



LAW – The Palestinian Society for the Protection of Human Rights

The Palestinian Centre for Human Rights

Adalah, The Legal Center for Arab Minority Rights in Israel

**PETITIONS FILED BY ADALAH AND LAW TO THE SUPREME COURT OF ISRAEL
APRIL-MAY 2002**

**SUBMITTED BY ADALAH, LAW AND PCHR TO UN SECRETARY-GENERAL KOFI ANNAN,
29 MAY 2002**

Introduction

Having noted the request made by the United Nations General Assembly in its Resolution No. A/RES/ES-10/10 of 7 May 2002, asking that the Secretary-General report on the recent events in Jenin and other Palestinian cities using all available resources and information, we respectfully submit the following report for your consideration. This document forms part of a joint report submitted to the Secretary-General by a coalition of three Palestinian human rights organizations - Adalah: The Legal Center for Arab Minority Rights in Israel (“Adalah”), LAW - The Palestinian Society for the Protection of Human Rights and the Environment (“LAW”), and the Palestinian Centre for Human Rights (“PCHR”). The three organizations are currently conducting an investigation into the most recent events in the Occupied Palestinian Territories.

This document summarizes five cases filed by Adalah and LAW to the Supreme Court of Israel in April and May 2002. Other Israeli human rights organizations joined two of the petitions as co-petitioners and are specified in each case. All of petitions challenge the human rights violations against Palestinians in the Occupied Territories perpetrated by the Israeli army in the course of its “Operation Defensive Shield” and its continuing daily incursions into the Occupied Territories. *Copies of the five petitions, state responses, and Supreme Court decisions in the original Hebrew and in English translation are available upon request.* We also wish to alert the Secretary-General to four additional cases relevant to the recent events, involving issues related to the Palestinian detainees and the Israeli government’s extrajudicial executions policy. The document closes with a brief summary of these cases, which are currently pending before the Supreme Court.

The nine cases discussed in this summary report are part of a pattern of grave human rights violations, which have been and continue to be committed by the Israeli army against Palestinians throughout the Occupied Territories. The State’s declared “War on Terror” does not justify these actions; as the occupying power, Israel is obliged to protect the Palestinian population. The evidence presented in this report supports the necessity of an independent, international inquiry to fully investigate the recent and ongoing events in the Occupied Territories.

General Comments

As to the Petitioners:

- Four of the five petitions filed by Adalah and LAW were brought before the Supreme Court during the heaviest military attacks by the Israeli army on Palestinian cities and towns in the Occupied Territories.

- The factual basis for the petitions relied upon firsthand eyewitness accounts, coverage of the events in the media, and reports of local and international human rights organizations.
- The petitioners asked the Supreme Court to judicially review the army's actions in accordance with the Israeli Basic Law: Human Dignity and Liberty (1992), Israeli Supreme Court case precedent, and international law, in particular, the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (1949) (“Geneva Convention (IV)”).

As to the State:

- The Attorney General's Office (AGO), on behalf of the State and the Israeli army, submitted immediate, written responses to each of the petitions filed.
- The AGO did not deny the core facts as presented by the petitioners; in most cases, it admitted the facts, made no comment or disputed minor details.
- The primary argument put forward by the AGO was that the Supreme Court could not intervene in matters relating to the army, especially at a time of ongoing fighting.
- In all cases, the AGO stated that the Israeli army faced serious difficulties during the operation due to Palestinian resistance.
- In all cases, the AGO presented statements of facts on behalf of the Israeli army. These statements were not supported by affidavits of army officials.

As to the Supreme Court:

- In each case, in response to the petitioners’ request for a temporary injunction and/or the scheduling of an urgent hearing, the Supreme Court held immediate hearings on the petitions. However, the Supreme Court dismissed all of the petitions filed.
- The Supreme Court delivered written decisions in all cases on the same day that the petitions were heard. All of the decisions were very short, 1-3 pages. The Supreme Court did not address any of the legal arguments raised by the petitioners in-depth, nor did the Court provide any legal reasoning or legal analysis in its decisions.
- In most cases, the Supreme Court accepted the main facts as presented by the petitioners. At the same time, the Supreme Court did not examine or challenge the statements of facts presented by the AGO on behalf of the army. The Court accepted the army’s contentions that it was making every possible effort to protect the Palestinian civilian population.

