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"بتسيلم" مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة

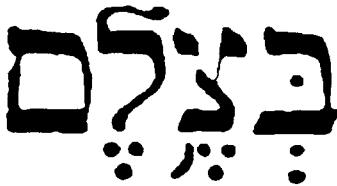
BTSELEM-The Israeli Information Center for
Human Rights in the Occupied Territories

Information Sheet December 2000



Illusions of Restraint

Human Rights Violations
During the Events
in the Occupied Territories
29 September – 2 December 2000



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Introduction

On 29 September 2000, Israeli policemen killed four Palestinians on the Temple Mount.¹ Following this incident, Palestinians began violent demonstrations against IDF soldiers throughout the Occupied Territories. Since then, clashes between Palestinians and IDF soldiers have occurred daily. Each day Palestinians arrive at friction points with the IDF and throw stones, hurl Molotov cocktails, and in some instances even use firearms. Palestinians use these same means against Israeli civilians in the Occupied Territories. IDF soldiers respond with tear gas, rubber-coated metal bullets (hereafter "rubber" bullets), live ammunition, and tank and helicopter gunfire. Other means Israel has employed include imposition of a total closure on the Occupied Territories, closure on certain towns and villages in the Occupied Territories, and in some instances also a curfew.

From 29 September to 2 December 2000, Israeli security forces killed 204 Palestinian civilians and 24 Palestinian security forces, and wounded approximately 10,000 Palestinians. At least three Palestinians were killed by Israeli civilians. Thirteen Israeli civilians and eleven members of the Israeli security forces have been killed by Palestinian civilians. Five Israeli security force personnel were killed by Palestinian security forces.²

The events over the recent weeks differ from the previous *intifada* in several ways. First, the Palestinians now have a large number of weapons. Whereas in the past most demonstrations consisted of stone-throwing, and at times hurling Molotov cocktails, now in some instances armed Palestinian civilians and Palestinians security forces fire at Israeli civilians and IDF soldiers.

Second, today Israel does not have direct control over all the Occupied Territories, and more than 90 percent of the Palestinian population is under the civil and security control of the Palestinian Authority in areas into which, under the Oslo Accords, Israeli security forces are not allowed to enter except in exceptional circumstances.

Israeli officials used these differences to justify the extensive human rights violations that took place in recent weeks.³ Because of the scope of the events, B'Tselem is unable to examine in depth all the violations that took place. In addition, the restrictions on movement against both Israelis and Palestinians that Israel imposed in the Occupied Territories made it difficult for B'Tselem personnel to reach all the places where human rights violations were reported.

This report presents the findings of B'Tselem's investigation as to the use of force by Israel and Palestinians in recent weeks. The report also covers harm to medical teams and journalists and restrictions placed on them.

The report gives less attention to restrictions on the freedom of movement imposed on the Palestinian population since the beginning of October. Similarly, the report discusses in brief attacks by Israeli settlers on Palestinians. B'Tselem intends to dedicate separate reports to these two issues in coming weeks.

The report does not relate at all to actions initiated by the IDF, such as the targeted shelling of Palestinian police stations, Fatah offices, and other targets, and the intentional killing of Palestinians. Because of the complexity of these matters, B'Tselem will issue a separate report on this subject in the near future.

1. See B'Tselem, *Events on the Temple Mount — 29 September 2000*, October 2000.

2. The figures do not include civilians killed within Israel's borders.

3. See the comments of Col. Daniel Reisner, head of the IDF's International Law Branch, at a press conference on 15 November 2000 (hereafter: Reisner, Press Conference). A transcript of the press conference can be found on the Website of the Foreign Ministry: www.mfa.gov.il.

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were injured by gunfire, 10 by Molotov cocktails, 9 by explosives, 141 by stone-throwing, and 4 by smoke inhalation. In 12 cases, the cause of injury is unknown. Of the security forces injured, nine suffered injuries of moderate severity or greater.⁸

2. Dispersing demonstrations of unarmed Palestinians

The IDF Spokesperson's Website, under the heading "Survey of the Disturbances in the Occupied Territories," states that, "In the past six weeks, there has been unprecedented violence in the territories — not a night has passed without shooting incidents at a variety of flash-points in the territories, some turning into full-scale gun battles. Jewish settlements have been targeted; the Jerusalem neighborhood of Gilo has been under fire for over a month."⁹ This statement gives an incomplete description of the reality in the Occupied Territories in recent weeks.

According to Col. Reisner, as of 15 November, there had been 1,351 gunfire attacks on Israeli targets and 3,734 attacks that did not include gunfire.¹⁰ That is, according to IDF figures, 73 percent of incidents in recent weeks did not include Palestinian gunfire. Despite this, it was in these incidents that most of the Palestinians killed and wounded were injured.

Col. Reisner related to the contention raised by

international human rights organizations that Israel used excessive force during the recent events in the Occupied Territories.¹¹ To refute this contention, Col. Reisner made a cynical calculation - dividing the number of wounded by the number of demonstrations - resulting in an average of one person injured per incident, thus showing that the IDF does not use excessive force.¹² However, this argument is refuted because it is based on the assumption that injuring a Palestinian stone-thrower is legitimate to the same degree as injuring an armed Palestinian who fired at IDF soldiers. International humanitarian law and Israeli law offer no support for this assumption.

In events in which unarmed Palestinians take part, the rules applicable to law enforcement, which are binding on policing activities, apply. The Open-Fire Regulations are based on these rules. They limit the cases in which security forces are permitted to open fire and are based on the Israeli penal code, which states and delineates the restrictions on the use of lethal force.

According to the Open-Fire Regulations, firing live ammunition is only allowed where a real and immediate threat to life exists. In such instances, it is permissible to shoot to injure the person who constitutes the danger.¹³ The Regulations also delineate the means for dispersing demonstrations, among them tear gas, shock grenades, and rubber-coated metal bullets, and state the manner in which they

8. For the Website of the IDF Spokesperson, see www.idf.il.

9. "Overview of the Violence in the Territories, 29 September - 9 November 2000."

10. See Reisner, Press Conference, footnote 3.

11. See, for example, Amnesty International, *Excessive Use of Lethal Force*, October 2000 (www.amnesty.org); Human Rights Watch, *Investigation into Unlawful Use of Force in the West Bank, Gaza Strip, and Northern Israel*, October 2000 (www.hrw.org).

12. See Reisner, Press Conference, footnote 3.

13. In certain instances, live fire is also allowed to apprehend a person suspected of committing a dangerous crime, but it is only permitted to fire at the legs and only as a last resort. According to Col. Reisner, the IDF did not use this procedure in the recent events. These comments were made at a meeting that B'Tselem held with Col. Reisner and Lt. Col. Liron Liebman, Deputy Chief Military Prosecutor, on 26 October 2000. Similar comments were made at Col. Reisner's press conference (footnote 3).

Use of Force

B'Tselem has repeatedly criticized the excessive use of force by Israeli security forces during dispersal of Palestinian demonstrations in the Occupied Territories, and published several reports on the subject. Several times B'Tselem also requested security authorities to clarify and amend the Open-Fire Regulations. The authorities rejected these requests time after time, contending that the Regulations are reasonable, lawful, and had been approved by the Supreme Court.⁴

During the recent events, the IDF acted according to the same policy of dispersing demonstrations that it employed more than ten years ago. This time, too, its policy resulted in the loss of dozens of Palestinian lives and the wounding of thousands of Palestinians.

I. Data⁵

Persons killed⁶

From the beginning of the events, on 29 September 2000, to 2 December, the number of persons killed in the Occupied Territories are as follows:

- 204 Palestinian civilians were killed by Israeli security forces, 50 of whom were minors under 17,⁷ and 23 were 17 years old.
- 24 members of the Palestinian security forces were killed by Israeli security forces.
- four foreigners were killed by Israeli security forces.

- at least three Palestinian civilians were killed by Israeli civilians.
- 13 Israeli civilians were killed by Palestinian civilians.
- 11 members of the Israeli security forces were killed by Palestinian civilians.
- five members of the Israeli security forces were killed by Palestinian security forces.

Persons wounded

From 29 September to 1 December 2000, the Palestinian Red Crescent treated 9,919 wounded. Of them, 1,970 were injured by live ammunition, 3,835 by "rubber" bullets, 3,133 by inhalation of tear gas. In 981 cases, the cause of the injuries is unknown. The severity of the injuries is apparent from Red Crescent data, according to which, from 29 September to 26 November, it treated 9,640 Palestinians in its field clinics, 1,750 of whom (18 percent) were taken to hospitals.

According to the Website of the IDF Spokesperson, from 29 September to 2 December, 118 Israeli civilians were injured in the Occupied Territories (including East Jerusalem) by Palestinian civilians or security forces. Of them, 30 were injured by gunfire, 2 by Molotov cocktails, 9 by explosives, 63 by stone-throwing, and one by a beating. In 13 cases, the cause of injury is unknown. Of those injured, nine suffered injuries of moderate severity or greater. In addition, 244 security force personnel were injured in the Occupied Territories (including East Jerusalem) by Palestinian civilians or security forces. Of them, 68

4. See B'Tselem, *Death Foretold: Firing of "Rubber" Bullets to Disperse Demonstrations in the Occupied Territories*, December 1998; *Firing at Vehicles by the Security Forces in the Occupied Territories*, February 1994; *The Killing of Palestinian Children and the Open-Fire Regulations*, June 1993; *Lethal Gunfire and Collective Punishment in the Wake of the Massacre at the Tomb of the Patriarchs*, March 1994; *The Use of Firearms by Security Forces in the Occupied Territories*, July 1990.

5. For updated figures and details, see B'Tselem's Website: www.btselem.org.

6. As stated above, these figures do not include civilians killed within Israel's borders.

7. The breakdown on minors according to age: age 16 (12), age 15 (18), age 14 (10), age 13 (4) and age 12 (6).

- intentional, and B'Tselem saw Palestinian Authority personnel moving among the stone-throwers and moving away people with firearms and people in uniform.¹⁷ In all the cases, Palestinian gunfire began after the demonstration had lasted at least an hour and after the soldiers had already fired "rubber" bullets and live ammunition. In fact, after Palestinians fired, the soldiers stopped firing and did not respond, except in one instance, on 27 October, when soldiers shot at Palestinians who opened fire. In the other cases, Israeli security forces did not respond to Palestinian gunfire, which lasted no more than five minutes.
3. In some of the cases in which Israeli soldiers fired "rubber" bullets or live ammunition, people who were not involved in the demonstrations were injured. For example, in the demonstration on 25 October, B'Tselem representatives stood some fifty meters behind the demonstrators. "Rubber" bullets reached the place where they were standing. On 27 October, a woman was wounded by live gunfire while she was standing among onlookers. In almost all the demonstrations, there was a large crowd of onlookers, who were not taking an active part in the demonstration. This group included not only journalists reporting the events and medical teams who evacuate the wounded — some of whom were wounded in such events¹⁸ — but also Palestinians observing what was taking place. Thus, in addition to firing at stone-throwers who did not threaten their lives, soldiers also injured people who were not taking part in the stone-throwing.
4. In viewing the occurrence from the observation points, it was noted that the

soldiers' response was not affected by the size of the demonstration. The response to a demonstration of hundreds of Palestinians was identical to one in which 50 Palestinians participate. For example, in the demonstration on 27 October, some one thousand Palestinians threw stones at soldiers. The soldiers responded with shock grenades, tear gas, "rubber" bullets, and live ammunition. In the demonstrations on 29 October, 31 October, and 1 November, from 30-50 Palestinians threw stones at the soldiers. This time, too, the soldiers responded with shock grenades, tear gas, "rubber" bullets, and live ammunition. Yet, at demonstrations on 2 and 3 November, at which about a thousand Palestinians took part in each, the soldiers used, except in isolated instances, only tear gas and "rubber" bullets.

Two Palestinians were killed at AYOSH Junction during the period that B'Tselem observed the demonstrations: Ghassan Yusuf Ahmed Salem 'Awiseh, 27, was killed on 27 October; Tha'ar Ibrahim Shalesh a-Zayed, 17, a resident of Jilazun Refugee Camp, was killed on 31 October. Both were shot when they did not constitute a life-threatening danger to the soldiers and were killed before the Palestinian side had opened fired.

The findings from a number of observation posts that B'Tselem maintained at other sites in the Occupied Territories indicate that this manner of dispersing demonstrations is army policy throughout the Occupied Territories and not only at AYOSH Junction.¹⁹ The high number of those killed and wounded in the recent events results directly from this policy.

17. Over recent weeks, there were surely events in which armed Palestinians were among the stone-throwers and who fired at Israeli security forces, but this section of the report discusses demonstrations in which this mingling did not occur. Mingling of armed and unarmed people is absolutely forbidden by international humanitarian law because the armed individuals endanger the lives of those who are unarmed.

18. Regarding attacks on journalists and medical teams, see below.

19. B'Tselem observed events in Bethlehem on 27, 30 and 31 October; in Hebron from 30 October to 1 November; in Nablus on 27, 30, and 31 October; at the Karni Checkpoint from 29 October to 2 November; at the Tuفah Checkpoint (Khan Yunis) on 30 October; and at Erez Checkpoint on 31 October.

must be used. With the declared objective of preventing fatal injuries by “rubber” bullets, which can be lethal, the rules restrict their use.¹⁴

The Code of Conduct for Law Enforcement Officials, which the UN adopted in 1979, sets forth limitations on the use of lethal force.¹⁵ These rules apply to the police and to security forces involved in policing. These rules do not legally bind Israel, but indicate the standards that most states consider proper for policing activity. Article 3 of the Code provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. The commentary on this article emphasizes that the use of force is allowed only in life-threatening situations and then only to the extent required under the circumstances and where less forceful means did not succeed in removing the danger. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the UN in 1990, reiterate and reemphasize the rules established in the 1979 code.¹⁶ Article 8 of the Basic Principles emphasizes that exceptional circumstances such as political instability or public emergency may not be invoked to justify any departure from these principles.

Sample Case: Dispersal of demonstrations at the northern entrance to El-Bireh

To examine how the IDF disperses demonstrations, B'Tselem observed several incidents in the Occupied Territories over a number of days. B'Tselem concentrated on events at the northern entrance to El-Bireh (hereafter: AYOSH Junction), which was one of the primary focal points of the demonstrations, and observed events there for ten days, from

25-27 October and 29 October to 4 November. The demonstrations at AYOSH Junction took place every day in the afternoon. In six demonstrations, an average of 50 Palestinians threw stones at soldiers and burned tires. In some instances, Palestinians also threw Molotov cocktails. At one demonstration, some 400 people took part, and three demonstrations numbered approximately 1,000 participants each. The soldiers at AYOSH Junction stood at the Israeli checkpoint, 20-30 meters from the Area A border, where the demonstrators situated themselves. In addition to the soldiers at the checkpoint, Israeli snipers were stationed on the roof of a building some 100 meters from the demonstrators.

The observations of the demonstrations at AYOSH Junction indicate several characteristics of the IDF policy to disperse demonstrations:

1. In all the demonstrations, the IDF used shock grenades, tear gas, and “rubber” bullets. In four of the ten demonstrations, it also used live ammunition. The transition from one means to another was done quickly, without waiting and examining if the preceding means attained its objective. In some cases several means were used simultaneously.
2. Live ammunition was also used in cases in which the lives of security forces were not in danger. The soldiers fired at the demonstrators, a large portion of whom were children, who were throwing stones primarily and burning tires. In some cases, Molotov cocktails were also thrown, but they did not endanger the lives of the soldiers, who were a safe distance away and well protected.

In half of the demonstrations that B'Tselem witnessed, there was gunfire from the Palestinian side. However, the Palestinians who fired were located a distance away from the stone-throwers and were hidden inside buildings in the area. This separation was

14. For details of the Regulations, see below.

15. Code of Conduct for Law Enforcement Officials, adopted by General Assembly Resolution 34/169, 17 December 1979.

16. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 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.

day before going out, they stated the principles for opening fire. It also changes from place to place. In some places, the Regulations are more lenient than in other places. The directives provide that we be very selective, very precise, and by the time we fire, we're worn out. It also depends on the day. After the lynching, for example, the Open-Fire Regulations were much more lenient than on the preceding day.²⁴

A soldier doing his compulsory service told B'Tselem that, "The Open-Fire Regulations regarding stone-throwers enable firing 'rubber' bullets at them. After the lynching in Ramallah, the Regulations were changed to allow live sniper fire in such a case."²⁵ A soldier on reserve duty told B'Tselem:

During my service, the Open-Fire Regulations that we had received were amended twice. First they were expanded, last Thursday, after the lynching in Ramallah of the two soldiers, and yesterday they were returned to what they had been, after two Palestinians had been killed on Saturday in the sector. They change the Open-Fire Regulations depending on the situation. The original Open-Fire Regulations that we received were that, if someone throws stones or a Molotov cocktail at you, but does not threaten you — don't fire. If you are in danger — you may fire at the legs, but only after obtaining the commander's authorization. After the lynching, the orders were changed, and they said that, if a soldier feels in danger from the throwing of stones or Molotov cocktails, he is authorized to fire at the legs, even without

consulting with the commander. I asked the soldiers with me and they understood that, in effect, they were allowing us "with a wink" to fire wherever we want."²⁶

A sniper doing compulsory service told B'Tselem that:

The term "real threat" changes from sector to sector and from period to period. If, for example, the sector was calm for a few days, then we try not to kill so as not to heat up the sector. The directives to snipers regarding the definition of life threatening can differ by sector.²⁷

The manner in which the soldiers at AYOSH Junction coped with the demonstrations reinforces the suspicion that changes in the Regulations were based on the political situation. In demonstrations on 2 and 3 November, some 1,000 Palestinians took part, but the soldiers responded relatively moderately, and did not fire any live ammunition. On 3 November, the army even retreated a few meters and refrained from firing. This response was completely different from the much harsher response to a demonstration of similar proportion that occurred a week later. The difference may be linked to a meeting held on 1 November between Minister Shimon Peres and Chairman of the Palestinian Authority Yasser Arafat, in which it was agreed, in part, to stop the firing and to maintain calm.²⁸

It is important to emphasize that there is a direct connection between soldiers' response to a demonstration and the manner in which the demonstration develops. Thus, the policy employed is crucial. The greater the force used by soldiers and the more people killed and wounded, the longer and more violent the demonstration. For example, in the

24. "Within Ten Seconds it is Necessary to Estimate How Old He Is," *Ha'aretz*, 20 October 2000.

