohammed, 14 years old, who was arrested one week ago. Before the construction of the wall not very many children were involved in protest actions against the occupation. I think that one reason why the soldiers detain children is that they more collaborators, another is that they want updated information about Palestinian families. Children are often beaten during interrogation."

### **House demolition in Dheisheh refugee camp, Bethlehem**



Rana Helmi's demolished house in Dheisheh refugee camp, Bethlehem

We visited Rana Helmi in Dheisheh refugee camp. She told us that her husband was arrested in the beginning of 2004: " Israeli soldiers came at two o'clock a.m.They surrounded the house and broke the door. The soldiers ordered the family "hands up" and they searched the house for weapons. They did not find anything but my husband was arrested. Forty days later the soldiers came back and searched the house again. The soldier said "tell us about the weapons, or we will destroy your house". They did not find any weapons. Two months later about 60 soldiers in 15 military jeeps came back and blew up the house. I got 15 minutes to empty the house. I was afraid and scared and did not manage to take anything out from the house. I have permission to visit my husband, but I can only see him through a window and talk to him on the telephone. My husband told me that he was beaten during the first 40 days of interrogation and was put in solitary confinement. He is accused of having fired at Gilo settlement and of illegal possession of weapons. There is no court decision yet. The trial has been adjourned."

---

<sup>2</sup>[www.lajee.org](http://www.lajee.org)

### **The Palestinian villages Beit Ur Al-Tahta and Beit Ur Al-Fouk**

The villages Beit Ur Al-Tahta and Beit Ur Al-Fouk are situated five minutes' drive from Ramallah, if you have a permit to drive on the settlers' road. Most of the Palestinians from the occupied territories do not have this permit. The wall cuts off the ordinary Palestinian road to these two villages. Palestinians therefore have to make a detour, a narrow road full of potholes. Now it takes more than 45 minutes to drive from Ramallah to these two villages.



The wall under construction in Abu Dis, East Jerusalem

The wall is under construction in the middle of the street in Beit Ur Al-Fouk. The wall and the settlers' road will surround the Palestinian school in Beit Ur Al-Fouk almost totally. The street leading to this school is blocked for Palestinian cars, which means that the children have to walk about two kilometres to get to the school, whatever the weather conditions are. The children are always afraid on their way to and from school. In the near future, when the wall is completed, the children will have to walk on a muddy path to get to the school.

Today the school is like a small prison. On one side of the school is the settlers' road and on the other side a settlement. Every day the children can see these very nice houses, with their green gardens, where settlers live. Very close to the school there are also many caravans where Jewish immigrants live.

A Palestinian teacher said: "We are not allowed to repair our own school, but settlers are allowed to build new houses on Palestinian grounds. "



Palestinian children on their way home from school in Beit Ur Al-Fouk

A teacher in Beit Ur Al-Tahta told us that they inform the children about their rights to take part in peaceful demonstrations against the wall. They also tell the children not to sign any paper, which they do not understand and that they have the right to have access to a lawyer if they are under arrest. The children are also told not to believe the soldiers when they say things like: "I will rape your mother if you do not confess to throwing stones" or "you will stay in prison your whole life if..." or "we will destroy your house if..."

The teacher also said: "Since Israel started to build the wall many Palestinian children have been imprisoned for throwing stones to protest against the wall. The children get very frustrated when they realize that their fathers' farms are confiscated and when they have no means to support themselves. Israeli soldiers often enter the school and detain children, and of course this causes a lot of fear among the children. When the Moukhtar (the head of the village) talked to the soldiers about this, the answer was:

"We will keep coming every now and then".

Some of the children say; "I want to be a martyr" or "I want to go to prison". One lawyer said that many of the children's fathers are sentenced to life imprisonment and the children want to be under arrest, to have a chance to see their fathers. One child said: "this is the shortest way to see my father". Another teacher told us that 500 Israeli soldiers destroyed his house in Beit Zira completely. This happened one year after his son was arrested, accused of taking part in a terrorist attack. His son had moved to Jerusalem several years earlier and had not been living in Beit Zira since. The teacher said: "why should I pay for what my son has done". The teacher is not allowed to rebuild his own house so he is now living together with his brother.