The Petitions

1) Denial of Medical Treatment for Sick and Wounded, Access of Medical Personnel and the Right to Burial of the Dead

Petitioners' Arguments: By refusing permission for medical personnel to enter Palestinian cities, the Israeli army is preventing the medical treatment and the evacuation of the sick, wounded and dead. Because of curfews, sieges and ongoing fighting, families were unable to properly bury their dead, and burials were forced to take place in mass graves. The army's actions violate the rights of the wounded to bodily integrity, and of the deceased to dignity, as protected by the Israeli Basic Law: Human Dignity and Liberty. The army's refusal to allow families to bury their dead expeditiously and in a dignified manner is disproportionate, an arbitrary act of revenge, and without justification. These actions constitute clear breaches of Articles 15 and 17 of the Geneva Convention (IV) and Article 43 of the Hague Convention (IV) Respecting the Laws and Customs of War on Land (“Hague Convention (IV)”). As the occupying power, Israel has the obligation to call a temporary cease-fire to allow for the evacuation of the wounded and dead to hospitals and the respectful burial of the dead.

Testimonies:

- Mr. Badia Ra'ik Swabta is a resident of Albadan village who was severely injured as a result of the Israeli army's actions. The army prevented medical personnel from reaching his house and evacuating him to the hospital.
- On 1 April 2002, 28 Palestinians were buried in a common grave in the yard of the Ramallah Government Hospital. The hospital took this action as the morgue had filled up, and the army had prevented burials in the cemetery near the hospital.
- On 2 April 2002, Mrs. Sumiya 'A'abdeh, 62, and her son Ibrahim, 36 were killed in their Bethlehem home by Israeli tank shelling. Because the city is under curfew and the control of the army, transfer of their bodies to the hospital was allowed only two days after their deaths, when photos of them appeared in the media.

State's Response: The army is fighting difficult, intensive, ongoing battles, and cannot provide efficient and effective relief according to the petitioners' demands. The army has done everything possible to permit the provision of medical treatment to the wounded, and the evacuation of the wounded and dead, in accordance with international humanitarian law. Palestinians have used ambulances and hospitals to smuggle and hide terrorists, conceal means of combat and terror, and transport means of combat.

Supreme Court Decision: "Our fighting forces are obliged to apply humanitarian rules which refer to treating the injured, in the hospitals and the bodies of the dead. Wrongful use of medical teams and of hospitals and ambulances obliges the army to act in order to prevent such activity; however, this by itself, does not allow a sweeping violation of humanitarian rules. In fact, this is also the declared position of the State." The Court added that it is the commitment of the Israeli army on a legal, moral and utilitarian basis, to present to every soldier clear instructions, which will prevent, to the greatest extent possible, any actions that are incompatible with humanitarian assistance, even in such harsh situations. Petition dismissed.

Comment: As a result of the petition, Mr. Subata was evacuated and provided with medical treatment.

Citation: H.C. 2941/02, *Badia Ra'ik Suabta and LAW v. Commander of the Israeli Army in the West Bank* (filed 7 April 2002; joined for decision by the Court with H.C. 2936/02, *Physicians for Human Rights-Israel v. Commander of the Israeli Army in the West Bank*; decision delivered 8 April 2002)

2) Demolition of Homes in the Jenin Refugee Camp

Petitioners' Arguments: The army is demolishing homes in the Jenin refugee camp using bulldozers, shells fired from tanks, and missiles launched from helicopter gunships. The army failed to give Palestinian residents of the camp any prior notice, the right to be heard, or any time to escape from their residences, prior to the demolitions. These actions resulted in loss of life and injury to Palestinian civilians, some of whom were buried under the rubble of their homes. The army has a duty to respect the rights of residents of the camp to life, well-being and human dignity in accordance with the Israeli Basic Law: Human Dignity and Liberty; Articles 3, 27, 32, 33, and 147 of the Geneva Convention (IV); and Articles 11, 51, 75 and 85 of the First Protocol Additional to the Geneva Conventions (1977) ("Protocol I"). The army is prohibited from destroying civilian infrastructure and property in the camp, in accordance with Articles 3, 27, 32, 33 and 53 of Geneva Convention (IV); and Article 52 of Protocol I.

