



## **Joint NGO Submission on Israeli Suppression of Palestinian Human Rights Activism against the Wall**

4 February 2010

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**Addameer Prisoner Support and Human Rights Association (Addameer)** is a Palestinian non-governmental, civil institution that focuses on human rights issues in the occupied Palestinian territory. Established in 1992, Addameer offers support to Palestinian prisoners and detainees, advocates for the rights of political prisoners, and works to end torture through monitoring, legal procedures and solidarity campaigns.

**The Palestinian Grassroots Anti-Apartheid Wall Campaign (Stop the Wall)** is the main national grassroots body coordinating the struggle against the Wall. We are a coalition of 10 popular district committees active in over 100 communities, youth committees and Palestinian NGOs. Stop the Wall acts as the voice of communities on the local level and as their mobilization and coordination tool on the national and international level. Its goals are: the immediate cessation of the Wall's construction; the dismantlement of all parts of the Wall; the full restitution of land and property and compensation for damages and losses.

**The National Lawyers Guild (NLG)** was founded in 1937 and is the oldest and largest public interest/human rights bar organization in the United States. The NLG International Committee (IC) supports legal work around the world "to the end that human rights shall be regarded as more sacred than property interests." The Guild provides assistance and solidarity to movements in the United States and abroad that work for social justice in this increasingly interconnected world and has been involved in the issue of human rights in Israel/oPt since the 1970s.

## INTRODUCTION

This submission is a follow-up on previous submissions regarding the arrest, interrogation, and detention of Mohammad Othman and Jamal Juma', Palestinian human rights defenders active in raising awareness of human rights violations resulting from the Annexation Wall constructed by Israel in the occupied Palestinian territory (OPT). Both activists have since been released from Israeli custody – Jamal on 12 January 2010 after 27 days in detention, and Mohammad on 13 January 2010 after 113 days in detention – without charge.

The undersigned organizations contend that both Mohammad and Jamal were arrested in an effort to curb the success of their peaceful and high-profile activities in defense of Palestinian land and human rights. We further submit that their arrest and detention for weeks and months without charge were only two incidents among an ongoing, systematic and violent Israeli campaign of repression against human rights defenders active against the Wall.

## BACKGROUND

### The Annexation Wall

On 9 July 2004 the International Court of Justice (ICJ) issued its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, where it declared the Wall to be illegal and held that Israel must cease construction of the Wall, dismantle the sections that were built in the West Bank, revoke the orders issued relating to its construction and compensate the Palestinians who suffered losses as a result of the Wall.<sup>1</sup>

Despite the ICJ ruling, construction of the Annexation Wall has continued relentlessly. To date, more than 400 kilometers of the Wall have been erected. When complete, the Wall will stretch for approximately 770 kilometers, annexing 9.5 percent of the West Bank onto the western – or “Israeli” – side of the barrier, including 385,000 Israeli settlers in 80 illegal settlements,<sup>2</sup> and trapping an estimated 260,000 Palestinians between the Wall and the 1967 border (also known as the “Green Line”). In addition, approximately 125,000 Palestinians in 28 communities will be surrounded by the Wall on three sides and 26,000 Palestinians in eight communities will be surrounded on all four sides.<sup>3</sup>

In practical terms, the sections of the Wall that are already built have had a severe effect on those who live along its path through the OPT:

A number of surveys compiled by United Nations agencies found that many Palestinian communities cut off by the Wall do not enjoy full access to emergency health services, posing severe challenges in medical emergencies and for expectant mothers. In addition the Wall cuts off residents in closed areas from schools and universities, also having an impact on social relations and especially on traditional marriage patterns. The Wall

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<sup>1</sup> Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, I.C.J. Reports 2004. The Advisory Opinion was endorsed by a subsequent United Nations General Assembly Resolution. UN General Assembly resolution A/RES/ES-10/15 of 20 July 2004.

<sup>2</sup> At present, there are a total of 450,000 Israeli settlers in 149 illegal settlements in the occupied West Bank.

<sup>3</sup> OCHA, “Five years after the International Court of Justice Advisory Opinion: A summary of the humanitarian impact of the barrier”, July 2009 (Updated August 2009), (available at: [http://www.ochaopt.org/documents/ocha\\_opt\\_barrier\\_report\\_july\\_2009\\_english\\_low\\_res.pdf](http://www.ochaopt.org/documents/ocha_opt_barrier_report_july_2009_english_low_res.pdf))

isolates the land and water resources of a large number of Palestinians, having a negative impact on agricultural practices and on rural livelihoods.<sup>4</sup>

### **Palestinian Activism against the Wall**

Human rights defenders<sup>5</sup> active against the Wall have adopted three main strategies in their opposition efforts: challenging the Wall's path before the courts, including petitions to the High Court of Israel; popular resistance, wherein local residents in Palestinian villages across the West Bank have formed committees and engage in weekly, and sometimes even daily, demonstrations; and, international advocacy efforts. Israeli authorities have responded to each of these strategies with a broadly, and often arbitrarily, implemented policy of arrest and detention. Leading Palestinian human rights activists, prominent figures, such as mayors and teachers, and members of the Popular Committees, who are instrumental in coordinating weekly protests and advocacy efforts including legal cases, are often personally targeted and arrested in an attempt to sideline them from organizing the protests, or to discredit them and their efforts. Local cameramen and photographers, as well as members of the press, are also targeted.

Addameer has documented the cases of 336 Palestinians who were arrested by the Israeli Occupying Forces (IOF) in relation to Wall-related protests and activities in 16 West Bank villages since 2002.<sup>6</sup> Research conducted by Addameer and Stop the Wall throughout the region indicates that many more human rights defenders are likely to have been arrested in other villages along the Wall's path through the OPT.

