

Jerusalem, December 1989

Annual Report 1989

**VIOLATIONS OF HUMAN RIGHTS
IN THE OCCUPIED TERRITORIES**



B'TSELEM

**The Israeli Information Center for Human Rights
in the Occupied Territories**



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Edited by **Ronny Talmor**

Contributors:

**Elliot Appel, Bassem 'Eid, Shirly Eran,
Yuval Ginbar, Michal Toiber, Na'ama Yashuvi -- B'Tselem**

Advocate **Hussein Abu Hussein**

Dr. Edy Kaufman - Department of Political Science, Hebrew University
Ehud Paporish

MK Amnon Rubinstein

Advocate **Dan Simon** - The Association for Civil Rights in Israel

Dr. Emmanuel Theodore - Director, Department of Internal Medicine E,
Beilinson Hospital

A. B. Yehoshua

MK Dedi Zucker

Layout and Production: **Vieder Sigawi**

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בִּיטָא

English edition edited by **Elliot Appel**

Translation by:

**Elliot Appel
Barbara Mann
Nir Navot
Ronny Talmor**

מרכז המידע הישראלי לזכויות האדם בשטחים
'בִּיטָא' מרכז המידע הישראלי לזכויות האדם בשטחים

الانسان في الأراضي المحتلة

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

רחוב עמק רפאים 43 (קומה שנייה), ירושלים 93141

טל 02/5617271, פקס 02/5610756

43 Emek Refaim St (Second Floor), Jerusalem

Tel. 02/5617271, Fax 02/5610756

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With the publication of its first annual report, B'Tselem's Executive Committee would like to express its gratitude to the staff and volunteers who contributed with such dedication to its completion.

This is also an opportune time to thank those who have given us the means for fulfilling our purpose: The Ford Foundation, the New Israel Fund, the Kaplan Foundation, the Mailman Foundation, the Bydale Foundation, and the Stone Charitable Foundation.

Finally, we must thank the Carter Center at Emory University in Atlanta for honoring us with the Carter-Menil Human Rights Award, which we shared with the Ramallah based Palestinian human rights organization al-Haq. Receipt of this award at such an early stage of our activity obliges us to redouble our efforts defending human rights.

B'Tselem's Executive Committee

Dr. Uriel Procaccia -- Chairperson

Dr. Edy Kaufman

Adv. Joshua Schoffman

Adv. Danny Zeidman

MK Dedi Zucker

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INTRODUCTION

The publication of the first annual report of a human rights organization is an event which calls for many explanations. It is not a coincidence that the publication of this report coincides with the second anniversary of the uprising in the West Bank and the Gaza Strip, the Intifada, or "shaking off."

When it became clear that the Palestinian rebellion was an ongoing and widespread phenomenon; when the extent of deterioration in the patterns of governing the territories was understood, a group of Israelis came together to fight human rights violations and preserve the humanistic character of the State of Israel. Israeli Jews and Arabs, Knesset Members from various parties, lawyers and jurists, scientists and academicians, rabbis and scholars, authors and artists, doctors and journalists -- all concerned with both the violation of Palestinian human rights and the erosion of Israeli society's humanistic character -- established an information center whose goal is, as Dedi Zucker put it, "to involve Israeli society as much as possible with the events that are taking place in the occupied territories and to fight the phenomena of repression and denial."

The center's name, **B'Tselem**, which means "in the image of," was taken from Genesis 1, 27: "And God created man in His image. In the image of God did He create him. Man and woman He created them." It is in this spirit that the first article of the Universal Declaration of Human Rights states that "All human beings are born equal in dignity and rights." The founders of the center regard this declaration as a universal demand regardless of race, religion, or gender.

The image of human rights champions in the world is frequently determined by the arena of their activity. Freedom of speech activists in China are called "anti-Communists" while those who objected to torture in Chile were labeled "Communists." Human rights activists in Israel are sometimes accused of "aiding and abetting the enemy." A former Member of Knesset published the following criticism: "With all the importance of preserving human rights in the territories, it would be more appropriate if these MK's and the rest of the founders channelled their energies and talents to document and publish information about the terrible conditions of Jews in Syria, Ethiopia, and North Yemen who live under permanent threat to their lives. Don't forget: 'Thy city's own poor come first' [A Hebrew proverb roughly equivalent to 'Charity begins at home']²."

The Jews among us believe that there is no contradiction between "If I am not for myself, who will be for me?" and "Love your neighbor as yourself." We have been -- and still are -- working actively for the rights of our Jewish brothers wherever they are oppressed, including in the Arab countries. According to our conception of values, morality and Jewish history drive us to this widespread activity.

Even in ancient times, when the Jewish people was sovereign in its own state, it maintained standards -- concerning the oppressed and underprivileged -- which set an example to other nations in the area. During the long years of diaspora, our status as a persecuted minority and our refusal to give up our right to be different, undoubtedly contributed to our awareness of individuals' rights.

Throughout its history, the term "human rights" has been connected to Jews. The first association bearing this name was formed in France after the Dreyfuss trial, in order to fight Anti-semitism and later discrimination in general.

Following the Holocaust, as a result of grave feelings of guilt over its inaction and indifference, the international community committed itself to fighting oppression and persecution of individuals everywhere. Thus it comes as no surprise that Rene Kasin was the man who drafted the Universal Declaration of Human Rights. A Jew proud of his heritage, Rene Kasin -- Nobel Peace Prize Laureate -- turned to the ten commandments for the source and inspiration of the 30 articles which constitute the first UN document dealing with human rights.

Being once again an independent people in our own state, how can we ignore our roots and our historical background when it comes to our actions as sovereigns?

A first annual report does not presume to cover all the articles of the Universal Declaration. B'Tselem began its work only last February and the number of staff members and volunteers has grown gradually. The formation of the principles guiding our work is still in progress, and determination of priorities is still accompanied by unresolved doubts. For the purpose of this annual report it was determined that we would concentrate on violations of human rights by authorities of the State of Israel. Information about attacks committed by Palestinians against Israelis and other Palestinians is mentioned in the report only to assist in understanding the background of the existing situation.

The same is true for attacks committed by Israelis -- including settlers -- against Palestinians. They are documented only in regard to the government's attitude towards these illegal acts. This policy is in no way an expression of unconcern towards the violent phenomena which occurred last year in connection with the Intifada, including the mass murder on bus 405 and cases of execution, accompanied by severe torture of alleged collaborators with Israel. The fact that we have not taken a position in these cases should not indicate that we do not regard these actions as violations of human rights. The issue of holding semi-governmental bodies to human rights standards during a civil uprising demands in-depth consideration (as indeed is currently being done by Amnesty International). We are in no rush to determine that the leadership of the Palestinian uprising is innocent of severe violations of human rights.

Narrowing the mandate of B'Tselem to violations of human rights committed by the Israeli government is an outcome of our being an

Israeli human rights organization. Murder and torture shock each and every one of us, but as Israeli human rights activists our first responsibility is to warn against violations committed by our government, effectively in our name. Our role as citizens of a democratic state, is to take part in the formation of our country's moral standards and its policy towards hundreds of thousands of people living under its rule and deserving of its protection.

Determination of the violations dealt with in the report was also influenced by considerations of the accessibility of information. This is why important issues such as those raised in Article 5 of the Universal Declaration of Human Rights, "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment," are not treated in the report.

Data collection took into account all the information provided by Israeli authorities, and B'Tselem did not neglect to ask for the authorities' reactions to its data, even if questions remained at times unanswered. Information was also collected from other human rights organizations, Palestinian, Israeli, and international, both governmental and non-governmental. A large part of the report is based on reports -- proven reliable -- in the media, and on data collected by B'Tselem staff members in their visits to the West Bank and the Gaza Strip.

The overall picture which has emerged since the beginning of the Intifada indicates some very substantial changes in the patterns of human rights violations by the Israeli authorities in the territories. These changes are especially noteworthy from the point of view of quantity. In substance a few unfamiliar means were introduced, such as various types of ammunition, plastic bullets, some forms of rubber bullets, and regulations for opening fire on civilians. On the other hand, quantity-wise, there was a growth of dozens and even thousands of instances of existing restrictions, such as administrative detentions, expulsions, house demolitions and sealings. Collective punishments were expanded to the proportions of a policy expansive in size and duration: curfews, restrictions on movement, closure of the educational system from kindergartens through universities.

An in-depth look at the report proves beyond doubt that the likelihood of an "enlightened occupation" is only an illusion. Beyond disagreements over solutions to the conflict, it is important to unite most of the public in maintaining minimal standards of behavior towards fellow humans.

Our reappearance as a sovereign state in the international community has charged us with both practical and moral obligations, especially because the Universal Declaration of Human Rights was formulated following the horrors of World War II and, as it says, "disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind..."³

We hope that the reader will not stand aside but rather join the fight to preserve mankind's image and human rights.

Edy Kaufman

APPENDIX

The Universal Declaration of Human Rights

NOTES

1. **Al-Hamishmar**, March 28, 1989
2. Yitzhak Yitzhaki, Letter to the editor, **Yediot Aharonot**, April 12, 1989.
3. From the Preamble, **Universal Declaration of Human Rights**, The United Nations, 1948.

APPENDIX

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore, THE GENERAL ASSEMBLY proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Influence, no distinction shall be made on the basis of the political, juridical and social status of the national status of the country or territory to which a person belongs, whether it be independent, trust, non self governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. (2) No one shall be held guilty of any penal offence of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education for their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.



FATALITIES

In view of discrepancies in the data received from various sources on the number of Palestinians killed in the Intifada, it should be explained how we arrived at our figures.

There are four main sources for data on fatalities: Palestinian sources (human rights organizations on the West Bank and in the Gaza Strip), the Defence Establishment (IDF Spokesperson, Minister of Defence, the Chief of Staff and his deputy), the Israeli press, and B'Tselem investigations.

The numerical assessments of the Palestinian sources are the highest. They include those who died from gunfire and non-shooting injuries as well as tear gas related deaths and deaths under unclear circumstances. The last two categories include cases in which it is impossible to unequivocally determine that they were caused by security forces or Israeli citizens.

The figures given by the IDF Spokesperson and the Minister of Defence are incongruous. The former are lower. The IDF encounters objective difficulties in counting the casualties as some of the dead (and many of the wounded) do not pass through the hospitals and are not reported to military forces in the field. To the best of our knowledge, the IDF Spokesperson does not list a considerable proportion of those killed by beatings.

The figures of the Minister of Defence are close to those of B'Tselem but do not include some cases that, according to our investigations, were caused by the security forces, but are nevertheless not counted by the Minister.

In reply to a parliamentary question by MK Dedi Zucker about the discrepancies between the reports of the various sources in the Defence Establishment¹, the Minister of Defence replied that the IDF Spokesperson referred only to casualties incurred in clashes with security forces while other sources include those killed by local residents or from other causes².

The Israeli press daily reports on the previous day's fatalities, relying on Palestinian and security sources.

B'Tselem's figures include all Palestinian deaths in the territories -- by shooting or non-shooting injuries -- which we have a reasonable basis to assume were caused by security forces. When there are discrepancies between the figures of the Palestinian sources and those of the IDF, we conduct an investigation through our field workers and seek clarifications from the Ministry of Defence.

The data on fatalities have been updated for publication of this annual report. A number of investigations were conducted and new facts disclosed. There are thus slight differences between the figures published here and those that were published in the monthly B'Tselem information sheets.

1. PALESTINIANS KILLED BY THE SECURITY FORCES

Since the outbreak of the Intifada on December 9, 1987, and through November 30, 1989, 586 Palestinians were killed by the security forces.* 293 were killed in the first year, through December 8, 1988, and 293 in the second year.

By shooting (including plastic and rubber bullets) - 555: 270 in the first year and 285 in the second.

Through non-shooting injuries (beatings, burns and others) - 31: 23 in the first year and 8 in the second.

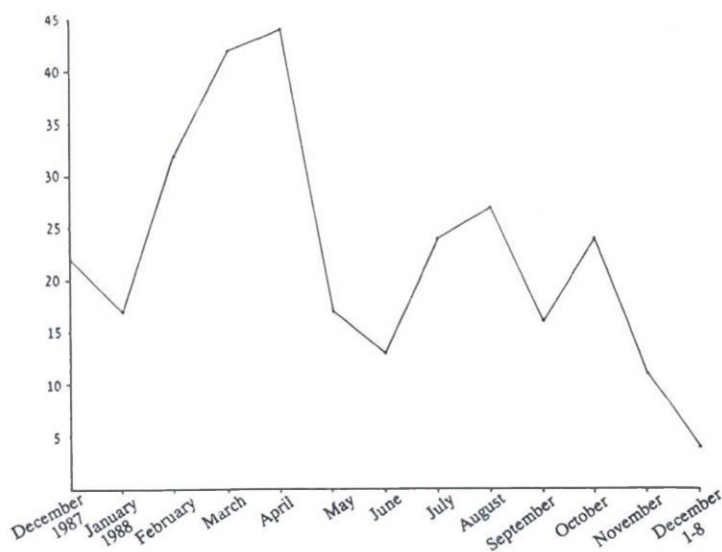
At least 72 other people died a short time after being exposed to tear gas, among them some 30 infants. From a medical point of view, it is difficult to determine that exposure to tear gas is a direct and sole cause of death.

* In the first five days of December 1988, 8 persons were killed by shooting of the Defence Forces, among them a girl aged 10. Correct to December 5, 1989, 594 Palestinians had been killed by shooting of the Defence Forces.