25. The testimony was given to Lior Yavneh and Ron Dudai on 29 October 2000. The name of the soldier is on file at B'Tselem.

26. The testimony was given to Lior Yavneh on 16 October 2000. The name of the soldier is on file at B'Tselem.

27. The testimony was given to Lior Yavneh and Ron Dudai on 12 November 2000. The name of the soldier is on file at B'Tselem.

28. "IDF: Only Temporary Calm in the Violence," *Ha'aretz*, 5 November 2000.

Changes in the Open-Fire Regulations

Reports by the media and by the IDF Spokesperson, testimonies of soldiers, and analysis of the manner in which demonstrations in the Occupied Territories are dispersed, indicate that, over the past seven weeks, a number of changes were made in the Open-Fire Regulations.

A letter from the IDF Spokesperson stated that, from 7—14 October, the Open-Fire Regulations were changed and authorization was given to take offensive or preventive action by live gunfire in life-threatening situations. Implementation of the regulation requires approval of the officer in charge holding a rank no less than Brigade Commander or Deputy Brigade Commander (Lt. Col. and above) in each regional sector.²⁰

This letter is vague and does not explain what change took place in the Regulations. It is also unclear why the IDF Spokesperson defines this as a change in the Regulations, because use of live ammunition in life-threatening situations has always been allowed. On 1 November, B'Tselem wrote to the IDF Spokesperson requesting clarifications regarding its letter, and the Open-Fire Regulations in particular, but has not received a response.

The significance of the change mentioned in the letter is found in press reports, where it was stated that, according to the IDF Spokesperson, there was a “certain flexibility” in the Regulations. According to the new directive, “At friction points and disturbances, when a life-threatening situation exists - means for dispersing demonstrations should be fired (rubber bullets and tear gas), followed by firing in the air, and then (if the previous measures are ineffective), by live ammunition aimed at the legs, at the order of the commander in the field.”

Several days later, this directive was cancelled and the Regulations returned to their original form.²¹ On 31 October, it was reported that, “A week ago, the IDF made the open-fire directives in the West Bank flexible. The new directives enable firing, in life-threatening situations, at the legs of stone-throwers. The firing focuses on large demonstrations and on stone-throwers who ambush vehicles. It is mostly performed by small-diameter snipers’ rifles.”²²

This expansion of the definition of “life-threatening” is problematic, primarily in light of the requirement that the commander’s authorization be obtained in such situations, as stated in the letter of the IDF Spokesperson. Clearly, when the threat is immediate, the soldier will not have time to request authorization. In B'Tselem's meeting with Col. Reisner, he stated that the definition of life-threatening “is purely subjective.”²³ If so, it is unclear why it is necessary to instruct the soldiers that stone-throwing is life threatening. Because firing in life-threatening cases is always allowed, the change indicates that soldiers are now also allowed to fire when the threat to life is not clear and immediate, or even in cases in which there is no threat to life at all. In practice, the army is allowing the firing of live ammunition in cases of stone-throwing, and no change of definition is involved.

Testimonies of soldiers and analysis of the manner in which demonstrations are dispersed raise the concern that the soldiers’ response to demonstrations and the changes in the Regulations were not only affected by the reality in the field or by the danger to security forces, but by political considerations. In an interview conducted by Amira Hass, of *Ha'aretz*, a sniper stated:

Every day, sometimes a few times a day,
the Open-Fire Regulations change. Every

20. Letter of 23 October 2000 to B'Tselem from Major Efrat Segev, head of Assistance Branch.

21. “Flexible Regulations for Firing at Stone-Throwers,” *Ha'aretz*, 15 October 2000.

22. “IDF: Firing in Response to Molotov Cocktails Only with Authorization of Brigade Commander,” *Ha'aretz*, 31 October 2000.

23. Meeting between B'Tselem and the Office of the Military Advocate General, see footnote 11.

assailant alone, in the measure necessary for preventing the threat. No shooting should be done except while the danger still exists.

The Regulations also emphasize that, "It is forbidden to fire at women and children."

Firing of live ammunition, at demonstrations in which children take part, in a manner that is not aimed at a specific individual who is endangering the life of soldiers and when soldiers' lives are not under threat, as was the case at the demonstrations at AYOSH Junction at least, completely violates this principle.

The change in the Regulations that also allows firing live ammunition at the legs of stone-throwers is reflected in the kinds of wounds suffered by Palestinians in recent weeks. An examination of wounded persons conducted by Physicians for Human Rights (USA) found a phenomenon of injuries to the legs, primarily the knees, by live ammunition. Such wounds cause particularly grave injury, and the physicians estimate that most of these victims will suffer permanent disability.³² Serious injury of this kind to a person who does not endanger life is unlawful and violates the basic principle of policing, pursuant to which law enforcement officials are obliged to respond only as necessary and in proportion to the magnitude of the threat.

Firing of "rubber" bullets

In the chapter dealing with "Methods for Dispersing Demonstrations," the Open-Fire Regulations state that, "The use of such means will be done in a gradual manner, with the goal being to disperse the violent riot without causing loss of life and serious bodily injury." They also provide that, "In every case, the commander will thoroughly consider whether it would be proper to employ the means for dispersing demonstrations, considering the severity of the violent riot and the circumstances of the event." The Regulations

delineate a number of means for dispersing demonstrations, such that "the passage from one stage to the next will be done only if the previous stage did not lead to the ending of the violent riot."

In dispersing the demonstrations that B'Tselem observed, the soldiers violated almost each and every one of these rules. The use of methods to disperse demonstrations was not done gradually but simultaneously, and without waiting to see whether the preceding measure had attained its goal. No meaningful attempt was made to prevent loss of life or serious bodily injury, and the same methods were used in all the demonstrations, without regard to their severity, in breach of the requirement that use be in accordance with the circumstances.

According to figures of the Red Crescent, from 29 September to 2 December, 38.7 percent of the wounded were injured by "rubber" bullets.

According to figures of the Palestinian Authority's Ministry of Health, 26 percent of those wounded in the Gaza Strip from 30 September to 21 October were injured by "rubber" bullets.

Regarding the firing of "rubber" bullets, the Regulations state that the minimum range for firing is 40 meters, and "is to be aimed solely at the legs of a person who has been identified as one of the rioters or stone-throwers," and it is forbidden to fire at a group of children.

During their visit here, Physicians for Human Rights (USA) examined several Palestinians who were seriously wounded by "rubber" bullets in the head or eye after the bullets penetrated their bodies. The physicians found that the large number of head and eye injuries from "rubber" bullets indicates improper use of the ammunition, which, if used properly, would cause such serious injuries rarely, if ever.³³

Testimony given to B'Tselem by an IDF soldier serving in the Occupied Territories raises a suspicion of another violation of the Regulations. "Rubber" bullets come in a pack of three bullets

32. Physicians for Human Rights, "Evaluation of the Use of Force in Israel, Gaza and the West Bank: Medical and Forensic Investigation," November 2000, p. 8 (www.phrusa.org).

33. *Ibid.*, p. 9

demonstrations at AYOSH Junction on 2 and 3 November, when the soldiers acted in a relatively moderate manner, the number of injured was small in comparison with previous events. After about 90 minutes, the number of demonstrators dwindled by more than half, and an hour after that, the demonstration ended. A week earlier, a demonstration of the same size took place. For three hours, soldiers fired a steady barrage of "rubber" bullets and live ammunition. The number of persons wounded was high and one demonstrator was killed. Only three hours later, when gunfire began on the Palestinian side (not from among the demonstrators) did the demonstration quickly disperse.

For three days, B'Tselem personnel also observed demonstrations in Hebron.²⁹ During that period, there were demonstrations of between 15-20 Palestinians who threw stones at soldiers. The soldiers fired shock grenades and at times "rubber" bullets, but almost nobody was wounded. The demonstrators dispersed on their own after a few hours, with no response by the soldiers. A thirteen-year old child from Hebron, who participated regularly in the demonstrations, described the situation:

Generally, we begin with a group of around 15-20 people throwing stones and when the incident grows and there are wounded and dead, more people join us and the number of participants reaches around a hundred.³⁰

Violation of the Regulations and problems with them

Firing of live ammunition

According to the Red Crescent, from 29 September to 2 December, 19.7 percent of the

wounded were injured by live ammunition. According to figures of the Palestinian Ministry of Health, in the Gaza Strip, where the number of wounded in the Occupied Territories was the highest, 27 percent of those wounded from 30 September to 21 October were injured by live ammunition.

In a letter to attorney Netta Amar, of the Association for Civil Rights in Israel, Major General Giora Eiland, head of the IDF's Operations Branch, wrote that,

A large portion of those injured by live bullets (the majority!) were those that we indeed wanted not only to wound but to kill. They are the ones who fire live ammunition at us. The fact that most of the persons injured were struck in the upper part of the body or the head is a positive thing.³¹

These comments are grave on their own, especially since Major General Eiland relates only to some of the wounded and does not explain the injuries by live ammunition suffered by persons that the soldiers did not intend to injure. Moreover, the great number of people wounded by live ammunition, testimonies given to B'Tselem, and observation of incidents indicate that Eiland's statement that only Palestinians who were shooting were struck with live ammunition is an exaggeration and is inconsistent with the facts.

According to the Open-Fire Regulations, firing live ammunition is allowed only where a threat to life exists. The Regulations provide the general principal that:

A soldier will use a weapon in the event of immediate threat to life, his own or that of others, and when it is impossible to effectively defend himself from the assailant other than by the use of a weapon. The firing is intended to hit the

29. The observations were conducted from 30 October to 1 November.

30. The testimony was given to Raslan Mahagna and Musa Abu Hashhas in Hebron on 30 October 2000. Details on the witness are on file at B'Tselem.

31. The letter was written on 2 November 2000.

wide variety of means to disperse demonstrations. Israel failed to comply with this obligation even though demonstrations of this kind have been taking place in the Occupied Territories for more than a decade.

In the events that occurred in September 1996 following the opening of the Western Wall Tunnel in Jerusalem, within a few days 47 Palestinian civilians and 13 members of the Palestinian security forces were killed by Israeli security forces, and 15 members of the Israeli security forces were killed by Palestinian security forces. The media reported that, following these events, the security establishment held numerous discussions to find alternative means to cope with events like those now taking place. The lessons learned following the earlier events related for the most part to means to prevent injury to Israeli security forces and to better protect them.

For example, the press reported new protections for soldiers, including purchase of bullet-proof vests, helmets, personal protection stations, movable shooting stations, and concrete blocks that protect against light firearms and heavy mechanical equipment. Many vehicles in the Occupied Territories are protected. Snipers were trained to hit, without endangering themselves, individuals attempting to kill soldiers.³⁸ Deputy Givati battalion commander Lt. Col. Avi Levy, who was commander of the battalion in Netzarim in 1996, told *Ha'aretz* that, "all the lessons we spoke about then were implemented. We had almost no protection in 1996. Now the protection of soldiers and army posts enables freedom of action and greatly reduces the number of casualties."³⁹

In contrast, almost no effort was made to develop or purchase non-lethal means to

disperse demonstrations, in order to also reduce the number of Palestinian casualties in incidents of this kind. A wide variety of non-lethal means to disperse demonstrations exist around the world, and tear gas and "rubber" bullets cannot be the sole methods for dispersing demonstrations.⁴⁰ Brig. Gen. (Res.) Dov Tamari, who teaches an advanced systems course in the IDF, criticized the IDF and the Police for "not really taking the trouble to develop effective non-lethal weapons." In an interview with *Ha'aretz*, he stated that:

We know how to fire a missile directly at the forehead of anyone we want, but we do not have the technology to put out the match that ignites the Occupied Territories, except for rifles, as was done a hundred years ago. The IDF prepared itself mentally and operationally extremely well for confrontation, but did not invest in technology. Israel is still stuck in the stage of gravel throwers and protective vests.⁴¹

Col. Reisner explained that the IDF conducted in vain a worldwide search for means to disperse the demonstrations that are now taking place in the Occupied Territories. Most of the non-lethal means, he stated, were only good at close range, while IDF soldiers disperse demonstrations from a distance out of fear that the Palestinians will fire at them. However, the IDF is currently developing new means to meet the "new threat," but it will take time.⁴²

Relating to recent events as a "new threat" is not accurate, to say the least, in light of the press reports in recent weeks about IDF preparations for this kind of event. The fact that the IDF is only now developing means of this kind reflects the utter disregard and indifference to the deaths and injuries suffered by Palestinians.

38. See *Ha'aretz*, 2 October 1996, *Yediot Aharonot*, 4 October 1996, *Ma'ariv*, 8 October 1996, *Ha'aretz*, 27 October 2000.

39. *Ha'aretz*, 24 October 2000.

40. For details on such means, see The Omega Foundation, Crowd Control Technologies: An Assessment of Crowd Control Technology — Options for the European Union, May 2000 (EP/1/1V/B/STOA/99/14/01).

41. "The New Combat Conception Employed in the Recent Disturbances Formulated by a Special Team," *Ha'aretz*, 24 October 2000. See, also, "Better than Bullets," *The Jerusalem Post*, 10 November 2000.

42. Reisner, Press Conference, footnote 3.

encased in nylon. The Open-Fire Regulations state that, "A pack of rubber cylinders is to be fired when encased with the original and intact covering." The soldier's testimony to B'Tselem indicates that, in the battalion in which he serves, the soldiers customarily dismantle the packing before firing the "rubber" bullets. He stated:

Even before Rosh Hashanah, before the disturbances began, during our training before our assignment, our commanding officer gave us a lesson on disturbances of the peace... When he taught us about rubber bullets, he said that they are fired bound together in threes, which is ineffective for the most part, because they are too heavy. But if we separate them, they can kill. He added, winking, "I am not hinting at anything..." The guys laughed and said to him, "You're not hinting — you are telling us." He did not correct them. When the disturbances broke out on Rosh Hashanah, we went to the original planned location at... One day, I got into a "Storm" jeep used as a Command vehicle by Company A in the battalion. I saw lots of separated rubber bullets in the vehicle. I asked the driver about that, and he said that everyone separates the bullets, even the Company commander (who travels with the driver). He added that he also thinks that the battalion commander separates the bullets. From discussions with the guys, it is clear to me that the rule is ignored and everyone fires rubber bullets that have been separated. I don't think that anyone doesn't do it. I always ask people about this, and they are shocked by the question. It is clear to them that the bullets are separate when fired.³⁴

In the past, B'Tselem warned about the IDF's extensive use of "rubber" bullets to disperse demonstrations, and about the IDF's mistaken attitude that this weapon is non-lethal.³⁵ In cases where "rubber" bullets are fired when not in their pack, as described by the soldier above, the bullets become even more lethal. In the period preceding the recent events, from January 1988 to the end of August 2000, at least 61 Palestinians were killed by "rubber" bullets, 29 of them minors under the age of 17. Several times B'Tselem has requested the Office of the Military Advocate General to prohibit the use of "rubber" bullets as a means to disperse demonstrations, but the requests were summarily rejected.³⁶ The fact that the security establishment failed to change the Regulations, despite their lethal characteristics, indicates its shameful disregard for human life.

The lack of alternative methods to disperse demonstrations

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, of 1990, requires governments to develop a wide range of non-lethal methods to disperse demonstrations. The objective is to prevent a situation in which law enforcement officials are compelled to use lethal weapons. For the same reason, law enforcement personnel must supply themselves with equipment for self-defense, such as shields, helmets, and bullet-proof vests and protected vehicles, on the assumption that if they feel protected, they will not be compelled to use firearms.³⁷

Although Israel complied almost entirely with the second part of the article, it almost completely ignored the provision relating to developing a

34. The testimony was given to Lior Yavneh and Ron Dudai on 29 October 2000. The name of the soldier is on file at B'Tselem.

35. See B'Tselem, *Death Foretold: Firing of "Rubber" Bullets to Disperse Demonstrations in the Occupied Territories*.

36. See the response of the IDF Spokesperson to B'Tselem's report *Death Foretold*. Similar comments were made to representatives of B'Tselem at a meeting with the Military Advocate General, Brigadier General Uri Shoham, on 27 July 1998.

37. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, article 2.

responsibility to protect children from injury and prevent them from going to demonstrations, which are likely to be dangerous.⁴⁸

B'Tselem asked Yasser 'Abd Rabbo, Information Minister of the Palestinian Authority, what the PA is doing to prevent children from participating in demonstrations. In his response, 'Abd Rabbo stated, in part:

It is important for us to emphasize that the Palestinian National Authority certainly acts to prevent children from participating in demonstrations against the occupation. It does this by a number of ways and means, as follows:

1. Study in schools, colleges, and universities continues as normal. Also, we instruct pupils to stay away from contentious sites as much as possible.
2. Campaigns are organized for school pupils to persuade them not to participate in demonstrations.
3. Palestinian political parties and forces decided to prevent children and youngsters under 16 from participating, and it was agreed to establish field committees (which will be present at the locations) to implement the decision.⁴⁹

B'Tselem found no evidence that the PA expressly encourages children to go to the scene of confrontations with soldiers. However, B'Tselem also found no evidence to indicate that the PA is making a serious effort to prevent children from reaching the site of demonstrations and participating in them, as stated in section 3 of 'Abd Rabbo's letter. Testimonies given to B'Tselem by children participating in demonstrations did not mention that the PA personnel sought to prevent them from getting to the demonstration or that they came to the

demonstration and ordered the children to leave. Furthermore, from the observation points operated by B'Tselem, it was found that PA personnel moved about among the demonstrators and made certain that armed people or people in uniform were not among the demonstrators. However, they made no attempt to move children away so that they would not be injured.

It should be noted that the pattern in many demonstrations is that a large procession of people reach a Palestinian checkpoint at the border of Area A, and then some of the participants in the procession, many children among them, move toward the Israeli checkpoint. At this point, Palestinian Police can rather easily stop the children and prevent them from moving forward. In other places, such as at Netzarim Junction, the demonstrations take place at a distance of a few kilometers from the town, and it was certainly possible to stop children along the way and prevent them from going to the demonstration.

Summary

At the press conference on 3 October 2000, Major General Giora Eiland, head of the IDF's Operations Branch, stated that, "We are restrained in our use of weapons, and open fire only in life-threatening situations."⁵⁰ On 8 October, the Chief of Staff made similar comments.⁵¹ These comments are inconsistent with the facts.

