



Right Hon William Hague MP
Foreign Secretary
Foreign and Commonwealth Office
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City of Westminster
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Email: private.office@fco.gov.uk
For the attention of: Right Hon William Hague MP

1 June 2012

Dear Mr. Hague,

Re: Forcible Transfer of Palestinian Children - Fourth Geneva Convention Violation

We write further to an urgent appeal issued by Defence for Children International/Palestine Section, regarding the systematic forcible transfer of children from the Occupied Palestinian Territory to detention centres inside Israel in violation of international humanitarian law.

According to data released by the Israeli Prison Service (IPS) in April 2012, **52 percent** of Palestinian child prisoners detained in IPS custody were held in detention facilities located inside of Israel, in violation of Article 76 of the Fourth Geneva Convention which explicitly prohibits the transfer of prisoners outside of occupied territory. According to this data, **114 children** were held in Megiddo, Hasharon and Shikma prisons inside Israel, whereas 104 children were detained in Ofer prison, located in the occupied West Bank.

The practical consequence of this violation is that Palestinian child prisoners receive either limited or no family visits, due to freedom of movement restrictions and the time it takes to issue permits to visit a prison. This lack of adequate family contact also violates their rights under article 37 of the Convention on the Rights of the Child, and Article 10 of the International Covenant on Civil and Political Rights.

The specific issue of transferring Palestinian prisoners to detention facilities inside Israel has been considered by the Israeli Supreme Court on two occasions, most recently in the case of *Yesh Din v Minister of Defence*, in 2010. In rejecting the petition filed on behalf of the prisoners, the Court ruled that the domestic emergency regulations permitting the transfer of Palestinian prisoners to facilities inside Israel prevail over the Fourth Geneva Convention. However, the decisive point to note here is that a State cannot plead provisions of its own law or deficiencies in that law in answer to a claim that it is in breach of a treaty obligation (Article 27 of the 1969 Vienna Convention on the Law of Treaties).

The express or implicit position held by the overwhelming majority of the international community is that the Fourth Geneva Convention has full legal force in the occupied territory. Accordingly, the continuing practice of the Israeli government of transferring Palestinian prisoners to detention facilities located inside Israel, potentially exposes serving and former military court judges, military and police personnel involved in the transfer, IPS prison staff and their respective military and

civilian chains of command, to individual criminal prosecution by virtue of articles 146 and 147 of the Fourth Geneva Convention.

We strongly endorse the recommendation made by Defence for Children International/Palestine Section that all Palestinian children detained under Israeli military law should be held in facilities in the occupied territory and not in Israel, in accordance with article 76 of the Fourth Geneva Convention.

We would be grateful for your urgent intervention to achieve this crucial outcome, in accordance with the United Kingdom's obligation under Article 1 of the Fourth Geneva Convention 'to respect and to ensure respect for the present Convention in all circumstances'.

Yours sincerely,

Tareq Shrourou
Chair, Lawyers for Palestinian Human Rights

CC: The Law Society
The Bar Council
Defence for Children International/Palestine Section