1.1 Distribution by Month

First Year - December 9, 1987 to December 8, 1988

Month	Fatalities on the West Bank	Fatalities in the Gaza Strip	Total
December 1987	8	14	22
January 1988	4	13	17
February	27	5	32
March	37	5	42
April	26	18	44
May	13	4	17
June	9	4	13
July	20	4	24
August	16	11	27
September	8	8	16
October	21	3	24
November	7	4	11
December to 8.12.88	3	1	4
Total first year	199	94	293



Second Year - December 9, 1988 to November 30, 1989

Month	Fatalities on the West Bank	Fatalities in the Gaza Strip	Total
December from 9.12.88	18	8	26
January 1989	13	6	19
February	11	6	17
March	11	13	24
April	20	11	31
May	15	18	33
June	9	10	19
July	19	12	31
August	14	13	27
September	16	7	23
October	20	10	30
November	12	1	13
Total second year	178	115	293
Total for two years	377	209	586

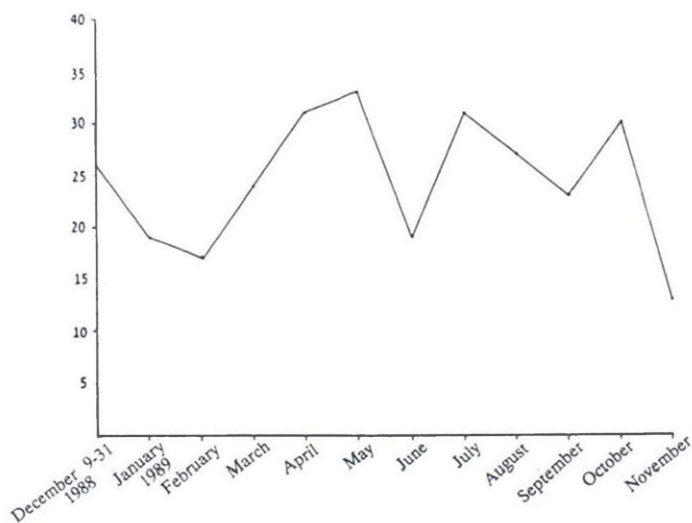




Photo: Moti Rozitsky

1.2 The Age of Those Killed

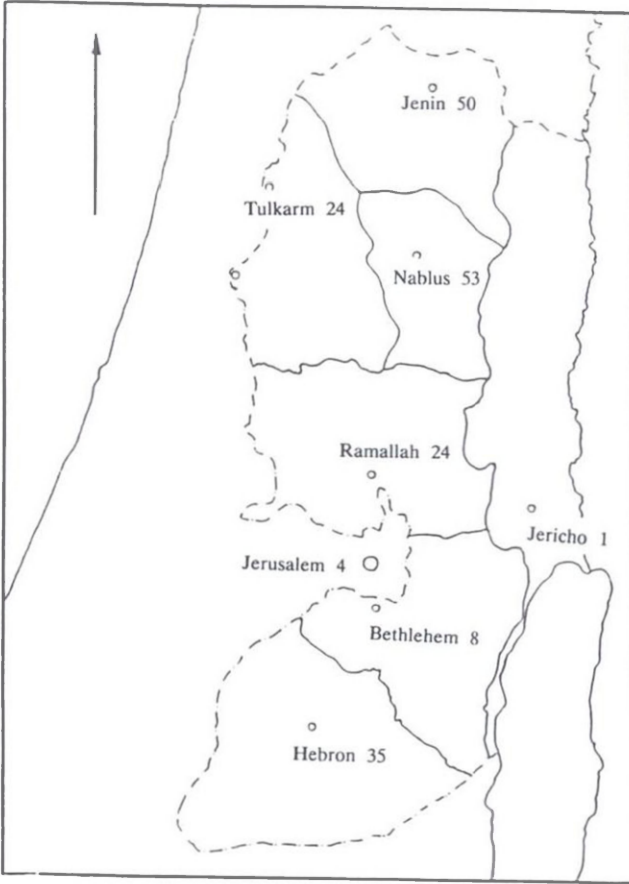
Age	Killed in the first year		Killed in the second year		Total in two years	
	No.	%	No.	%	No.	%
Under 12	9	3.1	28	9.6	37	6.3
13 - 16	42	14.3	52	17.8	94	16.1
17 - 24	163	55.6	173	59.0	336	57.3
25 - 35	55	18.8	27	9.2	82	14.0
36 - 45	11	3.8	5	1.7	16	2.7
46 +	13	4.4	8	2.7	21	3.6
Total	293	100.0	293	100.0	586	100.0

1.3 Causes of Death

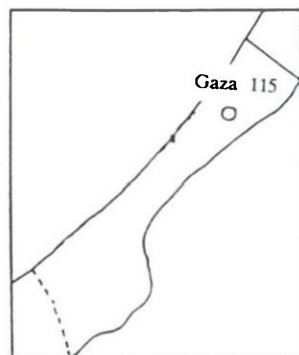
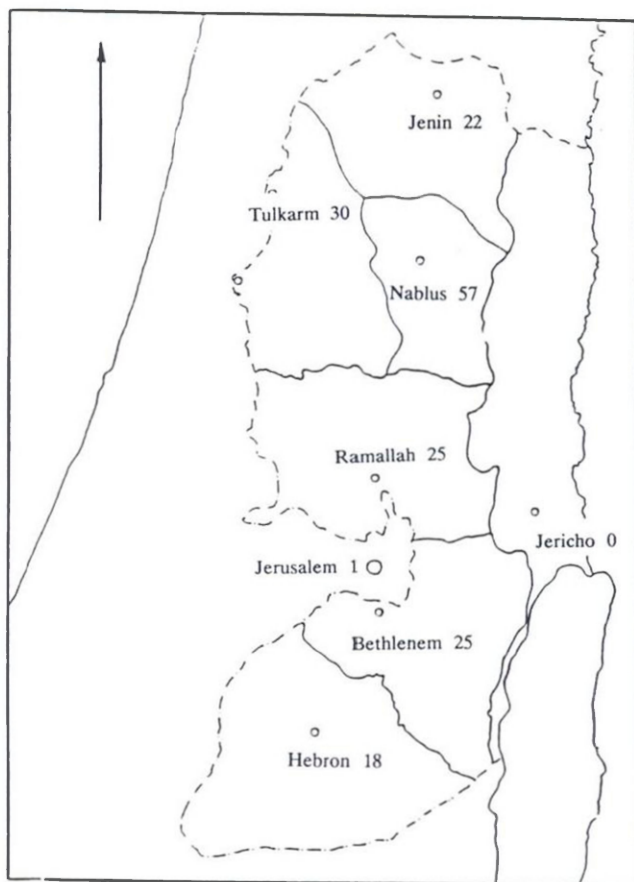
Cause	Fatalities in the first year			Fatalities in the second year			Total in two years
	WB	GS	Total	WB	GS	Total	
Beatings	7	13	20	1	2	3	23
Electro-cution	1	-	1	-	-	-	1
Dud shells	-	-	-	3	-	3	3
Other	1	1	2	1	1	2	4
Total non-shooting	9	14	23	5	3	8	31
Shooting	190	80	270	173	112	285	555
Total	199	94	293	178	115	293	586

1.4 Distribution by District

The First Year -- December 9, 1987 - December 8, 1988



The Second Year -- December 9, 1988 - November 30, 1989



1.5 Summary

In toto, from the beginning of the Intifada through November 30, 1989, 586 Palestinian residents were killed, 377 of them on the West Bank and 209 in the Gaza Strip.

37 of the fatalities were children under the age of 12 and 94 were aged 13-16.

The number of killed in the second year of the Intifada, to December 8, 1989, is apparently slightly higher than in the first year.

The figures for the second year in this Report refer only to those killed through November 30, 1989, a total (293) is the same as the figure for the first year.

Nonetheless, there are a number of prominent differences:

1.51 The age of the victims

The 17-24 age range accounted for most of the Palestinians killed in both years, at 56% in the first year and 57% in the second year. In the number of children killed in the second year (80), there was a drastic rise, of some 57%, as against their number in the first year (51).

Particularly prominent is the rise in the number of fatalities below the age of 12, from 9 in the first year to 28 in the second. The number of fatalities in this age group rose sixfold in the Gaza Strip (from 2 to 12) and more than doubled in the West Bank (from 7 to 16). The number of fatalities aged 13 - 16 rose in the Gaza Strip (from 17 to 22) and on the West Bank (from 25 to 30).

Children comprised 17% of total number of fatalities in the first year and 27% in the second year.

1.52 Cause of death

In the second year there was a significant decline in the number of fatalities not caused by shooting, from 23 to 8. This figure stands out even more in comparison with the number killed by beating: 20 in the first year and 3 in the second year.

On the other hand, the number of shooting deaths increased from 270 in the first year to 285 in the second year.

1.53 Distribution by district

There was a prominent rise (22%) in the number of fatalities in the Gaza Strip (from 94 to 115) and a parallel decline on the West Bank (from 199 to 178).

Within the West Bank, the highest number of fatalities was in Nablus in both years, comprising 27% of those killed on the West Bank in the first year and 32% in the second year.

In Jenin and Hebron, the number of fatalities in the second year dropped to about half the number in the first year. In Bethlehem, on the other hand, the number tripled. In the other districts, there was no significant change.

Jerusalem and Jericho are the districts with the lowest relative number of fatalities for in both years of the Intifada.

2. PALESTINIANS KILLED BY OTHER THAN THE SECURITY FORCES

B'Tselem is committed to international standards of human rights and acts only in the context of the Government or other bodies who have the power to enforce law and order.

Consequently, the center does not directly document breaches of human rights by individuals or groups who are not agents of a legal and recognized body. Nevertheless, figures are given below as background for comprehension of the situation extant in the territories and to emphasize the price in human life.

2.1 Palestinians killed by Israeli civilians

Since the outbreak of the Intifada, 25 Palestinians have been killed in circumstances in which Israeli civilians have been suspected (see chapter on "Discrimination in Law Enforcement").

14 were killed in the first year (through December 8, 1988) and 11 in the second year.

2.2 Palestinians killed by suspected Palestinian collaborators

Since the outbreak of the Intifada, 5 Palestinians have been killed by other Palestinians who were suspected of collaboration with Israeli authorities. In the first year, through December 8, 1988, one Palestinian was killed in such circumstances and, in the second year, 4 Palestinians.

2.3 Palestinians killed by other Palestinians

According to the figures of the Associated Press, 153 Palestinians have been killed, from the beginning of the Intifada through the end of November 1989, who were defined as suspected of collaboration with Israeli authorities. 22 of them were killed in the first year and 131 in the second year.

To the best of our knowledge, this figure includes Palestinians who collaborated with the General Security Services and the Civil Administration, but it also includes some who were suspected of moral offenses, prostitution and drugs and there were also killings against the background of political rivalries and family feuds.

On November 14, 1989, Amnesty International published that over 120 Palestinians have been killed by other Palestinians between December 1987 and October 1989, some of them having been interrogated and tortured before being killed. The organization states: "Most such killings are believed to have been carried out by special squads of Palestinians intent on punishing people alleged to be 'collaborating' with the Israeli authorities. Palestinian leaders have reportedly called for restraint and for warning procedures to be adopted first, but nevertheless endorsed or failed to explicitly condemn the killing of 'collaborators.'"³

3. ISRAELIS KILLED

From the beginning of the Intifada through November 30, 1989, 19 Israelis were killed in the territories, of whom ten were soldiers and nine civilians, among them three infants.

In the first year, through December 8, 1988, eight Israelis were killed by Palestinians in the territories, of whom three were soldiers and five civilians. In the second year, through November 30, 1989, eleven Israelis were killed, of whom seven were soldiers and four civilians.

Five soldiers and two civilians were shot to death; two soldiers and one civilian were stabbed to death.

Two soldiers and one civilian were killed by a stone or cinder block hitting them on the head.

One soldier and five civilians were killed by Molotov cocktails.

In addition to the above, teenager Tirza Porath was shot by security guard Roman Eldobi in April 1988, in what has been termed the "Beita Affair;" and infant Itai Hamtzani by fire from IDF soldiers, in August 1989, when his father thought the soldiers were terrorists and opened fire in their direction.

4. FATALITIES WITHIN THE GREEN LINE

B'Tselem, by definition, does not document events within the Green Line. Nevertheless, there have been instances of Israeli civilians being killed by Palestinians from the territories and other instances of Palestinians from the territories being killed by Israelis within the Green Line. Even if there is some difficulty in defining some of the cases as being connected with the Intifada, there are events the motives for which are undisputed.

4.1 Israelis and Foreign Citizens

According to the IDF Spokesperson, from the beginning of the Intifada through November 30, 1989, 4 soldiers and 23 Israeli civilians and foreigners have been killed within the Green Line by Palestinians residing in the territories.*

In the first year, to December 8, 1988, 6 Israeli civilians were killed within the Green Line by Palestinians

*Our request to the Hebron Jewish Information Center for information they have on Israeli civilians and foreigners killed by Palestinians was denied.

from the territories. In the second year, to the end of November 1989, 4 soldiers and 17 Israeli civilians and foreigners were killed.*

Israelis killed in 1989 were:

Dr. Kurt Shellinger, stabbed to death in Tel-Aviv by a resident of Jabaliya on January 5, 1989.

Advocates Kalman Vardi and Nissim Levy were stabbed to death in Jerusalem by a resident of the territories on May 3, 1989.

Sergeant Avi Sasportas was shot to death by residents of Gaza. His body was discovered on May 7, 1989, buried at Givati Junction, after he had been missing for three months.

Thirteen civilians and three soldiers were killed en route to Jerusalem when a resident of Nuseirat drove a bus in which they were travelling off the road into a ravine on July 6, 1989.

Zalman Shlein was stabbed to death at Gan Yavneh by 2 youths from Gaza on July 14, 1989. Michael Astamkar was murdered in Tel Aviv by a resident of Ramallah on September 7, 1989.

4.2 Palestinians

Since the beginning of the Intifada, at least five Palestinians have been killed within the Green Line by Israeli civilians, three of them in the first year and two in the second.

Among the Palestinians killed were:

On August 9, 1988, residents of Or Yehuda burnt a hut in which 3 residents of Gaza were sleeping: Halil Mustafa Abadali, aged 41 of Khan Yunes, died on August 10, 1988.

*This figure does not include the missing soldier, Ilan Saadon, nor Prof. Menahem Stern, who was murdered in the Valley of the Crucifixion on June 22, 1989, and does not appear in the IDF Spokesperson's list. In answer to our question, the Spokesperson's office told us that it has no unequivocal information linking the murder of Prof. Stern to terrorist activity.