Of those who are arrested, many are charged with offenses under Israeli military orders, and tried before the military courts. The vast majority of Palestinian human rights defenders against the Wall who are charged following arrest will be found guilty of committing a "security offense" and sentenced to a term of imprisonment.<sup>7</sup> In the Israeli military courts, which fail to meet even fundamental international fair trial standards,<sup>8</sup> due process is largely absent, and vague testimonies by Israeli soldiers, coerced confessions, often in Hebrew and, occasionally, photos that only show the presence of individuals at a demonstration, are typically sufficient for an individual to be found guilty of an offense.

Moreover, forms of indiscriminate and arbitrary punishment against Wall activists continue long after they are released. They are typically given large fines and banned from engaging in

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<sup>4</sup> Human Rights Council, *Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact Finding Mission on the Gaza Conflict*, A/HRC/12/48 (25 September 2009) (Goldstone Report), p. 62, para 202.

<sup>5</sup> The UN Declaration on Human Rights Defenders defines human rights defenders as individuals who play an important role in furthering the cause of human rights through activities such as the documentation of violations, providing support and assistance to victims seeking remedies, combating cultures of impunity and mainstreaming human rights culture and information on an international and domestic level. As the Palestinian activists in this submission endeavor through a variety of means to protect their land and individual and collective human rights we consider that the nonviolent protesters against the Wall and the human rights activists who participate in Wall resistance efforts to be human rights defenders, and will use these terms interchangeably throughout this submission.

<sup>6</sup> The 16 villages are near the Annexation Wall, in six West Bank districts, and include: Aboud (Ramallah), Al-Khader (Bethlehem), Al-Mydia (Ramallah), Artass (Bethlehem), Azzun (Qalqilya), Al Ma'sara (Bethlehem), Beit Suriq (Ramallah), Biddu (Ramallah), Bil'in (Ramallah), Budrus (Ramallah), Idhna (Hebron), Jayyus (Qalqilya), Ni'lin (Ramallah), Ras-a-Tiya (Qalqilya), Toura (Jenin), and Wadi Rahal.

<sup>7</sup> Israeli Military Order No. 101 allows for a maximum 10 years imprisonment for participating in a gathering of more than 10 people that Israel deems political, publishing political material against the Israeli occupation or even raising the Palestinian flag.

<sup>8</sup> See Addameer Prisoner Support and Human Rights Association, *Presumed Guilty: Failures of the Israeli Military Court System*, November 2009 (available at: <http://addameer.info/wp-content/images/addameer-report-presumed-guilty2009.pdf>).

future protests. They and their families' requests for entry permits into Israel are consistently denied, and they face targeted persecution and intimidation, detention and questioning at checkpoints, defamation, and, in some cases, re-arrest.

In addition to arrest and detention, popular resistance by Palestinians to the Annexation Wall is met by Israeli forces with a variety of measures, all of which are aimed at sowing divisions within communities and breaking villages' support for sustained human rights-based opposition activities.<sup>9</sup> These measures include collective punishment, in the form of curfews, sieges, and destruction of property, threats to individuals and the community as a whole, beatings, the use of lethal and "non-lethal" ammunition, including 40mm high velocity tear gas canisters, denial of permits, tear-gassing, sending the army into villages to scare the local population and intentional injury and killings.

Demonstrations against the Wall are also met by Israeli forces with increasingly violent tactics; in addition to the more "typical" beatings, and the use of tear gas and rubber bullets, measures implemented against even peaceful demonstrations since early 2009 include the use of .22 caliber Ruger rifles, high-velocity long range tear gas canisters shot at short range and snipers.

### **Portrayal of the Protests by Israeli Authorities**

In recent months, as the Palestinian human rights campaign against the Wall has achieved some success in gaining international attention, a simultaneous effort by Israeli authorities to publicly portray the demonstrations in a negative light has been revealed. News reports based on statements by Israeli military and government officials indicate an increasing Israeli effort to depict the demonstrations as uniformly and heavily violent, and as criminal, illegitimate and politically subversive activity. In the most extreme recent example, an article published in the Jerusalem Post on 31 January 2010 quotes unnamed Israeli military officials in alleging that the Palestinian Authority is a "growing presence" at the Wall protests, and is "supporting and funding these demonstrations", and, in so doing, encouraging increasing violence against Israeli soldiers present at the scene.<sup>10</sup>

However, evidence gathered by Addameer and Stop the Wall clearly indicates that the demonstrations against the Wall are grassroots, community-based efforts that developed in the villages most affected by the Wall. The widespread arrest and detention of leaders from the local Popular Committees – and not from the PA – for their involvement in planning and attending protests testifies to this fact. In addition, although the Wall protests sometimes involve stone-throwing by Palestinian youth at the Wall and other targets, the majority of the violence stemming from the demonstrations comes from increasingly harmful tactics utilized by Israeli forces against unarmed, non-violent protestors.

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<sup>9</sup> See Addameer Prisoner Support and Human Rights Association and Stop the Wall Campaign, *Repression allowed, resistance denied: Israel's suppression of the popular movement against the Apartheid Wall of Annexation*, (July 2009) (available at: <http://addameer.info/wp-content/images/repression-allowed-resistance-denied-stw-addameer-joint-report.pdf>).

<sup>10</sup> Yaakov Katz, "'PA funds, endorses anti-fence protests'", *The Jerusalem Post*, 31 January 2010 (available at: <http://www.jpost.com/Israel/Article.aspx?id=167339>): "IDF sources described the Friday demonstrations as violent, noting that more than 100 Israeli security personnel have been injured in the past two years. 'They throw rocks and sharp objects,' one source said. 'Once the demonstrators see that they have the PA's support, they are encouraged to act violently.'"