The methods that the IDF uses to cope with non-violent demonstrations were well described by Dr. Stephen Miles, former senior officer in the British Police, who came to the Occupied Territories with representatives of Amnesty International. Regarding the army's methods in dispersing demonstrations, Dr. Miles stated that,

48. See article 77 of the First Protocol Additional to the Geneva Conventions, of 1977, and article 38 of the UN Convention on Rights of the Child, of 1989.

49. The letter is dated 6 November 2000.

50. Mentioned in the announcement of the IDF Spokesperson on 3 October.

51. Mentioned in the announcement of the IDF Spokesperson on 8 October.

Furthermore, the contention that there is a continuing fear of Palestinian gunfire, whether from within the demonstrations or from nearby, cannot serve as grounds to establish a policy for dispersing demonstrations that on their own do not involve gunfire, especially in light of the comments of Col. Reisner that most of the demonstrations were of this kind.

Press reports indicate that one of the reasons for the delay in developing or purchasing alternative means is "severe budgetary limitations." Military Industries proposed means of various kinds to the defense establishment, but "because of insufficient budgetary funding, the defense establishment did not purchase systems of this kind."⁴³

Injury to children

There is a high percentage of children among the killed and wounded. Approximately 25 percent of the Palestinian civilians killed from 29 September to 2 December were minors under the age of 17. Thirty-six percent of those killed were minors under 18. According to the Palestinian Authority's Ministry of Health, approximately one-quarter (24 percent) of the wounded in the West Bank during the period from 29 September to 17 October were under 18. It stated that, in the Gaza Strip from 30 September to 21 October, 51.6 percent of the wounded were under 18.

Israel justifies this fact by contending that the Palestinian Authority makes cynical use of children and encourages them to participate in demonstrations. For example, OC Central Command, Yitzhak Eitan, said that, "Unfortunately, the Palestinians make cynical use of children, women, and youth to confront our forces. They place them in the front of the confrontation with the objective of putting the

IDF in difficult positions."⁴⁴ In a letter to attorney Netta Amar, of the Association for Civil Rights in Israel, Major General Giora Eiland, head of the IDF's Operations Branch, wrote that, "The Palestinians initiate and make deliberate use of children with the clear purpose of increasing the number of casualties. We have here a peculiar situation in which the other side seeks to increase the number of its casualties. There is a limit to our ability to prevent it from realizing its desired objective."⁴⁵ The Foreign Ministry's Website, in the "Questions and Answers" section, explains why children are being wounded:

The Palestinians send children to throw rocks and Molotov cocktails at Israeli soldiers. Armed Palestinian policemen and Fatah militia, the Tanzim, often stand just behind this human shield of juvenile martyrs and fire at Israeli soldiers, knowing they can exploit the children's wounds for their propaganda purposes. These macabre operations generally have one purpose: to generate footage of Palestinian casualties in time for the evening news.⁴⁶

It should be emphasized that the primary reason for the death and injuries suffered by children is Israel's policy, as described above. Injury to children when dispersing demonstrations occurred in the past, and from 9 December 1987 to the beginning of the events, on 29 September 2000, 281 children under 17 were killed by Israeli security forces. Despite this, Israel refrains from changing its policy. Therefore, principal responsibility for the death and injury of children during the recent events rests with Israel.⁴⁷

The fact that Israel is primarily responsible does not discharge the Palestinian Authority from its

43. "Funding Problems Delay 'Non-Lethal' Combat Means," *Ha'aretz*, 11 October 2000.

44. See the announcement of the IDF Spokesperson, 1 October 2000.

45. The letter was written on 2 November 2000. The emphasis is in the original.

46. See www.mfa.gov.il. On the same Website, see the letter of Israel's ambassador to the UN, Yehuda Lancri, to the Director General of UNICEF.

47. See B'Tselem, *Killing of Palestinian Children and the Open-Fire Regulations*.

status. This is a clearly civilian population that includes children. Intentional attacks on civilians are absolutely prohibited under all circumstances.

In addition to attacks on Israeli civilians, in many cases Palestinian security forces or armed Palestinian civilians also harmed the Palestinian civilian population by firing at Israeli civilians or at Israeli security forces from within, or from dozens of meters away from, the homes of Palestinians.

Testimonies given to B'Tselem in Betunia, in the Ramallah District, indicate that a headquarters of Force 17, one of the Palestinian security organs, were recently established at the outskirts of the town, some dozens of meters from homes of the residents. Force 17 personnel fired at Ofer army base located on a hill facing Betunia. They fired from the headquarters, and in some cases also while hiding behind fences of the homes.⁵⁸

In other cases, B'Tselem did not reach a firm conclusion whether the Palestinians who fired belonged to one of the Palestinian security organs or were armed civilians. Testimonies given to B'Tselem in Tulkarm indicate that armed Palestinians fired at a distance of 50-60 meters from homes of civilians, from two schools, and from an agricultural college.⁵⁹ In Beit Jala, in the Bethlehem District, Palestinians fired from the front of the home of one of the residents. According to a resident of the house, "My brother, who was away from the house with my cousins, hurried home. He told me that two civilian vehicles stopped in front of the house. There were four men in the vehicles, wearing bullet-proof vests. They told my brother and my cousin that they are about to fire at Israelis, and that we should be careful." Immediately after that, without waiting for the residents to leave the house or move to rooms in the rear, the Palestinians fired, and a few seconds later, there

was firing from the Israeli side.⁶⁰

In some cases, armed Palestinians fired from a site near a residential dwelling and then fled, the residents of the home being left to bear the consequences. That occurred, for example, in El-Bireh. The father in the family died of a heart attack a few days before the incident occurred. His brother stated to B'Tselem that:

During the evening of the second day of mourning, armed Palestinians arrived. They fired at the Psagot settlement. I went out to them and begged them not to fire from near our home because we are in mourning and people come to comfort us. They said that they would and they left. A few days later, on 8 November, I heard peculiar voices near the house. I looked out the window and saw armed Palestinians near the house, outside the wall. I couldn't identify them and didn't see if they were in uniform or civilian dress, because they were on the other side of the wall. I only saw their heads and their weapons. One of them began to fire at Psagot while he was near the entrance to the house. He fired several rounds and left. The response was heavy firing at the house.⁶¹

Those cases where Palestinian security forces fired from among the civilian population constitute a gross violation of the fundamental principle of international law that civilians must be protected. The Palestinian Authority is directly responsible for injury to civilians in that its agents operate in violation of the law and endanger civilian lives. When the firing is by armed civilians not officially connected to the Palestinian Authority, the PA is obligated to prevent the firing and to prosecute the perpetrators. It must make clear to its citizens that firing near a civilian population or from

58. The testimonies from Betunia were given to Raslan Mahagna and Na'im Sa'di on 6-7 November 2000.

59. The testimonies in Tulkarm were given to Hashem Abu Hassan on 13 November 2000.

60. The testimony was given to Musa Hashhash on 15 November 2000. The witness's name is on file at B'Tselem.

61. The testimony was given to Raslan Mahagna and Na'im Sa'di on 9 November 2000. Details on the witness are on file at B'Tselem.

"These are good tactics if one wants to wipe out an enemy, they are not policing."⁵² For a force that is trained in law enforcement, that is trained and instructed in dispersing demonstrations, which is equipped with many and varied means and is properly protected, it should not be necessary to use lethal force to disperse demonstrations by stone-throwers.

B'Tselem previously warned that a policy that allows lethal fire in situations that are not life threatening is the principal reason for the deaths of Palestinians in the Occupied Territories by Israeli security forces. Israel refused to change the policy for opening fire in the Occupied Territories, despite the high price it exacted. Even if Israel does not have an intentional policy to injure Palestinians, after so many have been killed during dispersal of demonstrations, without Israel changing its policy, the lack of intention no longer diminishes the blame and responsibility it bears for injuries of Palestinians.

3. Gunfire by Palestinians and Israel's response

Attacks against civilians by armed Palestinians

A fundamental principle of international law on the use of force, whatever the circumstances, is the distinction between civilians, on the one hand, and people taking an active part in the violence and people using weapons, on the other hand.⁵³

During recent weeks, there have been numerous instances of Palestinian stone-throwing and

gunfire at Israeli civilians in the Occupied Territories. There were also cases in which Palestinians fired at Israeli settlements, primarily at Psagot, at Jewish homes in Hebron, at Vered Jericho, and at Jerusalem's Gilo neighborhood. Firing on some of these communities took place nightly. As a result of these acts, as of 2 December, 13 Israeli civilians were killed and 118 wounded, nine of them moderately or above. The acts also caused property damage.

Several Palestinian officials have declared in recent weeks that any means is proper in the struggle against the occupation. Heysham 'Abd a-Razeq, the Palestinian Authority's Minister of Prisoners' Affairs, defended the attack on the bus transporting school children from the Israeli settlement Kfar Darom, in the Gaza Strip, in which two civilians were killed and nine wounded, among them five children: "The perpetrator of this attack was one of the Palestinian people. We committed it against people who occupy our land. From our point of view, any action against the occupation is legal."⁵⁴ In a similar manner, Ahmed Helles, a senior Fatah official, stated that, "All the resistance against the occupation is legal." Regarding attacks on buses and other attacks against Israelis, Helles said, "We didn't go to Tel-Aviv. Every attack on our land is on a legitimate target."⁵⁵

Statements of this kind undermine fundamental principles both of international human rights law and international humanitarian law.⁵⁶

Establishment of the Israeli settlements contravenes international law, making them illegal.⁵⁷ However, this fact in no way justifies targeting settlers, and the fact that individuals live in a settlement does not affect their civilian

52. Amnesty International, *Excessive Use of Lethal Force*, p. 7.

53. Articles 51, 52, 57, and 58 of the First Additional Protocol to the Geneva Conventions, of 1977.

54. Keith B. Richburg, "Missile Attacks Stoke Palestinian Defiance," *International Herald Tribune*, 22 November 2000.

55. Ibid.

56. See the rules applying to law enforcement officials, footnotes 15 and 16; article 6 of the UN Covenant on Civil and Political Rights, of 1966; and footnote 53 relating to international humanitarian law.

57. See B'Tselem, *Israeli Settlement in the Occupied Territories as a Violation of Human Rights: Legal and Theoretical Aspects*, March 1997.

investigate the current events. On 1 November, B'Tselem asked the Office of the Military Advocate General whether a decision had been reached and what is the legal basis for not opening an inquiry into the recent cases.

B'Tselem did not receive a response to its letter. At the press conference held by Col. Reisner on 15 November, he announced that, as of that date, IDF soldiers had not been investigated regarding any incident.⁶²

Officials' statements in recent weeks and past experience raise the concern that the IDF does not intend to investigate cases of Palestinian deaths in the current events, and that there is an unfounded assumption that all IDF gunfire was in accordance with the Regulations. For example, the 2 October announcement of the IDF Spokesperson stated that, "Every incident in which IDF soldiers used measures to disperse demonstrations or live ammunition was a precise reaction toward sources of fire and toward violent elements threatening to cause harm to human lives."⁶³

At the press conference on 25 October, Major General Giora Eiland, head of the IDF's Operations Branch, stated that the fact that the IDF is currently not investigating cases of deaths in the Occupied Territories results from technical difficulties, because Israel does not control all the Territories and therefore the IDF is unable to thoroughly and efficiently conduct investigations. In addition, the Palestinian side is not cooperating now, so it is impossible to obtain information about the incidents. However, he promised that the IDF will investigate the death of Muhammad a-Dura, on 30 September at Netzarim Junction, French television's filming of which was broadcast worldwide.

Major General Eiland's promise that the case of

a-Dura would be investigated raises doubts about the contention that investigations are not conducted because of technical difficulties. If these difficulties prevent investigation of the events, it is unclear why precisely in this case, which received public exposure, the IDF manages to overcome them.

The stated policy of the IDF is that wherever a Palestinian in the Occupied Territories dies at the hands of a soldier, an investigation is to be made by the Department of Military Police Investigations (MPI), except in cases defined as "hostile terrorist activity."⁶⁴ However, there have been previous cases in which the IDF deviated from this policy. For example, the IDF did not investigate the events of September 1996, in which 47 Palestinian civilians and 13 members of the Palestinian security forces were killed by Israeli security forces. In a response to B'Tselem's request, the IDF Spokesperson stated that, "As a rule, events that occurred on 25-28 September [1996] are defined as combat incidents. Therefore, MPI will not investigate incidents in which IDF soldiers are involved. However, in cases where there is proof of offenses by soldiers in non-combat situations, MPI will be ordered to investigate."⁶⁵

The response to B'Tselem's inquiry following the Naqba events, in May 2000, during which six Palestinian civilians and two Palestinian security forces were killed, states as follows:

The Naqba Day events occurred during operational activities and are not investigated by MPI. During the events, IDF soldiers and officers were attacked, whether by Palestinian police and Palestinian civilians, or by the throwing of stones, Molotov cocktails, or metal balls. Despite the heavy firing by Palestinians

62. Reisner, Press Conference, see footnote 3.

63. See the IDF Website.

64. Response by Minister of Defense Yitzhak Rabin to a parliamentary query by MK Naomi Hazan, of 20 March 1994; response of the IDF Spokesperson to B'Tselem's report, *Human Rights Violations in the Occupied Territories, 1992/1993*; response of Minister of Defense Ehud Barak to a parliamentary query of MK Zahava Galon, of 27 February 2000.

65. Letter of 22 October 1996 to B'Tselem from Major Avital Margalit, head of Assistance Branch, Office of the IDF Spokesperson.

within it is absolutely forbidden. The PA's refusal to do this endangers the civilian population and also constitutes a gross violation of international law.

B'Tselem did not find any actual evidence of efforts by the PA to prevent firing from among the civilian population. Testimonies given to B'Tselem indicate that the only effort made by PA officials to prevent attacks on civilians, and that in only some of the cases, is a call to residents to vacate their homes so as not to be hit by Israeli gunfire.

Israel's response to Palestinian firing

IDF soldiers have the right to protect themselves. When they, or Israeli civilians, are fired upon, they are allowed to use force, including lethal force. However, in such cases, certain rules apply, and Israel must protect, as far as circumstances permit, civilians who are not taking part in the firing and use all cautionary means possible to prevent them from being injured. The fact that Palestinians fire at soldiers or Israeli civilians from within the homes of civilians does not justify whatsoever a reaction that will lead to massive harm to civilians.

Because of the large number of incidents, it is difficult to estimate the number of homes damaged by IDF gunfire in response to Palestinian gunfire. However, from data gathered by B'Tselem, several hundred houses have been damaged, some of which were completely destroyed. In addition, according to B'Tselem's information, at least three Palestinians have been killed and dozens wounded by Israeli firing of this kind.

B'Tselem is unable to fully investigate all the instances in which the IDF fired at civilian homes, regardless of whether it was in response to Palestinian gunfire. B'Tselem took many testimonies of Palestinians living in homes that were fired upon. However, most of these persons who gave testimonies to B'Tselem primarily described the damage caused to their homes and

the profound fear and fright they and their family felt as a result of the IDF firing on their homes. Most of the witnesses were unable to estimate the circumstances based on which the IDF fired at them and from where the Palestinians fired, if Palestinians indeed fired.

The difficulty in making a precise investigation of the circumstances in which the IDF fired at homes of Palestinian civilians results not only from the large number of incidents, but also from the impossibility of being present when the firing took place. Therefore, it cannot be determined with certainty in all the cases where the shooting Palestinians were situated in relation to the homes of the civilians and whether the IDF gunfire indeed was aimed at these areas. It is also impossible to determine whether the IDF gunfire lasted only as long as the Palestinians fired, or if it continued longer. Residents of the houses had difficulty in answering these questions because they were usually hiding as far away as possible to protect themselves from the Israeli shelling.

Because B'Tselem could not determine the circumstances in which the IDF fired at civilian homes in all the cases it examined, it is impossible to evaluate whether they violated human rights. This report will not, therefore, relate to this issue.

4. Inquiries into cases of death

At a meeting between B'Tselem and Col. Daniel Reisner, head of the IDF's International Law Branch, and Lt. Col. Liron Liebman, Deputy Chief Military Prosecutor in the Office of the Military Advocate General, it was stated that, now, unlike during the *intifada*, the IDF is not investigating the deaths and wounding of Palestinians in the events in the Occupied Territories. However, they mentioned that the Office of the Military Advocate General is discussing how to cope with the situation, and no final decision has been reached whether to

Limitations on Freedom of Movement

Since 29 September 2000, Israel has imposed severe restrictions on freedom of movement in the Occupied Territories. These limitations make it exceedingly difficult to conduct orderly lives, and constitute a collective punishment on the Palestinian population, forbidden by international law.⁶⁹

Since 8 October, entrance of Palestinians into Israeli territory has been completely prohibited.⁷⁰ Entry is forbidden for all purposes, including employment, visits to family members in prisons located in Israel, and medical care (with few exceptions), and the like.

The safe passage, connecting the Gaza Strip and the West Bank, was also closed, on 8 October.⁷¹ As a result, students from the Gaza Strip are unable to attend classes in the West Bank, relatives are unable to visit one another, and financial ties between the two areas have been damaged. The passage was closed even though the Oslo Accords forbid its closure. According to the Accords, two routes were to be designated as safe passages. Israel is entitled, for security reasons, to close one of them or to alter the terms of entrance, but must assure that one of the passages is always open.⁷² Today there is only one safe passage, thus obliging Israel to allow Palestinians to use it to travel between the Gaza Strip and the West Bank.

One of the main problems regarding freedom of movement for Palestinians is the limitations that

Israel places on movement within the Occupied Territories, resulting in a direct infringement on the rights of the civilian population. For example, beginning from mid-October, numerous limitations were placed on the passage between the north and the south of the Gaza Strip, and movement between Gaza City and the cities of Khan Yunis and Rafah was prevented almost entirely. On 20 November, the Security Cabinet decided to completely close passage between the two parts of the Strip.⁷³

In the past two months, movement within the West Bank has become nearly impossible. Hundreds of IDF checkpoints have been erected throughout the West Bank, and entry to and exit from cities requires passing through them. The IDF has placed checkpoints at the entrances to all villages, and entry and exit is possible only via dirt roads, entailing numerous hardships. Trips that once took 15 minutes now take several hours. In some of the villages, mostly in areas near settlements and bypass roads, the dirt roads have also been blocked with large concrete blocks and piles of dirt, and residents are imprisoned in their villages.

