

LAW - The Palestinian  
Society for the Protection  
of Human Rights and the  
Environment

The Public  
Committee against  
Torture  
In Israel (PCATI)

The World  
Organisation  
Against Torture  
(OMCT)

**Submission Concerning Israel's Policies in the Occupied  
Palestinian Territories relevant to the UN Convention Against  
Torture and Other Cruel, Inhuman or Degrading Treatment  
or Punishment**

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In May 2002, the Committee against Torture (the Committee) announced that it would discuss those aspects of situation in the Occupied Palestinian Territories relevant to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>1</sup> in its current, 28<sup>th</sup> session. LAW, PCATI and OMCT welcome the Committee's initiative, and hope that the following submission will help the Committee carry out its important work.

At the outset the three organisations would like to apologise for the lack of detailed information in our submission – this is partly due to the short notice we were given, and partly to the fact that detailed information is still hard to come by, because of steps taken by the Israeli authorities – themselves in violation of international law, including the Convention - which have hampered the flow of information. We would also like to note that part of the information included in this submission was supplied by other Palestinian, Israeli and international human rights NGOs, notably Al-Haq, Adalah, B'Tselem, Amnesty International and Human Rights Watch.<sup>2</sup>

On 23 November 2001, the Committee published its Conclusion and Recommendations following its consideration of Israel's 3<sup>rd</sup> periodic report,<sup>3</sup> expressing concern over a wide variety of issues and making extensive recommendations as to how Israel should address those concerns. Not only has Israel blatantly ignored these concerns and totally failed to address them, Israel has greatly exacerbated its violations of the Convention, both quantitatively and 'qualitatively.' In this submission we have listed the most serious ones, and added our recommendations as to the ways by which we believe the Committee should address this extremely grave situation.

The submission is not exhaustive of the issues which may need to be address. Most of it is devoted to issues under articles 1 and 16 of the Convention, a small part is devoted to issues under article 11, and issues under article 12 are raised in passing. The three organisations' recommendations to the Committee are given at the end.

## 1. Torture and other ill-treatment (issues under articles 1 and 16 of the Convention)

The past few months have seen a sharp rise in the number and severity of violations by Israeli security forces of the Convention's absolute prohibition on torture and other ill-treatment.

### ***a. Mass arbitrary arrests***

During February, March and April 2002, Israeli forces conducted mass, arbitrary

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<sup>1</sup> Adopted by UN General Assembly resolution 39/46 of 10 December 1984. Hereafter: the Convention. "Other cruel, inhuman and degrading treatment or punishment" will be referred to as "other ill-treatment."

<sup>2</sup> Information by these organisations could be obtained, *inter alia*, from their websites: [www.alhaq.org](http://www.alhaq.org), [www.adalah.org](http://www.adalah.org); [www.btselem.org](http://www.btselem.org); [www.amnesty.org](http://www.amnesty.org); and [www.hrw.org](http://www.hrw.org), respectively.

<sup>3</sup> CAT/C/XVII/Concl.5. Henceforth 'C&R.'

arrests on an unprecedented scale. Thus between 26 February and 17 of March over 2,500 Palestinians were arrested; all but about 135 of them were released by 17 March.<sup>4</sup> On 5 May 2002, the State Attorney's Office informed the Israeli Supreme Court that between 29 March and that date alone, some 7,000 Palestinians were arrested, of whom some 5,400 had by that date been released.<sup>5</sup> In several Palestinian towns, refugee camps and villages overtaken by the Israeli army, all males between the ages of 15 (in some cases 16) and 45 (in some cases 55) were separated from women and children, ordered to leave their homes and go to a specific location - sometimes threatened that they would be shot dead unless they did so.

LAW, PCATI and OMCT believe that the fact that persons are Palestinian males between certain ages (including children) cannot be considered ample justification for arrest. The arbitrariness and scale of the arrests gives rise to concern that at least one of the principal reasons for effecting them was to punish, humiliate and intimidate the Palestinian population at large (the families of those arrested were often kept for long days in total darkness as to the whereabouts and fate of their loved ones); which in turn raises issues under article 16 of the Convention even before the ways by which the arrests were carried out and the treatment of those detained are considered.

As noted, most of those arrested were subsequently released, within a few days. However, even those released had suffered several forms of ill-treatment, at times amounting to torture.