## EVIDENCE OF A CAMPAIGN OF ISRAELI SUPPRESSION

The undersigned organizations contend that the Israeli suppression of Palestinian human rights activism against the Wall constitutes a systematic effort to curb the success and continuation of these demonstrations. The timing, location, means of suppression and targets of arrest – particularly including children and high profile human rights activists – all provide evidence as to the systematic nature of Israeli efforts to silence the protests.

Although demonstrations against the construction of the Wall and resulting arrests and other measures of repression have occurred since building began in 2002, close observation of the situation over the years has revealed both periods of increased Israeli crackdown on demonstrations, and periods of lessened reprisal.<sup>11</sup> In recent years, between 2007 and early 2009, human rights organizations in the OPT observed a lull in the arrest of human rights activists involved in the campaign against the Wall. However, a renewed campaign of arrests, accompanied by increasingly violent tactics used by the Israeli army against protestors,<sup>12</sup> began again during demonstrations taking place during last winter's conflict in the Gaza Strip, and continues at present.

In addition to those killed, injured and arrested during solidarity demonstrations<sup>13</sup> in the West Bank throughout the 23-day Israeli aerial and ground offensive in Gaza, two protestors have been killed in relation to demonstrations since January 2009, countless dozens of protestors and bystanders have been injured, often severely, and at least 152 have been arrested.

On 6 February 2009, after a Wall demonstration had concluded in Ni'lin, **Hamada 'Abdurazeq Mustafa al-Khawajeh**, 29, was shot in the leg by an Israeli soldier while leaving the area, leaving a bone broken and 10 pieces of shrapnel from the bullet in his leg.

During another weekly demonstration against the Wall in Ni'lin on 13 March 2009, American citizen **Tristan Anderson**, 38, was hit in the head with a long range high-velocity tear gas canister fired at close range by Israeli soldiers. Tristan had been photographing the Israeli soldiers and border police attacking peaceful Ni'lin demonstrators. On 31 January 2010, the Israeli Justice Ministry announced that no indictments will be filed against the Israeli police who fired the gas canister that hit the American solidarity activist.<sup>14</sup> Recent news reports indicate that Tristan has recently emerged from a months-long coma, but remains at Tel Hashomer hospital in Tel Aviv, able to communicate only with basic sounds.<sup>15</sup>

The following month, 20-year-old **Mohammed Abdulhafid Abdullah Mesleh** was shot by an Israeli sniper on 3 April 2009 while tying his shoe, after a Ni'lin demonstration against the Wall had concluded.<sup>16</sup>

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<sup>11</sup> *Id.*

<sup>12</sup> As stated in the Goldstone Report, "There was a significant increase in the use of force by Israeli security forces during demonstrations in the West Bank after the start of the Israeli operation in Gaza." The Report cites a number of protestors injured or killed in anti-Wall protests following the January ceasefire in Gaza, including

<sup>13</sup> Which were conducted largely by Popular Committees already engaged in demonstrations against the Wall.

<sup>14</sup> Diaa Hadid, Israel closes case of US activist wounded in Palestinian protest, no charges against police, Canadian Press, 31 January 2010 (available at:

<http://www.google.com/hostednews/canadianpress/article/ALeqM5gaE4eUx78BaABKRhWmdiKHW6avag>)

<sup>15</sup> PressTV, "Israeli police who put US man in coma get off scot-free", 2 February 2010 (available at: <http://www.presstv.ir/detail.aspx?id=117627&sectionid=351020202>).

<sup>16</sup> According to Mohammad, "[During the march] I was raising a Palestinian flag when I saw snipers hiding beyond the trees. Then soldiers fired tear gas in our direction as cover for the snipers who fired bullets. There was not any stone throwing. After [the march] finished, I was hit in the fingers of my right hand when my head was lowered. This means that

On 17 April 2009, Palestinian activist **Bassem Abu Rahma**, 31, was killed when Israeli soldiers fired a long range high velocity tear gas canister at him, hitting him in the chest at a range of just 30-40 meters.<sup>17</sup> Footage of the killing, which took place during a demonstration against the Wall in Bil'in, shows Bassem, "standing on a small hill, clearly visible and not armed or otherwise posing a threat".<sup>18</sup>

On 1 May 2009, Israeli soldiers arrested seven people in the West Bank village of Al Ma'sara during a weekly demonstration against the Wall. Those arrested included five Palestinians (**Azmi Ash-Shyukhi**, **Mustafa Fawaghreh**, **Mohammad Zawahre**, 37, **Mohammad Birjiyah**, 31, and his brother, **Hassan Birjiyah**), three of whom were members of the Al Ma'sara Popular Committee against the Wall and Settlements, one British activist, Tom Stocker, and one Israeli solidarity activist, Hagai Mattar. Both Stocker and Mattar, who were arrested after trying to prevent the IOF from arresting the five Palestinians, were released after a couple hours, the payment of 1,500 NIS (about \$400 USD) bail each, and with the condition that they not enter the West Bank for two weeks. Three of the five Palestinians, Azmi Ash-Shyukhi, Mustafa Fawaghreh and Mahmoud Zawahre, were released on bail on 13 May 2010 after being held in military prison for almost two weeks. Mohammad Birjiyah was released after 35 days in detention, and his brother Hassan was detained for three months. All five Palestinian activists were charged before the military courts with multiple offenses including entering a closed military area, taking part in demonstrations and encouraging others to do so, and attacking Israeli soldiers.