Testimonies:

- On 8 April 2002, Mr. A.D., a resident of the Jenin camp, stated that bulldozers were systematically destroying houses to make it possible for tanks to enter the camp. Residences, a school and two hospitals were being heavily shelled.
- On 8 April 2002, Mr. N., a resident of the Jenin camp, stated that houses in the al-Damj neighborhood were demolished on top of the residents. Many people were trapped under the ruins, and it was not possible to remove them as the army was preventing the entry of rescue teams into the camp.

State's Response: The issue is not appropriate for judicial review; the remedies requested by the petitioners are too general and are impossible to give while fighting is ongoing. The army's operations were conducted to "destroy the Palestinian terrorist infrastructure" in the Jenin camp. When the army entered the camp, "They discovered that the town and the camp were organized as a military compound, prepared to defend itself." Houses in the camp are very close together. There was fighting from house to house, and in many cases, houses were booby-trapped. "In order to decrease the risk for the fighters, it was necessary to use bulldozers." Before demolishing homes, the army broadcasted warnings to residents via loudspeaker. Residents were given 1 to 1½ hours to leave their homes. Some residents left their homes after the bulldozers began to demolish them. The army is doing everything possible to minimize harm to civilian residents of the camp, in the context of very intense fighting. Article 23 (g) of the Hague Convention (IV) permits the army to destroy private property, if such destruction is necessary to accomplish military objectives.

Supreme Court Decision: Accepted the State's claims that the respondent "is making every effort to avoid hurting innocents and stated that the Court is aware of the customary international law rules." Found that in such conditions, "giving the right for argument and the right to be heard is not practical ... The presumption concerning the respondent ... is that he directed and will direct the fighting forces to do whatever is required to avoid the possibility of unnecessary harm to innocents." Petition dismissed.

Comment: The State admitted that in some cases, the army's bulldozers began demolishing houses, even before the Palestinian residents had left their homes.

Citation: H.C. 2977/02, *Adalah and LAW v. Commander of the Israeli Army in the West Bank* (filed 8 April 2002; decision delivered 9 April 2002).

3) Targeting of the Civilian Population in the West Bank by the Israeli Army

Petitioners' Arguments: The army has attacked numerous civilian targets throughout the West Bank, including houses, schools, roads, hospitals, churches, and mosques, as confirmed by media reports, eyewitness testimonies, and the army itself. The assault on civilian populations, infrastructure and property and against the lives and bodies of civilians is unreasonable and disproportionate, and was carried out with excessive force. There was no consideration given to alternative measures that would cause less damage. The petitioners seek an immediate end to the shelling and striking of civilians and civilian targets. The army's actions violate Article 51(4) of Protocol I, which prohibits indiscriminate attacks against civilian targets, and Article 52(3) of Protocol I, which forbids attacking civilian objects when there is any doubt as to whether such objects are being used for military purposes. The army's actions also constitute grave breaches of the Geneva Convention (IV), as defined by Article 147 of that document, and Article 8 of the Rome Statute of the International Criminal Court, which defines grave breaches of the Geneva Conventions as war crimes.

Testimonies:

- On 8 April 2002, Ms. Raida Abu Ali told Agence France-Presse that she was with her husband and brother in the Jenin refugee camp when a missile hit their house and caused it to collapse on them.
- On 8 April 2002, Mrs. H., a resident of the Jenin camp, stated that she was with about 100 persons, including children and infants, inside one house. Shelling had destroyed their homes. They lacked food, water and electricity for days. Young children, due to great thirst, were forced to drink sewage water.
- On 8 April, Mr. H.A., a resident of the Jenin camp, stated that tanks and helicopters had shelled houses in the camp's Abu Zini neighborhood. Some of the houses went up in flames. About 100 residents fled towards Jenin town, waving white flags and screaming: "We are civilians, we are civilians!"