Said Salah Abed, 20, of Tel Sultan, died on August 11, 1988. Nissim Ibrahim Abed, aged 26, of Ghazi Camp, died on August 15, 1988.

On May 22, 1989, Abed el-Aziz Zabdi, 42, of Haratia, was killed by a stone thrown at his car on the Ashkelon - Kiryat Gat road.

On July 6, 1989, Kamal Samih Nasser, aged 38 of Massajia, was killed after a stone hit his car near Moshav Shibolim in the Negev.

APPENDICES

- a. The death of Nasser Ibrahim el-Kassas of Daheishe
- b. The death of Salah el-Bahash of Nablus

NOTES

- 1. MK Dedi Zucker, Question to the Minister of Defence, February 9, 1989.
- 2. Minister of Defence, Yitzhak Rabin, in response to the question of MK Dedi Zucker, April 12, 1989.
- 3. Amnesty International, MDE 15/WU 11/89, 14 November 1989.

APPENDIX A

The death of Nasser Ibrahim el-Kassas of the Daheishe Camp

On May 2, 1989, Adv. Dan Simon of the Association for Civil Rights in Israel and Bassem 'Eid of B'Tselem visited the Daheishe refugee camp and collected the following affidavit.

I, the undersigned, -----, a resident of the refugee camp at Daheishe, having been warned that I must state the truth and that I shall be liable to the punishments prescribed in the law if I do not so do, hereby declare in writing as follows:

1. On April 16, 1989, a group of young people gathered outside the home of Imad Kraka, in the Daheishe refugee camp.
2. On that day there was a curfew in the camp.
3. A group of soldiers, among them a soldier calling himself Abu Nigro, ordered us to go inside the house. They also swore at us. There was a tense atmosphere between the soldiers and the youths.
4. At about 1.15 p.m., a group of young men stood at the junction of the Western Street (that lies east-west) and the Police Station Street which goes in a northerly direction. On the descent, in the direction of north, at a distance of about 80 meters from the junction, was the same group of soldiers. The young men began to throw stones at them.
5. The soldiers fired rubber bullets at us and later shot live ammunition into the air.
6. A group of six youngsters, among them Nasser Ibrahim El-Kassas, aged 16, and myself, began to run along the Western Street in a westerly direction.
7. After a run of some 40 meters, 3 soldiers suddenly came out of an alley. The soldiers were 10 - 15 meters in front of us. We were scared of the soldiers and turned around and began to run back towards the junction. We all turned and began to run. None of us took any action against those soldiers. We simply fled.
8. As soon as we began to run I heard two shots. One of them hit the back of Nasser el-Kassas. He continued to run with us, but after 20 meters fell injured. He died that day at the el-Muqassed Hospital.

9. When the soldiers fired they did not call on us to halt. They did not fire in the air.
10. We managed to run only two paces when Nasser was shot.
11. To the best of my knowledge, the soldiers who shot Nasser were part of the same group of soldiers at whom stones had been thrown, and they had simply done a flanking movement to come at us from the west.
12. I am signing this statement after it has been translated and read out to me in Arabic by Mr. Bassem 'Eid.

(-)

Signature of Declarant

On May 8, 1989, Adv. Dan Simon asked the Military Advocate General to investigate the death of Nasser el-Kassas. On June 1, 1989, Adv. Simon received an answer from the Judge Advocate General's Corps which stated that an investigation had begun and that he would be advised of the results.

APPENDIX B

The death of Salah el-Bah'sh of Nablus

On June 18, 1989, Salah el Bah'sh, 17, was shot dead by IDF troops in the Nablus Casbah, between 8 and 9 am. The IDF Spokesperson told journalists that the youth was fired on after he had pretended to draw his identity card from his pocket, and then suddenly struck one of the soldiers and fled. According to the IDF Spokesperson, El Bah'sh did not stop when the soldiers called out "Halt!", and he was then fired upon (Hadashot, June 19, 1989).

The results of an inquiry conducted by B'Tselem and ACRI (Association for Civil Rights in Israel) present a different picture. Eyewitnesses who observed the incident from a distance of 10 to 15 meters from the shooting have given affidavits, taken by Attorney Dan Simon.

I, the undersigned, -----, a resident of the Casbah in Nablus, having been warned to tell the truth or face the punishment specified by law if I do not, hereby declare as follows:

1. I am a resident of the Casbah in Nablus. I work in the market known as the "Khan," in "Khan Merchants" Street, which runs from east to west.
2. I work in a stall some ten meters west of an alley known as the "Gold Market," and some three meters east of the steps of "El Nasser."
3. On group of 3 soldiers with weapons and two-way radios were standing on the "El Nasser" steps. Another group of three soldiers were standing in the "Gold Market," at a distance of some 15 meters east of the steps.
4. At around 8:30 am, I saw a young man whose name I later learned was Salah Tawfik El-Bah'sh making his way through the Khan Market, going from east to west. There were many people in the market at this time.
5. As Salah passed near to the 'Gold Market' alley, the witnesses heard a shout "Halt" in Hebrew. At that time there were some eight people near the "Gold Market."
6. Salah did not react to the soldiers' call. He did not look at them, did not halt, and did not start running. He kept moving at his normal slow pace. I did not hear any more orders to halt nor were any shots fired in the air.

7. A soldier was standing on the second step, about 3 meters away from me. The soldier was carrying a weapon and a small walkie talkie.
8. As Salah approached the stairs, I saw the soldier rush out to him, kneel in front of him, and aim his weapon at him. The soldier did not call out to Salah, and he did not fire a warning shot in the air.
9. When the soldier landed in front of Salah and aimed his rifle at him, Salah stopped immediately and quickly raised his hands.
10. Immediately thereafter, the soldier fired two shots at Salah's chest, from a distance of about 20 centimeters, while Salah's hands were raised.
11. Immediately after that, I heard another gunshot from the direction of the soldiers moving through the "Gold Market." I do not know who that shot was aimed at.
12. After the shooting a riot broke out in the market, and the soldiers took Salah away. I learned that Salah died before reaching the hospital.
13. In general, when I am walking down a street in which there are other people, I do not stop immediately when I hear a soldier ordering someone to stop. I halt and answer the soldier only the second or third time, after I am certain that the soldier is talking to me specifically. That is what most of the people I know do as well. Not every Nablus resident understands the word "halt" in Hebrew.
14. The soldier who shot Salah had been standing on the steps since 7:00 am and had been arresting people without calling to them. He would get his hands on passersby and take them to a court above the steps of "El Nasser" for interrogation.
15. As far as I know, Salah El-Bah'sh was not wanted by the IDF.
16. This morning the soldier who shot Salah was in the same place.

17. I am signing this affidavit after it was translated and read to me in Arabic.

(-)

Signature of Declarant

On July 9, Adv. Dan Simon asked the Military Advocate General to investigate the death of Salah El-Bah'sh. In response to a request from the Military Police/CID, Adv. Simon arranged a meeting in the beginning of November between CID investigators and witnesses from Nablus, and the questioning took place in his presence. The file was transferred to the Judge-Advocate General's Corps central district office for a decision on whether to bring the soldier to trial.

INJURIES

In coping with the violence in the territories, during which the residents of the territories desist, as a matter of principle, from using firearms, the IDF has recourse to various measures to disperse demonstrations, to allow military operations as required, and to protect soldiers whose lives are endangered by the residents.

Although at first attempts were made to use beatings and tear gas, the use of standard bullets gradually spread. The injury caused a person by this ammunition (high velocity shells) is serious, and the number of shooting injuries - versus those injured by beating - has increased over the course of the confrontation, as can be seen from the tables below.

A comparison of parts of the body injured, according to a sample of 1,000 casualties from Gaza at the beginning of 1988 and 1,000 at the end of 1988, shows that head, chest, and stomach injuries are more frequent among those injured in Gaza than among IDF casualties in the Yom Kippur or Lebanon Wars.¹

Injuries to the head, chest, and stomach of IDF soldiers were of frequency similar to that observed in other armies. Among those wounded in Gaza, the frequency was higher, and even rose toward the end of 1988. It is superfluous to explain that these injuries are more serious for the wounded person and are often fatal.

Another point of concern arising out of the data is the number of children injured. Although children aged 12 and up play an active part in violent demonstrations, young children were also injured and it can be assumed that they had no direct connection with the Intifada.

The impression obtained is that too free a use was made of shooting, with fatal injuries being sustained, beyond what was required to disperse demonstrations or to impose order, and without adequate caution being adopted to avoid injuring children.

When the use of firearms and the number of injuries to residents of the territories were protested, the IDF switched, in August 1988, to the use of plastic bullets as its primary ammunition. These bullets are supposed to wound but not kill, but this turns out not to be the case when they are used at a range of less than 75 meters. In practice, for many reasons, these bullets are fired at a much shorter range and it rapidly became apparent that they result in serious injuries and death.²

Emanuel Theodore



DATA

The absolute number of wounded is not known to us, and to the best of our knowledge, it is not known to anyone. Many of the residents prefer not to be admitted to hospitals so as not to be subject to interrogation. Often soldiers in the field do not know how many were injured so IDF reports are only partial. However, there is no doubt that many thousands of Palestinians have been wounded during the past two years.

UNRWA, the United Nations Relief and Works Agency, reports that from the beginning of the Intifada to the end of November 1989, 37,439 Palestinians were wounded in the territories.

On the West Bank, 8,058 Palestinians were wounded, 2,259 of them by gunfire. 484 of the wounded were children under the age of 15.

In the Gaza Strip, 29,381 people were wounded, 6,269 of them by gunfire. 1,995 of the wounded were children under the age of 15.³ UNRWA states that these figures represent only those injuries reported to the agency.

It is unclear whether if this figure includes a report from all the hospitals, it also includes recipients of first aid alone. It should be noted that UNRWA is more active in the Gaza Strip than on the West Bank and this could be the reason for the inexplicable difference between the figures on injuries from these areas.

In the absence of definite figures, those given below are based on the figures we obtained from one hospital. This is a sample, not necessarily representative, and is presented only in order to characterize the causes of the injuries.

El-Ittihad Hospital in Nablus

Comparison between a sample from the first year, December 9, 1987 to March 18, 1988 and a sample from the second year, May 1, 1989 June 18, 1989.

1. Cause of injury

Cause	First Year		Second Year	
	No. of injured	in %	No. of injured	in %
Rubber bullets	79	12	6	3
Other bullets (incl. plastic)	161	23	141	72
Total by shooting	240	35	147	75
Gas	57	8	1	1
Beating and bone breaking	388	56	45	23
Unknown	1		4	
Total	686	99	197	99

From the table, it follows that the percentage of injuries by rubber, plastic, and other bullets increased from 35% in the first year to 75% in the second year. The percentage of those injured by other means, including beatings, consequently dropped.

2. Age of the injured

Age	First Year		Second Year	
	No. of injured	in %	No. of injured	in %
Under 12	46	7	21	11
13 - 16	70	10	35	18
17 - 19	128	19	54	28
20 - 29	298	44	66	32
30 - 39	59	8	10	5
40 - 45	19	3	5	3
Over 46	59	8	6	3
Not known	7		1	
Total	686	100	197	100

The average age of those injured declined from 24.1 in the first year to 20.7 in the second year.

The percentage of children under 12 rose from 4% in the first year to 11% in the second year.

The percentage of adolescents aged 13-16 rose from 10% in the first year to 18% in the second year.

The percentage of youths aged 17-19 rose from 19% in the first year to 28% in the second year.

The weight of the older age groups declined accordingly.

APPENDICES

- A. Distribution of the wounded by part of body - Gaza, Yom Kippur, Lebanon
- B. Medical opinion on an injury by plastic bullets.
- C. The wounding of Jamal Ahmad Hussein Radwan of Rafah.

NOTES

- 1. See Appendix A.
- 2. See Appendix B.
- 3. UNRWA, 00108 of November 28, 1989.

APPENDIX A

Distribution of the wounded by part of body - Gaza, Yom Kippur, Lebanon

	Gaza Strip		Lebanon War	Yom Kippur War
	Beg. 88	End 88		
Head - neck	13%	27%	13.5%	13%
Chest - abdomen	16%	27%	10.0%	11%

APPENDIX B

Medical opinion on injury by plastic bullets.

re: Medical Opinion as to Injury Capacity of a Plastic Bullet

In principle, a plastic bullet is identical in all characteristics to ordinary ammunition apart from the actual missile being made of hard plastic material. Plastic bullets can be fired from virtually any rifle. Their length is 12 cms., their muzzle velocity is 256 kph and caliber 556 mm. The penetrative capacity of the projectile is low in relation to a metal bullet because the material is not as hard. However, the shorter the range, the greater the penetrative capacity. 70 meters is considered "the safe range." At this range, the projectile is incapable of penetrating bone tissue. (Shooting at the legs at this range is considered less deadly.)

Injury by the various bullets currently in use is based on the principle of the penetration of a foreign body with its own energy into the body of the injured party. As a result of such an injury, the following are caused: (a) Immediate damage to the tissue where the bullet penetrates or passes through; (b) bleeding and loss of blood as a result of damage to the blood vessels; (c) Formation of a local infection that can spread to a general infection of the body (sepsis).

A fatal wound resulting in the death of the injured party can be caused as a result of one or more of these factors. In a wound caused by a plastic bullet fired at short range, all the factors mentioned exist, but even an injury at a longer range can be most dangerous.

Plastic bullets have been used by the English army since the seventies. They have caused with certainty the death of many victims among the Irish population. According to an official British Police report, 13 deaths, although the true number is much higher. The European Parliament has twice voted against the use of this measure for dispersal of demonstrations, determining that the plastic bullet is lethal ammunition.

In view of this, I am of the opinion that plastic bullets have an immediate lethal capacity when fired at short range. At longer ranges of over 70 meters there is a potential for later fatal injury (some days after the shooting) as the result of the spread of local infection and creation of general infection that, in the absence of treatment, ends with a higher mortality rate.