#### **Samed and Ahmed, 14 years old, students in Beit Ur Al-Tahta school**

The boys told us the following: "A month ago, during the morning break in school, a military jeep with four soldiers drove up to the schoolyard. They passed through the main gate, where we were placed as guardians. The soldiers said that somebody had thrown stones at their jeep. They handcuffed us, and threw us into the jeep."



Samed and Ahmed at the school-gate in Beit Ur Al-Tahta

"We were brought to a military camp, where we were beaten during half an hour. The soldiers hit us on the heads with their machine guns, until we started bleeding. Then the soldiers put us in the jeep, drove far away from the school and threw us into a ditch."

Ahmed said that since then he has nightmares and gets very scared whenever he hears the sound of explosions.

Samed told us that two weeks earlier, in the middle of the night, seven military jeeps and many Israeli soldiers surrounded his family's house. The soldiers kicked the door open and rushed into the house. Samed's two brothers were detained. One of them was released after four days of interrogation and inhuman treatment. The other brother is still under arrest and accused of throwing stones at military vehicles.

We were informed that many children from this school have served three months' prison sentences for throwing stones.

## Hebron



View from the girls' school in old Hebron

The girls' school Kortoba in old Hebron is situated very close to the settlement Beit Hadasa. It is only separated from the settlement by one street. The headmaster Ferial Abu Heikal told us about problems in the area:

" During long periods Hebron has been under curfew. The violent attitude of settlers and soldiers has increased. Many Palestinian girls have dropped out of school because of this. When the girls are on their way to and from school, settlers throw stones, eggs and garbage at them. Sometimes settlers kick the small girls on the legs, trying to prevent them from going home. I often have to stay with the girls in school for hours, waiting to leave because settlers are standing outside.

The school is like a prison, surrounded by settlers. The main street to the school is blocked by barbed wires. All these problems affect the children badly. Once, when I reported to an Israeli officer that settlers had thrown eggs and garbage at the Palestinian school children, the officer asked me; " Do they throw fried or boiled eggs?"

Ferial, the headmaster, also gave us the following information about what had happened to some of her pupils:

" A girl named **Samer, six years old**, was recently stopped on her way from school. A grown-up female settler twisted Samer's arm and kicked her legs so she got very frightened and started to cry.

**Majdolin, seven years old**, was attacked on her way home by a grown-up female settler. She was hit with a stone and started to cry. Since then she is always afraid of being attacked again and she can never feel safe.

**Ragad, six years old**, has also been attacked on her way to school. A female settler threw a stone at her leg, which hurt her a lot. Ragad said proudly that she did not cry when this happened, but she said that she is always afraid because she lives close to a settlement."



Ibrahim Mosque in old Hebron



Settlers in old Hebron

The girls' school Al Fajhah is situated close to the Ibrahim mosque in old Hebron. The headmaster Monira Badir told us that settlers create a lot of problems: "The settlers sometimes use weapons in order to frighten us and they break the windows of the school. They also fire gas bombs into the school. The settlers in old Hebron say that the Palestinians do not have the right to have their school open. The Israeli Military has occupied many Palestinian schools and use them as military camps and checkpoints. I have reported the harassments and assaults to the Military Commander but nothing has happened so far."

**Nabila, 14 years old.**

She is limping and has wrapped a bandage around one of her legs. "I was attacked by a group of settlers. They kicked me and it hurts a lot. I have not seen a doctor because I am afraid of doctors".



Nabila shows her bandaged leg



An Israeli soldier is checking a Palestinian girl's identity in Abu Dis, East Jerusalem

## FACTS

Since the beginning of the second Intifada, Israeli authorities have detained more than 2 500 children. As of December 5, 2004, approximately 373 Palestinian children are still in Israeli prisons and detention facilities. Most of them are held within Israel and far from their places of residence. <sup>3</sup>

According to the Israeli organization B'tselem (which use the term Barrier and not the wall), the route of the Barrier was dictated by extraneous considerations, which have little to do with security. Almost no attention was paid to the extensive harm this route will cause Palestinians. The Barrier divides neighborhoods and cuts off access to jobs and schools. The Barrier will be detrimental to 38% of the Palestinian population on the West Bank. <sup>4</sup>

During 2004 Israel demolished 181 homes in the Occupied Palestinian Territories as a means of punishment and 1 357 homes claiming military necessity. These demolitions left some 11 500 Palestinian homeless. Altogether Israel has demolished 4 100 homes during the Intifada. As a result at least 28 000 Palestinians have been rendered homeless. <sup>5</sup>