On 5 June 2009, five people were shot by Israeli snipers as protesters dispersed from an anti-Wall demonstration in Ni'lin. Of the five, **Aqel Srour**, 35, was killed, and **Mohammad Misleh Mousa**, 15, was shot in the abdomen and is now permanently disabled.<sup>19</sup>

By the end of June 2009, the revived campaign of arrests shifted its focus to children and youth as well as adult human rights activists. In a strategy that continues to the present, youths and children as young as 12 are now often the first ones to be arrested in mass arrest campaigns, either during demonstrations, immediately after them or during night raids. Evidence suggests that the purpose of their arrest and detention is threefold. First, targeting the youngest and most vulnerable is intended to exert pressure on their family and the entire community to put an end to all advocacy efforts and social mobilization. Second, Israeli Security Agency officers often arrest children for recruitment purposes. Testimonies collected by Addameer suggest that children from Wall-affected communities are routinely asked to become informants and provide information on both prominent figures involved in advocacy efforts and other children participating in demonstrations. Lastly, arrest is also used as a strategy to deter children from participating in demonstrations and from throwing stones at the Wall or other targets. During the process of arrest and detention, children report being subjected to harsh interrogation techniques and ill-treatment, and are routinely coerced into signing confessions and revealing names of participants at the protests.

Between 23 June and 7 July 2009, the Israeli army arrested 12 youths in the village of Bil'in, where residents have demonstrated every Friday since 2005, nine of whom were under the

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*my head, my feet and my hands were all at the same level when the bullet entered by forefinger and exited then entered by middle finger." Stop the Wall interview with Ni'lin resident Mohammed Abdulhafid Abdullah Mesleh, June 30, 2009*

<sup>17</sup> According to Stop the Wall's website, these canisters have a range of approximately 800 meters.

<sup>18</sup> Goldstone Report, p. 389, para. 1388.

<sup>19</sup> *Id.*, para 1390.

age of 18.<sup>20</sup> Many of the youths were then coerced to “confess”<sup>21</sup> against members of the Bil’in Popular Committee, including **Adeeb Abu Rahma**,<sup>22</sup> and **Abdallah Abu Rahma** (see *infra*, p. 10) whom Israeli authorities subsequently arrested as well.<sup>23</sup>

The Bil’in arrests in June 2009 coincided with the first successes of the village’s efforts in the Boycott Divestment and Sanctions (BDS) movement in the form of a major court case brought by Bil’in residents in Canada. The case, *Bil’in (Village Council) v. Green Park International Ltd.*, 2009 QCCS 4151, in which Bil’in residents commenced legal proceedings against Green Park International and Green Mount International, two Canadian companies involved in the construction, marketing and selling of residential units in the illegal Israeli settlement of Modi’in Illit, was heard before the Supreme Court of Quebec from 22-25 June 2009.<sup>24</sup>

In July 2009, Palestinian human rights activist **Mohammad Srour** was arrested at the Allenby Bridge Crossing as he returned to the West Bank after travelling to Geneva, Switzerland, to testify before the UN Fact Finding Mission on the Gaza Conflict. Srour, a member of the Ni’lin Popular Committee Against the Wall, testified about witnessing the shooting of two Ni’lin residents, Arafat Rateb Khawaje and Mohammed Khawaje, by Israeli forces during a demonstration against the conflict in Gaza in Ni’lin on 28 December 2008. Although Srour was not charged, the military courts said they were likely going to charge him, but they did not say on what grounds he was to be charged, or when. No court date has been set for his reappearance. In the report issued by the Fact Finding Mission in September 2009, discussed further *infra*, the Mission expressed concern “that his detention may have been a consequence of his appearance before the Mission”.<sup>25</sup>

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<sup>20</sup> Included among the 12 youths detained during this period were Khalil Ibrahim Khalil Yassin, and Kamel Kamel Mustafa Khatib, both 16, who were arrested on 23 June 2009. On 25 June 2009, Mohammed Khaleel Mohammed Abu Rahma, 23, and Mu’tasem Faisal Salah Al-Khatib, 17 were arrested from their homes during a nocturnal raid. Two more youths, Mohsen Rassem Hosni Al-Khatib, 16, and Hammouda Amad Hamouda Yasin, 17, were arrested on 29 June 2009 in similar nighttime raids. Suleiman Seif Suleiman Alwalydi, 17, was arrested on 30 June 2009. Oda Rebhe Ahmad Abu Rahma, 20, and Mahmoud Issa Yassein, 17, were arrested on 5 July 2009, and Majdi Abu Rahmah, 17, was arrested two nights later on 7 July 2009.

<sup>21</sup> The Fourth Geneva Convention provides that “No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.” Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 75 U.N.T.S. 287 (Aug. 12, 1949), Art. 31. International human rights law also prohibits the use of coercion-based testimony from being used in court proceedings, except against the interrogator. UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (June 26, 1987), at Arts. 1, 16. The Human Rights Committee, the body of independent experts that monitors state parties’ compliance with the ICCPR and its two Optional Protocols, has stated that such provisions are essential because, “In order to compel the accused to confess or to testify against himself, frequently methods which violate [fair trial] provisions are used. The law should require that evidence provided by means of such methods or any other form of compulsion is wholly unacceptable.” Human Rights Committee General Comment 13, para 14, Report of the HRC, (A/46/40), (Apr. 8, 1991), at 246.