Dr. Yitzhak Winograd
General Surgical Specialist

(-)
Dr. Y. Winograd
License No. 91895

APPENDIX C

The Wounding of Jamal Ahmad Hussein Radwan of Rafah.

On August 15, 1989, Adv. Mohammed Abu-Sha'aban visited Esh-Shefa Hospital in Gaza, and collected the following affidavit from Jamal Ahmad Hussein Radwan:

<u>In the name of Allah</u>	15.8.89
<u>Sworn Affidavit</u>	aff-2-8
(Translated from Arabic)	

I am Jamal Ahmad Hussein Radwan, of the residents of Rafah refugee camp, Block L, ID No. 913620662, aged 29 and father of 5 children, the youngest aged 6 months, the oldest 9 years, and work in Israel in vegetables. I declare as follows:

1. On June 24, 1989, close to noon, in the area of Rafah, at a distance of 30 meters from my home, I left my home to bring my son Ahmad, aged 6 years, and, as I held my son, I noticed a large number of soldiers, about 20, Givati, armed with weapons and truncheons.
2. The officer in charge, a short redhead, stopped me. I wore a vest and he discerned the tattoo of a Palestinian flag. He asked me "PLO flag?" Afterwards he was silent, removed from his pocket a switchblade and cut out the flesh on which the flag was drawn. The vein of the left arm was cut. He took the piece of flesh that he had cut in his hand.
3. That was after the officer and three of his soldiers had made me lie down on the ground and had beaten me ferociously. I lost consciousness from the pain.
4. When I managed to get away from the soldiers, I immediately ran, my blood dripping, and they also hit my mother who tried to rescue me from them.
5. My mother began to shout together with my son Ahmed, and then the driver of a Peugeot noticed me, took me to the hospital, but, when the soldiers saw him they shot at the wheels of the vehicle in order to stop it but the driver managed to get away from them and took me to the Nasser Hospital. I was given first aid.
6. I lay there at Nasser for 14 days, after which I was transferred to the Esh-Shefa Hospital in Gaza, so as to undergo an operation on the arm. To this day, I am in hospital. On July 27, 1989, I

had an operation in which the vein of the right leg was cut in order to join it to the place of the vein of the left arm.

Note: The soldiers prevented the driver of an ambulance from picking me up and therefore the Peugeot driver was allowed to pick me up.

This is my declaration and it may be used for anything legal and for human rights.

DEMOLITION AND SEALING OF HOUSES

Demolition and sealing of houses in the occupied territories are carried out according to Article 119 of the Defence (Emergency) Regulations, 1945, passed during the British Mandate over Palestine:

119 --

- (1) A Military Commander may by order direct the forfeiture to the Government of Palestine of any house, structure, or land from which he has reason to suspect that any firearm has been illegally discharged, or any bomb grenade or explosive or incendiary article illegally thrown, or of any house, structure or land situated in any area, town, village, quarter or street the inhabitants or some of the inhabitants of which he is satisfied have committed, or attempted to commit, or abetted the commission of, or been accessories after the fact to the commission of, any offence against these Regulations involving violence or intimidation or any Military Court offence; and when any house, structure or land is forfeited as aforesaid the Military Commander may destroy the house or the structure or anything growing on the land.
- (2) Members of His Majesty's forces or the Police Force, acting under the authority of the Military Commander may seize and occupy without compensation, any property in any such area, town, village, quarter or street as is referred to in subregulation (1), after eviction without compensation of the previous occupiers if any.

The regulations are still in force in Israel as result of the continuity of laws, according to Article 11 in the Law and Administrative Ordinance, 1948. The Regulations are still in force in the West Bank as result of a similar ordinance issued by the Jordanian authorities. The same is true in the Gaza Strip, where the local law has not changed since the time of the British Mandate.

Among the various punitive measures executed by the IDF in the occupied territories, demolition and sealing of houses is one of the most harsh and drastic.

First, it is an administrative measure, carried out without any legal process; second, it is a collective punishment since demolishing or sealing a house hurts not only the suspect but also innocent people living with him; third, when a demolition is carried out, the punishment is irreversible.

International law permits the IDF to destroy houses and confiscate property only when security (of both the military and civilians) demands such an act. Article 53 of the Fourth Geneva Convention, 1948 determines that:

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

The International Committee of the Red Cross, the guardian and interpreter of the Geneva Convention, interpreted on November 1981, the words "military operations" to mean "the movements, manoeuvres, and other actions taken by the armed forces with a view to fighting" [their emphasis].

The High Court of Justice ruled on the legality of demolition and sealing orders issued by the military commander. The Court emphasized in its rulings that article 119 is part of the regulations which were valid in the West Bank at the beginning of its control by the IDF, and thus falls within the definition of local law.¹ The Court declared that its supervision over the judgement of the military commander is solely judicial and it refrains from going into other aspects of the judgement:

The supervision of this Court over the judgement of a military commander, like judicial supervision of an act of the [Civil] Administration, has to do with judicial supervision of the lawfulness of his judgement, and not with the factual supervision of the effectiveness or wisdom involved in the employment of that judgement.²

The Court has rejected each and every petition it received concerning house demolition, and has accepted all claims of security concerns which underlie a demolition or a sealing.

The Fourth Geneva Convention, 1949, unequivocally prohibits collective punishment. Article 33 of the Convention reads:

No protected person may be punished for an offence he or she had not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

The validity of the Geneva Convention in the occupied territories is debatable, but the Israeli Government has declared that it would respect de-facto the humanitarian provision of the Convention as far as the occupied territories are concerned.³ The Court has ruled that there is no basis to the claim that house demolition is a collective punishment.⁴

In light of these rulings, this regulation has been used not only for military operations, but as a deterrent punishment as well.

On July 30, 1989, the High Court of Justice restricted the IDF's authority to demolish houses as a means of punishment.⁵ Chief Justice

Meir Shamgar and Justices Alon and Valenstien ruled in favor of the Association for Civil Rights in Israel, saying that unless there are "operational military needs," the army must include in the demolition order "a warning which gives the recipient an opportunity to choose an attorney and appeal to the military commander within a specified period of time, after which, if he so desires, he will be given another specified period of time in which to appeal to the High Court of Justice, all before the order is carried out."

THE METHOD

The order to demolish or to seal a house is signed by the Military Commander of the region. This is an administrative procedure executed without trial and without any need to prove to a legal authority that the suspect is guilty. The execution of the order usually precedes the conviction and the punishment - if any - by a court of law.

The demolition is usually carried out at night, by either the use of explosives or a bulldozer, depending on the conditions of the area and the nature of the building, and after the imposition of a curfew around the house destined to be demolished.

Until the High Court of Justice intervened to grant opportunity to appeal a demolition order, the tenants of the house had a very limited time to gather and remove their possessions. In some cases houses were demolished or sealed before the families were able to remove their belongings, and the house was demolished on top of its contents.⁶ Today, houses are no longer demolished immediately, and a family has a week after the rejection of its appeal by the High Court of Justice to empty out the house. According to our figures, the average number of people living in such houses is around eleven.

When the demolition is carried out with explosives, in many cases, a great deal of damage is caused to the neighboring buildings, sometimes rendering the building unfit for habitation. In other cases trees have been uprooted, wells destroyed, and animals killed and injured.

After the demolition the family receives from the UNRWA or the Red Cross a tent which is erected over the ruins of the demolished house. The family is not allowed to rebuild the house or to break the sealed openings.

DATA

Our information stems from seven different sources: two of them are Palestinian human rights organizations, PHRIC (Palestine Human Rights Information Center) and Al-Haq (Law in the Service of Man). Other sources include the Israeli press, the Association for Civil Rights in

Israel, field investigations we conducted ourselves, the Israel Defence Forces Spokesperson and the Ministry of Defence.

There is almost no correlation between the IDF's figures and those we⁸ collected from other sources, including the Ministry of Defence.

The defence authorities fail to adhere to the principle of disclosure and to their duty to reveal information, and thus both the public and its representatives lack undisputed information concerning an issue of collective punishment whose severity is undoubtable and whose legality and effectiveness are controversial.

The only feasible way to achieve accurate numbers is to investigate each individual reported case of demolition or sealing and check it on site. This mission is impossible -- considering the demands on personnel, funds and time -- when over 380 completely demolished and completely sealed houses are concerned, which does not even take into account some 60 partial demolitions and sealings.

Complete Demolitions and Complete Sealings

The figures represent only those houses demolished or sealed on which we have firm data. They should be treated as minimal numbers only.

1. December 9, 1987 - December 8, 1988

	West Bank		Gaza Strip	
	Demolition Sealing		Demolition Sealing	
December 1987 *	1	0	0	0
January 1988	0	0	0	0
February	2	0	0	0
March	13	0	1	0
April	16	0	3	0
May	2	5	2	0
June	10	8	4	1
July	6	6	5	1
August	13	2	2	0
September	0	0	0	0
October	17	6	4	1
November	17	8	6	2
December 1 - 8	0	0	0	0
First Year Total	97	35	22	5

* The offense occurred before the Intifada broke out.

2. December 9, 1988 - November 30, 1989 <4>

	West Bank		Gaza Strip	
	Demolition Sealing		Demolition Sealing	
December 9-31	4	1	1	0
January 1989	15	6	1	5
February	5	11	1	3
March	14	3	8	1
April	0	0	0	0
May	21	11	1	0
June	14	10	15 *	3
July	3	2	9	2
August	2	4	8	5
September	3	4	10	2
October	3	0	0	0
November	0	4	0	7
Second Year Total	84	56	54	28

In addition to houses appearing in this table, other structures, such as shops, warehouses, fences, wells, etc., were demolished, and over 60 houses were partially demolished or sealed.

* One of the houses was demolished for an offense committed prior to the Intifada.

Photo: Rafi Kotz





3. SUMMARY

3.1 On the West Bank

First year:	97 demolished	35 sealed	total of 132
Second year:	84 demolished	56 sealed	total of 140
Total:	181 demolished	91 sealed	
Total demolished and sealed on the West Bank: 272			

3.2 On the Gaza Strip

First year:	22 demolished	5 sealed	total of 27
Second year:	54 demolished	28 sealed	total of 82
Total:	76 demolished	33 sealed	
Total demolished and sealed on the Gaza Strip: 109			

3.3 On the West Bank and Gaza Strip

First year:	119 demolished	40 sealed	total of 159
Second year:	138 demolished	84 sealed	total of 222
Total:	257 demolished	124 sealed	
Total demolished and sealed on the West Bank: 381			

It follows from the figures that, in 1989, the extensive use of demolition and sealing of houses continued as a punitive measure in the territories.

On the West Bank, the absolute number of houses demolished or sealed is almost identical with the previous year, although the dimensions of the sealings grew relative to demolitions.

In the Gaza Strip, there was an increase in the absolute number of houses demolished and sealed up as against 1988. The number demolished was almost doubled and the number sealed quadrupled.

This year, as last year, the relative use of the destruction and sealing of houses as a punitive measure was more widespread on the West Bank than in the Gaza Strip.

ILLEGAL CONSTRUCTION

In addition to houses demolished as a means of punishing criminal suspects, hundreds of houses have been demolished for having been built illegally; the vast majority of them in the West Bank.

The Minister of Defence, in his response to MK Haim Ramon's question, stated that in 1986, 197 homes that were built without permission were demolished; in 1987, 196 of these homes were demolished; and in 1988, the first year of the Intifada, 505 houses that had been illegally built were demolished.⁹

Without going into the difficulty of acquiring building permits in the West Bank, these figures -- which show a marked increase in demolitions since the beginning of the Intifada -- lead to the conclusion that defence authorities use the pretext of illegal construction to demolish homes as a punitive measure and as an instrument for cracking down on the Palestinian population during the Intifada.

APPENDICES

- A. Seizure and Demolition Order
- B. House Demolition in the village of Burqin

NOTES

1. High Court of Justice, 897/86.
2. High Court of Justice, 274/82.
3. M. Shamgar, "The Observance of International Law in the Administered Territories," **Israel Yearbook on Human Rights** (Tel-Aviv University, 1971) (1) 262, 266.
4. High Court of Justice 698/85.
5. Yitzhak Rabin, Minister of Defence, Ref. 10073/פ, September 2, 1988.
6. See affidavit in Appendix B.
7. See chapter on Incidental Damage, **The Demolition and Sealing of Houses as a Punitive Measure in the West Bank and Gaza Strip**, (B'Tselem, September 1989), p. 24.
8. Ibid, Introduction, pp. 3-6.
9. Yitzhak Rabin, Minister of Defence, Ref. 7843/פ, July 13, 1989.

APPENDIX A

I S R A E L D E F E N C E F O R C E S

DEFENCE (EMERGENCY) REGULATIONS, 1945

SEIZURE AND DEMOLITION ORDER

By the power vested in me by regulation 119 of the Defence (Emergency) Regulations, 1945, and since I am convinced that the occupants of the structure described below have committed an infraction of these regulations involving violence or intimidation, and since military requirements demand it, I hereby order the seizure by the IDF of the structure described below and of claims of the structures owner to lands adjacent to said structure, as well as the demolition of said structure.

Description of the Structure:

A two-storey building in El Daheisha refugee camp (first floor has four rooms; second is still under construction), in which lives Ali Ishaq Mahmoud Hamaadah, ID no. 953683893, with his family.

Grounds for the Order:

The above mentioned Ali Ishaq Mahmoud Hamaadah headed a group whose members took upon themselves the task of injuring persons suspected by them of collaborating with the authorities. In the framework of these activities they took part in a number of incidents in which persons were attacked as in the latest incident which took place in Artas on April 20, 1989, in which he and his companions caused the death of Muslim Shaahin.

-----1989

(signature)

Brigadier General Gabi Ofir
Military Commander for the
Judea and Samaria Region
V36

APPENDIX B

On February 15, 1989, a representative of the Association for Civil Rights in Israel visited the Jarar family in the village of Burqin, and recorded the following testimony:

House Demolition in the Village of Burqin

A representative of the Association for Civil Rights in Israel visited the village of Burqin on February 15, 1989, and heard the following facts from members of the Jarar family, whose home had been demolished.