State's Response: During fighting, judicial review is not possible and the Court cannot give effective remedies concerning military operational methods of activity. There were civilian casualties and houses were demolished, but the army is doing everything possible to minimize the harm to civilians, given that it is battling terrorists who are fighting from places where civilians are present. An early warning was given to the civilian population, ordering them to leave the area of fighting, but the population did not comply with the warning. The army refrained from using its full firepower, and instead fought from house to house, resulting in many casualties of Israeli soldiers.

Supreme Court Decision: "In the hearing before us, Attorney Dan Yakir, the attorney for the Association for Civil Rights in Israel ("ACRI"), agreed that the civilian population in Jenin camp is being held hostage by the fighters inside. But Attorney Yakir emphasized that the IDF is obliged to choose proportional measures - which he of course is not qualified to propose - in order to prevent the killing of civilians and destruction of their property. The State's prefatory argument is accepted by us ... it is not possible both substantively and institutionally to give the remedies requested by the petitioners ... regarding the merits of the case, the petition should be dismissed, because from the State's answer, it appears that the IDF is indeed making efforts in order to prevent or regretfully, to minimize the harm to civilians ... soldiers have even been killed, and the IDF activity is being carried out protecting the lives of our soldiers under in harsh fighting conditions ..."¹

Comment: The Supreme Court acknowledged that the Israeli army was attacking civilian targets, but did not state that such actions were illegal under Israeli domestic or international law.

Citation: H.C. 3022/02, *LAW, The Association for Civil Rights in Israel, and Adalah v. Commander of the Israeli Army in the West Bank, Yitzhak Eitan, and Chief of Staff of the Israeli Army, Shaul Mofaz* (filed 9 April 2002; decision delivered 10 April 2002).

4) Planned Burial of Palestinians in Mass and Anonymous Graves and Refusal to Allow Humanitarian Organizations to Enter the Jenin Refugee Camp

Petitioners' Arguments: Based on media reports, it appeared that the army was collecting dead bodies on the outskirts of the Jenin refugee camp with the intention of burying them in mass, anonymous or numbered graves. The army refused to allow the International Committee of the Red Cross (ICRC), the Palestine Red Crescent Society (PRCS), or any other humanitarian agency to enter the camp for over nine days. The army's refusal to allow families to rapidly

¹ The statement of Attorney Dan Yakir, as noted by the Supreme Court, is incorrect and does not reflect the petitioners' position. Attorney Yakir subsequently filed a motion to the Supreme Court disputing the Court's characterization of his statement, clarifying the petitioners' position on this issue, and requesting that the Court amend the decision. The Supreme Court rejected the motion.

and respectfully bury their dead according to religious customs infringes on the constitutional rights of the deceased and their families, under the Israeli Basic Law: Human Dignity and Liberty. It is disproportionate and an arbitrary act of revenge. These policies and actions constitute severe violations of Articles 15 and 17 of Geneva Convention (IV) and Article 43 of the Hague Convention (IV) or forms of war crimes. The army's actions violate previous commitments made before the Court to avoid severe violations of international humanitarian law, and thus, as the army is in control of the Jenin camp, the army is in contempt.

Testimonies:

- Eyewitnesses reported that the Israeli army was removing bodies from the Jenin refugee camp and concentrating them at a location on the outskirts of the camp.
- On 12 April 2002, the Israeli newspaper *Ha'aretz* reported that the army intended to bury the bodies of Palestinian fighters in a cemetery in the Jordan valley, while the bodies of Palestinian civilians would be transferred to the Jenin hospital.
- On 14 April 2002, the Israeli newspaper *Yehediot Aharonot* reported on the army's aborted plan to evacuate and bury Palestinian bodies in mass graves. A reporter observed two refrigeration trucks that were to be used to transport the bodies.

State's Response to Petitioners' Request for an Injunction: After gaining control of the camp, the army commenced operations to find and evacuate bodies. The bodies were identified by medical teams and moved to a location at the outskirts of the camp. The army stated that it intended to make contact with the PRCS to arrange for prompt burial of the bodies. The army planned to propose the continued transfer of bodies to the Palestinians as long as the bodies were buried immediately. In the event that the bodies were not buried immediately, the army intended to bury them, stating that they would represent a threat to the security of the Israeli soldiers. No distinction would be made by the army between the bodies of fighters and civilians. Due to the risk of injury to civilians, only the army should evacuate them. No humanitarian agency will be allowed to enter the camp because many of the bodies were booby-trapped.