<sup>22</sup> Adeeb Abu Rahma, a taxi driver, father of nine and member of the Popular Committee in Bil’in, was arrested on 7 July 2009 during one of the Friday demonstrations in Bil’in and remains in Israeli detention pending resolution of charges before the military courts. A video of Adeeb Abu Rahma’s arrest is available online at <http://palsolidarity.org/2009/07/7652>; Adeeb is the demonstrator wearing the orange shirt and holding the megaphone. According to evidence obtained by Addameer, two of the Bil’in youths detained during the sweep in June-July 2009 apparently stated during their interrogation that Adeeb Abu Rahma and Mohammed Khatib were protest organisers. Mohammad was subsequently arrested as well on 3 August 2009 (see *infra*, p. 10).

<sup>23</sup> One of the boys arrested mentioned 14 names in his “confession”, including that of Abdallah Abu Rahma. In the confession, he stated that Abu Rahma was in his 30s, was responsible for the Popular Committee in Bil’in, and that he welcomed internationals in the village and was showing them the Wall, and “the problems that happened there”.

<sup>24</sup> The plaintiffs sought to claim against the Quebec corporation and its director for participating in war crimes allegedly committed in the West Bank, on the grounds that construction of settlements in the occupied West Bank violate Article 49(6) of the Fourth Geneva Convention which prohibits an Occupying Power from transferring parts of its own civilian population into occupied territory. However the court, led by Superior Court judge Louis-Paul Cullen declined jurisdiction on the grounds of *forum non conveniens*. Mark Arnold, Bil’in’s lawyer in Canada, has appealed the decision.

<sup>25</sup> Goldstone Report, p. 6, para. 10.

On the night of 3 August 2009, **Mohammad Khatib**, 34, one of the leaders of the Bil'in Popular Committee also mentioned in confessions from the Bil'in youth, was arrested soon after his return from testifying before the court in *Bil'in v. Green Park International* and conducting a speaking tour across Canada. Mohammad was charged under Israeli military orders with throwing stones, incitement and calling on the youth to throw stones. Military prosecutors based these charges on a photo that they purported showed Mohammad involved in stone throwing at a demonstration. However, the case against Mohammad was dismissed after Mohammad's lawyer demonstrated that on the day the prosecution alleged the photo was taken, Mohammed had been in Canada. Although the Israeli military prosecution was unable to prove a case against Mohammad, his release in mid-August was nonetheless made conditional on a pledge that he would no longer take part in the weekly protests.

On 28 January 2010, Mohammad Khatib was re-arrested when Israeli soldiers stormed his family home in the early morning hours, conducting a quick search and leaving with Mohammad in custody. Half an hour later, at about 2:15 a.m., six Israeli soldiers returned to the home to conduct another, more intensive search, and seized Mohammad's phone and legal documents that related to Bil'in legal action before the Israeli High Court, which the soldiers at the scene alleged were "incitement materials". The father of four was re-arrested after breaking his bail conditions, which required him to check in at a local Israeli police station every Friday. This condition was imposed on him by Israeli authorities following his release from Israeli detention in August 2009, citing an ongoing "investigation", despite Israeli prosecutors' failure to provide any evidence of his alleged criminal culpability. On 2 February 2010, Mohammad was released from Israeli custody after paying 10,000 NIS (about \$2,700 USD) in bail and with the condition that he report to the local Israeli police station every Friday from 12-5p.m. – not incidentally, the same day and time in which the Bil'in weekly Wall demonstrations occur.

Arrests increased further in the fall of 2009 after the UN Fact Finding Mission on the Gaza Conflict published its long-awaited report on 25 September. Commonly known as the "Goldstone Report", the Mission's findings detailed violent measures taken by Israeli soldiers against protestors in the West Bank and noted that the UN Declaration on Human Rights Defenders is relevant in relation to Palestinian demonstrators who participate in weekly demonstrations against the Wall. In addition, the report recognized that article 5 of the Declaration, "which affirms the right of everyone "to meet or assemble peacefully" for the purpose of promoting and protecting human rights and fundamental freedoms" is particularly relevant.

## RECENT ARRESTS

Although widely publicized, the arrest and detention without charge of Mohammad Othman<sup>26</sup> and Jamal Juma',<sup>27</sup> Palestinian human rights defenders active in raising awareness of human

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<sup>26</sup> Mohammad Othman, a youth coordinator with the Grassroots Anti-Apartheid Wall Campaign (Stop the Wall), was released after 113 days in Israeli detention without charge or trial. Mohammad, 34, was arrested by Israeli soldiers on 22 September 2009 at the Allenby Border Crossing as he returned home to the West Bank from an advocacy tour in Norway. On 22 November, after 61 days of physically and psychologically exhausting interrogation, a military court judge ordered the end to Mohammad's interrogation. The next day, however, Mohammad was placed under administrative detention. Mohammad's administrative detention was renewed for a one month period on 22 December, but was later shortened by ten days by a military judge in the Court of Administrative Detainees. Although administrative detention is legally permissible only in emergency situations, threatening the "security of the state", and not as substitute for prosecution where there is no

rights violations resulting from the Annexation Wall, are just two incidents among many in the ongoing Israeli campaign of repression against human rights defenders active against the Wall. Since June 2009, Israeli authorities have arrested nearly three dozen villagers involved in anti-Wall protests from Bil'in, and more than 38 from Ni'lin, including 20 in the last month. At present, Addameer estimates that there are at least 56 Palestinian human rights defenders held in Israeli custody.<sup>28</sup>

**Abdallah Abu Rahma**, a high school teacher and head of the Bil'in Popular Committee Against the Wall, remains in Israeli detention following his arrest on 10 December 2009. Abdallah has been charged with three offenses under Israeli military orders: incitement, stone throwing and the possession of arms. Among the accusations under the incitement charge, the military prosecution listed Abdallah's instrumental role in organizing and leading demonstrations against the Wall and distributing Palestinian flags to demonstrators, an act which is still considered a "security offence" under Israeli military regulations. Under the arms possession charge, Israeli authorities have also accused Abdallah of collecting used M16 bullets and empty sound canisters and gas grenades, used by the soldiers to disperse the crowds at demonstrations, and exhibiting them in a Bil'in museum.