On February 10, 1989, around 10:00 p.m., a large number of military forces, accompanied by civil administration personnel, entered the village of Burqin and put it under curfew.

At the same time a group of soldiers approached the home of Hanifa Mahmoud Razi Jarar (50) and informed her and her family that they had instructions (not a decree) to demolish the house. When Jamaal Mahmoud Jarar (24), one of the family members living in the house, asked why they were not informed of the demolition in advance, as was the usual practice, Captain Majid, of the civil administration, answered:

"Had we informed you in advance, as is usual, you would have won the affair, and we would not have been able to demolish the house. However, this is an order from the Muhabaraat (the Israeli General Security Service), and we are just following orders."

When the captain finished speaking, IDF troops took Jamaal's ID card and until today have yet to return it.

When the village had been put under curfew and the army had gathered near the Jarar home, several IDF troops entered the house and beat Hanifa cruelly, breaking her right hand. The visiting Association of Civil Rights in Israel worker saw signs of beating on her face and below her eyes. Her sister Linda Jarar (17) was also beaten. At this point the soldiers ordered the family to empty the house quickly of its contents in order to get on with the demolition.

The house covers an area of 400 square meters and has two stories. The first floor is an oil press belonging to Walid Jarar Larad, Rada Jarar, and other family members. The second floor is divided into two apartments, one of which has eight rooms and the other six. The second apartment is registered to Mahmoud Razi Jarar.

At about 3:00 a.m. on February 11, 1989, the troops ordered the family to stop emptying the house because they wanted to get on with the demolition. As a result the family was unable to completely empty the house, and many of their belongings remained inside the house and the oil-press, where there was equipment that was too heavy to be removed by the people available.

The house was blown up at 3:20 a.m. with dynamite, and several nearby houses were damaged. These houses belonged to: (1) Dib Salaah, (2) Abdel 'Aziz Saalah, (3) Lutfi Saalah, (4) Saalah al-Musa, and (5) Hajah Fatma Ahmed Salaamah.

At 4:00 a.m., after the demolition had been completed, IDF forces left the village without announcing that the curfew was lifted.

Grounds for the Demolition:

One of the family members, Abdel Mahmoud Razi, 23, had been wanted by the authorities for ten months. The above had been arrested on January 2, 1989, and taken to a military interrogation center in Jenin. He was not allowed to meet with an attorney or family members, and he has yet to stand trial. On February 14, 1989, the family was told by the Red Cross that he was still in solitary confinement for interrogation and was not allowed to receive visitors.

The family's questions are:

1. If he is guilty and as a result it was decided to demolish the house, why was he not allowed to speak with an attorney who could handle his case, and why was the family not given a chance to appeal the demolition to the High court of Justice or IDF authorities.
2. Why are the families whose houses were damaged by the blast to blame, and why is the owner of the oil-press to blame?

The family of Hanifa Jarar (the detainee's sister) calls upon the Association for Civil Rights in Israel to intervene from a legal perspective on behalf of the twelve family members left without shelter.

DEPORTATIONS

The deportation of Palestinian residents from the West Bank and Gaza Strip is empowered by Article 112 of the Defence (Emergency) Regulations, 1945, from the period of the British Mandate. The Regulations read as follows:

112. Deportation

(1) The High Commissioner shall have power to make an order under his hand (hereinafter in these Regulations referred to as "a Deportation Order") requiring any person to leave and remain out of Palestine.

The Regulation is still in force on the West Bank because of similar orders enacted by the Jordanian authorities.

Section 49 of the Fourth Geneva Convention of 1949 states:

"Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited regardless of their motive."

The official Israeli interpretation, confirmed by the Supreme Court, claims that this section of the Geneva Convention does not apply to the present circumstances in the territories, and applies only to mass deportations. In a High Court of Justice ruling that confirmed the deportation of Abed el-'Afo, Presiding Judge Meir Shamgar related to Article 49 of the Geneva Convention and ruled, *inter alia*, that "in the eyes of the composers of the Geneva Convention, mass deportations were for annihilation, mass population transfers for political or ethnic reasons, or transfer for forced labor. That was the 'legislative intent' and the topical context."¹

In the same ruling, Justice Gabriel Bach, in a minority opinion, stated that "the language of Article 49 of the Fourth Geneva Convention is clear and unambiguous. The combination of the words 'individual or mass forcible transfer' with 'regardless of their motives' leaves no room for doubting that the article applies not only to deportation of masses but to that of individuals as well, and that the prohibition was intended to be total, sweeping, and unmitigated -- 'regardless of their motives'."

In the High Court of Justice ruling that confirmed the deportation of the Mayors of Hebron and Halhul, Mohammed Milhem and Fahid Kawasmeh, Justice Haim Cohen, in a minority opinion, determined that deportation is "contrary to customary international law that forbids the deportation of any person from his country of birth. No order by the commander of the area can overcome the customary international law."²

Deportation decisions are administrative and require no legal process at all. The candidate for deportation and his attorney have no right to see the file or the evidence that led to the deportation order. Candidates for deportation may appeal the deportation order to a review committee, composed of a military judge and army officers, appointed by the military commander who signed the deportation order.

The committee holds its discussions behind closed doors; it may see the file of evidence and has the power to make recommendations to the military commander. The commander does not have to accept the recommendations.

After this process, the road is clear for deportees to petition the High Court of Justice. So far, the High Court has rejected all the petitions submitted to it on this subject and has approved all of the deportations. In only one instance was a deportation order rescinded: that issued against the Mayor of Nablus, Bassem Shakaa, and then as the result of public pressure and not any decision of the Court.

Since August 1988 no new deportation orders have been issued. The Security Forces feel that the deportations, in their present form, do not contribute to calm and are not effective. And, indeed, on January 24, 1989, the Minister of Defence advised the Knesset Committee for Security and Foreign Affairs that "the scale of the deportation punishment from the territories has been reduced of late, not because of political pressures, but after doubt has been cast upon their effectiveness."³

In May 1989, an argument broke out between Security Forces and the Ministry of Justice regarding the deportations. The media reported that month that a proposal was taking shape in the IDF to exile scores of arrested Hamas leaders,⁴ and that the Chief of Staff had demanded that the Government change the law so as to permit the deportation, without lengthy and difficult procedures, of those released in the Jibril exchange, who were caught engaging in hostile activity.⁵

On May 26, 1989, Ha'aretz reported from a military source that "in the present situation in which legal discussions over High Court petitions of deportation candidates take many months, the instrument of deportation has become absolutely ineffective."⁶ The Minister of Justice, Dan Meridor, addressed this issue saying, on a tour of Gaza on May 25, 1989, that instigators can and must be deported without a legislative change on the matter of deportations.⁷

In June 1989, it was reported that the IDF was examining accelerated deportation processes from the territories, before the appeal could be heard and, if the appeal is accepted, the deportee would be able to return.⁸ On July 19, 1989, Ha'aretz reported a dispute between the Ministry of Justice and the Ministry of Defence on the issue of deportation policy. The latter claimed that the legislation should be changed to reduce the authority of the High Court, so as to permit inhabitants of the territories to be deported

without delay. The Minister of Justice and the State's Attorney opposed this position.⁹

THE METHOD

After the deportation order is signed by the military commander, the candidate for deportation is arrested and told that he has 48 hours to appeal to the consultative committee.

If the candidate for deportation uses his right of appeal, the committee examines the evidential material and submits its recommendation to the military commander.

The candidate for deportation receives another 48 hours to petition the High Court of Justice.

If the candidate for deportation petitions the High Court of Justice, the Court will, as a rule, issue an interim order prohibiting deportation of the person until the end of legal proceedings.

At the end of the legal proceedings, that has so far always ended in rejection of the petition, the deportation can be carried out without delay.

The deportee is taken to the Lebanese border, beyond the Security Zone. He is allowed to take a bundle of clothes, is given 50 Dollars and left in Lebanese territory. There have been instances in which the deportee was allowed to leave the country by air.

DATA

After the High Court ruling on the matter of the Mayors of Hebron and Halhul, and because of the distaste then Prime Minister, Menahem Begin, had for deportation under the Defence (Emergency) Regulations, deportations were suspended and, between the years 1981 - 1985, no-one was deported from the territories. In 1985, deportations were renewed and 47 residents of the territories were deported between 1985 and 1987.

Since the beginning of the Intifada in 1987, 58 residents have been deported from the territories, 32 in the first year and 26 in the second. 22 of the deportees were residents of the Gaza Strip and 36 of the West Bank.

The reasons for deportation are as a rule defined as incitement, political subversion, activity in prohibited organizations and the like. No use has been made of deportation as a punishment for terrorist activities.

As noted, because of the argument over the effectiveness of the deportations in their present format, no deportation orders have been issued against residents of the territories since August 1988.

PALESTINIAN RESIDENTS OF THE OCCUPIED TERRITORIES DEPORTED SINCE THE BEGINNING OF THE INTIFADA

First Year

January 13, 1988

1. Jibril Mahmoud Jaber Rjoub, 34, journalist, married.
2. Bashir Ahmad Kamel Kheiri, 46, lawyer from El-Bireh, married and father of three.
3. Jamal Abdallah Shaker Jbara, 29, dental technician from Qalqilya, married.
4. Husam Mahmoud Abdul Rahman Kahder, 27, Qalqilya.
April 11, 1988
5. Jamal Shati Yunes Hindi, 30, student from Jenin refugee camp.
6. Abdul Nasser Mohammed Abdul 'Afu Abdul Aziz, 31, student from Jenin.
7. Sheikh Abdul Aziz 'Odeh, 37, lecturer from Gaza, married and father of nine.
8. Mohammad Ramadan Ibrahim Abu Samra, 27, student from Gaza, married.
9. Khalil Ibrahim Eed Quqa, 40, teacher from Gaza, married and father of seven.
10. Freij Ahmad Khalil Kheiri, 40, engineer from Gaza, married and father of two.
11. Hasan Ghanem Mohammed Abu Shaqra, 38, laborer from Khan Yunis, married and father of five.
12. Bashir Mahmoud Nafe' Bashir Hammad, 27, laborer from Qalandiya.

April 19, 1988

13. Ghassan Ali Issat Masri, 32, pharmacist from Nablus, married and father of two.
14. Ahmed Fawzi Khaled Dik, 30, student from Kufr Dik.
15. 'Omar Muhammad Sa'eed Bani Shamseh, 32, teacher from Beita, married and father of three.
16. Najeh Jamil Sa'adeh Dweikat, 29, laborer from Beita.
17. Mahmoud Abdul Raheem Jaghoub Bani Shamseh, 35, laborer from Beita, married and father of five.
18. Mustafa Mohammad 'Ayed Hamayel, 28, laborer from Beita, married and father of four.
19. Sari Khalil Taher Hamayel, 25, laborer from Beita.
20. Ibrahim Mohammad Khader Bani Shamseh, 28, student from Beita.
21. Jamal Awad Abdul Jawad Zaqqut, 31, unionist from Shati refugee camp, married and father of one.

22. Ziad Radeh Nahleh, 35, merchant from Gaza, married and father of two.
23. Ahmad Mohammad Jaber, 32, teacher from Turmus Aiya, married and father of one.
24. 'Adnan Mohammad Daher, 37, journalist from El Bireh, married and father of three.

August 1, 1988

25. Lu'ai Ali Nafe' Abdo, 34, journalist from Nablus, married and father of one.
26. Samir Mahmoud Abdul Qader Sbeihat, 34, journalist from Ramallah, married and father of three.
27. Jamal Thiyab Lafi Abu Latifeh, 25, journalist from Qalandiya refugee camp.
28. Mursi Abdul Hadi Hasan Abu Ghweileh, 21, student from Qalandiya refugee camp.
29. Fathi Ibrahim Abdul Aziz Shaqaqi, 37, doctor from Rafah, married.
30. Mohammad Abdallah Isma'il Gharabli, 42, laborer from Gaza, married and father of five.
31. Yosri Darwish Abdul Ghani Hams, 38, shopkeeper from Rafah, married and father of two.
32. Ahmad Faïd Abu Mailek, 29, laborer from Gaza.

Second Year

January 1, 1989

33. Abdul Hamid Isma'il al-Baba, 25, student from Al Am'ari refugee camp.
34. Yusuf Harb Mohammad Odeh, 25, student from Balata refugee camp.
35. Jamal Ibrahim Abdul Muhsen Farraj, 24, laborer and unionist from Dehaisha, married and father of one.
36. Issam Ayman Abdul Fatah Dibay, 24, shopkeeper from Nablus, married and father of two.
37. Hani Mohammad Haloub, 28, photographer from Tulkarm.
38. Mas'oud Othman Zaitar, 43, newspaper employee from Nablus, married and father of six.
39. Othman Mohammad Daoud, 27, farmer from Qalqilya.
40. Rizaq Mahmoud Biari, 29, journalist from Gaza.
41. Fadi Mustafa Hajjaj, 36, shopkeeper from Jebaliya, married and father of nine.
42. Abdul Min'am Abu Atyeh, 33, student from Gaza.
43. 'Iyyash Abdul Aziz Abu Sa'di, 30, teacher from Jebaliya refugee camp, married and father of three.

44. Sa'id Hussein Hassan Baraqa, 32, teacher from Bani Suheila, married and father of three.
45. Abdullah Iyad Abu Samdani, 37, lecturer from Gaza, married and father of five.

June 29, 1989

46. Mohammed Abdullah Libdi, 33, unionist from Abu Dis, married and father of two.
47. Radwan Ahmed Ziadeh, 31, unionist from Hebron.
48. Taysir Mohammed Nasrallah, 27, student from Balata refugee camp.
49. 'Aqif Wahid Hamdallah, 27, student from Anbata.
50. Riad Kamal Ajur, 26, grocer from Gaza, married and father of three.
51. Mohammed Sa'adi Amduq, 38, farmer from Gaza, married.
52. Atta Ahmed Hussein Abu Qarsh, 55, engineer from Shati refugee camp, married and father of six.
53. Nabil Mohammed Tamus, 24, mechanic from Khan Yunis, married and father of one.