#### ***b. Violence and humiliation during arrest and in the detention facilities***

Many detainees were beaten – including with batons, rifle butts and boots, kicked, threatened, cursed or otherwise humiliated by the arresting Israeli soldiers. Many were forced to lie on the ground for long periods, many were paraded, at times in circles in the pouring rain and shown to television cameras, shackled and blindfolded or hooded, in an obvious attempt to humiliate them and the Palestinian population generally.

As noted, most of those arrested were taken to a designated assembly point, where in most cases they were blindfolded and bound by disposable handcuffs (termed in Hebrew “*azikonim*”), made of flexible but coarse plastic, which the soldiers use to bind detainees' hands and sometimes their legs. These plastic handcuffs often cause swelling, cuts in the skin, and intense pain. In several cases detainees spent long hours – and sometimes a whole night – bound by these plastic handcuffs. The requests – and sometimes begging – of the detainees to replace the handcuffs with looser ones were usually met with refusal and derision. Some persons hands turned black.

LAW, PCATI and OMCT believe that these plastic cuffs cannot be considered a proper, humane means of restraint. The coarse material of which they are made, the grooves that make it possible to tighten but not to loosen them (they can only be cut

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<sup>4</sup> Amnesty International, *Israel and the Occupied Territories: The heavy price of Israeli incursions*, April 2002. AI INDEX: MDE 15/042/2002, p. 20.

<sup>5</sup> HCJ 3239/02 *Iyyad Ishaq Mahmud Mar'ab et al v. Commander of IDF forces in the Judea and Samaria Area*, Response by the Respondent, 5 Ma y 2002, para. 14.

off completely), and the consistent complaints of swelling, cuts and immense, accumulating suffering all render these cuffs instruments of ill-treatment, and sometimes torture, which should be banned completely.

Thousands of Palestinian detainees were transferred to temporary detention facilities within military bases and settlements; the largest among them being at Ofer camp, where at one point over 1,000 Palestinians were held.

Violence and humiliation continued during the transfer, with detainees being beaten, trodden upon and spat on. In one case a soldier urinated on a detainee's blindfold.<sup>6</sup> in these facilities as well. For instance, one detainee told the Association for Civil Rights in Israel (ACRI) that upon leaving the bus on which he had arrived at Ofer camp, he slid in the mud, whereupon soldiers dragged him in the mud by his feet, then placed him against a wall, pulled him by the hair and banged his head against the wall. Later soldiers ordered detainees to stand up, then sit down, stand up again etc. It appears that other detainees had their heads banged against walls.<sup>7</sup>

In several statements provided by detainees from Jenin refugee camp to LAW from 3 April 2002 to date, consistent patterns of ill treatment were reported during arrests and in the Salem forest and detention center, including<sup>8</sup>:

- Beatings with rifle butts and boots;
- Threats, curses and insults;
- Forcing many to strip down to their underpants, or remaining in their pajamas. Most being blindfolded, or a few hooded with foul-smelling hoods;
- Use as human shields for hours, and in some cases for days, including some reporting soldiers shooting from their shoulders;
- Held for several hours with their hands tied behind their backs with plastic ties, and in many cases forced to sit with their heads between their knees and beaten if they tried to straighten their backs.
- Some reporting painful tightening of shackles; and painful tightening of blindfolds;
- Some being forced to lie on their face whilst tanks encircled them and they feared being crushed deliberately;

### ***c. Incommunicado detention***

Israel's policies of cutting off Palestinian detainees from the outside world, already a subject of "grave concern" for the Committee in November 2001 [C&R, para. 6(f)], have taken a sharp turn for the worse, both on the legal and on the practical levels. On 5 April 2002, General Yizhak Eitan, the "Commander of IDF Forces in the Judea and Samaria Area" issued Military Order 1500, under which security officers may detain

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<sup>6</sup> Letter by Adv. Sharon Avraham-Weiss of ACRI to Commander of the Central Command, 2 April 2002.

<sup>7</sup> Letter by Adv. Sharon Avraham-Weiss of ACRI to Commander of the Central Command, 2 April 2002.

<sup>8</sup> Refer to LAW's initial report to Mary Robinson, 20 April 2002. LAW is also shortly providing a report to the UN following the UN General Assembly Resolution calling for a report on events in Jenin refugee camp from 3 April 2002.

any individual when “the circumstances of his arrest raise suspicion that he threatens or could threaten the security of the area, the security of Israeli forces, or public security” for as long as 18 (eighteen) days without judicial review and without access to a lawyer. The order, which is valid for 60 days, may also be applied retroactively to any individuals taken into custody since 29 March 2002.