The village of 'Atara, located 16 kilometers north of Ramallah, has a population of 4,000 residents. A single paved road leads to the village, and on 29 September, the IDF placed a checkpoint at the entrance of the village, forcing residents to exit and enter using a dirt road. On 9 November, the IDF closed this road as well, and movement in and out

69. See article 33 of the Fourth Geneva Convention.

70. Communicated to B'Tselem by Shlomo Dror, spokesperson for the Coordinator of Government Activities in the Territories, in a telephone conversation on 12 October 2000.

71. *Ibid.*

72. Oslo 2 Accords, Appendix 1, par (c)(4)X.

73. "IDF Bombed Headquarters in Gaza; Creation of Partition Areas in the Heart of the Strip," *Ha'aretz*, 21 November 2000.

and the throwing of fire explosives at IDF forces, civilians, and media personnel, the IDF responded with restraint but firmness in reaction to all gunfire aimed at it. Every bullet fired by IDF soldiers was fired in life-threatening situations. The firing was aimed with precision and only at Palestinians who endangered human life.⁶⁶

Statements of this kind - that all firing was justified - should not be uttered, and certainly should not be accepted until each case is investigated. Because the IDF has not conducted investigations, neither in the past nor in the current events, the grounds are unclear for the contention that soldiers' lives were under threat in every case in which Palestinians were injured.

In the most extreme case, during war, and certainly in a case of occupation, the rules on when, and at whom, it is permissible to open fire still apply, and then, too, it is necessary to investigate cases in which civilians are killed. These rules also apply to the events now taking place in the Occupied Territories. Israel's refusal to effectively investigate such cases raises the concern that security forces are being granted immunity and are also allowed to act unlawfully. The message transmitted to security forces in the field is that they will not be investigated, even in

cases where they violated orders.

The PA is also obligated to investigate every case in which Israeli civilians were killed as a result of gunfire or stone-throwing by Palestinian security forces or civilians. Where necessary, lawbreakers must be prosecuted.

Because both Israel and the PA did not meaningfully investigate cases in which civilians were injured in recent weeks, B'Tselem called, on 15 October, for the establishment of an independent international commission of inquiry to perform this task. This commission must have the power to summon parties from both sides, including military personnel, and to obtain all documents and documentation that it wants to examine.⁶⁷

The international commission, headed by former U.S. senator George Mitchell, which was established pursuant to the second Sharm a-Sheikh agreement, of 17 October 2000, is unable to perform this function. The primary mandate given to the commission is to examine the causes of the events of recent weeks and to recommend ways to prevent their recurrence. This mandate is essentially political, and does not relate to human rights violations.

Furthermore, Israel announced that it would not cooperate with the commission.⁶⁸

66. Letter of 28 June 2000 to B'Tselem from Major Efrat Segev, head of Assistance Branch, Office of the IDF Spokesperson.

67. See B'Tselem's press release of 15 October 2000. www.btselem.org.

68. *Ha'aretz*, 26 November 2000.

lives in the area under Palestinian control, sent us a kilogram of meat. Due to the curfew, I am unable to go out and buy milk for my 16-month-old son. We therefore have to give him tea and other herbs. The curfew has left both my children and me hungry, not only because we cannot go out to buy necessities, but also because I cannot work to bring in an income. Today the curfew was lifted, but I will not go to the market like everyone else because I have no money to buy things. Here, open the refrigerator and see what's inside: totally empty — just a few tomatoes.⁷⁵

Hawara, Nablus District

Between 6 October and 8 November, the village of Hawara, in the Nablus District, was placed under curfew. The village has a population of 4,000 Palestinians. The curfew was total, and was lifted only once a week from 6:30 P.M. on Friday to 4:00 P.M. Saturday. The village of Hawara is the only access point to settlements in the area, for which no bypass road was paved, and this is apparently the only reason for the curfew.

On 8 November, attorney Eliahu Abrams, of HaMoked: Center for the Defence of the Individual, appealed to Brigadier General Beni Gantz, Commander of IDF Forces in Judea and Samaria, demanding that the curfew be lifted. In his letter, Abrams wrote, *inter alia*, that, "Assuming that the curfew on residents of Hawara aims to assure safe passage on the road passing through the village for settlers in the area, this measure is discriminatory — and a most extreme measure was chosen in a case where reasonable alternatives can be found. Reduction of the travel time for Israeli vehicles on the road leading through Hawara, for example, and provision of

IDF protection, would achieve the same goal without incurring a continuing tragedy upon an entire population."

In his response, Lieutenant Gil Limon, assistant to the Legal Advisor in the Office of the Legal Advisor for Judea and Samaria, wrote, on 15 November, that the curfew was imposed "in light of the occurrence of large-scale public disturbances that included, among other things, the throwing of stones and Molotov cocktails at Israeli and IDF vehicles; blocking road 60 — a central route — to traffic by burning tires; and even firing shots at soldiers and Border Police."

The reason for imposing the curfew, according to Lieutenant Limon's letter, is inconsistent with reality. It is difficult to understand how the village of Hawara differs from other areas in the West Bank, and events of the kind described in Limon's letter took place in areas throughout the Occupied Territories over the past weeks, where no curfew was imposed. The lifting of the curfew on the weekends indicates unequivocally that the curfew was imposed solely for the welfare of the settlers.

Silat a-Daher, Jenin District

The town of Silat a-Daher, in the Jenin District, is home to 6,000 residents. The town is located some 20 kilometers from Jenin, and approximately half a kilometer from the settlement of Homesh, erected on village lands. During recent months, the village has been placed under curfew every day, from two o'clock in the afternoon to six o'clock the following morning. In addition, total curfew was declared on the town for a period of seven days.⁷⁶

The only way for residents of the nearby settlement to leave the area is the road that traverses the town, and it is likely that this is the only reason for the curfew.

75. The testimony was given to Raslan Mahagna and Musa Hashhash on 31 October 2000.

76. The testimony of Ragheb Ahmed Ragheb Abu Diek, 30, mayor of Silat a-Daher, was given to Raslan Mahagna on 29 November 2000.

of the village was prohibited entirely. There is no health clinic, pharmacy, or doctor in the village. Those needing medical treatment are dependent on the good will of the soldiers at the checkpoint. In some cases, soldiers enable those in need of medical care to leave the village; in others, they do not. Residents of the village are prohibited from leaving to work, and more than 100 high school students and 15 college students are unable to attend classes. In addition, residents of the village requested to transport olives they harvested to the oil factories in nearby villages, but this request was turned down, and there is a fear that the crop may be lost. The residents are also unable to reach olive groves located outside the village boundaries, near the settlement of Ateret, to pick the olives there. The village lacks basic necessities, including flour, rice, sugar, and milk for children. The shelves in local stores stand empty. Close to 4,000 chickens have died from lack of food.⁷⁴

This report does not comprehensively cover the topic of limitations on freedom of movement of the Palestinian population; a separate report will be devoted entirely to this topic. However, B'Tselem points out below cases where curfew was imposed on a civilian population for a protracted period. The curfew was due not to security considerations, but for the convenience of the settlers.

Imposition of curfew for a protracted period to enable settlers to conduct life as usual constitutes blatant discrimination. Such a severe infringement on the rights of one population for the welfare of another grossly violates human rights.

Hebron

The curfew in Hebron was imposed throughout H-2, the area under complete Israeli jurisdiction, on 1 October, and is still in effect. Some 30,000 Palestinians and some 400 settlers live in this area. The curfew was imposed only on the Palestinian population, while the settlers are able to continue moving freely in the city. Day and

night, Palestinian residents are required to remain within their homes, except for a few hours once or twice a week, when the curfew is lifted to allow the population to obtain necessary supplies. The only reason for the curfew in the area is the fact that settlers live there.

Imposition of curfew creates a situation in which residents are unable to work, dozens of schools are closed, and thousands of students are unable to study. Ziyad a-Zaru, 41, father of eight children ages 16 months – 18 years, describes the ramifications of curfew:

The curfew is very difficult and has a strong effect on our lives. During the first 15 days after it was declared, it was lifted only twice, and only for two hours, to enable us to stock up on food. Afterwards, they began lifting it twice weekly, but on Fridays and Saturdays it was not lifted, even for a single moment. I have not worked for an entire month. I saved a few hundred shekels prior to the curfew and they ran out during the first few days. Now my money is gone, and I have no way of supporting my family and of bringing food for myself or my family. If this situation continues, it would be better to commit suicide than to see my children go hungry. The children have not attended school for over a month due to the curfew. They are always stuck at home, watching television and witnessing the difficult sights that are broadcast. Even when the curfew is lifted, they and the rest of the children in the neighborhood are afraid to go out into the street, fearful of the settlers who live nearby. The children are confined to the house, and they argue with each other all the time. My wife cries all the time, and I am going crazy from this situation... The curfew has had a very negative impact on food in the home. I swear that I have not bought meat or poultry once. We eat only basic things, vegetables, cheese, and olive oil. Throughout this entire month, we ate meat only once, when my wife's father, who

74. The testimonies relating to the village of 'Atara were given to Raslan Mahagna on 22 November 2000.

Shaher 'Amer, an ambulance team member of the Red Crescent in Ramallah, stated in his testimony that, on 4 October, the ambulance drove to AYOSH Junction to evacuate a person who had been wounded in the chest.

I arrived at the site, near the wounded person. I got out of the vehicle, and when I bent over to lift him up, I was struck in my left hip by two "rubber" bullets. At the time, Israeli soldiers stood along a triangle, east, south, and west, not more than 30 meters away, so we were almost surrounded by soldiers.⁸¹

Haroun a-Rimoi, who drives an ambulance for the Red Crescent in Ramallah, stated in his testimony that, on 1 October, he received a call to evacuate a person who had been wounded in the head at AYOSH Junction:

I drove to the site where the wounded, 'Emad al-'Anati, 28, was lying. Nobody was next to him. When I wanted to get out of the ambulance to evacuate him, many shots were fired in our direction. One of the shots struck and penetrated the right side of the ambulance and exited the left side. The windows of the vehicle shattered and wounded the nurse, Diana Hussein.⁸²

In some of the cases, Israelis and Palestinians exchanged fire, with the medical teams caught in the middle. According to the testimony of Sohila 'Abd al-Fatah, a nurse in the field clinic set up near AYOSH Junction:

On 1 October, around 3:00 P.M., about three hours after we set up the clinic, young Palestinians and Israeli security forces started to fire at each other. The Israelis began to fire live ammunition, and the demonstrators dispersed and fled from the site. Members of our team who were carrying wounded on stretchers also fled and entered the alley where we set up the

clinic. Because of the heavy exchange of gunfire, we were trapped in the clinic and couldn't get out. During that time, we did not treat the wounded. Some twenty medical personnel, dressed in white and wearing white caps, were in the area of the clinic. Suddenly, two rounds of live ammunition were fired in our direction from an observation point adjacent to the military DCO. The two bullets struck the wall and fragments hit several members of the medical team. Fragments hit my head and wounded me. Bashir al-Barghouti was also wounded. Fragments struck him in the eye. Fragments also struck Ashraf a-Resheq in the head.⁸³

Gunfire in the vicinity of a clinic, whether by Palestinians or by Israeli soldiers, endangers medical team personnel and contravenes the rules applying to incidents of this kind.

Israeli security forces' delay and prevention of medical treatment

Israel does not grant medical teams the protection required under international humanitarian law. Restrictions on movement imposed on the Palestinian population are also imposed on ambulances and medical teams, and no unequivocal order to soldiers exists to allow ambulances to move about freely.

The Red Crescent reported 85 cases in the period from 29 September to 26 October in which ambulances were delayed.⁸⁴ Testimonies given to B'Tselem indicate that soldiers at checkpoints do not allow ambulances and the sick to pass freely. According to testimony of Haroun a-Rimoi, an ambulance driver for the Red Crescent in Ramallah:

81. The testimony was given to Na'im Sa'di on 1 November 2000.

82. The testimony was given to Na'im Sa'di on 1 November 2000.

83. The testimony was given to Raslan Mahagna on 18 October 2000.

84. For updated figures, see the Red Crescent's Website.

Attacks on Medical Teams, Delay and Prevention of Medical Treatment

Medical teams involved in treating and evacuating the wounded are entitled to special protection under international humanitarian law, and it is forbidden to deliberately attack them. Furthermore, special effort should be made not to harm them and to allow them freedom of action.⁷⁷ B'Tselem's investigation shows that this protection is not given to medical teams operating in the field.

Col. Reisner stated in his meeting with B'Tselem that, in general, soldiers, particularly officers, are given detailed briefings on the prohibition against harming medical teams and on the necessity of allowing ambulances to pass freely. However, he added that he could not say with certainty that the orders reached all the soldiers in the field. He contended that the orders were not clear during the first days of the events, but have been clarified since then.⁷⁸

These comments are particularly grave. First, it is unclear why it was necessary to clarify the orders after the events began, and why there is no standing, unequivocal order to soldiers in the Occupied Territories not to harm medical teams and to enable free passage of ambulances and evacuation of the wounded and the sick. Second, the comments indicate that even today the relevant orders are not sufficiently clear.

Testimonies given to B'Tselem show that medical teams continued to be injured by gunfire and security forces still delayed them at checkpoints.

Firing at ambulances and medical teams

B'Tselem did not find any evidence that Israeli security forces intentionally attack medical teams. However, the security forces' policy on dispersing demonstrations, as described above, also results in medical teams being attacked. In violation of international law, Israeli security forces do not take the necessary, sufficient caution when medical teams are nearby.

During the events of recent weeks, dozens of medical team personnel have been injured:

- The Palestinian Red Crescent reported 82 attacks on ambulances in which 39 of its vehicles were struck, some more than once, from 29 September to 26 October. The attacks were by live ammunition, "rubber" bullets, tear gas, and stones thrown by settlers. Fifty-six medical personnel were injured in these attacks, one of whom was killed.⁷⁹
- The Union of Palestinian Medical Relief Committees (UPMRC)⁸⁰ reported at least 13 cases of injuries to medical teams from 29 September to 21 November, in which 15 medical team personnel and volunteers were injured. Twelve of these incidents involved the firing of "rubber" bullets or live ammunition, and in the other case, the individual was struck by a tear gas grenade.

77. See articles 20 and 21 of the Fourth Geneva Convention of 1949, and articles 12, 15, and 21 of the First Additional Protocol to the Geneva Conventions, of 1977.

78. B'Tselem meeting with the Office of the Military Advocate General. See footnote 13.

79. The Red Crescent does not distinguish between attacks by Israeli security forces and attacks by settlers. A breakdown of the figures indicates that the vast majority were injured by "rubber" bullets and tear gas, which settlers do not have. For updated figures, see www.palestinercs.org.

80. UPMRC is a non-governmental organization that was founded in 1979. It established clinics throughout the Occupied Territories. It also provides information on preventive medicine and trains medical personnel. For details, see www.upmrc.org.

In general, when there is no wounded or sick person in the ambulance, I am never allowed to enter a closed area. If a wounded or sick person is in the ambulance, I am always delayed, but they ultimately let me pass.⁸⁸

On 17 October, a resident of Beit Furiq, Nablus District, was wounded by settlers. The testimony of Muhammad Hanawi, an ambulance driver for the Red Crescent, indicates that, after receiving notice of the incident, the ambulance drove toward the location until it came to an IDF checkpoint about a kilometer after leaving Nablus:

We reached the checkpoint at 9:40 and the soldiers stopped us. We explained that there are wounded at Beit Furiq and that we were on the way to assist them. They told me that entry was prohibited. I told them more than once. The soldier told me to turn the vehicle around and go back. We called our Red Crescent center in Nablus and they called the Red Cross, which promised to come to where we were. We waited around 20 minutes. About 15 minute after we called our center, a red Opel car arrived. It was a passenger vehicle from Beit Furiq. The soldiers

stopped the vehicle. The driver was very worked up and got out. He spoke with the soldiers in Hebrew and said that he had a wounded person who was hemorrhaging, and asked to transfer him to the ambulance at the checkpoint. They refused and three of them aimed their weapons at him and said, "Get out of here." He told them that the patient was in a life-threatening condition and required assistance, but it did not help. It stayed like that for about five minutes, when an Israeli army patrol arrived. The driver of the Opel, who had brought the wounded individual, told the soldiers that he had a wounded person and that the soldiers at the checkpoint are not letting him cross to the ambulance and are not allowing the ambulance to enter and treat him. The soldiers in the patrol told the soldiers at the checkpoint to let the ambulance enter. They requested the people accompanying the wounded person to take him out of the auto and put him on the ground. We entered with the ambulance and parked it next to the Opel. Eight or nine minutes passed from the time that the patrol jeep arrived at the checkpoint until we were allowed to treat the wounded patient.⁸⁹

88. The testimony was given to Na'im Sa'di on 1 November 2000.

89. The testimony was given to Hashem Abu Hassan on 31 October 2000.

Soldiers delay us regularly, and recently in particular. The delays are a result of routine procedures that soldiers employ at the checkpoints, especially when patients are being transported from Area A into Israel or into Jerusalem. The length of the delay depends on the mood of the soldier, and can last from five minutes to an hour.⁸⁵

In one case, a ten-year-old girl, Ala Ahmed, a resident of a-Sawiyyeh in Nablus District, died after IDF soldiers prevented her evacuation to the hospital. On 13 October, around 9:00 P.M., Ala began to suffer severe stomach pain. Her condition deteriorated. She began to vomit and the stomach pain increased. Because of the internal closure on the West Bank, her father had trouble finding a vehicle to take her to the hospital. Finally, a neighbor agreed to do it. According to the father's testimony:

When we began to go, an Israeli military vehicle stopped us. A soldier asked us, "Where are you going?" I said, "We have a child who needs hospital treatment." He said, "Go back quickly without making any comments, because it is forbidden to travel." I tried with all my might [to convince him], but without success. The soldier saw the sick child in the car, but it did not help. He said, "Go home." Later, we tried to go another way, from the direction of the Israeli settlement of Rahalim, but we encountered another military vehicle. The soldiers stopped us and said that it was forbidden to enter Nablus or to travel. I asked the same thing of him, to let us pass because of the sick child with us. It didn't help. He ordered us to return, giving no explanation.

The father returned home and called a doctor in Qablan, the neighboring village. The doctor arrived 30 minutes later. After he examined the child, he said that it was urgent that she get to

the hospital. Since they couldn't take her, she remained at home until the morning, when the father tried again to get her to the hospital.