Supreme Court Decision: Temporary injunction granted on 12 April 2002 ordering the army to stop the removal and burial of Palestinian bodies from the Jenin refugee camp. Petitions dismissed on 14 April 2002, following the State's agreement to permit the entry of the ICRC into the camp. The army must allow the ICRC to accompany and assist it in locating the bodies of Palestinian fighters and civilians killed in the Jenin refugee camp. The PRCS should also be permitted to join in these activities, at the discretion of military commanders. The army, accompanied by the ICRC and PRCS, must identify and document the bodies with photographic and other equipment in accordance with international humanitarian law. Local representatives should be included in the identification process, at the discretion of military commanders. This should be done as quickly as possible. Once bodies have been located and identified, they should be given to the family members as quickly as possible in order to permit burial of the bodies in a respectful manner according to religious customs. If Palestinian entities refrain from burying the bodies immediately, options will be considered whereby the army will immediately undertake the burials.

Motion for Implementation of the Supreme Court's Decision: On 15 April 2002, the PRCS informed the petitioners that the ICRC decided to stop the removal of Palestinian bodies from the Jenin camp, due to the army's restrictions on movement of ICRC personnel, the lack of appropriate equipment and personnel trained to extract the bodies from areas of such widespread destruction, and health and safety risks due to the presence of decomposing bodies, mines and unexploded munitions. The PRCS also noted there were no army medical teams, as the army had originally claimed. On the same day, Adalah and LAW requested that the Supreme Court order the army to resolve these grievances regarding the removal of bodies

from the camp. The Court dismissed the motion on 16 April 2002, adopting the State's position that the request was unnecessary.

Comment: The Supreme Court's decision fixed responsibility on the army for documenting and evacuating the bodies in accordance with international humanitarian law. The State admitted that the army began evacuating bodies without immediately contacting relevant Palestinian organizations. Evidence suggests that the Israeli army may have been planning to bury the bodies of Palestinian fighters in mass and anonymous graves without necessary documentation. Although the State's response to the petitioners' request for an injunction asserted that the army intended to contact the PRCS to arrange transfer of Palestinian bodies, no effort was made to contact that organization until 15 April 2002, after the petition was filed. The army's plan was finally aborted, when it withdrew from Jenin camp on 18 April 2002. In this manner, the army was able to evade its legal responsibility.

Citation: H.C. 3116/02, *Adalah and LAW v. Commander of the Israeli Army in the West Bank* (filed 12 April 2002; joined for decision by the Court with H.C. 3114/02, *Mohammed Barakeh, Member of Knesset (MK) v. Minister of Defense, Benjamin Ben-Eliezer, et. al.* and H.C. 3115/02, *Ahmed Tibi, MK v. Prime Minister Ariel Sharon et. al.*; decision delivered 14 April 2002).

5) Use of Palestinian Civilians as Human Shields by the Israeli Army

Petitioners' Arguments: The petitioners, seven Israeli and Palestinian NGOs - Adalah, ACRI, LAW, Physicians for Human Rights-Israel ("PHR-I"), B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories ("B'Tselem"), The Public Committee Against Torture in Israel ("PCATI") and HaMoked: Center for the Defence of the Individual ("HaMoked") - seek an order instructing the Israeli army to stop using Palestinian civilians as human shields, as hostages, and for other military purposes. Local and international human rights organizations, including Human Rights Watch and Amnesty International, have produced extensive documentary evidence of these practices. The army's actions constitute grave breaches of Geneva Convention (IV) or war crimes, and violate Articles 27, 28, 31, 32, 33, 34, 51, and 147, specifically. The army's actions also violate Articles 45, 46, and 50 of the Hague Convention (IV). As an occupying power, the army has a duty to uphold the rights of the civilian Palestinian population as "protected persons" under the Geneva Convention (IV).