The following should be noted:

- While a detainee must, under this order, be brought before a judge no later than 18 days following arrest, an order prohibiting access to a lawyer for further periods may then be issued, under the previous system.
- We would strongly advise the Committee not to ascribe too much weight to the fact that the order is only valid for 60 days. ‘Temporary’ emergency measures taken by Israel’s security forces are notoriously prone to be renewed almost *ad infinitum*. Thus the ‘special permits’ which were issued to the GSS allowing them to use ‘special methods’ of interrogation in September 1994 for 3 months were renewed repeatedly until September 1999.
- Even referring to the previous system, under which judicial review was obligatory within eight days and only the official “in charge of the interrogation” (rather than any officer with the rank of Major, as in Order 1500) is authorized to deprive the detainee of his right to meet with his attorney - for a period of up to 15 (rather than 18) days, the previous UN Special Rapporteur on Torture, Prof. Sir Nigel Rodley, stated explicitly in his 2001 report to the Commission on Human Rights, and following statements by that Commission,<sup>9</sup> that,

... the Government continues to detain persons incommunicado for exorbitant periods, **itself a practice constituting cruel, inhuman or degrading treatment...**<sup>10</sup> [our emphasis]

This is even more true under the present order, which appears, according to official Israeli data, to have already been used against **hundreds** of Palestinian detainees.<sup>11</sup>

Access to lawyers has been further compounded by a variety of difficulties, including difficulties in finding out where detainees are being held, and the policies of the authorities of detention facilities, such as not allowing detainees to be represented by more than one attorney, which hampers, *inter alia*, visits by attorneys from human rights organisations.

Such denial of access to a lawyer constitutes a violation of international human rights and international humanitarian law.

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<sup>9</sup> See for instance, U.N. Doc. E/CN.4/RES/1998/38, 17 April 1998, para. 5; U.N. Doc. E/CN.4/RES/1999/32, 23 April 1999, para. 5; U.N. Doc. E/CN.4/RES/2000/43, 20 April 2000, para. 7.

<sup>10</sup> U.N. Doc. E/CN.4/2001/66, 25 January 2001, para. 665

<sup>11</sup> According to the State Attorney’s Office, of the 1,600 Palestinians detained between 29 March and 5 May 2002 and still held in detention at the latter date, some 610 were held either under Military Order 1500 or under “criminal detention orders.” See H CJ 3239/02 *Iyyad Ishaq Mahmud Mar’ab et al v. Commander of IDF forces in the Judea and Samaria Area*, Response by the Respondent, 5 May 2002, para. 14.

#### *d. Torture and other ill-treatment during interrogation*

All detainees who arrived at the detention facilities were questioned – some were only asked to give basic personal information (name, family, work) and were subsequently released. Others went through various degrees of interrogation. While it is not always clear which body (military interrogators, GSS) was doing the interrogation, it appears that GSS interrogators were working at Ofer; at any rate, all Palestinian detainees considered to be seriously involved in military operations were eventually handed over to the GSS.

During the Committee's discussion of Israel's 3<sup>rd</sup> periodic report, on 21 November 2001, an Israeli representative admitted that the "ticking bomb" loophole left by the Supreme Court in its ruling prohibiting the routine use of torture,<sup>12</sup> far from being a theoretical, hypothetical *obiter dictum*, is a practical framework which is being used to facilitate the torture of Palestinian detainees. He told the Committee the following:

"In isolated cases during the last two years, interrogators had used force because it was deemed necessary to prevent terrorist attacks, and in several cases charges subsequently had been filed by those interrogated and investigations were being carried out."<sup>13</sup>

It appears that since November 2001, these cases of torture, sanctioned by the State and legitimised by the highest court in the land, have become much less "isolated." Even through the blanket 18-day (and renewable) incommunicado detention imposed in effect on hundreds of Palestinian detainees, consistent and persistent reports have filtered out describing torture in interrogations. Among these reports, B'Tselem received "information from an Israeli source in the Ofer camp regarding the practice of torture in the Ofer camp. According to the information, repeated use was made, among other things, to breaking the toes of interrogees."<sup>14</sup>