We came across an Israeli patrol. This was the third time that I tried to get to the hospital, but they did not let us pass, and they told us to go back home. Before that we tried to get her to drink herbal tea, but we were unsuccessful. When I realized that nothing was helping, and the soldiers wouldn't let us pass, I again took her to the doctor in Qablan, but when we got to his clinic, Ala died, and he couldn't do anything. We learned that she had died from a burst appendix.⁸⁶

Shaher 'Amer, an ambulance staff member of the Red Crescent in Ramallah, stated to B'Tselem that:

October, at 12 noon, I got a call from the al-Carmel Center in Kfar Bido that one of the employees had been severely wounded in an accident at work. He cut his foot with a metal-cutting saw. When I reached the Ramot checkpoint, near Nebi Samuel, the soldiers at the checkpoint delayed me. I informed the soldier that I was on the way to Bido to take a wounded person to the hospital in Ramallah and that the injury was serious, but he did not respond. He ordered me to get into the ambulance until the necessary arrangements are completed for passing through the checkpoint. The procedures took about an hour.⁸⁷

Furthermore, the testimonies indicate that, in many cases when an ambulance reaches a certain place to evacuate the wounded and has to pass a checkpoint, IDF soldiers prevent crossing. As a result, the residents themselves have to bring the wounded to the checkpoint where the ambulance waits, thus endangering the wounded person's life. According to the ambulance driver a-Rimoi's testimony:

85. The testimony was given to Na'im Sa'di on 1 November 2000.

86. The testimony was given to Hashem Abu Hassan on 12 November 2000.

87. The testimony was given to Na'im Sa'di on 1 November 2000.

Attacks on Journalists

Article 79 of the First Additional Protocol to the Geneva Conventions provides that journalists are entitled to the protection given to civilians, even though they are located within the area where the violence is taking place.⁹⁴ Therefore, it is prohibited to intentionally attack them, and journalists should be allowed to operate freely to report the events.

B'Tselem's investigative findings indicate that both Israel and the Palestinian Authority do not respect this principle. On 26 October, the Committee to Protect Journalists published a report on attacks on journalists during the recent events. The Committee states that, because of the great power of the media in shaping public opinion on the recent events, the two sides took harsh measures to control and oversee the work of journalists covering the events.⁹⁵

Attacks by Israel on journalists and freedom of the press

Attacks on journalists

The 9 November report of the Committee to Protect Journalists states that they found 13 cases in which journalists had been hit by bullets, verifying with certainty that 10 of them were by Israeli security forces' gunfire. In the other three cases, the Committee was unable to determine who fired. The Committee emphasizes that no determination can be made that Israeli security forces deliberately aim at journalists. The Committee also reported three cases in

which journalists were severely beaten by Israeli security forces.⁹⁶

B'Tselem's investigation reaches a similar conclusion regarding attacks on journalists by Israeli security forces. B'Tselem indeed found no evidence that IDF soldiers intentionally harm journalists, but the IDF's policy for dispersing demonstrations, as described above, also leads to injuries to journalists, who do not take an active part in demonstrations.

For example, Ben Wedeman, a CNN reporter, stated in his testimony to B'Tselem:

The Israelis fired at Palestinians who concealed themselves in buildings opposite us, west of the Erez-Netzarim Road. The AP crew and I were standing on the eastern side of the road, next to the olive orchard. The Israeli soldiers were about 250 meters south of us, at the rise in the road. All the ammunition was live, not one "rubber" bullet was fired. I have the experience to be able to distinguish between the sound of live ammunition and that of "rubber" bullets. Shortly after I arrived at the scene, around 1:00 P.M., I was struck by a bullet fired from the Israeli side. So as not to be injured, I was wearing a protective vest, a hat, and it was clear from my clothes that I am a journalist. The bullets penetrated the vest into my right hip, and there are two holes from where the bullets exited my stomach. The physician, Dr. Mu'awiyyeh Abu Hasnun, told me that I had been struck by two bullets.⁹⁷

94. First Additional Protocol to the Geneva Conventions, of 1977, article 79.

95. Committee to Protect Journalists, "Bloodied and Beleaguered," 26 October 2000, p. 1 (www.cpj.org).

96. Committee to Protect Journalists, "Peril in the Territories," 9 November 2000, p. 1.

97. The testimony was given to Munir Muma on 31 October 2000.

Attacks by Palestinian civilians on medical teams

Information provided to B'Tselem indicate that there were instances in which Palestinian civilians deliberately attacked medical teams and prevented evacuation of wounded:

- The Israeli Magen David Adom reported that, from 29 September to 6 October, 29 of its vehicles (ambulances and intensive care vehicles) were attacked, 19 of them in the Jerusalem area, and seven of them were put out of service. One was set afire and irreparably damaged after four of its medical staff were wounded by stones thrown at them but managed to save themselves.⁹⁰ According to Yoni Yagudovski, head of MDA in the Jerusalem area, from 29 September to 23 October, there were 26 attacks on MDA ambulances in the Jerusalem area, among them attacks in Husan, Hulhul, Ras-el-Amud, Shua'fat Refugee Camp, and Beit Hanina.⁹¹
- The IDF Spokesperson gave B'Tselem seven examples of cases in which Palestinians prevented evacuation of wounded. Four of the cases involved soldiers whose evacuation was delayed because of Palestinian gunfire. In one case, that of the Border Policeman Madhat Yosef, who was wounded at Joseph's Tomb on 1 October, the policeman did not receive medical treatment and died from his wounds after Palestinians did not allow him for several hours to be evacuated to receive medical treatment. Evacuation of the other soldiers was delayed about 60-90 minutes because of Palestinian gunfire. Three other cases involved settlers, whose evacuation was delayed by 30-45 minutes.⁹²

Boaz Ellenson, a senior ambulance driver and medic for MDA in Jerusalem, indicated in his testimony to B'Tselem that, on 29 September, he drove toward the Lions' Gate to evacuate wounded from the Temple Mount:

When we arrived at the Lions' Gate, I saw a mass of people descending from the Temple Mount toward Lions' Gate. They came toward the ambulance making motions of "get out of here." I went into the ambulance and started to drive in reverse. Suddenly, a stone struck the front windshield (other than the rear windows, all the ambulance windows are protected). The glass cracked but did not break. I saw that I couldn't drive forward. I drove backwards, and then the ambulance hit the sidewalk and couldn't move. The Palestinians were throwing stones at me all the time. The windows protected by plastic on the sides became dislodged. I jumped to the back and lay on the volunteers to protect them. I called on the radio transmitter, "They are throwing stones at us, they are massacring us. Help us." While lying in the back, I was struck in the head by a stone and required five stitches. My right pinkie was broken and I was wounded in the shoulder, back, and hands. The apprentice driver also was struck in the head by a stone and needed stitches. The volunteers were also wounded by the stone throwing.

Some time later, two ambulance drivers who reside in East Jerusalem, Walid and Eyad, arrived and helped rescue us.⁹³

It is important to differentiate between the responsibility of the authorities for injuries caused by their agents and their responsibility in cases of attacks by civilians. In the former case, the authorities bear direct responsibility for human rights violations and breaches of international law. In the latter case, the authorities' responsibility is more indirect and focuses on effective law enforcement and on making a meaningful attempt to prevent the attacks. In cases of civilian attacks, the authorities must clarify that such acts violate the law, and must investigate the cases and prosecute those responsible, where appropriate.

90. Letter of 6 November 2000 to B'Tselem from Yerucham Mandola, MDA Spokesperson.

91. The testimony was given to Tomer Feffer on 23 October 2000.

92. Letter of 2 November 2000 to B'Tselem from Major Efrat Segev, head of Assistance Branch.

93. The testimony was given to Tomer Feffer on 23 October 2000.

the spokesperson for the Coordinator of Government Operations in the Territories, Shlomo Dror, about the prohibition on Palestinian journalists from entering Israel. B'Tselem has not received a response to its inquiries.

Palestinian journalists are also not allowed to enter Israel to do their work. If they work for foreign or Israeli agencies, they cannot get to the office to deliver the material they gathered. In his response to an inquiry by B'Tselem, Dror stated that the restrictions on movement of Palestinian journalists are the same as those applying to all Palestinians in the Occupied Territories. He added that, in the past, when permits of journalists to enter Israel were revoked, the office of the Coordinator of Government Operations in the Territories made great effort to allow them to enter Israel in spite of the revocation. Under current conditions, he stated, it was decided not to make an effort over this, because it is known that the Palestinian Authority dictates to Palestinian journalists how to cover the events.¹⁰⁰

Reporter Suleiman a-Shafi, a Palestinian with Israeli citizenship who covers events in the Gaza Strip for Israeli Channel 2 television, was twice stopped by IDF soldiers and turned over to the Police for interrogation when he left the Gaza Strip. A-Shafi told B'Tselem that Police interrogators informed him that he had violated an order of the OC Southern Command prohibiting Israelis from entering Gaza. During the interrogation, the interrogators pressured him not to enter the Strip again. He stated that the Police interrogators tried to frighten him by claiming that his editors had disassociated themselves from him, and that, from their experience, he would be left alone and no one would protect him. They searched a-Shafi but did not find the footage he had taken, because he had transferred the material by satellite before leaving Gaza. He did this because, a month

before the events broke out, he was stopped at the exit from the Gaza Strip, and the Police attempted to confiscate his tapes. According to a-Shafi, the authorities' claim that they do this to protect him is baseless, because he signed a document waiving any protection from Israel, so that Israel is released from responsibility for anything that may happen to him. During his interrogation, he was also required to sign an undertaking not to enter the Gaza Strip for 90 days, but he refused and an hour and a half later, they yielded. However, the interrogators threatened that the next time he is stopped, he would not be released on bail.¹⁰¹

These restrictions on journalists affect reporting of the events. The fact that in some cases only Palestinian journalists are forbidden to enter a certain area reflects a policy based on racist considerations and blatant discrimination, and violates freedom of the press and freedom of expression. Shlomo Dror's comments indicate that a reason for this is Israel's dissatisfaction with their reporting. This attempt to control the reporting constitutes gross censorship, which has no place in a democratic state. Prohibiting Israeli journalists from entering the Gaza Strip raises a similar concern.

Restrictions by the Palestinian Authority on freedom of the press

The PA employs various measures to influence coverage of the events in the Occupied Territories.

The report of the Committee to Protect Journalists described the case of Walid Suliman 'Ameireh, editor of the *Hebron Times*, who was arrested on 7 October by the Palestinian Police. He had been interviewed by a foreign television station and criticized the PA for its corruption

100. Shlomo Dror made these comments to B'Tselem in a telephone conversation on 16 November 2000.

101. The comments were made to B'Tselem in a telephone conversation on 16 November 2000.

Mazen Da'aneh, a Reuters photographer, was wounded in the leg by two rounds of live ammunition in Hebron:

On 2 October 2000, at 12:00 noon, I was standing with five other photographers at a-Zawiyyeh gate, at the entrance to a-Shohada Street. That day there were clashes between Palestinians and Israeli soldiers in this area. We were standing in a safe location, with the soldiers 30-40 meters from us in area H-2, from where they could not see us. I stayed there around an hour. When the attacks ceased, around one o'clock, we decided to leave the site. I took one step and felt something strike my left leg. I did not hear a shot and thought at first that it was a stone. Two seconds later I felt something else hit my left leg. My leg started to bleed. I lost my balance and fell. I realized that I had been shot. I was taken to a field hospital at the entrance to the next street. I was given first aid and transferred to 'Alia Hospital. I underwent surgery, and the doctors removed the fragments and stitched up the wound. I was there for a few hours and was then moved to a-Ahli Hospital for treatment. I was hospitalized for four days and they had to discharge me because it was overcrowded. According to the medical report, I was hit by two live bullets. I still feel intense pain in my leg, and have been on sick leave since the incident.⁹⁸

Restriction on movement of journalists

The IDF does not always allow free movement of journalists and at times restricts their movement. These restrictions apply primarily, but not only, to Palestinian journalists.

A Palestinian photo-journalist stated to B'Tselem

that, on 5 October, the advisor to the Coordinator of Government Operations in the Territories for the Hebron area informed him that he was forbidden to enter the H-2 area of Hebron, which is under full Israeli control, and that he would be arrested if he entered. The photographer also stated that he was prohibited from crossing military checkpoints in the area and from entering villages in the area to report the events. In his testimony to B'Tselem, he stated:

A week ago, I tried to enter the village of Samu'a, which is south of Hebron, along with two other members of my crew to cover the procession and funeral of a person who had been killed. The soldiers at the checkpoint at the entrance to Samu'a stopped us. A few local and foreign network crews were with us. None of the journalists who had Palestinian identity cards were allowed to enter the village. I showed the soldiers at the checkpoint a press card of Channel 2 [Israel television] along with my identity card. The soldier called his commander on the radio transmitter, and the commander confirmed the order prohibiting Palestinian journalists from entering the village. Every journalist who had a press card and Israeli identity card was allowed to enter. The soldiers had the foreign crews stand on the side, and while I was there, they were not let into the village. The ABC crew was among them. The reporter has an Israeli identity card, and the photographer a Palestinian identity card. The soldiers allowed the reporter, but not the photographer, to enter even though they worked together for the same television network.⁹⁹

On 29 October, B'Tselem contacted the IDF Spokesperson regarding the prohibition on Palestinian journalists from entering area H-2 of Hebron. On 16 November, B'Tselem contacted

98. The testimony was given to Musa Hashhash on 11 October 2000.

99. The testimony was given to Raslan Mahagna on 31 October 2000. The name of the photographer is on file at B'Tselem.

October, when the journalist and his crew filmed a demonstration, a Palestinian Police jeep came up to them and Palestinian security officials ordered them to stop filming and to accompany them to the Police station. At the station, they were given back the video camera, but the two rolls of stills had been destroyed.¹⁰⁴

Censorship of this kind by the Palestinian Authority is grave, especially because the media has played such a decisive role in the recent events. The Palestinian Authority did not respect the principle of freedom of expression, as they failed to do in the past.¹⁰⁵ The Palestinian Authority must ensure the security of all journalists and enable them to freely report events.

104. The name of the journalist is on file at B'Tselem.

105. See, The Palestinian Human Rights Monitoring Group, *Monitor*, "Media in Palestine: Between the PNA's Hammer and the Anvil of Self-Censorship," Vol. 3, Issue 5, November 1999.

and for negotiating with Israel. He also called for the release of Hamas activists. 'Ameireh was released after being interrogated for 30 hours.¹⁰²

After the lynching in Ramallah of the Israeli soldiers, several journalists informed B'Tselem that Palestinian policemen had confiscated video and rolls of film from journalists who were at the scene.

B'Tselem personnel who observed demonstrations at AYOSH Junction and also filmed them were forbidden by Palestinian security forces from continuing to film the events there. On 27 October, Na'im Sa'di, a B'Tselem fieldworker, went to purchase a video cassette to continue the filming. A Palestinian security officer stopped the vehicle in which a-Sa'di was seated and ordered Sa'di to go with him. He asked for his identity card and took him to Palestinian security headquarters in Ramallah, where he was interrogated by a security officer who asked to see the material he had filmed that day. After watching the cassette, he returned it and released a-Sa'di.

On 2 November, Na'im Sa'di reported as follows:

At 3:30 P.M., the demonstrators seized a television crew at AYOSH Junction that filmed several of the demonstrators while they were preparing a Molotov cocktail. The demonstrators who prepared the Molotov cocktails ordered the journalists to stop filming, but they refused. Security officials in civilian dress who were among the demonstrators intervened and called for reinforcements. Armed uniformed security forces arrived. They remained at the scene for about five minutes and then left, taking the journalists with them. I don't know where they went to.

A photo-journalist informed B'Tselem about the events that took place on 19 October when a gas container exploded at Palestinian Police headquarters in Bethlehem.

I was alone with a camera. When I arrived at the scene, I filmed until an armed Palestinian policeman in an olive-green uniform came up to me and asked for the cassette. I asked him why I have to give him the cassette and he answered that it was for security reasons, and that I will give it to him or he will confiscate the camera and take the cassette. He was not brutal. Meanwhile, people began to gather around us, shouting "Give him the cassette." The shouts grew louder, and the policeman tried to get the people to leave. He said that he could take care of it on his own. The people dispersed and I gave him the cassette.¹⁰³

Another foreign journalist reported to B'Tselem about at least two cases in which Palestinian security forces ordered him to stop filming. The first incident occurred on 4 October. He was filming confrontations between Palestinians and Israeli security forces in El-Bireh:

Suddenly a blue commercial vehicle appeared and stopped around twenty meters away from us, some 30 meters from young Palestinians who were at the front of the demonstration. Three Palestinians, 20 to 30 years old, were inside. They called to the children, gave orders and distributed Molotov cocktails. I asked my photographer to film it. One of the children noticed, shouted out a warning, and within 15 seconds we were surrounded. The vehicle drove ahead 20 meters and stopped. The three men inside ran to the back and snatched the camera from the photographer. One of them shouted, "Kill, kill." His fist was ready to give a beating. It made no sense to argue.

The journalist and his crew were later taken to the Police station where they were given back the camera only after being forced to destroy the pictures of the Molotov cocktails. On 20

102. Committee to Protect Journalists, "Peril in the Territories," p. 7.

103. The testimony was given to Tomer Feffer on 30 October 2000. The name of the journalist is on file at B'Tselem.

angry about this situation, or they may become agitated, and that is sometimes one of the dangers that I tried to imply when I said that even if every day is similar to the next, there is an accumulation of results or influences that can ultimately cause problems with them that we have not yet been forced to deal with.¹¹⁰

B'Tselem knows of at least three incidents in which settlers killed Palestinians:

- Fahed Mustafa Bakher, 36, resident of Bidiya in the Tulkarm District was killed by Israeli civilians' gunfire on 7 October.
- Farid Musa Nesasreh, 22, resident of Beit Furiq in the Nablus District was killed by Israeli civilians' gunfire on 17 October.
- Mustafa Mahmoud Musa 'Alian, 47, resident of the 'Askar refugee camp in the Nablus District was killed by stones thrown by settlers in the area of Kfar Malek, Ramallah District, on 14 November.

This report does not offer expansive coverage of settler violence, a topic on which B'Tselem will be releasing a separate report in the coming weeks. However, following are a number of testimonies intended to illustrate the problem of violence by settlers and of army cooperation with this violence. From testimonies taken by B'Tselem, it appears that there were cases in which soldiers were present during violent acts by settlers against Palestinians. At the same time, if there are any attempts by the IDF to prevent illegal actions by settlers against Palestinian residents, or to arrest the perpetrators, they are few and far between.