Testimonies:

- The Israeli army entered Artas Village on 29 January 2002 between 1:00 and 2:00 a.m. The soldiers took Ahmad al-Yas 'Aysh, 37, and his brother Hamdi, from their home and held them hostage. The army 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 if he failed to comply.
- At 4:00 a.m. on 4 April 2002, in Jenin refugee camp, Israeli soldiers entered the home of Faisal Abu Sariya, 42, a teacher. 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.
- On 6 April 2002, in the Jenin refugee camp, Israeli soldiers used Kamal Tawalbi, 43, and his son, 14, as human shields. 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.

State's Response to Request for Injunction: In light of the information provided in the petition, the army issued an order banning all forces in the field from using civilians as human shields or taking them as hostages, without admitting or denying that it employed such practices. The army clarified that the use of civilians to enter the homes of other Palestinians during military operations is also prohibited, in cases where the commander believes that there might be a danger to the body of the civilian. The army intends to conduct a comprehensive internal investigation regarding the issues raised in the petition. Given the orders issued by the army, there is no need for an immediate injunction.

Supreme Court (Case Pending): The Court refused to issue an injunction, claiming that the military's alleged order to stop using civilians as human shields was sufficient. At a hearing on 21 May 2002, the Court ordered the army to submit a written copy of its orders, and to clarify the question of what is and what is not permitted regarding the issue of obtaining assistance from Palestinian civilians during military operations. The Court also ordered the army to identify the legal basis for its practices. State response to the petition due in 30 days.

Comment: The army implicitly admitted to using Palestinian civilians as human shields.

Citation: H.C. 3799/02, *Adalah, et. al. v. Yitzhak Eitan, Commander of the Israeli Army in the West Bank, et. al.* (filed 5 May 2002; case pending)

Other Pending Cases

1) The Legality of Military Order 1500. This order, which was issued by the Israeli army on 5 April 2002, permits the 18-day incommunicado detention of Palestinians. The petitioners, three Palestinian detainees in the Ofer detention camp and seven human rights organizations - ACRI, HaMoked, B'Tselem, PHR-I, Adalah, LAW, and PCATI - seek the cancellation of Military Order 1500 on the grounds that it severely violates the rights to liberty and due process, including prompt judicial review on detention decisions, the right to a hearing and the right to counsel. This petition was prepared and is being argued by ACRI. According to the State's written response of 6 May 2002:

Total number of Palestinians arrested since the beginning of Operation Defensive Shield	7,000
Total number of Palestinians released from detention	5,600
Total number of Palestinians currently detained	1,500
Total number of Palestinians currently held in administrative detention	990

It must be emphasized that the number of Palestinian detainees is increasing every day as the Israeli army's operations in the Occupied Territories are continuing.

Citation: H.C. 3239/02, *Iyad Mahmud Ishak Mirab, et. al. v. The Commander of the Israeli Army in the West Bank* (filed 16 April 2002; case pending).

2) The Inhumane Treatment and Detention Conditions of Palestinians at the Ofer Detention Camp. The petitioners, seven Israeli and Palestinian human rights organizations - HaMoked, Adalah, ACRI, B'Tselem, LAW, Addameer, and Al-Haq - demand that the Israeli army observe minimum standards of humane treatment for detainees both before they are transported to the camp and while at the camp itself. Detainees at Ofer report being blindfolded, restrained in a painful manner, being beaten and humiliated, having personal belongings confiscated, the denial of food and water, and insufficient sanitation and medical

facilities. This petition was prepared and is being argued by HaMoked. According to the Commander of Ofer camp, as of 22 May 2002:²

Total number of detainees at Ofer detention camp	883
Administrative detainees	589
Detainees held without bond (criminal proceedings instituted)	125
Detainees held pursuant to Military Order 1500	66

The Commander also noted that the facilities at the Ofer camp are being expanded, in anticipation of receiving more Palestinian detainees.

Citation: H.C. 3278/02, *HaMoked, et. al. v. The Commander of the Israeli Army in the West Bank* (filed 18 April 2002; case pending).