August 27, 1989

54. 'Odeh Yusuf Mali, 30, unionist from Kafr Na'ame, married and father of five.
55. Mohammed Mator, 38, lecturer from El Bireh, married and father of six.
56. Majed Abdullah Libdi, 28, unionist from Abu Dis, married.
57. Taysir Aruri, 43, lecturer from El Bireh, married and father of three.
58. Bilal 'Az-Eldin Shakshir, 36, student from Nablus, married and father of one.

NOTES

1. H. Ct. J. 785/87.
2. H. Ct. J. 698/80.
3. Yossi Verter, *Hadashot*, January 25, 1989.
4. Shmuel Tal, Ilan Kfir, et al, *Hadashot*, May 22, 1989.
5. See, for example, Yonatan Lahav, *Yediot Aharonot*, May 22, 1989.
6. Dan Sagir, *Ha'aretz*, May 26, 1989.
7. Eitan Rabin, *Ha'aretz*, May 26, 1989.
8. See, for example, Shlomo Ginosar and Danny Rubinstein, *Davar*, June 14, 1989.
9. Dan Sagir, *Ha'aretz*, July 19, 1989.
Also see B'Tselem, "Information Sheet: Update July 1989."

DETENTION AND IMPRISONMENT

DETENTION

Of all the meeting points between the residents of the occupied territories and the Israeli military system of law enforcement, that of the arrest of the inhabitants of the territories is, so it would seem, the most extensive. Detention, *qua* detention, denies a person freedom of movement, but arrest in the territories is often accompanied by beatings and humiliation, denial of the right to human respect and physical wholeness. In the law applying to the citizens of Israel it is determined that the right to freedom is the most basic of human rights but in the territories these principles have lost their value coloration to the point of transparency. Detentions have become a matter of routine.

REASONS FOR DETENTION

The root of the problem lies in the ease with which any soldier or any person from the General Security Services (Shin Bet) may decide on a person's detention. In any reasonable legal system, it is accepted that the reason justifying an arrest is the combination of the seriousness of the offense attributed to the person and the degree of certainty that the person actually committed the offense. The Order Regarding the Security Regulations (No. 378) 1970, determines in Section 78 that any soldier, policeman or member of the General Security Services has the right "to arrest without a detention order, any person transgressing against the provisions of this order or where it may be suspected that he has committed an offense against this order." The order contains a wide variety of security offenses, to the point of amorphous offenses such as "an act that might prejudice the public peace" and also failing to prevent another person from committing an offense. The suspicion required for carrying out an arrest is, it is true, objective but its level is minimal and there is no need even for a degree of reasonable suspicion.

Detentions are carried out in practice in the wake of disturbances of the peace or in detention campaigns initiated according to the requirements of the General Security Services or following the discovery of the name of a person in the list of wanted persons during a random check. The latter has won the virtually official name of "bingo detention", following the call of "bingo" with which the soldiers celebrate the discovery of a name on the list. Worse still is the fact that, to this day, there are no proper procedures for removal of the names of persons from the list after the original reasons for the arrest has lapsed. People who have already been released from detention still appear in the lists, are still



assumed to be wanted and are arrested erroneously at random checks in the street or at IDF road blocks.

A person arrested by the "bingo" method is taken to a prison installation until the arrival of the General Security Services man and it is decided what is to be done with him. In those many cases where a man is arrested by mistake the General Security Services man will confirm that that person is no longer wanted. If, for example, the arrest takes place on a Friday, the detainee will wait until the return of the General Security Services man to work on Sunday and only then will he be released. Of late, the Association for Civil Rights in Israel and the Center for Victims of Violence have collected 198 names of persons who are arrested occasionally in error, among them some who have been arrested and released without interrogation 9 times already. The names have been conveyed to the Legal Advisor of the Judea and Samaria Region with the request that they be removed from the list.¹

On the background of the situation in the territories, it is interesting to compare the legal requirements for arrest in Northern Ireland. English law determines that in order to arrest a person it is necessary that there be a reasonable suspicion that an offense has been committed.² The requirement of reasonable suspicion was added in 1987 following the recommendation of a Royal Commission of Inquiry headed by Justice Baker. In its recommendation, the Commission expressed criticism of the English Security Forces for having been in the habit of making many arrests without justification.

DURATION OF DETENTION BEFORE JUDICIAL REVIEW

A person can be held in detention for a period of 96 hours on the basis of a decision by any soldier. An officer may extend the detention by two further periods each of seven days, for a total of 18 days detention without any judicial control. Some of the detentions end as their 18th day comes up, without the detainee having been brought before a judge. Such detentions are usually characterized by the detainee not being told in the course thereof the reason for his detention and he is not interrogated at all. It may be assumed that these detentions stem from errors, arbitrariness or attempted harassment, and, in the absence of proper judicial control, this is hardly surprising.

The State Commission of Inquiry for examination of the General Security Services *modi operandi* (Landau Commission) recommended, *inter alia*, a shortening of the maximum detention prior to judicial review to a period of 8 days. All the recommendations of the Landau Commission were adopted in a Government resolution but, for some reason, this recommendation was not applied. Following an application by Adv. Yehoshua Shufman of the Association for Civil Rights in Israel, the Military Advocate General, Brigadier General Amnon

Strashnow, advised that, in view of the situation in the territories, a State forum had decided to postpone implementation of this recommendation for a year.³

FAILURE TO ADVISE OF AN ARREST

The IDF authorities usually fail to advise families of detainees of the arrest. In cases where no-one of the detainee's acquaintances was present at the time of the arrest, the family can only guess (and hope) that the disappearance of their relative derives from his having been arrested. Information confirming the arrest reaches the family via rumors from prisoners who have been released or through lists of detainees that are given to the Red Cross 12 days later. The absence of information about the fate of a person in detention causes the family suffering and anxiety and denies them the possibility of hiring the services of an attorney.

In failing to give notice of an arrest, the IDF authorities are in breach of a legal obligation. Order 873 requires an immediate notification to members of the family about the arrest and of the place where the detainee is being held. Under pressure from the Supreme Court, new procedures were issued in the IDF that were to settle this matter. As these lines are being written, a month and a half after the new procedure came into effect, there is no sign of it being applied.

On November 21, 1989, the Supreme Court ruled, in a petition of the Association for Human Rights in Israel and three Palestinians, that during a month and a half the families had not been notified of their arrest. In the judgment, Justice Menahem Elon said: "The obligation to give a notification derives from the basic right accorded a person detained lawfully by the competent authorities that the latter will advise his relatives of his arrest and of where he is being held, so that they will know what has happened to their relative and how they can proffer him the necessary aid to protect his liberty."⁴

In an examination made by the Association for Civil Rights on November 23, 1989, it turned out that the new procedure had not yet been put into effect.

NATURE OF THE JUDICIAL REVIEW

We do not have any clear-cut figure about the procedures for extending detentions, detentions to the completion of proceedings and applications for release on bail. It appears that the number of decisions to release is particularly low. The discussions over extension of a detention are usually very short and often take place within the precincts of the detention installations, without the

detainee being represented by an attorney and in breach of the rule regarding open court. Even when an application for release on bail is submitted, the discussion is completely one-sided. New procedures in the military court of Ramallah have recently been published, according to which the process is undertaken by correspondence, without a discussion before a judge and without the presence of the detainee or his attorney.

A judge is competent to order a person held in detention for six months until the charge sheet is filed, and for an unlimited period after the charge sheet has been filed. Because of the length of the cases and in view of the conditions in the detention installations, detention has lost much of its original purpose and has become a punitive measure. The longing of detainees for their release from detention constitutes a means of pressure often causing them to admit to a charge and agree to plea bargaining.

Dan Simon

APPENDIX

The arrest of Majdi Hamad Toufiq Atari of Kafr Arabe.

NOTES

1. The Association for Civil Rights in Israel, November 2, 8, 15, and 28, 1989.
2. Northern Ireland, Emergency Regulation 1987.
3. Chief Military Prosecutor, L-N0466, July 21, 1989.
4. Supreme Court 670/89.

See also B'Tselem, Information Sheet: Update August 1989, p. 9.

APPENDIX

Walid Asslieh - Advocate
Um - el - Fahem
Tel. 06-312776
Code: 30010
Date: September 20, 1989
REGISTERED - EXPRESS

The Ministry of Defense
Chief Military Prosecutor
IDF
Hakirya
Tel Aviv

Dear Sir/Madam,

re: Detainee Majdi Hamad Toufiq Atari
ID No. 93826694-7 of Kafr Arabe

I represent the above detainee and following is the course of events in connection with his arrest:

1. On September 4, 1989, the above was arrested by the Defense Forces.
2. The mother of the detainee turned to me and empowered me to represent the above.
3. Commencing September 5, 1989, I began to clarify in connection with the arrest of the above, the place of his detention, the reason for his arrest, the duration thereof, who is the investigator and/or police station that is handling the matter.
4. Despite the many efforts I invested, I was unable to clarify the aforesaid.
5. On September 18, 1989, I was advised that my above client was at the Jenin prison and that the following day his detention was to be extended. However, I was told that I may not meet him nor may I appear for the hearing of the detention extension by the judge.
6. In light of what is stated in Para. 4, above, I contacted Adv. Naava of the Legal Department at Beit Ayyil by telephone and advised her of this and asked her to find out why I was being prevented from appearing in the hearing for extension of the detention; after a clarification made by the said Adv. Naava, she advised me that I could appear for the hearing and that she would

see to and/or make efforts to enable me to be present at the hearing.

7. And so on September 19, 1989, I appeared in the Jenin Military Court and advised Judge Lutzki that I was representing a detainee and there was to be a discussion for extension of his detention.
8. The Jenin Prison authorities advised me that the hearing would take place within the Prison and that I could not appear for the discussion and that this was at the request of the interrogator and/or interrogators.
9. I again called the said Adv. Naava and told her of this and she told me that such was not possible and that she would see to my appearance at the hearing.
10. Despite all the above efforts and despite the great time waiting, the outcome was that the hearing took place within the Prison and I was not permitted to appear and be present at the time of the hearing on extension of the detention; and I learned subsequently that the detention of the detainee had been extended for 15 days.
11. To the best of my knowledge and understanding, there is no reason and/or legal obstacle that would block the path of an attorney from being present at a hearing.
12. I vehemently protest to you at such an illegal, strange, hurtful and insulting phenomenon.
13. Preventing an attorney from appearing at a legal discussion over extension of the detention of any suspect is a gross breach of the law and of the basic rights of the suspect as well as of the mission and function of the attorney.
14. Very serious damages have been caused to my client and I cannot know what lies behind this act; there is a most reasonable suspicion that my client is suffering tortures and is being held in difficult conditions.

Wherefore, I am turning to you to clarify and look into the matter with urgency and to advise me as soon as possible of the results of the clarification and/or examination.

Please take up this matter!

cc: Mr. Ahaz Ben Ari
The Legal Advisor
Beit El

Yours sincerely,
(-)
W. Asslieh - Advocate

ADMINISTRATIVE DETENTION

Administrative detention is imposed without judicial process and without the detainee having been charged at all, but rather when the authorities believe that this person might endanger the security or public order some time in the future. Under these conditions, military commander (an officer with the rank of colonel or higher) has the authority to arrest this person without having to bring him or her before a judge, without his having to know what he is accused of or his being able to defend himself.

The military commander can issue an order for administrative detention if there is a "reasonable supposition that regional or public security considerations dictate that so and so should be incarcerated."¹ The military commander is authorized to extend said person's detention if in his opinion it is justifiable to continue incarcerating the person.

Every detainee can appeal his arrest to a military judge (a judge of a military court, legally trained and with the rank of captain or higher).

According to the instructions of the Attorney General, administrative detention is not to be used if less severe measures are sufficient. The instructions further direct that "expression of opinions are not sufficient cause for detention."² Nevertheless, the process of appealing an order of administrative detention allows the security forces to withhold from the detainee the evidence that has been brought against him or even the reason for his arrest, if, in their opinion, security reasons necessitate doing so.

Administrative detention is permitted in international law on condition that appeal is granted and that regular reexamination of the decree takes place, every 6 months being preferred.³

TOUGHENING OF PUNITIVE MEASURES AGAINST ADMINISTRATIVE DETAINEES

The overwhelming majority of administrative detainees from the territories are held in the Ketziot prison, within the borders of Israel, and therefore Israeli law applies to everything related to the conditions of their confinement.⁴

In the regulations which were issued in 1981, the right of administrative detainees were specified, including the right to receive medical treatment; the rights to receive personal belongings and cigarettes; the right to receive visitation; and the right to receive and send letters. The legislation decrees that if a detainee violates prison discipline, the only punishment that can be placed on him is 14 days isolation.

Recently, the Minister of Justice amended the regulations regarding confinement under administrative detention with the intention of broadening the prison facility's commanding officer's authority to punish administrative detainees. The new regulations permit the commander, among other things, to punish an administrative detainee by denying him the following rights for a period of up to 14 days: buying goods in the canteen; walks; receiving newspapers and books; receiving cigarettes; receiving and sending letters; receiving money; and receiving visitors (except for visitation by attorneys). It should be noted that in Ketsiot there are no family visitations and there is no canteen.

EXTENTION OF ADMINISTRATIVE DETENTION

At the beginning of August, the Regional Commanders of the Central and the Southern District signed an amendment to order #4 regarding administrative detention. The new directive declares that the period of administrative detention will now be up to 12 months in place of the previous 6 months, but if the period is more than six months, a military judge has to rule regarding the detention at the earliest possible time after six months from the time the order has been executed.

Until 1980 the basis of administrative detention was the Defence (Emergency) Regulations, 1945, according to which any military commander had the authority to place a person under administrative detention.

Under the impetus of then Minister of Justice, Shmuel Tamir, the Israeli law was amended in 1979 and the ordinance in the territories was amended accordingly in 1980. The authority of placing someone under administrative detention was given solely to the Regional Commander (Major General). The length of the term of detention was limited to 6 months and it was determined that the detainee must be brought before a judge within 96 hours of the detention and that reexamination of the order for detention must take place once every 3 months before a military judge.