There are 55 permanent staffed checkpoints in the West Bank. 17 checkpoints deep into the West Bank restrict movements between Palestinian cities. 27 checkpoints control movements between Israel and the West Bank (including 10 around Jerusalem), 13 of which restrict Palestinian movements within the West Bank and not only into Israel. 11 checkpoints are located inside the city of Hebron. In addition, there are currently 17 checkpoints in the West Bank, which are occasionally staffed and hundreds of un-staffed physical obstacles.<sup>6</sup>

---

<sup>3</sup> Statistic from Ministry of Detainees and Ex-Detainees Affairs

<sup>4</sup> [www.btselem.org](http://www.btselem.org)

<sup>5</sup> [www.btselem.org](http://www.btselem.org)

<sup>6</sup> [www.btselem.org](http://www.btselem.org)

The International Court of Justice (ICJ) has condemned the construction of the wall in the Occupied Palestinian Territory by saying "The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law".<sup>7</sup>

## **SELECTED ARTICLES OF INTERNATIONAL LAW, relevant to the treatment of Palestinians in the conflict between Israel and Palestine**

### **UN Convention Against Torture (CAT)**

Article 2.1, "Each state shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction..."

Article 2.2, "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political stability or any other public emergency, may be invoked as a justification of torture."

### **Universal Declaration of Human Rights (UDHR)**

Article 3, "Everyone has the right to life, liberty and the security of person."

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

### **UN International Covenant on Civil and Political Rights (ICCPR)**

Article 7, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment...."

### **Fourth Geneva Convention**

Article 27, "Protected persons are entitled, in all circumstances, to respect for their persons.....They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity..."

Article 31, "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties."

Article 32, "The High Contracting parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation, but also to any other measures of brutality whether applied by civilian or military agents."

Article 33, "No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."

Article 53, "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, ...is prohibited, except where such destruction is rendered absolutely necessary by military operations."

---

<sup>7</sup> [www.icj-cij.org](http://www.icj-cij.org)

Article 76, “...Proper regard shall be paid to the special treatment due to minors...”

Article 89, “Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health....”

### **UN Convention on the Rights of the Child (CRC)**

Article 2.1, “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, ...”

Article 24.1, “States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health....”

Article 26.1, “States Parties shall recognize for every child the right to benefit from social security....”

Article 27.1, “States 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 27.3, “States Parties ...shall take the appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need, provide material assistance and support programs, particularly with regard to nutrition, clothing and housing. “

Article 37.a, “States Parties shall ensure that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment...”

Article 38.1, “States Parties undertake to respect and to ensure respect for rules of international humanitarian law...”

Article 40.1, “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth...”

### **UN Rules for the Protection of Juveniles Deprived of their Liberty**

Article 67, “All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned....”



A Palestinian boy behind iron bars, East Jerusalem

## COMMENTS

Israel does not respect the Fourth Geneva Convention in the Occupied Territories. According to a decision in United Nation, the Palestinian people are protected under the Fourth Geneva Convention.

Israel signed the Convention on the Rights of the Child on 3 July 1990. The Convention came into force for Israel on 2 November 1991.

We believe that the wall creates huge problems for Palestinian families and particularly for the children. Thousands of Palestinians do not have access to their lands, business, schools, clinics and hospitals. Many have been displaced by the construction of the wall. The ICJ's advisory opinion about the wall is "non-binding" but cannot be ignored.

Every Palestinian child detainee is in immediate need of an International Child Protector from the very first day of arrest, during the interrogation and in prison because of the situation in the Occupied Palestinian Territory and the infringements of international law.

Demolition of Palestinian homes must be seen as a form of cruel, inhuman or degrading treatment or punishment. These acts are prohibited by the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Israel ratified on 3 October 1991.

Israeli military commanders and soldiers arrest and detain Palestinian children without complying with the Convention on the Rights of a Child (CRC). During the hearings in the military courts we never heard neither the judges nor the prosecutors mention "**the best interests of the child**".

We would especially specially like to emphasize to Article 3,CRC :

- **In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.**
- **States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures**



Qalandia checkpoint on the road from Ramallah to Jerusalem