At the end of December 2009, the Bethlehem Area Commander of the Israeli army issued a strong warning to members of the Popular Committee Against the Wall in the village of Al-Ma'sara, threatening that demonstrations against the Wall would be harshly repressed if they continued in 2010, and that those involved in organizing or attending demonstrations would be arrested and "blacklisted". Since then, the village has been experiencing night incursions on a regular basis.

On 12 January 2010, three human rights defenders were arrested by Israeli forces in dawn raids into the West Bank villages of Ni'lin and Bil'in. **Ibrahim Ameera**, coordinator of the Ni'lin Popular Committee against the Wall and Settlements was arrested from his home. That same night, the Israeli army arrested two members of the Popular Committee in Ni'lin, **Zaydoun Srour**, and **Hassan Mousa**, from their homes and raided the house of **S.**, a youth activist who regularly attends demonstrations, and summoned him for interrogation. In Bil'in, Israeli forces also arrested **Muhammad Ali Yasin**, an anti-Wall youth activist.

On 14 January 2010, **Sa'id Yaqin Ziad Daoud**, 44, a member of the Beit Duqqu Popular Committee Against the Wall, was arrested from his home in the early morning hours after soldiers conducted a search of the premises. A professor at Al Quds University, and Director of a farmer's union in Jerusalem, Sa'id was detained in Ofer Military Base near Ramallah for 10 days before being released on bail of 2,000 NIS (about \$540 USD) on 24 January 2010. Sa'id has been charged under military orders with incitement and organizing illegal demonstrations and is currently awaiting trial, with his first hearing set for 3 March 2010.

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evidence to obtain a conviction, the military judge reduced Mohammad's detention order on the grounds that there had been no serious developments in the investigation into his case. Addameer contends that Mohammad's administrative detention was clearly arbitrary and based on impermissible grounds, in severe derogation from Israel's obligations under law.

<sup>27</sup> Jamal Juma' is a prominent Palestinian human rights defender, as the Coordinator of the Stop the Wall and as a founding member of several Palestinian civil society networks and non-governmental organizations. Jamal, 47, was released from Israeli detention after spending 27 days at the Moskobiyyeh interrogation center in Jerusalem. Although Jamal is a resident of East Jerusalem, and therefore falls under the jurisdiction of the Israeli civil system, Jamal was interrogated and detained under Israeli military orders, a military justice system that lacks even the most fundamental fair trial guarantees. Although the military prosecution acknowledged in court that they ended Jamal's interrogation after only eight days, Jamal was held in the Moskobiyyeh detention center for an additional 19 days, without having been charged with a single offense.

<sup>28</sup> This includes 17 detainees from Ni'lin, 13 from Bil'in, 15 from Beit Duqqu and 21 from Jayyous.

In the early morning hours of 17 January 2010, Ni'lin protestors **Muntaser Fadel Khawaja**, 22, **Mohammad Issam Khawaja**, 22, and twin brothers **Ehab Khawaja** and **Shehab Khawaja**, both 22, were arrested from their homes and taken to Ofer.

Another eight protestors from West Bank villages Ni'lin and Beit Duqqu were arrested on 18 January 2010. Ni'lin residents **Moataz Taleb Nafaa**, 17, **Majed Hisham Safi**, 19, **Saddam Nimer Nafaa**, 22, and **Ahmad Mustfa Nafaa**, 27, were arrested at Ofer Military Base that afternoon after receiving orders the previous day to present themselves for interrogation. All four remain in detention at present.

Earlier that day, **Khaled Daoud**, 22, **Ali Daoud**, 32, **Mohammad Daoud**, 35, and **Yousef Daoud**, 25, were all arrested in relation to their participation in Wall demonstrations when Israeli soldiers stormed their Beit Duqqu homes at 2 a.m. All four remain in detention at present.

On 19 January, youth protestor **Mohammad Sa'addat Srour**, 16, was arrested from Ni'lin. Two days later, three more Ni'lin residents active in protests against the Wall were also arrested from their homes, including **Qusai Mohammad Nafaa**, 19, **Barakat Ali Fayaz Nafaa**, 34, and **Mustfa Rateb Ameer**, late 40s.

In the early morning hours of 2 February 2010, Israeli soldiers arrested **Ibrahim Abed El Fatah Bornat**, 26, in a night raid into his family home in Bil'in. After taking him into custody, the soldiers conducted a search of his home and confiscated a computer, a pair of shoes, a hat and several documents. Ibrahim had been active in weekly protests in Bil'in for some time; on 12 June 2008, he suffered serious injury when he was shot in the leg with live ammunition by an Israeli soldier as the military attempted to disperse the protest. Also arrested that morning was **Hamde Abu Rahmah**, a journalist from Bil'in who was taken into custody after attempting to photograph the scene around Ibrahim's home.

On 2 February 2010, **Mahmoud Nafa'**, 19, and **Sabti Khawaja**, 21, went for interrogation to Ofer and were arrested and remanded to detention for four days. Mahmoud and Sabti, both university students, have regularly attended protests against the Wall in Ni'lin. However, Mahmoud's participation in the demonstrations decreased after he was shot at a protest on 6 June 2008, as he fears further injury from Israeli soldiers. Addameer anticipates that Mahmoud and Sabti's detention period will be extended for at least another four days, before military orders require their appearance before a judge.