As in the past, torture is being carried out with complete impunity. (I think you need a transition sentence from the practice of torture today to the discussion on impunity) It should be remembered – with reference to article 12 of the Convention - that the "investigations" to which the Israeli representative referred are carried out under the auspices of the State Attorney's Office, but in practice **by a GSS agent**, who 'investigates' both the Palestinian detainees who have complained about torture and his own colleagues. This questionable method of investigating complaints has had two clear, predictable and related results:

1. In a large portion of the cases, Palestinian interrogees are afraid to recount the complaints they conveyed to their attorneys before the GSS agent who acts as a complaints investigator, and it is therefore easy for the State Attorney to reject such

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<sup>12</sup> H CJ 5100/94 *The Public Committee Against Torture in Israel v. The Government of Israel et al.*

<sup>13</sup> CAT press release, <http://www.unhchr.ch/hurricane/hurricane.nsf/NewsRoom?OpenFrameSet>, accessed 30 November 2001.

<sup>14</sup> H CJ 2901/02 *HaMoked Center for the Defence of the Individual et al. v. The Commander of IDF forces in the West Bank, Petition for an Order Nisi and an Interim Injunction*, 5 April 2002, para. 6.

complaints as unreliable. In fact, NGOs have recently been requested by detainees not to use affidavits they have given to lodge complaints against the GSS, for fear of GSS reprisal.

2. Whereas some, albeit few, complaints against soldiers and police officers who had tortured or otherwise ill-treated Palestinians have reached the courts [as noted by the Committee, R&C, para. 6(e)], since the investigation of GSS detainees' complaints was ostensibly transferred to the State Attorney's Office in 1994, that is, **over a period of eight years, not a single GSS interrogator has been tried in a criminal court**, not even when detainees left interrogation wings with permanent physical or mental disabilities, and even not when a GSS agent tortured a Palestinian detainee ('Abd a-Samad Harizat) to death with his own hands. The same interrogator, after a not-too-long suspension, resumed interrogating - and probably also torturing - Palestinian detainees.<sup>15</sup>

In simpler terms – a system has been at work in the past eight years ensuring GSS torturers total impunity – and that system is still in place. Thus in February and March 2002, the State Attorney's Office informed PCATI that an "investigation" into serious complaints of torture that the organisation has filed regarding two detainees, Nasser Mas'ud 'Ayyad and Jihad Rida Shuman, have concluded that the "ways of interrogation" used against each of them were justified, as in each case the interrogee was "suspected of being 'a ticking bomb.'" The Interrogators therefore enjoyed immunity from prosecution under the "defence of necessity", and no criminal or disciplinary measures were taken against them.<sup>16</sup> It should be emphasised that the State Attorney's Office denied only "some" of the factual claims made in PCATI's letter regarding the torture methods used by GSS agents against Mr. 'Ayyad (while affirming that "others," similarly unspecified, were found to be true), and none of those made regarding Mr. Shuman.

Among the torture methods used against Mr. Shuman were the following:

- Sleep deprivation for at least three consecutive days
- Having cold water poured over him, then having to sit, in wet clothes, for hours in the freezing cold
- Severe beating, slapping and kicking
- Being shackled in painful positions on a tiny chair for long hours
- Being forced to bend backwards until he collapsed
- Being violently pushed backwards and forwards between two agents,
- Having loud noises being played and agents clapping loudly next to the his ears – for hours
- Being threatened with death, further torture and the rape of his mother.<sup>17</sup>

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<sup>15</sup> See, Carmi Gilon, *Shin-Beth between the Schisms*, Tel-Aviv: Miskal, 2000, Rami Tal, ed. pp. 394-395 (in Hebrew). The interrogator faced disciplinary procedures, and according to Gilon, was convicted of a "minor disciplinary offense." See *ibid.* Gilon is a former head of the GSS.

<sup>16</sup> Letters from the State Attorney's Office regarding PCATI's complain concerning Nasser 'Ayyad, 21 February 2002, and regarding Jihad Shuman, 4 March 2002. Both men had been arrested and interrogated at the beginning of 2001.

<sup>17</sup> For more information of these and other cases see Public Committee Against Torture, *Flawed Defense: Torture and Ill-treatment in GSS Interrogations Following the Supreme Court Ruling 6 September 1999 – 6 September 2001*, Jerusalem, September 2001.