3) Extrajudicial Executions. The petitioners, PCATI and LAW, demand that the Court order that the Prime Minister, the Minister of Defense, and the Chief of Staff of the Israeli army put an end to extrajudicial executions and outlaw the policy of assassinations. The petitioners charged that since September 2000, Israel has executed 21-53 Palestinians (official Israeli reports state 21, while Palestinian sources report 53), while at the same time, killing about 20 innocent bystanders including four children. The petitioners argued that this blatantly unlawful policy is contrary to Israeli and international law and the basic principles of human values, and can lead to war crimes. On 18 April 2002, the Court ordered the State to submit a written response to the petition clarifying the legal framework under which the military commander is operating.

Citation: H.C. 76902, *PCATI and LAW v. The Government of Israel, et. al.* (filed 24 January 2002; case pending).

4) Inhumane Treatment and Detention Conditions of Palestinians in Ansar III Detention Center (“Ketziot”). Pre-petition submitted by Adalah to the Attorney General’s Office on 29 April 2002 demanding that the inhumane conditions faced by over 500 Palestinian detainees, about 300 of whom are being held in administrative detention, in Ansar III be addressed. Palestinian detainees being held in Ansar III, located in the south of Israel, were transferred from the West Bank. Ansar III is grossly overcrowded and rife with unhygienic conditions. Detainees lack sufficient food and clean water, clothes and blankets, medical treatment, adequate bathroom facilities, and other basic services. The detainees are also denied access to their family members. Attorneys from Adalah, HaMoked, and ACRI met with the detainees several times in April 2002 and witnessed the conditions in Ansar III first hand. On 26 May 2002, the Attorney General’s Office informed Adalah that it is waiting for a response from the Israeli army in order to reply to the pre-petition. [PCATI also filed a pre-petition on this issue in April 2002.]

ADDENDUM

Prepared by Adalah, 28 June 2002

Updates to report entitled, “Petitions filed by Adalah and LAW to the Supreme Court of Israel, April - May 2002,” submitted by Adalah, LAW and PCHR to UN Secretary-General Kofi Annan, 29 May 2002.

² According to these figures, the status of 113 Palestinian detainees at Ofer camp is undetermined.

Introduction

Copies of the five petitions, state responses, and Supreme Court decisions discussed in the report, in the original Hebrew and in English translation, are now available on Adalah's website at www.adalah.org (Click "OPTs Emergency Agenda" at the top of the homepage).

The Petitions – Pages 2-3

1) Denial of Medical Treatment for Sick and Wounded, Access of Medical Personnel and the Right to Burial of the Dead

Citation: H.C. 2941/02, *Badia Ra'ik Suabta and LAW v. Commander of the Israeli Army in the West Bank* (filed 7 April 2002; joined for decision by the Court with H.C. 2936/02, *Physicians for Human Rights-Israel v. Commander of the Israeli Army in the West Bank*; decision delivered 8 April 2002)

Since 21 June 2002, the Israeli army has re-initiated its heavy military operations in the West Bank. With these most recent incursions, which include tight closures and curfews on the Palestinian population in and around all of the main West Bank cities, the army has renewed attacks on ambulances and medical staff, and has delayed the provision of medical services. These actions stand in stark contradiction to earlier commitments made by the army and by the Supreme Court's ruling in the above noted case.

See Physicians for Human Rights-Israel, "Targeting Medical Care: Israel's Recent Incursion into the West Bank Renews Attacks on Ambulances," 24 June 2002, available at www.phr.org.il. This five-page report provides sample cases from Qalqilya, Nablus, Jenin, Bethlehem and Tulkarm.

Other Pending Cases, pages 8-9

1) The Legality of Military Order 1500. According to the State's 32-page second written response to the petition, dated 11 June 2002, the Israeli army extended Military Order 1500 on 4 June 2002 for an additional three months, with some amendments. Re-issued as Military Order 1505, which is valid until 4 September 2002, the following changes were made: (i) The time limit for incommunicado detention of Palestinians was decreased from 18 days to 12 days; and (ii) The prohibition on meeting with lawyers was decreased from 18 days to 4 days.

A detainee is defined in MO 1505 as anyone arrested in the area [West Bank and Gaza] during a military operation to combat terror, and the circumstances of the arrest establish suspicions that he endangers or could endanger the security of the area, the security of the Israel Defense Forces (IDF) or public security.