Also arrested with Mahmoud and Sabti was **Mohammad Ameer**, 25, also from Ni'lin. Mohammad's father and brother were both arrested as well in recent weeks. His father, **Mustafa Ameer**, 40s, was arrested on 21 January when the Israeli army came to the family home looking for Mohammad. Mustafa was released two days later without charge. The next day, 24 January 2010, the army arrested Mohammad's brother, **Rateb Ameer**, mid-20s; he remains in detention at Ofer Military Base at present. Mohammad, Mustafa and Rateb are all regular participants in the weekly Ni'lin demonstrations against the Wall.

On 3 February 2010, cousins and active participants in demonstrations against the Wall **Muhye Bassam Hafez**, **Hikmet Mohammad Abd Al Hafez**, **Suheil Naim Abd Al Qader**, **Qais Abd Al Qader** and **Ibrahim Abd Al Walid**, all 19, were arrested from their homes in Jayyous at 3:30 a.m.

## ISRAELI MILITARY ORDERS AND CHARGES LEVIED AGAINST PROTESTORS

For Palestinian human rights defenders active against the Wall, Israeli intimidation efforts are pervasive: Israeli military orders ban all political activity and demonstrations in the OPT, whether peaceful or not;<sup>29</sup> Palestinians who exercise their fundamental human rights to expression and peaceful assembly and take part in the demonstrations anyway are harassed, threatened, arrested, detained, and prevented from travelling abroad to speak about their resistance efforts, or are harassed even more upon their return; those who are charged with offenses in the Israeli military courts face almost certain conviction and imprisonment by a military justice system that is heavily biased against them; those who are not charged are nonetheless often levied with administrative detention – indefinite detention without charge or trial – large fines and bans from participating in demonstrations of any kind, and are frequently subjected to increased threats and harassment by Israeli forces, both individually and with their community.

Since the Israeli occupation of Palestinian territory in 1967, an estimated 700,000 Palestinians have been detained under Israeli military orders, which constitutes approximately 20 percent of the total Palestinian population in the OPT, and as much as 40 percent of the total male Palestinian population.<sup>30</sup> Today, the more than 1,650 wide-ranging military orders that govern the West Bank, and the military courts that enforce them, criminalize political activities that form the very foundation of Palestinian civil society.

Putting up political posters, writing political slogans on a wall, belonging to any political party or certain organizations listed in military orders, displaying political symbols and attending a demonstration of virtually any kind are all activities that are classified as offenses under military orders and prosecuted as crimes that “endanger the security” of Israel. The offense of “threatening the security of the state” is an umbrella charge that can include socializing with an individual who has been classified as a security threat, even after that individual’s alleged activities were completed.

In cases documented by Addameer, Palestinian human rights defenders who are charged in relation to their involvement in demonstrations against the Wall are often levied with numerous charges that, upon closer inspection, bear little resemblance to an independent and impartial justice system at work. This is exemplified in the cases of Abdallah Abu Rahma, charged with possession of arms after picking up bullets and gas canisters utilized by Israeli forces against his village and displaying them in the village museum, and Mohammad Zawahre, who was charged with attacking Israeli soldiers, when, in fact, there is video evidence that shows it was he who was beaten during and after his arrest amidst a peaceful anti-Wall protest in Al Ma’sara. Other charges levied against protestors include entering closed military areas, participating in demonstrations and encouraging others to do so, and incitement.<sup>31</sup>

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<sup>29</sup> Although demonstrations remain illegal under Israeli military orders, whether or not Palestinians who participate in demonstrations are prosecuted for these actions depends largely on the prevailing political situation in the OPT. At present, mere participation in demonstrations is not typically sufficient for Israeli authorities to prosecute; however, once an individual is arrested in relation to such a demonstration, the charge of participation is invariably included. In addition, the threat of prosecution for simple participation is always present, given that it remains an offense under military orders, and remains a deterrent to the enjoyment of fundamental human rights of freedom of expression and peaceful assembly.

<sup>30</sup> *Human Rights Situation in Palestine and Other Occupied Arab Territories: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian territories occupied since 1967, John Dugard, A/HRC/7/17*, 21 January 2008.

<sup>31</sup> The charge of incitement is defined under Israeli military orders as “an attempt, whether verbally or otherwise, to influence public opinion in the Area in a way that may disturb the public peace or public order”, Military Order No. 101.

The practical effect of the military orders and charges brought before the military courts is intimidation of Palestinians resident in the OPT against the enjoyment of fundamental human rights, in particular to freedom of expression and peaceful assembly. The constant threat engendered by the Israeli military justice system is reinforced by tactics utilized by Israeli forces and continue even after human rights defenders are released from Israeli detention.

The cases of **Mohammad Birjijah** and **Mohammad Zawahre** are particularly instructive. Both are human rights defenders, active in the struggle against the Wall and its harmful effect on their West Bank village, Al Ma'sara. As Al Ma'sara's protests rose in prominence, both began to be individually targeted by Israeli forces, subjected to threats and repeated home raids in the middle of the night and detained at checkpoints, sometimes for hours. Arrested along with five others during a demonstration against the Wall in Al Ma'sara on 1 May 2009, Birjijah was held in Israeli custody for 35 days and Zawahre for 12 days. Birjijah was required to pay bail of 25,000 NIS (about \$6,750 USD) for his release, was prohibited under his bail conditions to participate in any demonstrations of any kind, and was later also prohibited from travelling to France to participate in a human rights conference. Zawahre was released on 20,000 NIS (about \$5,400 USD) bail, but was able to travel abroad, attending a Palestinian solidarity meeting in Grenoble, France, in early December 2009.