During recent years, B'Tselem collected testimonies indicating a similar trend. Since the matter at hand concerns not exceptional cases but a phenomenon, the resulting conclusion is that these are not failures but reflect a general

IDF policy. In this manner, the IDF contributes actively to the continuation of such violent acts, and fails in its obligation to protect the Palestinians from such deeds.¹¹¹

Testimony of 'Abd a-Salaam Jerar, a medic in the Jenin Red Cross¹¹²

'Abd a-Salaam Jerar, a medic in the Jenin Red Cross, testified to B'Tselem that, on 30 September, he was riding in an ambulance to evacuate a severely wounded man in the village of Bidiya. According to Jerar:

At the entrance of the village a group of some twenty armed settlers standing on the road stopped us. At the site there were also army people and four army vehicles. The settlers stopped us and did not allow us to enter Bidiya. They blocked the road, yelled at us and cursed us. We managed to enter Bidiya via an alternate route, and we took the injured man, who had been struck in the stomach by a live bullet. He was in critical condition, and we took him in the direction of Nablus to the Rafidiya Hospital. As we were leaving, the settlers stopped us again at the same place they stopped us when we tried to enter the village. They asked us questions in Hebrew, such as where were we going. The doctor who was with us spoke Hebrew and asked them to let us pass, stating that there was a critically wounded man in the ambulance. The settlers began cursing us, gathered around the ambulance and began banging on it. When we said that there was a critically injured man in the ambulance, one of the settlers said that we would all die in it, including the wounded man. We, the ambulance staff, restrained ourselves during the entire attack, and did not answer the curses and taunts. With the butt of his rifle, the settler struck and

110. Press conference of Maj. Gen. Giora Eiland, head of IDF Operations Branch, 25 October 2000.

111. This obligation is grounded, *inter alia*, in article 43 of the Hague Regulations, of 1907.

112. The testimony was given to Raslan Mahagna on 3 October 2000.

Attacks by Settlers Against Palestinians

During recent weeks, there have been many incidents in which settlers injured Palestinians. This phenomenon is not new, and BTselem has warned in the past that Israeli authorities do not make sufficient efforts to prevent such attacks.¹⁰⁶

In recent weeks, many settlers have publicly declared in the media that since the army is not acting sufficiently to protect them, they intend to attack Palestinians and that they are unwilling to stand by as observers. Hudi Lieberman, Chairman of the Karnei Shomron Regional Council, for example, explained settlers' blocking a road in the West Bank as follows: "We decided that we'd had enough of restraint, not vis-a-vis the army, but vis-a-vis the Palestinians. If there is a road that we cannot travel on, then they will not travel on it either. We decided upon a series of graded activities, and the blocking of the road on Friday was the first step."¹⁰⁷

The leaders of the settlers present themselves as those who prevent more severe actions, and as those who are responsible for the extreme restraint that they claim the settlers are exhibiting. At the same time, they threaten that they will not be able to continue in this manner for long. In a meeting between a group of settlers and Colonel Yosef Adiri, Brigade Commander of Samaria, Natan Hai, the Rabbi of Itamar, said, "If, heaven forbid, another soldier or civilian is killed here, we will lose control... the residents will descend from the hills and take cruel revenge on the Arabs." The Rabbi of the settlement of Yitzhar, David Dokavitch, said that, "The fact that not all of Hawara has gone up in smoke — if not by you, than by us — is

proof that the population here is exhibiting tremendous restraint. Our restraint deserves a medal, but it, too, has a limit. We will never let memorial candles become the symbol of the Jewish people. We expect the IDF to stand tall, otherwise the situation here will be many times worse. The matter is in your hands."¹⁰⁸ The head of the Gush Etzion Council, Shaul Goldstein, said that, "I announced this week to the Brigade Commander of Gush Etzion that I cannot and I am not capable of keeping the field quiet... until now I held back people's initiatives, almost with my own body. But the field is so hot and so boiling, that I am no longer able to."¹⁰⁹

According to Major General Giora Eiland, head of the IDF Operations Branch, the army is well-aware of this danger:

There is a real danger that some of these settlers will get fed up, to the best of our understanding of the situation, and they will say: "OK, we are facing the same problems and threats every day, and what the army has done is not enough. Every day it is dangerous for me to travel from home to work, or to send my children to school, and if the army is not doing enough, I will do what I can to defend my home." This is of course a very dangerous trend, and until now, we are quite pleased that the majority, and even more than the majority of population in the West Bank and Gaza understand this well — they are tolerant, they enable the army to take care of the situation. But this could change, since these people might get very

106. See BTselem, *Law Enforcement vis-a-vis Israeli Civilians in the Occupied Territories*, March 1994.

107. "Settlers Block Road in Territories Following Gunfire: We Decided Enough with the Restrictions," *Ha'aretz*, 5 November 2000.

108. "Stand Tall, Jewish Officer," *Ha'aretz* supplement, 20 October 2000.

109. "Gush Etzion Residents Demand Retaliation," *Yediot Aharonot*, 2 November 2000.

Testimony of Muhammad Sanem 'Abd Rabu Shahin, 42, resident of Dahariyya, Hebron District¹¹⁴

Muhammad Shahin, an attorney, lives in the village of Dahariyya in the Hebron District. In his testimony to B'Tselem, he described the events that transpired on a day when he returned from Hebron to his house:

On Monday, 30 October, I returned from working in my office in Hebron at about 2:40 P.M. I got to the 'Abda junction, which is located approximately two kilometers from the settlement of Utneil. I drove at a speed of 90 km/hr. Coming toward me was a red Volkswagen Caravel Transporter, with yellow [Israeli] plates. Next to the driver was one passenger, and I did not see if other people were sitting in the back. I took note of the vehicle approaching me because during these times we travel carefully due to fear of the settlers. The driver had a small beard and was wearing a skullcap.

The Volkswagen was traveling slowly, and when it was about ten meters from me, I noticed that the driver took something in his right hand. When we were directly across from one another, I noticed from his hand movement that he was throwing something at me. I heard a sound like an explosion, and saw that a stone had hit my front window and entered my car. The stone fell on the seat next to me. At that instant I braked and lost control of the car. I stopped at the side of the road. The stone hit the back cushion of the seat next to me, bounced and hit me in the stomach, and many pieces of the broken windshield hit me.

I looked in the mirror and saw that the car was continuing along. I turned around and chased it. When they saw that I had turned around, they accelerated, passed a Palestinian commercial vehicle, and got

away, and I was unable to write down the license number.

Adjacent to the entrance of the al-Fawwar refugee camp there was a military jeep. The Volkswagen continued speeding through Hebron towards the direction of the Beit Hagai settlement. The officer who was present at the site took my testimony. He took down details I gave him about the car from which the stone had been thrown, and he transmitted them over his radio. He also referred me to the DCO [District Coordination Office] so that I could register a complaint.

I went along the bypass road near the Beit Hagai settlement. I saw a lot of soldiers and settlers, but I did not identify the car among them. I went to the DCO located near the Hebron bypass road, east of the Beit Hagai settlement, and when I got out of my car, I saw the two people from the car who hurt me standing at the gate at the entrance of the DCO. I did not see the car because I was parked outside.

I got to the DCO at around 3:15 P.M. The guard at the gate asked me what I wanted, and I told him that I had come to complain of damages to my car and myself. He said to me, "The DCO is dead," and added that I should go home. I told him what happened to me, and I pointed to the two settlers standing next to him. The guard said to me: "So what, today you killed three of our people, and you throw stones at us every day - so what if you were hit by a stone. Get out of here now and if you don't, I'll shoot you." He spoke Hebrew, which I understand very well. The two settlers stood there and heard the conversation. They were young, around 20 years old, in my estimation.

I left and upon exiting the DCO, I saw an army jeep. I stopped the jeep and complained to the driver and the person sitting next to him about what had

114. The testimony was given to Raslan Mahagna on 31 October 2000.

broke the side window on the left side, the one behind the driver. The window broke and its pieces scattered inside the ambulance and onto the wounded man himself.

During this entire time, the soldiers there just stood by and did not intervene.

Testimony of 'Attiya Muhammad Yusef Ziyad, 34, resident of Tura a-Sharqiyya, Jenin District¹¹³

'Attiya Ziyad, married and father of two sons, owns a shampoo factory in the village of Tura a-Sharqiyya. His house is located approximately 100 meters from the main road. His brother, his brother's wife, and their six children live some 20 meters away. According to Ziyad:

On 17 November at 9:00 P.M., one of the settlers traveled in his car on the bypass road. Suddenly, and for no reason, he stopped his car, got out, and began shooting at my brother's house. At that time, my brother and his family were inside the house. The settler shot dozens of bullets. All of them hit the walls of the house, but nobody in the family was injured. The settler was traveling in a small, white commercial Toyota, but I do not know him. I think, and so do the village residents, that he is from the settlement of Hinanit. He has a stocky build.

The next day, on 18 November, this same settler again stopped his car along the side of the road and fired several shots from the same place where he had shot the night before. He apparently fired into the air, because the bullets did not hit the houses of the residents. At the same time, five army jeeps were standing some 50 meters away, and could see the settler shooting,

but no soldier approached him or spoke with him. The settler returned to his car and left the site.

Later the same day, at around 4:00 P.M., five army jeeps and a bulldozer arrived at the village from the direction of the Shaked checkpoint. They entered lands belonging to two residents of the village, Yusef Muhammad Yusef Ziyad and Kamel Ahmed Ziyad, where olive trees were planted. The area of the property is 30 dunams [1000 dunams = 1 square kilometer]. Two jeeps were parked at the entrance of the village in order to prevent residents from reaching the plot of land. The bulldozer began uprooting the olive trees and plowing the ground. I approached the commander of the force and asked him why they were uprooting the trees. He answered that stones had been thrown at one of the settlers from the olive grove, and that's why they were uprooting it.

At the same time, residents gathered at a distance of some 200 meters from the plot, and about 50 meters from the two jeeps parked near the village. Some of the residents began throwing stones at the soldiers parked at the entrance of the village. The soldiers threw tear gas canisters and fired live shots in the air. No one was injured, but some of the residents fainted from the tear gas, and they were treated on-site.

The commander told me that if the residents continue throwing stones, he will uproot the entire olive grove and will also order that the two houses near the road be destroyed, that is, my house and my brother's. All in all, the soldiers uprooted 20 trees that day — the trees were planted 15 years ago. The soldiers also plowed the land and dug five-meter-deep ditches.

113. The testimony was given to Raslan Mahagna on 30 November 2000.

Conclusions and Recommendations

B'Tselem's research indicates that Israel bears primary responsibility for human rights violations in the Occupied Territories over the past two months. However, the Palestinian Authority also committed human rights violations during this period.

In an attempt to point out the great restraint employed by the IDF, Israeli officials seek to focus attention on Palestinian gunfire. However, the picture that Israeli officials seek to paint is incomplete and tendentious. Israel's policy is directed in large part against the Palestinian civilian population, which is not firing at Israeli civilians or IDF soldiers and is the primary victim of Israel's human rights violations.

Most of those killed or wounded in recent weeks were unarmed. These casualties were a direct result of Israel's policy on dispersing demonstrations by unarmed Palestinians. Israel used excessive force in dispersing these demonstrations. The force employed was disproportionate to the danger faced by soldiers and in violation of the Open-Fire Regulations.

In the past, B'Tselem warned that the policy of allowing lethal fire in non-life-threatening situations is the main cause of deaths of Palestinians in the Occupied Territories by security forces. Despite the high price exacted in human lives, Israel refuses to change its policy.

Officials currently justify the policy of dispersing demonstrations by arguing that Palestinians among the demonstrators fire at IDF soldiers. However, this argument is not acceptable. First, the same policy has existed for several years, and the attempt to latch onto the change in circumstances to justify it is unfounded. Second, firing from among a crowd of demonstrators is the exception, and not the rule, and cannot form the basis for establishing the policy.

Israel attempts to rely on arguments of this kind in order to conceal the fact that, although it was prepared for events of the kind that have been taking place in recent weeks, it did not bother to develop non-lethal methods to disperse demonstrations or to train soldiers to cope with demonstrations of this kind. As a result, the soldiers are left with "rubber" bullets and live ammunition, which caused a large number of casualties among the Palestinians, including hundreds of children. IDF shooting also resulted in injuries to people who were not actively involved in the demonstrations, including medical teams and journalists.

Even if Israel does not have a policy to intentionally injure Palestinians, after so many Palestinians were killed in demonstrations in the same way and Israel stubbornly refused to change its policy on dispersing demonstrations, the lack of intent does not diminish the blame and responsibility it bears.

The numerous restrictions that Israel imposes on freedom of movement of Palestinians in the Occupied Territories make the lives of hundreds of thousands of people insufferable, with no justification whatsoever. The restrictions are also imposed on Palestinian medical teams and journalists, in contravention of international law, which provides these groups with special protection. Curfews imposed on tens of thousands of Palestinian civilians for the convenience of Israeli settlers is flagrant discrimination and preferential treatment of one population over another.

Ignoring attacks by Israeli settlers on Palestinians and IDF soldiers' presence at some of the incidents in which these attacks occurred constitute gross breaches of Israel's duty as the occupying power to protect the Palestinian population. Particularly in light of past

happened. The driver's answer was "So what?" This conversation transpired with me sitting in my car and the soldiers in the jeep.

I went home and went to the doctor in a-Dahariyya because I had wounds to my stomach, face and hands from the broken glass. I was treated and released. The next morning I went to the Hebron police in Kiryat Arba and submitted a complaint.

Testimony of Hamdan 'Abd al-'Aziz Ahmed, 38, resident of a-Sawiyya, Nablus District¹¹⁵

Hamdan Ahmed's daughter Ala died when her appendix ruptured on 14 October, after IDF soldiers prevented him from taking her to the hospital.¹¹⁶ He tells B'Tselem in this testimony of an incident that occurred a week earlier:

On Saturday, 7 October, at around 8:30 P.M., I was on my way to visit my two sisters. One lives in the 'Askar refugee camp, and the second in Nablus. I went with my wife and my small children, one a year and a half, and the other 40 days old. Ibrahim Hajaab was driving the car. The situation that day was tense.

On the way home to the village of

a-Sawiyya, coming from the south, we came across an army car with a spotlight. The soldiers shined the spotlight on us, saw that it was a car with Arab plates, and told us to stop. Some time afterwards, a few cars of settlers came up behind us. Dozens of settlers got out and began throwing stones at us. We lay the little children down under the seat of the car, because we were afraid that they would be injured by stones or shots. The settlers broke all the windows of the car.

We asked the soldiers to intervene, and one of them said, "Go to the Israeli DCO in Hawara." The driver drove there and settlers caught up with us across from the liaison office. They began bombarding us with stones. My wife, the driver, and I were injured. When we got out to complain about them, the Israeli soldier at the gate of the DCO brandished his weapon and said, "Get out of here, and if you don't, I'll shoot you."

Afterwards, we went to the checkpoint of the Palestinian National Security Forces and asked them to help us. They took us to the offices of the governor and transferred us to the Palestinian Military Clinic, from where we were taken to Rafidiya Hospital.

115. The testimony was given to Hashem Abu Hassan on 12 November 2000.

116. See the father's testimony in the section on delay and prevention of medical treatment, p. 25.

Appendix 1: Response of the IDF Spokesperson

Israel Defense Forces
The I.D.F. Spokesperson
Public Relations Branch
Itamar Ben Avi st.
Tel Aviv code:63476
Tel\Fax: 972-3-6080339/40
925 - १२१
December 7, 2000



Yael Stein, Advocat

Re: IDF Response to "Betzelem" Report

Following is the IDF Spokesperson's updated response to the "Betzelem" report of 6 Novemeber 2000.

The IDF is studying the "Betzelem" organization's report attentively and considering all its details. The Israeli army places great value on human rights and educates its soldiers according to these principles.

One prominent issue, worthy of attention at this stage is that the report's writers examine the IDF's response policy regarding the violent Palestinian disturbances according to police authority standards, as if IDF soldiers were policemen enforcing law and order.

It should be emphasized at this point that the Palestinian Authority is the one who chose to abandon the negotiation table and embark on the path of violence and the overall responsibility for igniting the violence and for the hundreds of casualties on both sides rests on the Palestinian Authority alone.

This attitude completely ignores the new reality created and initiated by the Palestinians in the last two months. Over 7000 significant attacks have been carried out against Israeli civilians and soldiers (5192 of these being violent disturbances and

experience, Israel should have made it clear to settlers that attacks of this kind are a crime and that every case will be investigated and those responsible prosecuted.

The Palestinian Authority also harms the local population. The PA does not make a real effort to prevent children from participating in demonstrations, despite the great danger entailed in taking part. In addition, the PA makes little attempt to prevent Palestinian civilians from attacking Israeli civilians. Furthermore, by allowing firing from within or near homes of civilians, the PA exposes its civilian population to danger. The PA also prevents journalists from freely reporting the events and restricts freedom of expression, as it has done in the past.

B'Tselem urges the Israeli government to:

- Change its policy on dispersing demonstrations, which has cost the lives of hundreds of Palestinians and wounded thousands. Israel must develop non-lethal methods to disperse demonstrations. Until that time, because “rubber” bullets are lethal, Israel must refrain from using them to disperse demonstrations. Israel must also investigate claims that the “rubber” bullet packs are broken before firing. In addition, Israel must cancel the directive allowing the firing of live ammunition at the legs of stone throwers, and live ammunition must only be allowed in situations where there is actual and immediate life-threatening danger to security forces. The Open-Fire Regulations must be based only on this principle, and

must not be changed for political reasons.

- Ease the restrictions on freedom of movement of Palestinians, and limit restrictions to cases of justifiable military necessity. In any event, these restrictions must not apply to medical teams and journalists.
- Prevent attacks on Palestinians by Israeli settlers. In cases where attacks have occurred, Israel must investigate those involved and prosecute where appropriate. Israel must clearly instruct IDF soldiers that, when they are present at such incidents, they must act immediately to prevent them.

B'Tselem urges the Palestinian Authority to:

- Make every effort to prevent children from participating in demonstrations.
- Prevent attacks on civilians, Palestinian and Israeli. The PA must make clear to its security forces and to citizens bearing firearms that shooting at civilians is forbidden. In cases in which such an attack occurs, the PA must investigate those involved and prosecute where appropriate.

- Enable journalists to freely report events.