Among the torture methods used against Mr. ‘Ayyad were the following:

- Suffocation
- Sleep deprivation for an entire week
- Slapping
- Deliberate tightening of shackles
- Standing on the leg-shackles
- Being pulled backwards, while being seated, until his head reached the floor

A detainee held at the Russian Detention center, reported to LAW on 28 April 2002, that interrogators used heavy shaking, handcuffing and sleep deprivation. He stated: “During the interrogation, I was placed in a chair. I think its front legs were longer than the rest as my back was bent, whilst my hands were handcuffed from behind and legs chained to the chair. I remained in this position for about 24 hours during which I was prevented from sleeping. Whenever I tried to sleep, my interrogators pushed me from my chin or knocked the table heavily to wake me. They lifted my legs and took me to see other detainees. About half an hour later, they returned me back to the chair and held me in the same position whilst I was heavily shaken for five minutes right and left, and beaten on the head, and cursed. They also threatened to arrest my mother.”

It appears from the State Attorney’s letters that all the “ways of interrogation” in the first list, and “some” of those in the second one, are considered legal under Israeli law in so-called ‘ticking bomb situations,’ and are being increasingly put to use against Palestinian detainees, alongside a wide range of other methods, including “shaking,” and the more “routine” methods of torture, used widely – and in combination - during GSS interrogations, which include the following:

- Sleep deprivation
- Shackling to a chair in painful positions
- Beating, slapping and kicking
- Threats, curses and insults

It is almost needless to add that both “routine” and “ticking bomb” torture methods are used while the detainees are held incommunicado, and in appalling conditions.

#### *e. Administrative detentions on a massive scale*

The “substantial decrease” in the use of this means of ill-treatment, noted by the Committee in November 2001 [(C&R, para. 6(e)] has been totally reversed. According to official Israeli sources, the number of administrative detainees now imprisoned, without charge or trial and in violation of art. 16 of the Convention, has risen from 31 on 7 November 2001 to **over a thousand** on 5 May 2002: The Israeli State Attorney’s Office informed the Israeli Supreme Court on 5 May 2002, that between 29 March and that date alone,<sup>18</sup> 990 (nine-hundred and ninety) were placed

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<sup>18</sup> H CJ 3239/02 *Iyyad Ishaq Mahmud Mar’ab et al v. Commander of IDF forces in the Judea and*



under administrative detention, to which should be added dozens of Palestinians who had already been under such detention before 29 March.<sup>19</sup>

Administrative detention is thus used as a tool of mass arrests and of punishing Palestinians without the need to first prosecute and try them.

It should be noted that administrative detention orders may be renewed infinitely. Thus human rights activist 'Abd al-Rahman al-Ahmar has to date been held without charge or trial for over ten months, with no prospect in sight for his release. GSS interrogators routinely use the credible threat of infinite administrative detention as a means of ill-treating Palestinian detainees.

***f. Detention conditions amounting to cruel, inhuman or degrading treatment of punishment***

Those arrested throughout the Occupied Territories spent long hours, sometimes days, without being provided with any food, or water, or insufficient amounts of food and water. In the unseasonably cold and rainy days and nights of March and April many Palestinian detainees, some of whom had been taken from their homes in their pyjamas without being given a chance to dress or pack warm clothes or made to strip down to their underpants, spent long hours, sometimes a whole night, totally exposed to the elements. In several cases detainees were not allowed to go and relieve themselves, and had to do so where they were.

For example, in several statements provided by detainees from Jenin refugee camp to LAW staff members, the following consistent patterns emerged regarding detention conditions amounting to cruel, inhuman and degrading treatment:

- Holding them in a forest clearing near Salem for long hours without cover, including in the rain, and no blankets, and with no food and water, and no medical aid where required. Held for several hours with their hands tied behind their backs with plastic ties, and in many cases forced to sit with their heads between their knees and beaten if they tried to straighten their backs.
- Some being forced to lie on their face whilst tanks encircled them and they feared being crushed deliberately;
- At Salem detention center some received no food or water, or insufficient amounts of food or water. Some reporting beatings if they asked for water. In one case a detainee reported that the man held next to him was given urine when he asked for water.
- Some reported being held in a truck or bus for up to two days after Salem detention center, without adequate food, water or medical aid or blankets.
- Most were not allowed to relieve themselves in toilets whilst in the Forest or at Salem detention center. Those held after the detention center were provided with means of relieving themselves. In one example, a witness confirmed that in the first few hours whilst being held in a bus after transfer from Salem detention center a detainee was chosen by the soldiers within his group of

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Samaria Area, Response by the Respondent, 5 May 2002, para. 14. The data for November 2001 was supplied by Israeli army spokespersons to B'Tselem.