The State did not provide new figures regarding the total number of Palestinians arrested, released from detention, currently detained, or currently held in administrative detention. In their response, they stated:

Between 31 May 2002 and 2 June 2002, thousands of Palestinians were taken into custody by the Israeli security forces and many tens of them were detained after that, according to Order 1500, for additional investigation.

By way of explanation for the issuance of MO 1505, the state explained that:

The change of Order 1500 was possible only in light of the decrease in the number of detainees and after considering changes in the types of operations recently carried out by the IDF. According to our assessment, which is based on the lessons learned from Operation Defensive Shield, if fighting resumes in the area in all its magnitude, and conditions return to what was seen during Operation Defensive Shield, it is likely that the “classification process” will be lengthened. Under such conditions, there will be no other choice but to change once again the order’s instructions and to extend the number of days during which meetings with lawyers are prohibited.

The extension of MO 1500 and its re-issuance as MO 1505 indicates that the Israeli army intends to continue its policy of mass arrests and the detention of Palestinians for at least three months.

Citation: H.C. 3239/02, *Iyad Mahmud Ishak Mirab, et. al. v. The Commander of the Israeli Army in the West Bank* (filed 16 April 2002; case pending).

2) The Inhumane Treatment and Detention Conditions of Palestinians at the Ofer Detention Camp.

Representatives of the petitioners (HaMoked, Adalah, ACRI, B'Tselem, LAW, Addameer, and Al-Haq) visited Ofer detention camp on 22 May 2002 and submitted a report to the Attorney General’s Office and the Supreme Court on 4 June 2002.

The report described the inhumane conditions under which Palestinian detainees are being held in Ofer camp. The detention conditions described in the report include lack of medical treatment, overcrowding, inadequate shelter and bedding, and poor sanitary conditions. The representatives reported that three toilets and three shower stalls were provided to meet the needs of 180 detainees. Further, they reported that the detainees received inadequate food and clothing, were subjected to brutal and humiliating treatment, and were denied all contact without the outside world.

On 19 June 2002, the state responded that, as a result of the petition, there had been major changes in the detention conditions at Ofer camp. The state claimed that the petition should be dismissed, as they had satisfied the petitioners’ request for minimal, humane and respectful conditions. On 25 June 2002, the petitioners filed a motion to the Supreme Court for an urgent hearing in order to oblige the state to further improve detention conditions at the camp, which are, in the petitioners’ view, still severely inhumane.

Citation: H.C. 3278/02, *HaMoked, et. al. v. The Commander of the Israeli Army in the West Bank* (filed 18 April 2002; case pending).

3) Extrajudicial Executions. On 18 April 2002, the Court ordered the State to submit a written response to the petition clarifying the legal framework under which the military commander is operating. The State requested additional time to file its response, which was granted by the Court. The State’s response is now due in early July 2002.

Citation: H.C. 76902, *PCATI and LAW v. The Government of Israel, et. al.* (filed 24 January 2002; case pending).

4) Inhumane Treatment and Detention Conditions of Palestinians in Ansar III Detention Center (“Ketziot”). The Attorney General responded to Adalah’s pre-petition by stating that the office would reply once it received information from the Military Commander of the Gaza region. After two months, Adalah had received no additional information. On 27 June 2002, Adalah submitted a petition to the Supreme Court, in its own name and in the names of seven

Palestinian detainees and nine Palestinian and Israeli human rights organizations, protesting the inhumane conditions faced by approximately 500 Palestinian detainees currently held in Ansar III Detention Center. Adalah raised numerous grave concerns in the petition, including the fact that the detention center is grossly overcrowded; that the detainees receive insufficient food, water and medical treatment; that the detainees are denied access to their families; and that they are subjected to cruel, inhuman and degrading treatment.

Citation: H.C. 5591/02, *Hilal Yasseen, et. al. v. Yuni Ben David, Military Commander of Ansar III, et. al.*

See attached Press Release, “Seven Palestinian Detainees and Ten Human Rights Organizations Submit Petition to Supreme Court Protesting Detention Conditions in Ansar III,” 28 June 2002.