In March 1988, 3 months after the beginning of the Intifada, the 1980 decree was suspended and in its place a new decree was issued broadening the authority to place someone in administrative detention and restricting the rights of the detainee. The requirements to bring the detainee before a judge within 96 hours of the arrest and to reexamine the case once every three months were cancelled, and every military commander was once again permitted to issue an order of administrative detention.

The amendment to the decree, which was issued at the beginning of August 1989, lengthened the term of maximal confinement from 6 to 12 months but left the requirement of judicial review every 6 months.⁵ Until now the IDF had issued consecutive arrest orders for many of the

detainees, and, as a result, in many cases, detention lasts for a year or more.⁶

Since the beginning of the Intifada, according to the IDF Spokesperson, at least 243 administrative detainees have been detained for more than one period of administrative detention. Palestinian human rights organizations estimate that the number of administrative detainees who have served more than one period of detention is at least 500. At least 32 people are known to have served more than two periods of administrative detention.

It would seem that the effect of lengthening the term of detention -- the security justifications behind the order are not clear -- serves first of all, to reinforce the notion that ease of administration is more important than someone's freedom, and secondly to constitute the implementation of psychological pressure on the detainee as part of the general trend toward toughening measures.⁷

APPENDIX

Administrative Detainee: Badran Bader Dalash Jabar

NOTES

1. Order Regarding Administrative Detentions (Order of the Hour) Article 1 (a).
2. "Restrictions on the Right to Freedom of Movement in the Occupied Territories," *Studies in Civil Rights in the Occupied Territories* (2), Association for Civil Rights in Israel Publication, 1989, p. 17.
3. The Fourth Geneva Convention of 1949, Article 78.
4. Emergency Authorization Law (Detentions) 1981. The High Court of Justice supported this position in H.Ct.J. 253/88.
5. In August, for the first time, decrees for administrative detention for an entire year were issued against residents of the territories. Up to this time, we know of 10 people against whom decrees of year long administrative detention were issued. 3 of them are from the Bethlehem region: Fuad Kukali, single, from Beit Sahur was arrested on August 22, 1989. Previously, Kukali was arrested for 6 months of administrative detention. Maher Ahmed Ali Salem, single, a 31 year old resident of the Deheisha Refugee Camp, was arrested on August 25, 1989. Haled Abeid, 24 years old, married with one child, a resident of Bethlehem was arrested on August 28, 1989.

6. Attorneys Avigdor Feldman and Leah Tsemel recently appealed to the High Court of Justice in the name of 4 administrative detainees being held in the Ketsiot prison for more than a year and a half, since March 1988. Against each of the defendants (Alim Da'ana, Badran Jaber, Anah Machawi and Ribhi Haddad), three or four consecutive orders of administrative detention have been issued. The term of the order against Anan Machawi lapsed on the 6th of September and he was freed. The detention of Ribhi Haddad was renewed at the beginning of September for 6 additional months. Attorneys Feldman and Tsemel argued in their petition that, according to the international law, administrative detention, by its nature, is a measure imposed for a short and set period of time, whose aim is the removal of the detainee from the area only when there is no possibility of charging the person. Consecutive orders of detention, argued Tsemel and Feldman, remove from this measure its unique character and turn it into a punishment by itself.
7. See Moshe Druri, *Ha'aretz*, August 16, 1989.

See also **B'Tselem, Information Sheet: Update August 1989**, p. 6
Also **B'Tselem, Information Sheet: Update September 1989**, pp. 6-7.

APPENDIX

Administrative Detainee - Badran Bader Dalash Jaaber

Supreme Court 562/89 heard the petition of Alim Yunas Hafez Dana, Badran Bader Dalash Jaaber, Anan Tahsein Taufiq Makawi and Rabhi Tamez Salim Hadad, represented by Advs. Feldman, Tsemel and Naamana versus the Military Commander of the Judea and Samaria Region in the matter of their administrative detention.

In an affidavit of response to the Supreme Court, the Military Commander quotes the decision of the judges who rejected the appeals of the petitioners.

Against Badran Bader Dalash Jaaber an administrative detention order was issued from May 6, 1989, to November 5, 1989. His appeal was heard on June 24, 1989, before the Judge Segan-Aluf Moshe Ginot. At the end of the discussion of the appeal, the Judge gave his decision:

D E C I S I O N

Against the Appellant, Badran Bader Jaaber, an administrative detention order was issued on April 24, 1989. The detention order is from May 6, 1989 to November 5, 1989.

The order is signed by the Commander of the Judea and Samaria Region.

At the beginning of the hearing, the attorney for the Appellant requested that the Commander of the Region be summoned and examined under cross-examination. She claimed that not all the restricted material in the file of the General Security Services had been brought to his attention. Relevant information with respect to the Appellant was not put before the Commander and it is possible that had it been put before him the Commander of the Region might have decided otherwise.

I decided to reject the request of the attorney for the Appellant, my reasons being as follows:

1. During the course of the hearing, I instructed the General Security Services representative to check if such information existed and it appears that this information was indeed presented to the Commander, i.e. the classified material contains a document from which it may be learned that the Appellant served in the position of "prisoners' spokesman" at one of the prisons.

2. No blemish has been revealed in the administrative detention order and it may be presumed that the Commander of the Region studied the material put before him and made his decision after he had studied all the material that was shown to him. In this respect, this case differs as to the facts from the case that was heard in Appeal 7/88 before the Hon. Judge Levin. There, the Minister of Defense had signed an administrative detention order for a period of six months and 2 days and so, as the Hon. Judge there determined on page 6 of the judgement: "The issues arising with respect to the processes that led to the signing of the detention order show that the demand by Mr. Shafar to summon the Minister to testify about the circumstances of the signing of the order was irrefutable."

The facts in our case are different and I find no basis for the application of Ms. Pelleg to summon the Commander of the Region to give evidence. I further add to this that in Appeal 1/80 Israel Court Proceedings XXXV 2, page 260, the Supreme Court refused to summon the Minister of Defense to give testimony in order to prove that the order was not reasonable. This is the place to note that Ms. Peleg has withdrawn her petition to summon Segan-Aluf Albert after the attorneys for the parties agreed as to the facts that find expression in page 4 of the Minutes of this hearing. As to the function of the "Shawish" (duty ward), I have also accepted as an exhibit the file of Mahmoud Mohammed Abdullah, prison number 7089, in which hearing the Deputy Commander of the Prison testified about the functions of the duty ward.

I have studied the classified material and have heard the arguments of the attorney for the Appellant as well as the arguments that the Appellant himself put in Arabic and in English and I have come to the conclusion that the Appellant was active in the Ketsiot imprisonment facility on behalf of HZA Organization. He encourages and supports the purposes of the organization. Apparently the Appellant lead the activists of the organization in the imprisonment facility. I have been convinced that this conclusion is cross-checked by a number of sources of a high degree of reliability. I have also been convinced that these sources cannot be disclosed as such would be tantamount to endangering the security of the State. As noted, the release of the Appellant from detention could create a real danger for State security and I therefore reject his Appeal.

The exhibit, File Number 7089, is to be returned to the Prosecutor for safe-keeping.



PRISON FACILITIES

In mid-October, the Military Advocate General advised that 40,000 inhabitants of the territories had been arrested since the beginning of the Intifada. On November 5, the IDF Spokesperson stated that as of that date there were 9,009 prisoners in the IDF imprisonment facilities. Of these 2,943 had been sentenced, 2,918 were in process, 1,354 were pre-trial detainees and 1,794 administrative detainees.¹ According to the Ministry of Police data, a further 4,000 inhabitants of the territories are imprisoned in Prison Service Jails (some having been sentenced for offenses prior to the Intifada or not associated with it). In total, 13,000 persons are detained, as of November 1989.

On November 16, 1989, **Al Hamishmar** reported that security forces were initiating the construction of a new imprisonment facility in the territories, with room for 4,000, and on expansion of the facility at Ketsiot by 1,300 places.² The IDF prison camps currently have room for 14,000 and, with their expansion, the IDF will be able to hold 20,000 prisoners at any one time.

On July 16, 1989, **Ha'aretz** reported IDF preparations to double the capacity of the imprisonment facilities where inhabitants of the territories are held. Operational responsibility for management and operation of the imprisonment facilities, **Ha'aretz** reported, will be transferred to the Military Police.³ At present, only the Megiddo Prison is under the responsibility of the Military Police. The Ketziot facility and the Coastal prison in Gaza are under the responsibility of the Southern Command and the others under the Central Command.

The prison facilities at which Palestinian residents of the territories are held can be divided into a number of categories:

a. Prison Service Prisons

According to the figures of the Ministry of Police, 4,000 security prisoners are being held in these, some 3,000 in prisons in the territories and a further 1,000 in prisons in Israel. The overwhelming majority of the prisoners are after trial. The Ministry of Police does not give out information regarding the number of prisoners sentenced for "Intifada offenses."

b. Israel Police Facilities

Detention centers such as the Russian Compound in Jerusalem and detention sections at police stations in the territories.

c. IDF Facilities

- 1) In the territories:
 - Tulkarm
 - Fara'a
 - Anatot

Opher
Dvir (Dahariya)
Gaza Coastal Prisons (Ansar 2)
Khan Yunis

- 2) Within Israel:
Megiddo
Ketziot (Ansar 3)

The network of military prison facilities is composed of a string of installations that are designed for short stays, where arrested persons are supposed to be held until the end of legal proceedings, and a small number of installations designed for long stays in which sentenced prisoners and administrative detainees should be held.

The load on the military courts, which results in the legal proceedings against inhabitants of the territories being stretched out, and the overcrowding in the long term prison facilities, on the other hand, means that detainees are often held for long terms in facilities designed for short stays that do not have the conditions for holding long stay prisoners. Thus, for example, a third of the 120 prisoners at the Tulkarm imprisonment facility are prisoners whose trial has ended.⁴

In addition to the network of prison facilities available to it, the IDF makes use of military administration installations in the towns of the West Bank and Gaza Strip for persons against whom a indictment has been issued. The detainees are held in these places in conditions that do not meet minimal standards for maintaining human beings. There is no report on the number of detainees being held at these facilities and, since it is a matter of unofficial installations, there are in effect no official criteria for their management.

To the best of our knowledge, attorneys are not allowed to enter these temporary holding facilities. Of late, a team from the Haifa branch of the Association for Civil Rights in Israel collected testimony about one of these facilities that is located in the yard of the Administration at Jenin, according to which the attitude toward the detainees there is very bad.

d. GSS Interrogation Facilities

Interrogation facilities are managed and run by the General Security Services (Shin Bet). An exception is the Coastal facility in Gaza that is connected with the military imprisonment

facility and, according to its commander, he applies to it the criteria of the military facility.'

The evidence of persons interrogated in the interrogation wings raises serious questions as to the methods of interrogation of the General Security Services and with respect to the standards in force at interrogations. Serious complaints about the attitude of GSS personnel toward those being interrogated and incidents of the death of detainees during interrogation,⁶ result in serious suspicion that the GSS continue to use means that are inconsistent with the recommendations of the Landau Commission (the Commission of Inquiry into methods of interrogation of the General Security Services on the subject of hostile terrorist activity) that the Government of Israel adopted as a Government resolution.

APPENDIX

Death in imprisonment facilities.

NOTES

1. Uriel Ben-Ami, *Al Hamishmar*, November 6, 1989.
2. Avi Beniyahu, *Al Hamishmar*, November 16, 1989: "Security Forces will, in the coming weeks, start with extensive action to enlarge the imprisonment facilities in the territories by 4,000 places. Evaluation of the situation with respect to the Intifada and its continuation, and the desire of the IDF to put more and more wanted persons behind bolt and bar, have resulted in this necessity, which has already been approved by the General Staff and budgeted at the Ministry of Defense.

"The prominent project is establishment of a large, central prison facility in Judea and Samaria. This facility, which will be operational by summer 1990, will contain 3,000 places initially with an option to expand it to 4,500 places, if necessary. It will be located in the Tekoa region and its initial cost is estimated at NIS 30 million.

"At the same time, the IDF intends to start work in the coming weeks to expand the imprisonment facility at Ketziot (Ansar 3) by 1,300 places.

"Five hundred places will be added at the Megiddo Prison in the coming year, mainly tents on concrete bases. We have also learned

of a new installation at Khan Yunis, that has already been nicknamed 'Ansar 4'."

3. Dan Sagir, **Ha'aretz**, July 16, 1989.
4. According to a report on the visit of MK Dedi Zucker to the Tulkarm prison facility on April 13, 1989.
5. According to a report on the visit of MK Dedi Zucker to the Gaza Beach facility on July 16, 1989.
6. See Appendix.

See also B'Tselem, **Information Sheet: Update August 1989**, pp. 3-11.

CURFEW

Curfew is declared according to Article 124 of the Defence (Emergency) Regulations, 1945. The Regulation reads as follows:

124. Curfew

A Military Commander may by order require every person within any area specified in the order to remain within doors between such hours as may be specified in the order, and in such case, if any person is or remains out of doors within that area between such hours without a permit in writing issued by or on behalf of the Military Commander or some person duly authorised by the Military Commander to issue such permits, he shall be guilty of an offence against these Regulations.

At the beginning of the intifada, the imposing of curfew was still being used as a measure to restore order after disturbances and to enable the authorities to search for suspects and make arrests. This soon became a preventative measure, used when there was a likelihood of an unusual occurrence, particularly on significant dates and anniversaries.

Currently, and during the past year, the imposing of curfew has also been used as a sweeping collective punitive measure. Often it is accompanied by the disconnection of telephone lines, power and water cuts, and by making use of the opportunity to collect income tax, Value Added Tax, National Insurance, and various other taxes.¹ During the tax collection operation in Beit Sahur, the municipality was under curfew for some 40 days with almost no break, from September 20 through the end of October 1989.