<sup>19</sup> According to official information provided to B'Tselem, there were 40 Palestinians under administrative detention on 11 March 2002.

detainees to open the trousers and hold the penis of each man wanting to relieve himself into a bucket.

- Many reported on going physical problems including backache, pain in their wrists, and pains in their neck.

According to the Palestinian human rights NGO al-Haq, detainees arriving at Ofer camp were forced to stand handcuffed outside in the rain for 36 hours before they were finally moved to tents. Initially approximately 140 men were forced to stay together for one day in two tents before more detainees were brought to the camp and more tents arrived. Later thirty to forty men were assigned to each tent although the tents are designed to hold only fifteen to twenty men. Each detainee was initially supplied with a board to sleep on, but no mattresses. Two detainees first had to share one blanket, then each detainee was provided with only one blanket. No warm clothing were provided despite the cold rainy weather. There was hardly any food initially and later it was inadequate and of poor quality. The same is true for toilet and shower facilities - detainees at Ofer camp did not shower for the first 15 days.<sup>20</sup>

Detainees at the Russian Detention Center also reported poor conditions to LAW's staff in April 2002, including overcrowded rooms in which e.g. eight were locked up in each room with only four matrices and covers.

To accommodate the large number of detainees, Israel reopened the Ketziot (Ansar III) detention facility, and expanded its use of the Megiddo military prison, transferring Palestinian detainees into these two facilities inside Israel in violation of international humanitarian law, and making it virtually impossible, at least in the short run, for families to visit detainees. All GSS interrogation facilities are also inside Israel.

Conditions in Ketziot too were initially extremely poor, crowded and unhygienic. Regarding all complaints on detention conditions the Israeli authorities have promised that they would improve conditions, and some improvements have already taken place. However, LAW, PCATI and OMCT would like to stress the following points:

1. The mass arrests were made by Israel purely of its own accord, and within obviously well-planned operations. Israel cannot therefore claim legitimately that it was not prepared to accommodate such large number of detainees and needed time to get properly organised. Where a state party to the Convention decides to arrest persons, it is obliged to accommodate them in proper conditions; where it is only capable of accommodating detainees in conditions which amount to cruel, inhuman and degrading treatment or punishment, it should refrain from detaining persons.
2. It is highly unlikely that even following improvements, detention conditions in places such as Ketziot will become acceptable under the Convention. Most new detainees are likely to be housed in tents, in harsh desert conditions and, as mentioned, their families are likely to face great difficulties in trying to visit them.

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<sup>20</sup> AL-Haq press releases, 4 and 16 April 2002.

### ***g. Using Palestinian detainees as human shields***

On numerous occasions Israeli troops forced Palestinian detainees to shield them from Palestinian gunfire or to go ahead of them into houses which they suspected were booby-trapped. This was done through threats, at gunpoint and sometimes even by shooting between the detainee's legs.

Several detainees providing statements to LAW staff members from the Jenin refugee camp, and from several other West Bank cities, have reported being used as human shields.

Following are some examples:

- Artas Village, 29 January 2002: The Israeli army entered the village between 1:00 and 2:00 a.m. Israeli soldiers took Ahmad al-Yas 'Aysh, 37, and his brother Hamdi from their house and held them hostage. They demanded that Ahmad return to the house and bring out his brother Omar. When Ahmad failed to do so, the soldiers shot him in the thigh. They then forced Hamdi 'Aysh to go to the house and fetch Omar, threatening to shoot him as well if he failed to comply.
- Jenin refugee camp, 4 April 2002: Israeli soldiers entered the home of Faisal Abu Sariya, 42, a teacher, at 4:00 a.m. For two days, the soldiers forced him to march in front of them as they moved about the camp. Mr. Abu Sariya was forced to knock on doors and enter homes even before the soldiers' dogs were sent in to sniff for explosives. Only when the dogs came out, would the soldiers enter.
- Jenin refugee camp, 5 April 2002: Israeli soldiers broke into the home of the Qataish family at around 4:30 p.m. The soldiers took Muhammad Qataish, 24, and his brother Khaled outside, formed lines behind them, and forced the brothers to walk in front of them as they moved around the camp. The first soldier in the line balanced his M16 on Khaled's shoulder as they walked.
- Jenin refugee camp, 6 April 2002: Kamal Tawalbi, 43, and his fourteen-year-old son, were used as human shields by Israeli soldiers. For three hours, the soldiers forced the father and son to stand in front of them on a balcony, facing the soldiers, while they exchanged gunfire with Palestinian fighters. The soldiers used the shoulders of Mr. Tawalbi and his son to support their rifles.
- Jenin refugee camp, 6 April 2002: Twice on the same day, soldiers forced Lutfiya Abu Zeid, 65, to serve as a human shield. On the first occasion, she was made to open doors of houses in advance of the soldiers; on the second, she was forced onto a rooftop and left in plain view as a battle raged around her.
- Nablus, Old city, 7 April 2002: Israeli soldiers entered the home of Nabil Nadim Nur a-Din, 43, at around 11:00 a.m. and conducted a search. They then