Because of the broad scope of events in recent weeks in the Occupied Territories, B'Tselem calls for the establishment of an independent international commission of inquiry to investigate the human rights violations that took place in the Occupied Territories during this period. This commission must concentrate on investigating the violations and not the political circumstances that led to the recent events.

As to the accusations regarding injuries of medical teams: IDF commanders continually stress, time after time, in front of all soldiers, the obligation to take all necessary measures to avoid injury to medical teams, as long as they are not directly involved in the fighting. The Palestinians complicate the situation by making cynical use of ambulances and medical teams to transport weapons and rioters and as a cover for shooting.

In regard to injuring members of the press: The IDF allows foreign journalists free press coverage of all areas of the West Bank and Gaza Strip. Foreign journalists have full access to every place in Israel and the territories. In some cases, reporters were shot unintentionally, because they positioned themselves in the line of fire between Palestinian gunmen and rioters and IDF soldiers, in an effort to get a better picture, or simply because they were inexperienced. In any case any such case is thoroughly examined and investigated.

The IDF regrets the fact that the “Betzelem” organization chose to quote Palestinian claims instead of severely criticizing the Palestinians who are responsible for all acts of violence, including murderous terrorist attacks, the sending of children to friction points, and the cynical use of ambulances and medical teams to carry out terrorist attacks. The Palestinian authority bears full responsibility for the hundreds of casualties in the last two months.

Sincerely yours,

Major Efrat Segev
Public Relations

2071 attacks in which live ammunition was used). In many cases, the attacks are carried out with the knowledge, support and involvement of the Palestinian Authority apparatuses, in such a way that it can be said that the present situation is an armed conflict between Israel and the Palestinian Authority. Therefore, the standard by which IDF activities are measured is not that of a police force, but one pertaining to a situation of warfare.

In this perspective, the IDF's use of force in response to Palestinian attacks is, in fact, very restrained and a byproduct of the situation in the field and not, as claimed in the report, of changing political situations.

As for IDF orders and regulations regarding the use of live fire, these may change according to the situation, but the essence has not changed – the need to protect human lives.

The IDF does not elaborate in public the regulations for opening fire guiding its soldiers, due to the fact that this is an operational directive, which if publicly revealed could be exploited by hostile parties to compromise the safety of the soldiers.

Regarding the existence of Military Police investigations following the different incidents: Based on viewing the situation as an armed conflict, as well as on acceptable norms adopted by armies in a state of war, the IDF authorities take a general stance that there is no room to initiate Military Police investigations due to the very existence of casualties on the other side as a result of the fighting, when there is no suspicion of serious deviation from obligatory norms of behavior.

In accordance with this policy an MP investigation was already opened on account of one shooting incident in the West Bank, and several other incidents are currently being examined as to whether to open a MP investigation.

We hope that you will refrain from publishing this report in its present form, and to publish a more honest and objective report that tell the facts as they are.

We are sorry to inform you that should this report be published in its current form, it will reflect very badly on our relations and any future cooperation with you.

Yours Sincerely,

Mohammed Suleiman
M. Suleiman
Director General
Palestine Ministry of Information.



Appendix 2: Response of the Palestinian Authority

PALESTINIAN NATIONAL AUTHORITY
Ministry of Information



السلطة الوطنية الفلسطينية
وزارة الإعلام

Dec. 6, 2000

B'TSELEM
The Israeli Information Center For Human Rights
In the Occupied Territories
43 Emek Refaim St, West Jerusalem 93141

Dear Sirs,

In an initial and quick reading of your report titled 'Illusory Restraint' dated Sept. 2000, we have noticed many inaccuracies, and misrepresentation of facts that would make us doubt and question the objectivity of your center. First, your report failed to mention the main reason behind the eruption of the current Palestinian Intifada being Sharon's visit to the Aqsa mosque on Sept. 28, 2000. Your report also ignored mentioning the Israeli occupation of the Palestinian territories, its coercive practices against the Palestinian people and denies them the right to resist the Israeli occupation.

Despite its attempts to appear humane, your report showed clear bias in favor of the Israeli government and occupation army, as it equates between the murderer and the victim. For the report to be humane, it should have dealt with the Israeli air and ground attacks that destroyed children and family homes in Palestinian towns, villages and cities, and the disastrous effects of the Israeli siege imposed on the occupied Palestinian territories.

One of the most depressing aspects of this report is its deliberate negligence by not mentioning Jewish settlers' practices and the dangers they pose on the Palestinian people, the peace process, and the future of our area. More than that, the report speaks of the effect of the siege on Jewish settlers, which creates a confusion in the minds of the reader as to who is the side imposing the siege. Your report effectively refers to Jewish settlers as being Israeli civilians as if they are residing in settlements inside Israel proper.

Our reservations on your report are so many that we are unable to mention them all now, particularly as we received a copy of the report this morning.

Events on the Temple Mount

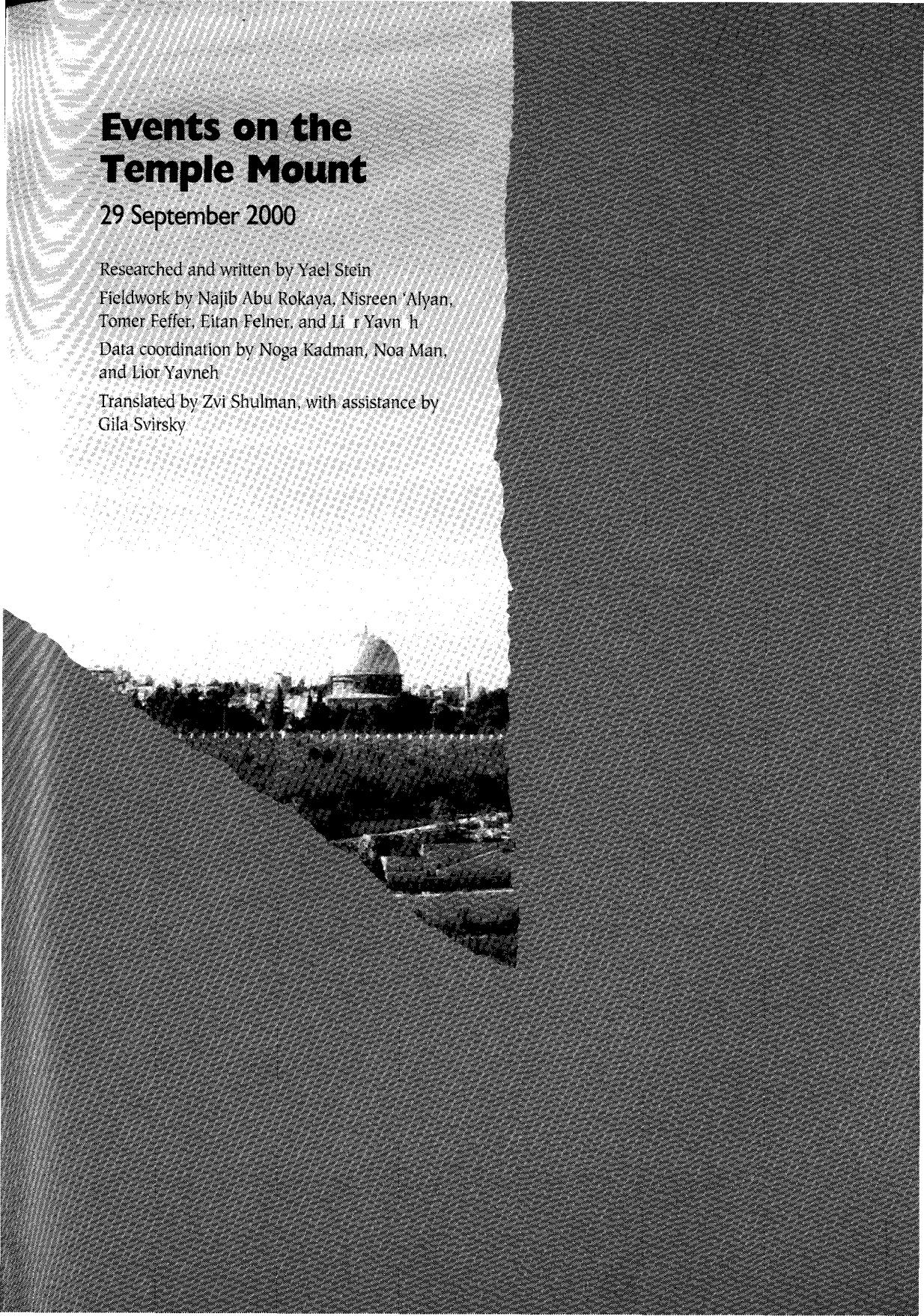
29 September 2000

Researched and written by Yael Stein

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On Friday, 29 September 2000, after afternoon prayers on the Temple Mount (al-Harem al-Sharif to Arabs), violent incidents between Palestinians and police began. During the day, four Palestinians were killed and over 200 Palestinians wounded on the Temple Mount by police gunfire. Another Palestinian was killed near al-Mokassad Hospital, in East Jerusalem. More than 70 policemen were also injured. The incidents occurred one day after the visit of MK Ariel Sharon to the Temple Mount area, which led to harsh protests by Palestinians. After the events on the Temple Mount, demonstrations and violent incidents broke out throughout the West Bank, Gaza Strip, and also within Israel, during the course of which dozens of people were killed.

B'Tselem decided to focus on the events on the Temple Mount, since these were the first of a chain of events that engulfed the Occupied Territories in violence over the past week, and also spread into Israel. In addition, the large number of injured is particularly striking on the Temple Mount, because the Israeli police knew that the Palestinians there did not have firearms.

That same day, Shlomo Ben-Ami, Minister of Public Security and acting Foreign Minister, explained the events on the Temple Mount as follows: "The events around the Temple Mount occurred as a direct result of massive and dangerous attacks perpetrated by a Muslim gathering on the Temple Mount seeking to violently confront Jewish worshipers praying at the Western Wall on the eve of the Jewish New Year."¹

B'Tselem's investigation paints a different picture. Even accepting the minister's contention regarding the objective of the Palestinians on the

Temple Mount that day, investigation indicates that the harsh and violent response of the police significantly contributed to the violent nature of the events and the high number of casualties.

In this context, it should be noted that similar events have occurred on the Temple Mount in the past, most recently four years ago. On 27 September 1996, three Palestinians were killed by police gunfire and more than a hundred were wounded. One Israeli policeman was moderately, and ten slightly, injured. Following this, B'Tselem published a report that harshly criticized police conduct during the events.² The report's conclusions state, in part: "B'Tselem's investigation of police actions during the events on the Temple Mount on 27 September 1996 paint a dismal picture of the excessive and illegal use of force, including lethal force..."³. Unfortunately, the conclusions of B'Tselem's investigation into the recent events on the Temple Mount are almost identical, indicating that the police apparently failed to learn the lessons that would reduce the number of casualties at such events.

Description of the Event⁴

During afternoon prayers, at around 2:30 P.M., a few senior officers from the Jerusalem District of the Israel Police Force (IPF) entered the Temple Mount area. Among the officers were the commander of the Jerusalem District and his deputy. Also, a large force of police were located on the other side of Mughrabi Gate, outside the Temple Mount area.

Following the completion of the afternoon prayers around 1:20 P.M., Palestinians on the

1. The comments were made in Tel-Aviv on 1 October 2000 at a press conference for foreign journalists in which Minister Ben-Ami and the head of the Operations Staff of the Ministry of Public Security, Brigadier General David Tsur, participated.

2. B'Tselem, *Playing with Fire on the Temple Mount: Use of Lethal and Excessive Force by the Israel Police Force*, December 1996.

3. *Ibid.*, p. 25.

4. The description of the event is based on testimony given to B'Tselem and video film taken by the Israel Police Force and the AP.

by a ‘rubber’ bullet.” Muhammad Niroh, 51, hid in the mosque for about forty-five minutes together with hundreds of others until the firing stopped. When he exited the mosque, the situation was calm and the worshipers and soldiers were speaking among themselves. Then, “a stone hit the policemen, and they began to fire blindly at the crowd. Some of the worshipers and I fled back into the mosque. Before I got inside, I felt an intense pain in my back.” When he reached the hospital, he found that eight bullets had struck him in the back.

The massive and indiscriminate shooting caused a great number of casualties. Because many of those injured were released shortly after arriving at the hospital, it was impossible to obtain precise data about the specific location of the wound of each. However, according to Dr. Muhammad Qumbar, a physician in the clinic on the Temple Mount, within fifteen minutes from the start of firing, some fifty people, most wounded in the upper part of their bodies, reached the clinic. The data provided to B’Tselem by al-Mokassad Hospital and testimonies obtained by B’Tselem describe injuries to the upper part of the body. For example, Muhammad Niroh was struck in the back by eight bullets, Tariq Abu Sabitan was struck by a bullet above his left eye, and Muhammad al-Khatib was injured in the left shoulder. ‘Omar Simarin and ‘Awad Mansur were both struck in the left eye by bullets.

In at least a few instances, police beat Palestinians, sometimes after the Palestinians had been wounded. For example, Muhammad al-Khatib stated in his testimony that after he was wounded in the shoulder, a policeman beat him all over his body with a stick, and other police who arrived at the scene also beat him. ‘Adel ‘Udi stated that after bullets struck him in the hand, legs, and stomach, and while lying wounded on the ground, “I heard policemen above me talking in Hebrew. They began to kick

me in the head and legs and they struck me in the head with their sticks. I thought they would take me to the hospital, but they continued to beat me. Then they beat the wounded guy who was lying next to me.”

At least three photo-journalists at the scene were injured by “rubber” bullets, although they did not take part in the events and did not endanger the soldiers’ lives. Hazem Badr was injured in his left hand while filming stone throwers in the area of Mughrabi Gate. ‘Awad ‘Awad was injured in the right wrist and, while on his way to the medical clinic, was beaten by policemen. Khalid Zinari was injured in the legs. He stated that, “at least five Special Patrol Unit policemen approached me and struck me with their sticks. I bent over and covered my head with my hands. They continued to strike me even though they saw my camera. I am convinced that they knew that I am a journalist.” Only after the intervention of Ben-Ruby, the Jerusalem District spokesperson, did the beating stop.

As a result of the incidents on the Temple Mount, four Palestinians were killed:

- Bilal ‘Ali Khalil ‘Afaneh, 25, a resident of Abu Dis. He was taken to Augusta Victoria Hospital and from there to al-Mokassad Hospital, where he died.
- Yehi Muhammad Hassan Faraj, 35, a resident of Shuafat, East Jerusalem.
- Nizar Ibrahim a-Shweiki, 18, a resident of Silwan, East Jerusalem.
- Heiteim ‘Amra Amin Sakafi, 45, a resident of East Jerusalem.

Later on that day, Osama Muhammad Adam Jadeh, 23, a resident of the Old City, was killed near al-Mokassad Hospital. In addition, more than 200 Palestinians were injured¹² and more than seventy policemen were injured by stones that were thrown.

The testimonies indicate that, several times during the day, the police made it difficult to treat the

12. According to information from the Palestinian Ministry of Health, 226 Palestinians were wounded. The data appears on the Palestinian Authority’s Website: www.pna.org/moh/jerusalem.html.

Temple Mount began to throw stones at the police. At this stage, as far as B'Tselem knows, a number of policemen with plastic shields and helmets advanced to the area of the gate. In response to the stone throwing, the police fired shock grenades, and after a few minutes began to fire rubber-covered metal bullets (hereafter: "rubber" bullets) at the Palestinians. Some Palestinians on the Temple Mount plaza were already wounded at this stage.⁵ During the very first minutes of the stone throwing, Jewish worshipers at the Western Wall had already been evacuated.⁶

According to police video footage, at 1:28 P.M., the police charged onto the Temple Mount via Mughrabi Gate. According to official sources, the police charged because of information they had received that the Palestinians intended to enter the Western Wall plaza and the Jewish Quarter via the Mughrabi Gate.⁷ The charge onto the Temple Mount was accompanied by massive firing of "rubber" bullets, with the police chasing the Palestinians onto the Temple Mount plaza. According to testimonies given to B'Tselem, the police fired at anyone who exited the mosque gate or stood beside it.⁸ At a certain stage, some of the worshipers entered al-Aqsa Mosque and closed the door and windows of the mosque.⁹ The incident ended around 5:30 P.M.

According to spokesperson Ben-Ruby, several attempts were made during the course of events to calm things down. This included a police call to Jibril Rajoub, head of the Palestinian

Preventive Security Service in the West Bank, to ask him to persuade the demonstrators to stop the stone throwing. At this stage, the police retreated to Mughrabi Gate and awaited developments. After Rajoub's attempt failed, the stone throwing continued and the police again responded with gunfire.¹⁰

At no time that day did the police use tear gas in the mosque plaza.¹¹ Throughout the day, police fired "rubber" bullets intermittently at people in the plaza. The firing was aimed indiscriminately at the crowd and not at individuals who endangered the lives of the policemen. As a result, some of the injured were worshipers who took no part in the events and were distant from the stone throwers. Muhammad Abu Libdeh, 72, who is hearing impaired and walks with a cane, stated that,

While they were throwing stones, I continued to sit in my place, waiting for things to calm down. When the situation calmed down a bit, I took my cane and started to walk from the mosque toward the Dome of the Rock. When I was between the fountain and the steps, I was struck in the leg, below my knee, by a bullet. It knocked me to the ground.

Dr. Mahmud Najar, 39, stated in his testimony that he was standing next to the mosque door, and when the police charged onto the Temple Mount, "My [nine-and-a-half-year-old] son and I turned to go back into the mosque. When I turned, I was struck in the palm of my right hand

5. This fact is evident from video footage of the events filmed by the AP and the IPF. This description also appears in the testimonies of Muhammad Niroq and Khalid Zinari.

6. This information was given to B'Tselem in a telephone conversation on 4 October with Shmuel Ben-Ruby, the spokesperson of the Jerusalem District of the IPF.

7. IPF Inspector-General Yehuda Wilk said that, at this stage, the events had become serious because "the objective was to move onwards, via the gate, towards the Western Wall." *Yediot Aharonot*, 2 October 2000. Similar comments were made by Minister Ben-Ami at the press conference for foreign journalists and by Shmuel Ben-Ruby, the Jerusalem District police spokesperson, in a telephone conversation with B'Tselem on 4 October 2000.