However, with his return through Allenby Bridge border crossing on 9 December 2009 came further harassment measures, and Zawahre has since been subjected to weekly interrogation sessions and repeated threats. During one interrogation session on 7 January 2010, an Israeli officer named "Gideon" told Zawahre that he had information about Zawahre taking part in and organizing demonstrations against the Wall, and told Zawahre: "Be careful, and do not put yourself in danger as I have a lot of information on you". The following day, an Israeli officer who introduced himself as "Iyyad Sarhan" phoned Zawahre and asked him where he was. When told that Zawahre was at a wedding, the officer observed that Zawahre could not then be at the weekly demonstration against the Wall in Al Ma'sara; he then asked who was organizing the demonstration in Al Ma'sara and asked to see Zawahre immediately. When Zawahre declined to come for interrogation, the officer answered, "Fine, you will see what happens now", and hung up. That same night, Israeli soldiers made an incursion into Al Ma'sara and waited from 3:30 a.m. until 5:00 a.m. outside of both Birjijah and Zawahre's homes. They returned the following night and stood again outside the house for about one and a half hours. Both human rights defenders currently live in fear of further threats and action by Israeli forces.

## **INTERNATIONAL LEGAL STANDARDS**

International human rights and humanitarian law recognize and codify a number of international standards applicable to the Palestinians involved in protests against the Wall, including freedoms of expression, peaceful assembly, the right to life, humane treatment and freedom from discrimination, and protection as human rights defenders.

All individuals enjoy the right to freedom of expression recognized in article 19 of the International Covenant on Civil and Political Rights (ICCPR):

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Israel bears further obligation under article 21 of the ICCPR to recognize the right of peaceful assembly. While certain restrictions may be placed on the exercise of this right, such restrictions must be “in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”. Moreover, article 2 of the ICCPR provides that any restrictions on the right of peaceful assembly can only be imposed “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

In addition, Israel carries obligations under articles 2(1) and 6(1) of the ICCPR to ensure, without distinction of any kind, that no one is arbitrarily deprived of their life:

Art. 2(a). Each State party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Art. 6(1). Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

International human rights law also restricts the permissible use of force by those exercising police powers. Article 3 of the Code of Conduct for Law Enforcement Officials,<sup>32</sup> provides that law enforcement officials, including military officials and State security forces, may use force “only when strictly necessary and to the extent required for the performance of their duty”; commentary to this provision stipulates that the use of firearms is considered “an extreme measure”, and that every effort should be made to exclude the use of firearms, especially against children”. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials further provide that:<sup>33</sup>

Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

International humanitarian law codified in The Fourth Geneva Convention also places a number of obligations on Israel relevant to the treatment of Palestinians, including those participating in demonstrations. Article 27 requires that Israel ensure that Palestinians as protected persons are “at all times ... humanely treated, and ... protected, especially against all acts of violence or threats thereof and against insults and public curiosity”. Treatment by Israel as the Occupying Power must also be “without any adverse distinction based, in particular, on race, religion or political opinion”. Article 32 contains a further prohibition on “taking any measure of such a character as to cause the physical suffering or extermination of protected persons”.

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental

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<sup>32</sup> Adopted by General Assembly resolution 34/169 of 17 December 1979.

<sup>33</sup> Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

Freedoms (Declaration on Human Rights Defenders) is also relevant,<sup>34</sup> in particular article 5 which affirms the right of everyone “to meet or assemble peacefully” for the purpose of promoting and protecting human rights and fundamental freedoms. The Declaration on Human Rights Defenders further provides that States bear a duty to protect, promote and implement all human rights and fundamental freedoms, and also to ensure the protection of all human rights defenders exercising their legitimate rights under international law.

## **CONCLUSIONS AND RECOMMENDATIONS**

The dispersal by Israeli forces of demonstrations in the West Bank constitutes a violation of the rights to freedom of expression and peaceful assembly. To the extent that the protesters were demonstrating against the violation of human rights in relation to the Annexation Wall, the actions of the Israeli military in breaking up demonstrations contravenes the provisions of the Declaration on Human Rights Defenders.

Moreover, the impermissible use of force frequently used by Israeli forces against protestors is in clear violation of a number of international standards, including articles 7 and 9 of the International Covenant on Civil and Political Rights. The use of firearms and other projectile weaponry, such as the high velocity long range tear gas canisters, that result in the death of demonstrators further constitutes a violation of article 6 of the International Covenant on Civil and Political Rights as an arbitrary deprivation of life.

The undersigned organizations therefore request your intervention as Special Rapporteurs to:

- Raise all cases of Palestinian human rights defenders arrested in relation to their advocacy work on the Wall and its associated, unlawful regime in their official meetings with Israeli officials;
- Demand clarifications regarding the reason for the arrest of human rights defenders protesting the construction of the Wall in official letters addressed to Israeli authorities;
- Issue public statements condemning the unlawful dispersal of demonstrations against the Wall and the arrest of all human rights defenders, including those active in protesting the construction of the Wall;
- Demand the immediate cessation of the use of impermissible force by Israeli soldiers against Palestinian protestors and pressure Israel to put an end to its policy of arbitrary detention.

In addition, the undersigned organizations urge the Special Rapporteurs to follow human rights defenders’ court hearings in order to monitor application of the international principles applicable to human rights defenders, and to raise the detained activists’ cases in press statements addressing the repression of Palestinian human rights defenders, including those at risk of arbitrary detention and mistreatment.

Yours sincerely,

Sahar Francis

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<sup>34</sup> General Assembly resolution, 53/144. Israel joined consensus when the Declaration was adopted by the Assembly.

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