ordered him to go outside and clear the road for them. Mr. Nur a-Din refused, as he could hear an exchange of fire taking place outside. He told the soldiers: "Even if you shoot me, I will not go out to the street." In response, one of the soldiers then shot him in the knee. The soldiers subsequently ordered Mr. Nur a-Din's son, Ahmad to clear the road. Ahmad left the house with the soldiers, but was later able to escape.<sup>21</sup>

This policy, which is in blatant violation of international human rights and humanitarian law, is clearly also in violation of articles 1 and 16 of the Convention.

#### ***h. House demolitions***

In November 2001 the Committee expressed concern "Israeli policies on house demolitions, which may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment, " [C&R, para. 6(j)] and recommended that where they do, Israel should desist from them [C&R, para. 7(g)]. But Israel has not only not desisted from carrying out such demolitions, it escalated this policy in an extremely dangerous manner, by resorting to demolishing houses, in certain cases, without allowing for the evacuation of inhabitants and their possessions from the houses. This has resulted in loss of life and injuries. In the Jenin refugee camp, at least 140 buildings, most of them multi-family dwellings, were completely destroyed, and severe damage caused to more than 200 others has rendered them either uninhabitable or unsafe. An estimated 4,000 people, more than a quarter of the population of the camp, were rendered homeless because of this destruction. Serious damage was also done to the water, sewage and electrical infrastructure of the camp. More than one hundred of the 140 completely destroyed buildings were in Hawashin district, which was wholly razed to the ground. Jamal Fayid, a thirty-seven-year old paralysed man, was crushed to death in the rubble of his home on April 7 despite his family's pleas to be allowed to remove him.<sup>22</sup>

The State has admitted, in a written statement to the Supreme Court, that bulldozers have began demolishing homes while people were still inside. The statement said, inter alia:

1. During the IDF operations in the center of the camp there were houses where people came out, and there were houses where people did not come out following the announcement, but did come out after the bulldozer had hit one of the house's walls, and before the house was demolished.<sup>23</sup>

Even such partial admission reveals the extent of disregard to human lives shown by the Israeli authorities, as without extensive knowledge of the layout of a house and its structure it is impossible to "hit one of the house's walls" without risking the collapse of the house.

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<sup>21</sup> Compiled by Adalah from various sources, including Amnesty International and Human Rights Watch, for submission to the Supreme Court. See Adalah News Update, 6 May 2002.

<sup>22</sup> See Human Rights Watch, *Jenin: IDF Military Operations*, May 2002. LAW has obtained witness statements from eyewitnesses who saw Jamal Fayid crushed in the house.

<sup>23</sup> HCY 2977/02 *Adalah – the Legal Center for Arab Minority Rights in Israel et al v. The Commander of IDF forces in the West Bank, Statement by the State Attorney's Office*, 9 April 2002, para. 14.

The extensive and systematic damage caused by the Israeli army to civilian property in the Jenin refugee camp and elsewhere cannot be justified in terms of military necessity. The suffering, fear, injuries and death caused in the process of the demolitions render them blatant and large-scale violations of articles 1 and 16 of the Convention.

### *i. Closures and curfews*

Here too, the Committee expressed her concern and made her recommendations in November 2001 [C&R paras. 6(i) and 7(g) respectively]. Here too not only have the unlawful policies continued, but they have worsened considerably. Israel has continued, and continues at the time this submission is being written, to impose a comprehensive closure of the occupied territories; internal closures imposed within the occupied territories cutting towns and villages off from each other; and the closure of international crossing points between the occupied territories and neighbouring countries (Jordan and Egypt). These have been causing severe delays in the movement of people and vehicles from place to place – including the sick, the injured and ambulances sent to collect them. It is impossible to put an exact figure on the number of those who suffered ‘death by roadblock’ - newborn babies, elderly persons who have had a heart attack or a stroke, cancer patients who had to forego vital treatment for weeks and so on. It is no less difficult to assess how many people’s health has deteriorated as a result of not being able to get proper treatment on time. But each and every such person have suffered tremendously as a direct result of Israel’s policies of closure.