8. Testimony of 'Ali 'Abd Dwei'at and testimony of Dr. Mahmud Najar.

9. Testimony of Dr. Najar.

10. This information was provided to B'Tselem at the meeting with Ben-Ruby on 4 October.

11. This information was provided to B'Tselem at the meeting with Ben-Ruby on 4 October. This statement is also supported by the testimony of Muhammad Shweikat al-Khatib, born in 1962, given to Lior Yavneh and Nisreen 'Alyan on 2 October 2000 at his home.

“rubber” bullets at a distance of less than forty meters, since firing at under this distance could cause death. It is also forbidden to fire from a distance of more than sixty meters. Also, “rubber” bullets are not to be aimed at the head of a person, but only at the lower part of the body.

Criticism of the Police Conduct

Unlike some events that occurred in recent days elsewhere in the West Bank and Gaza Strip, the incidents on the Temple Mount did not involve an exchange of fire between Palestinians and Israeli security forces. In this case, the police had to cope with an unarmed, civilian population.

Nevertheless, the chronology of events shows that this was given almost no weight in police decision-making on the measures to use. The police knew, because of the visit of MK Ariel Sharon the previous day to the Temple Mount, that violent demonstrations might occur after the prayers. For this reason, the police had arranged for an increased number of forces. According to the spokesperson for the IDF's Jerusalem District, Shmuel Ben-Ruby, more than 1,000 policemen were on the scene.¹⁵ However, it is not clear whether this preparation included equipping themselves with the means to disperse demonstrations, other than shock grenades and “rubber” bullets, which are the most lethal and severe methods available to the police.

During the events themselves, the police used excessive force, which were unnecessary and illegal under the circumstances. According to Minister Ben-Ami: “The outburst of violence that occurred on the Temple Mount and the outskirts of the Temple Mount and the attempt to break through the western gate of the Mount in order

to descend to the Wailing Wall where in the Jewish holiday there was a massive concentration of worshippers, this was a real danger we needed to prevent.”¹⁶ However, worshipers in the area of the Western Wall were evacuated immediately after the Palestinians began to throw stones at the police. Therefore, the massive police gunfire could not be attributed to protecting them. Furthermore, if the police did have concern, it would have been sufficient to safeguard Mughrabi Gate, and there was no need to pursue the worshipers throughout the entire Temple Mount area.

The open-fire regulations relating to “rubber” bullets allow their use only as a last resort after methods of lesser severity have been unsuccessful. In this case, the police did not even try to use other means to disperse the demonstrators, except to fire shock grenades for several minutes at the beginning of the events, and they chose to use the most lethal measure, “rubber” bullets, as the first and exclusive means.

The failure of the police to use means of lesser severity than “rubber” bullets to disperse the demonstrations - and it is not at all clear that such means were at their disposal - is particularly grave. None of the testimonies given to B'Tselem by Palestinians who were present at the events makes any mention of the police calling out to the demonstrators to disperse before they opened fire with “rubber” bullets. The possibility of using water cannons apparently was never considered, despite its relative effectiveness. In a deviation from the usual means, the police refrained from firing tear gas, whose capacity for injury is significantly less than that of “rubber” bullets. The spokesperson for the IPF Jerusalem District, Shmuel Ben-Ruby, made this clear when he contended that, “previously [when tear gas was used], people suffered more. There were 22,000 worshippers and we did not want all of them to

15. These comments were made at his meeting with B'Tselem on 4 October.

16. These comments were made at the press conference on 1 October. See footnote 1.

wounded and for ambulances to pass. In some instances, however, police assisted in moving the injured. For example, Husam Jawihan, a medic by profession, said that he and four other people evacuated one of the people killed: "Four people carried him on a stretcher and I ran in front of them to evacuate him. We passed through Lions' Gate and a policeman ran with us and shouted in a megaphone to other policemen: 'Don't get in the way, don't get in the way.'" However, ambulance drivers who testified to B'Tselem said that, although in certain cases police allowed them to pass without delay, at other times police delayed them for fifteen to twenty minutes, even when they had wounded people in the ambulance.¹³ In other instances, police made it difficult to evacuate the wounded and even continued to fire at them while they were being evacuated. 'Awad Mansur, who was wounded in the eye, was being evacuated, and on the way to Lions' Gate, they were shot at by police, although the person evacuating him called out to the police that Mansur was wounded. 'Awad 'Awad stated in his testimony:

I noticed a boy around 15 who passed by. Maybe he swore at a policeman. The policeman chased him and the boy placed himself among those who were evacuating the wounded. The police began to shoot at the boy, and the gunfire hit those evacuating the wounded. It may even be that those wounded were struck again. An officer shouted at the policemen not to fire.

Police Regulations on Handling Disturbances and Demonstrations

Police regulations define a number of ways to cope with disturbances and demonstrations.¹⁴ The main principle established in these

Regulations is:

The use of authority shall not exceed the reasonable degree necessary to attain the objective of maintaining public order. The use of authority shall be exercised in a gradual manner, in accordance with the severity of disturbance of the public order and security.

The Regulations delineate several methods available to the police, with more severe methods to be used only when the milder ones do not accomplish their aims.

The first method mentioned in the Regulations is "dialogue," in which an attempt should be made "to convince the demonstrators to maintain public order and obey police orders," before the demonstration turns violent. When this fails, harsher means should be employed, "whose guiding principle is that the use of force is the last measure and is to be employed gradually. Force shall not be employed in excess of the reasonable degree necessary to effect an arrest or disperse the rioters." Furthermore, "in instances where there is active resistance, necessary force shall be employed commencing with evacuation without force, and ending with the use of force (gas, rubber) according to need while maintaining the principle of proportionality."

The Regulations enumerate several techniques, among them the use of clubs, horses, water cannons, tear gas, and "rubber" bullets. The use of "rubber" bullets is only allowed where three conditions exist:

1. there is a "a real threat to life;"
2. when "measures of lesser severity are of no avail in preventing the threat to public welfare;"
3. when "its use does not endanger innocent people."

In addition to these conditions, the Regulations state that it is absolutely forbidden to fire

13. Testimony of Walid Muhammad Khawis, and the testimony of Nasser 'Abd al-Karim Qraim, ambulance driver for al-Mokassad Hospital.

14. These regulations appear in section D of Regulation 90.22.012: Police Handling of Disturbances and Demonstrations (draft for comments).

disregard for the lives and welfare of the Palestinians.

In response to a question relating to the great number of injured, Minister Ben-Ami stated:

"The only thing that I would advise you is to try and put yourself sometimes in a position where you are surrounded by a mob that throws stones at you and endangers your life. This is not an easy situation for a normal person, and it is not an easy situation for security forces either."²⁰ B'Tselem is aware of the difficulties that the police face, but coping with a large number of stone throwers is part of their function and job. This was not a unique or surprising event, but one that repeats itself every few years.

Difficulties of this kind are no excuse for injury to life and limb, and are certainly no excuse for the police's inability to cope with this kind of incident.

B'Tselem urges the IPF to formulate a clear policy for police conduct during events of this nature. The fact that such events recur, and each time the police finds itself incapable of coping properly, proves that rules, as well as firm action to enforce them, are necessary. These rules must relate both to the limits on the use of force and the use of alternative means to disperse demonstrations, as well as the conduct toward medical teams and evacuation of the wounded in a way that will allow them free movement.

20. *Ibid.*

suffer because of the stone throwers. If we had used gas, we would be punishing worshipers who are not involved. Not wanting to harm them, it was decided not to use gas.”¹⁷ This contention is startling, to say the least, because the alternative means selected by the police was the massive firing of “rubber” bullets, which are more lethal and causes much more severe damage.

“Rubber” bullets were fired although the conditions for their use, as set forth in the Regulations, were not met:

- The bullets were not fired only when there was “a real threat to life,” since the firing occurred when the Palestinians were far from Mughrabi Gate, the worshipers at the Western Wall had been evacuated, and the danger that the Palestinians would enter the Western Wall area, and move from there to the Jewish Quarter, had passed because of the presence of police in the gate area.
- The bullets were fired before the police used means of lesser severity.
- The firing endangered innocent persons, and B’Tselem has testimonies of people who were injured although they did not take part in the stone throwing.
- B’Tselem has testimonies indicating that bullets were fired at the upper portion of the body, in violation of the Regulations, which allow firing only at the lower portion of a person’s body.

The difficulties that the police placed on evacuation of the wounded, even if not a lengthy delay, violate international humanitarian law.¹⁸ Testimonies of the ambulance drivers indicate that the police were not given a clear and unequivocal order that they were to allow free movement of ambulances, and in some cases, ambulances were delayed for some twenty minutes. Where treatment of injured people is involved, any delay, no matter how short, is excessive and could endanger human life.

Conclusions

B’Tselem’s investigation paints a dismal picture of the excessive use of force, which led to the death of four Palestinians and injuries to more than 200. The use of “rubber” bullets, while deliberately refraining from measures of lesser severity such as tear gas and water cannons, is especially grave and one of the main causes of the great number of people injured. The shooting was extensive, indiscriminate, lacked the requisite cautionary measures, and was aimed at a large crowd of people. Many people were wounded in the upper part of their bodies, and the bullets were fired, at least in some instances, at people who had fled the scene or were involved in evacuating the wounded.

The use of “rubber” bullets was unjustified and contrary to the Open-Fire Regulations, which allow firing of “rubber” bullets only in defined circumstances, which do not apply here. The harm caused to medical teams and the orderly evacuation of wounded, even if not always intentional, endangered human life and violated principles of international humanitarian law.

Despite this, the police conduct on the Temple Mount received the blanket approval of Minister Ben-Ami: “As I said before, we cannot give in to violence... We are not going to be intimidated by stones thrown at our civilians and at our security forces.” Later, he stated, “We are a sovereign government, and Jerusalem is our sovereign capital. This is something that we need to make clear.”¹⁹ Statements of this kind raise the suspicion that the manner in which the police decided how to act on the Temple Mount did not result only from the desire to preserve public order and protect the police and the worshipers at the Western Wall, but also, and possibly primarily, from the desire to demonstrate sovereignty and Israel’s control over the Temple Mount area, in blatant

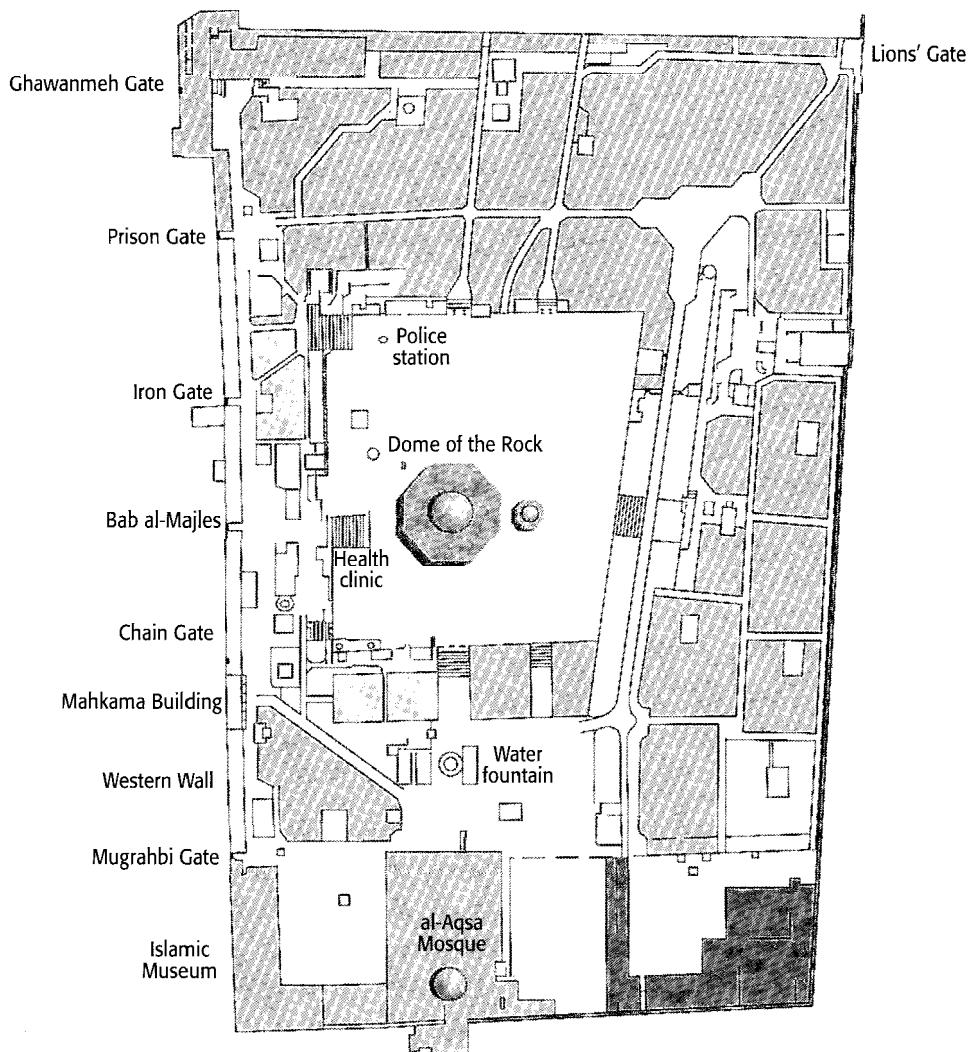
17. These comments were made in his telephone conversation with B’Tselem on 4 October.

18. See article 12 and article 21 of the First Additional Protocol to the Geneva Conventions, of 1977.

19. These comments were made at the press conference on 1 October. See footnote 1.

Map of the Temple Mount (al-Harem al-Sharif)

The area known as the “Temple Mount” comprises some 140 dunams and is surrounded by a wall. North of the wall is Jerusalem’s Old City; to the south lies the City of David excavations; Nahal Kidron and the Ophel Road are to the east; and the Western Wall is west of the wall. The walled expanse contains two large mosques – al-Aqsa and the Dome of the Rock (Omar’s Mosque). The site also contains fourteen other buildings which house Islamic religious and educational institutions. Ten gates lead into the expanse from its north and west. Four other gates, from the south and east, are cemented shut.



List of Witnesses

1. Hazem Bad'r, 34. His testimony was given to Eitan Felner on 3 October 2000 at Hadassah Hospital, Ein Kerem.
2. Tariq 'Ali Musa Abu Sabitan, 19. His testimony was given to Najib Abu Rokaya on 1 October 2000 at al-Mokassad Hospital.
3. Khader Muhammad Hassan 'A'abdeh, 53. His testimony was given to Najib Abu Rokaya on 1 October 2000 at al-Mokassad Hospital.
4. Muhammad Shweikat al-Khatib, 38. His testimony was given to Nisreen 'Alyan and Lior Yavneh on 2 October 2000 at the witness's home.
5. 'Ali 'Abd Rabbo Dwei'at, 48. His testimony was given to Nisreen 'Alyan and Lior Yavneh on 2 October 2000 at the witness's home.
6. 'Omar Di'ab 'Ali Simarin, 26. His testimony was given to Nisreen 'Alyan and Lior Yavneh on 3 October 2000 at St. John's Hospital.
7. Mahmud Yehi Najar, 39. His testimony was given to Nisreen 'Alyan and Lior Yavneh on 2 October 2000 at the Leumit Health Fund clinic in Sur Baher.
8. Husam Fatah-Allah 'Abd al-Mon'im Jawarneh, 33. His testimony was given to Najib Abu Rokaya on 3 October 2000 at al-Mokassad Hospital.
9. 'Awad 'Issa 'Awad Mansur, 33. His testimony was given to Najib Abu Rokaya on 3 October 2000 at Augusta Victoria Hospital.
10. Muhammad Ahmad Naji Niroh, 51. His testimony was given to Najib Abu Rokaya on 4 October 2000 at Augusta Victoria Hospital.
11. Khalid Zagari, 29. His testimony was given to Eitan Felner on 3 October 2000 at Hadassah Hospital, Ein Kerem.
12. 'Adel Husseini Hassan 'Udi, 25. His testimony was given to Tomer Feffer and Nisreen 'Alyan on 4 October 2000 at al-Mokassad Hospital.
13. Muhammad 'Abd Salameh Abu Libdeh, 72. His testimony was given to Tomer Feffer and Nisreen 'Alyan on 4 October 2000 at al-Mokassad Hospital.
14. 'Awad Muhammad 'Abd 'Allah 'Awad, 30. His testimony was given to Najib Abu Rokaya on 4 October 2000 at the witness's home.
15. H.A., 24 (his name is on file at B'Tselem). His testimony was given to Nisreen 'Alyan and Tomer Feffer on 4 October 2000.
16. Walid Muhammad Khawis, 32. His testimony was given to Najib Abu Rokaya on 4 October 2000 at Augusta Victoria Hospital.
17. Nasser 'Abd al-Karim Qraim, 36. His testimony was given to Nisreen 'Alyan and Tomer Feffer on 4 October 2000 at al-Mokassad Hospital.
18. Information provided by Dr. Khalid Qre'a, director of al-Mokassad Hospital, to Najib Abu Rakaya on 1 October 2000 at Dr. Qre'a's office.
19. Information provided by Dr. Muhammad Qumbar, physician at the medical clinic on the Temple Mount, to Najib Abu Rakaya on 4 October 2000 at the clinic.
20. Information provided by Muhammad Khalil 'Abd Rabbo, journalist, to Najib Abu Rakaya on 2 October 2000 in Jerusalem.

Response of the Spokesperson for the Jerusalem District of the Israel Police Force, Shmuel Ben-Ruby

(given by telephone on 5 October 2000)

- 1) Last Wednesday and Thursday (27-28 September) the Jerusalem police command held several meetings with Palestinian officials and Muslim spiritual leaders in order to exert a calming influence and reduce tension on the Temple Mount. These discussions indicated that the Palestinian officials and spiritual leaders heads would not be able to control the young Palestinians who will come to the Temple Mount.
- 2) It was impossible to conduct any dialogue when thousands of young men with stones assault the police and approach to a distance of ten to fifteen meters throwing stones in massive numbers.
- 3) During the first minutes of the attack on the police by the young Palestinians, some thirty-five police were injured. Some of them, with light to moderate injuries, were taken to hospitals.
- 4) Al-Mokassad and Augusta Victoria hospitals have refused to hand over to the police details on the number of wounded brought from the Temple Mount, their condition, and whether people were killed during the events.
- 5) The contention regarding the possibility of using water cannons is ludicrous; is it the duty of the police to place at the gates of the Temple Mount gigantic water containers and water cannons to disperse the masses of people, or maybe use helicopters containing water and dye?

בצלם

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