During its incursions into Palestinian towns, refugee camps and villages Between February and May 2002, Israeli forces have greatly exacerbated such suffering. Electricity cables, water pipes and telephone lines were cut in most towns entered. Curfews were strictly imposed for long days, and sometimes whole weeks, initially with very short breaks for restocking. In several places the result was a humanitarian crisis, with supplies of food, water and medications running very low. Ambulances, including those of the International Committee of the Red Cross (ICRC), were not allowed to move or suffered lengthy and life-threatening delays. Medical personnel or those who tried to help the injured were fired on and the wounded bled to death on the street. With movement banned, those who died could not be properly buried; they remained in houses or morgues or were hastily buried in parking lots or gardens.

The above picture can only be described as extensive violations of articles 1 and 16 of the Convention.

## 2. Judicial Review (issues under article 11 of the Convention)

Israeli and Palestinian NGOs have raised every single matter discussed above – as well as matters not discussed here – in petitions before Israel’s Supreme Court, sitting as High Court of Justice. While on certain issues, the State’s obligation to respond to such petitions has resulted at least in promises of improved conduct, unfortunately,

whenever the Court has issued a verdict, it was to reject NGOs' petitions. Regarding two issues – assassinations (“targeted killings”) and Military Order 1500 (see above), the Court, having rejected initial petitions, responded to later petitions on the same matters by requesting the two sides to prepare detailed submissions as to their positions on the legal issues at hand.

To date, however, the Court has taken no steps whatsoever towards putting an end, or at least a temporary halt to any of the serious violations described above. While the Court would not admit to it, its position so far has been, in effect, that of old Cicero's well-known saying – *inter arma silent legis* (during war the law is silent).

But while Israeli law may be silent, it is incumbent upon international bodies charged with the implementation of human rights instruments to raise their voice and use all means at their disposal to try to put an end to what is a consistent pattern of gross human rights violations.

## Recommendations

### **LAW, PCATI and OMCT call upon the Committee:**

- to express disappointment at Israel's clear disregard of the Committee's Conclusions and Recommendations of November 2001
- to express grave concern regarding reliable reports that Israeli forces have committed persistent and widespread violations of the key provisions of the Convention
- to request, in light of the above, that Israel submit a special report, in accordance with article 19(1) of the Convention, to be considered in its 29<sup>th</sup> session
- to call upon Israel to take in the meantime, and as a matter of great urgency, the following interim steps:
  - order an immediate and total halt to all practices of torture and other ill-treatment;
  - immediately adopt effective measures to ensure that arrest practices and conditions of detention are not in violation of article 16 the Convention, by complying fully with the requirements of international norms and standards, in particular United Nations Standard Minimum Rules for the Treatment of Prisoners<sup>24</sup> and the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment<sup>25</sup>.
  - make it clear that all acts of torture and other ill-treatment, without exception, are illegal under all circumstances, and that all perpetrators of such acts, including those who order them, or acquiesce to them, will be prosecuted, in accordance with international standards of fair trial, and will not enjoy the 'defence of necessity' or of 'superior orders'
  - ensure that all complaints of torture and ill-treatment are investigated promptly and impartially, and to that end ensure that GSS personnel are no longer involved in investigating suspected misconduct by GSS personnel.
  - order an immediate cessation of the use by members of Israeli forces of disposable plastic handcuffs ("*azikonim*"), to be replaced by humane

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<sup>24</sup> Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076(LXII) of 13 May 1977.

<sup>25</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly Resolution 42/173 of 9 December 1988.

means of restraint;

- order an immediate cessation of practices of collective punishment which have caused acute suffering on numerous occasions - especially mass arrests, house demolitions, closures and curfews in the Occupied Palestinian Territories
- order an immediate and total cessation of all use of detainees as “human shields”
- cease the practice of administrative detentions, which are in violation of article 16 of the Convention
- Repeal Military Order 1500, and revise both Israeli laws (military and civilian) and policies so that all detainees, without exception, are brought promptly before a judge, and are ensured prompt access to lawyers and families, in accordance with international legal standards