Imposing a curfew for purposes such as those described above is clearly a collective punishment, thus contravening the international law which prevails in the territories. The widespread use of this form of collective punishment seems to suggest that this is a deliberate policy, intended to isolate the population and apply pressure on it. A curfew imposes severe restrictions on those it affects, and infringes upon their civil rights. They are in a state of uncertainty, often deprived of all contact with the outside world as a result of the disconnection of telephone lines, and they are obliged to pass long hours, confined to their houses in conditions of severe overcrowding.

Other implications of the curfew on the population are:

FOOD SUPPLIES: As they are not informed in advance of the duration of the curfew, the population cannot calculate how much food to store. In addition to non-perishables, such as oil, flour and sugar, there is a genuine problem in supplying dairy

products, fresh fruit and vegetables. The problem is intensified with regard to infants, children and pregnant women. The curfew is lifted every few days, for a maximum of two hours, with no advance notification, in order to enable the residents to buy food. This is insufficient time for a population of several thousand from each camp or district to get to the shops and buy sufficient food for the unspecified period of the curfew.

MEDICAL CARE: Sick persons in need of medicines or daily hospital treatment are unable to reach the hospitals.

ECONOMIC: For part of the period in May during which the Gaza Strip was under curfew, laborers were permitted to leave for jobs in Israel. The rest of the population, farmers, merchants and members of the free professions, were not able to work. The effect on the farmers is particularly severe, since a prolonged period of curfew, preventing the farmers from cultivating their fields and marketing the produce, is likely to mean a total loss of the entire harvest.

CLOSING OF SCHOOLS: The schools in the Gaza Strip, unlike those in the West Bank, are officially open, but the frequent curfews have effectively prevented orderly studies.

LEGAL SYSTEM: The Military Courts are in session even during curfews. In general the lawyers are given permits to enable them to travel to the courts, but they cannot summon witnesses for the defense. When a curfew is in force, relatives of the accused are unable to be present in court, thus infringing the principle of a public trial. Because of these hardships, the Gaza Bar Association decided to boycott sessions which are held on curfew days.

DATA

1. Sample from Tulkarm refugee camp on the West Bank

Between the beginning of the Intifada and the end of October 1989, Tulkarm refugee camp was under 256 days of curfew. A third of the year was spent under curfew by residents. Through the end of 1988 the camp was under 143 days of curfew.



In the first ten months of 1989, the camp was under 113 days of curfew, distributed as follows:

Month	Number of Curfew Days
January 1989	12
February	4
March	6
April	4
May	14
June	29
July	4
August	15
September	5
October	8
Total	113 curfew days

2. Sample from the Shati refugee camp in the Gaza Strip*

Between the beginning of the Intifada and the end of August 1989, Shati refugee camp was under 222 days of curfew.

More than a third of the year was spent under curfew by residents.

Through the end of 1988 the camp was under 149 days of curfew. In the first eight months of 1989, the camp was under 73 days of curfew, distributed as follows:

Month	Number of Curfew Days
January 1989	14
February	7
March	17
April	10
May	13
June	7
July	1
August	4
Total	73

* According to figures on Gaza given us by Rashad al-Madni, an researcher from Bir Zeit University.

APPENDIX

Curfew in 'Issawiya

NOTES

1. See Appendix. In East Jerusalem television tax as well. See also **B'Tselem, Information Sheet: Update June 1989**, pp. 6-7.

APPENDIX

Curfew in 'Issawiya

On March 8, 1989, at 4:30 am, security forces declared a curfew on the village of 'Issawiya in East Jerusalem. The curfew was declared to facilitate tax collection by Income Tax, Value Added Tax, National Insurance, Municipal, and Broadcast Authority personnel.

On March 14, 1989, B'Tselem staffer Bassem 'Eid visited 'Issawiya and collected the following testimony:

1. Salah Hader Mustafa, 66, handicapped and in a wheelchair:
On the first curfew day municipal inspectors arrived at my house accompanied by policemen to impound property for non-payment of municipal tax. I showed them a receipt for payment and the inspectors left the house. The next morning, VAT personnel arrived -- two young women accompanied by policemen -- and told me I owed VAT. I told them the accountant who handles my accounts (I used to own a store, but closed it because of my illness). They seized 24 bottles of liquid soap, a cash register, and 30 packages of diapers. They searched the house and 12 dinars that were in a cabinet disappeared. Mustafa's wife, Zineb Hader Mustafa, tells:
During the searches, one of the Border Policemen approached me and asked about money. I took out my purse, in which there were 50 sheqels and some odd change. The soldier went into the other room and gave me the purse back when he came out. After the soldiers and Border Policemen had left the house, I saw that the bills were gone and that only the change was left. Salah Hader Mustafa:
Still later Broadcast Authority personnel arrived and asked about the television set. I told him it was in the repair shop. He impounded two carpets worth 160 dinars.
2. 'Aisha Darwish, 35:
On March 4, 1989, I bought a new television set in the Al-Safafa store on Salah e-Din street for 3000 NIS, to be paid in monthly payments of 200 NIS. On the day of the curfew, two officials and some policemen entered the house and asked me about my television set. I showed them the television and they took it. I ran after them and told them that I had just bought it four days earlier, and I showed them the receipt and the warranty. They told me I owed 1440 NIS in taxes.
After the curfew was lifted, I went to the income tax offices and explained my situation to them. They waived 540 NIS. I paid 900 NIS and received my television set.

3. According to villagers' testimony, the Broadcast Authority impounded some 150 television sets during the curfew. They also impounded products from stores, stereo systems, carpets, cars, and more.
4. From the declaration of the curfew until it was lifted, some 52 people were arrested, of whom 27 have been released and 25 are still in custody.

This report recorded by Bassem 'Eid, B'Tselem.
March 14, 1989.

FREEDOM OF EXPRESSION

When I see the list of books Palestinians are prohibited from reading, whether it be those who have not yet been placed in detention or those who are already there; when I see the list of journalists and writers sitting in prison due to an administrative detention order because they wrote articles, poems, or books which were not approved of by the authorities, I think of our forefathers, Jews wandering throughout all of history, weak and few and deprived of their rights (much more so than the Palestinians under our rule today) who stood against the mighty and powerful governments (much more powerful than we are today), kings and governors, cardinals and rulers, emirates and sultans, against an absolute regime -- without the supervision of a Knesset or the involvement of local or foreign media -- which tried to suppress the national consciousness, tried to forbid them from studying their laws and reading their books, tried to crush their spirit and control their thoughts -- and our forefathers overcame them. And all absolute governing means were in vain.

And here today, the grandchildren and great-grandchildren of these same Jews, our military censors, our military governors, the civilian authorities, the keepers of "order" in the West Bank and in Gaza, not only have they not learned from history that nations stronger and more sophisticated than we, who have, in this century, tried just as we are trying, to suppress the national awakening of nations under their rule, and who persisted in burning flags and outlawing writers and journalists and banning books, until eventually, after an outrageous and unnecessary bloodbath and the sowing of much suffering and destruction, they were forced to give in, to withdraw and retreat. And those same rebel prisoners, "dangerous terrorists," were taken out of prison and the keys of power were handed to them.

Not only did the grandchildren and great-grandchildren not learn from the history of other nations, but more seriously, they have betrayed and continue to betray perhaps the supreme value in which their forefathers believed, they denied and are denying the greatest and most important truth which the Jewish people endowed upon the entire world: a nation may exist solely on the strength of its own consciousness, and ultimately, no physical power can destroy an authentic living consciousness.

Neither will the national consciousness of the Palestinian people and their right to self-determination be erased, even if the Israeli authorities burn all the books in the world.

And we must know: those censures act in the name of us all, and all of us are guilty and disgraced because of them. Therefore, we must protest with all our heart against and in opposition to their messengers, who only shame the intelligence of us all with acts which,

though in vain, cause all our forefathers, with their beards and sidelocks, to look upon us in abomination.

A. B. Yehoshua

1. BANNED PUBLICATIONS

Publications are banned in the West Bank and the Gaza Strip in accordance with ordinances 87 and 88 of the Defence (Emergency) Regulations, 1945, which say:

87. (1) The censor may by order prohibit generally or specially the publishing in publications of matter the publishing of which, in his opinion, would be, or likely to be or become, prejudicial to the defence of Palestine or to the public safety or to public order.
- (2) Any person who publishes any matter in contravention of an order under this regulation and the proprietor and editor of the publication in which it is published and the person who wrote, printed or drew or designed, the matter shall be guilty of an offence against these Regulations.
88. (1) The Censor may by order prohibit the importation or exportation, or the printing or publishing of any publication (which prohibition shall be deemed to extend to any copy or portion of such publication or of any issue or number thereof), the importation, exportation, or printing or publishing or which, in his opinion, would be, or be likely to be or become, prejudicial to the defence of Palestine or to the public safety or to public order.
- (2) Any person who contravenes any order under this regulation and the editor of the publication in relation to which the contravention occurs, and any person (unless in the opinion of the Court he ought fairly to be excused) who has in his possession or control, or in premises of which he is the occupier, any publication prohibited under this regulation or who posts, delivers or receives any such publication, shall be guilty of an offence against these Regulations.

Despite continuous repeated appeals to the military spokesman, the censor and the military legal counsel of the West Bank, we have not succeeded in obtaining a complete and up-to-date list of banned publications. All parties agreed with us that such a list ought to be published and made known to the general public.

The list of banned publications we do have includes the names of 700 publications, the reading or possession of which is prohibited in the West Bank and the Gaza Strip.

1.1 Publications prohibited in prison camps

In addition to the publications banned in the territories, prison camp commanders disallow books brought to prisoners.

The criteria for allowance or prohibition of books in military prison camps are a mystery. As far as we are aware, for example, the Megiddo Prison has a list of 1000 permissible books. At Ketziot, it seems, there are more serious restrictions.

On October 11, 1989, Advocate Tamar Pelleg of the Association for Civil Rights in Israel, visited the prison camp at Ketziot. She received two packages from the prison commanders, of books which she had brought to prisoners two months previously, and which had been disallowed for reading in the prison camp. Among the disqualified books were Constitutional Law by Amnon Rubenstein, Cancer Ward by Alexander Solzhenitsyn, Call of the Wild by Jack London, and The Lord of the Rings by J.R.R. Tolkien. In the wake of Advocate Pelleg's appeal to the prison commander, the ban on these books was lifted.

2. ARRESTS OF WRITERS AND POETS

Since the outbreak of the Intifada, many members of the Writers' Union have been arrested for long periods of time, among them:

Sami al-Kilani -- a writer from Nablus
Ali al-Jariri -- a writer from Beit Jarir
Wasim al-Kurdi -- a poet from el-Bireh
Ghassan Abdallah -- a writer from Ramallah
Suhayl Hudi -- a songwriter from Jerusalem
Al-Mutawakkil Taha -- the chairman of the Writers' Union
Abdul Nasir Salah -- a poet from Tulkarm

At present, the writer Izzet al-Ghazzawi of Ramallah and Isa Karaka, a poet from Ayida refugee camp, are in detention.

3. NEWSPAPERS AND INFORMATION CENTERS

Many newspapers and information centers in the territories have been closed for short periods, or for unlimited amounts of time, among them:

The press office in Gaza
The press office in Bethlehem
The Palestinian Office of Press Services in Jerusalem
The newspaper Al-'Awda in Arabic and in English
Aben on the production of Al-Fajr, Al-Quds, and Al-Sha'ab for short periods.

4. EDITORS AND JOURNALISTS

4.1 Deportation

Since the outbreak of the Intifada, six journalists have been deported from the territories:

Jibril Mahmud Radud -- worker at the monthly Abir, Dura
Adnan Mohammed Dahir -- journalist at Al-Talia, el-Bireh
Laway Abdu -- journalist at Al-Fajr, Nablus
Samir Mahmud Subhiyyat -- journalist at the Ramallah press agency
Jamal Diyab Abu Latifa -- journalist from qalandiya
Rizaq Mahmud Biyari -- journalist for Al-Quds, Gaza

4.2 Administrative Detention

Since the outbreak of the Intifada, many journalists have been incarcerated in administrative detention. At present, seven journalists are under such detention:

Hatem Abdul Kader -- editor of Al-Fajr
Majid Shuyukhi -- reporter for foreign television station
Majid Abu Arav -- Al-Shha'ab
Adnan Damiri -- press office
Nai'if Sawatat -- manager of press office in Jenin
Kamal Jibrayi -- Al-Fajr
Najib Faraj -- press office in Bethlehem

4.3 Restriction of Movement

Journalists released from administrative detention receive green identification cards which do not permit them to leave

the territories. Similarly, many journalists have been placed under house or "town" arrest.

4.4 Interrogations

At times, journalists have been subject to interrogation concerning articles they have published, among them:

Ibrahim Kar'in -- Al-Awda, interrogated about newspaper articles

Hanna Siniora -- Al-Fajr, interrogated about publication of interview with Arafat

Azmi Abu Jarbiya -- Al-Fajr, interrogated about publication of interview with Arafat

Jamil Salhut -- Al-Sha'ab, interrogated about newspaper articles

5. CENSORSHIP

Since the start of the Intifada, all Palestinian newspapers have been required to submit to the censor even those news items and articles translated from the Israeli press; at times news which had been allowed for publication in Israel was disallowed [in the territories]. For example, an article which was published in the daily Ha'aretz about soldiers forcing residents of the Askar refugee camp to perform guard duty was disqualified for publication in Palestinian papers.

The censor requires the Palestinian press to report on the Intifada solely from the broadcasts of Israeli television or radio. A Palestinian newspaper receiving news connected to the Intifada may send it to the radio or television, and only after it has been broadcast there may they publish the news.

This order is not found in writing, but is used as an almost permanent excuse for the disqualification of news in the Palestinian press. However, on April 22, 1989, Israeli television broadcast pictures of a procession of the Palestinian People's Army, which had been filmed by a foreign television station. The paper Al-Fajr wanted to print an article about it, but the censor disallowed it.

The standards by which the censor acts are neither singular nor clear, and there have been cases of a news item submitted by one paper being allowed for publication, but prohibited for another paper which had submitted it to a different censor. For example, news of a letter that MK Dedi Zucker sent to the Chairman of the Histadrut Labor Federation, Yisrael Kessar, in

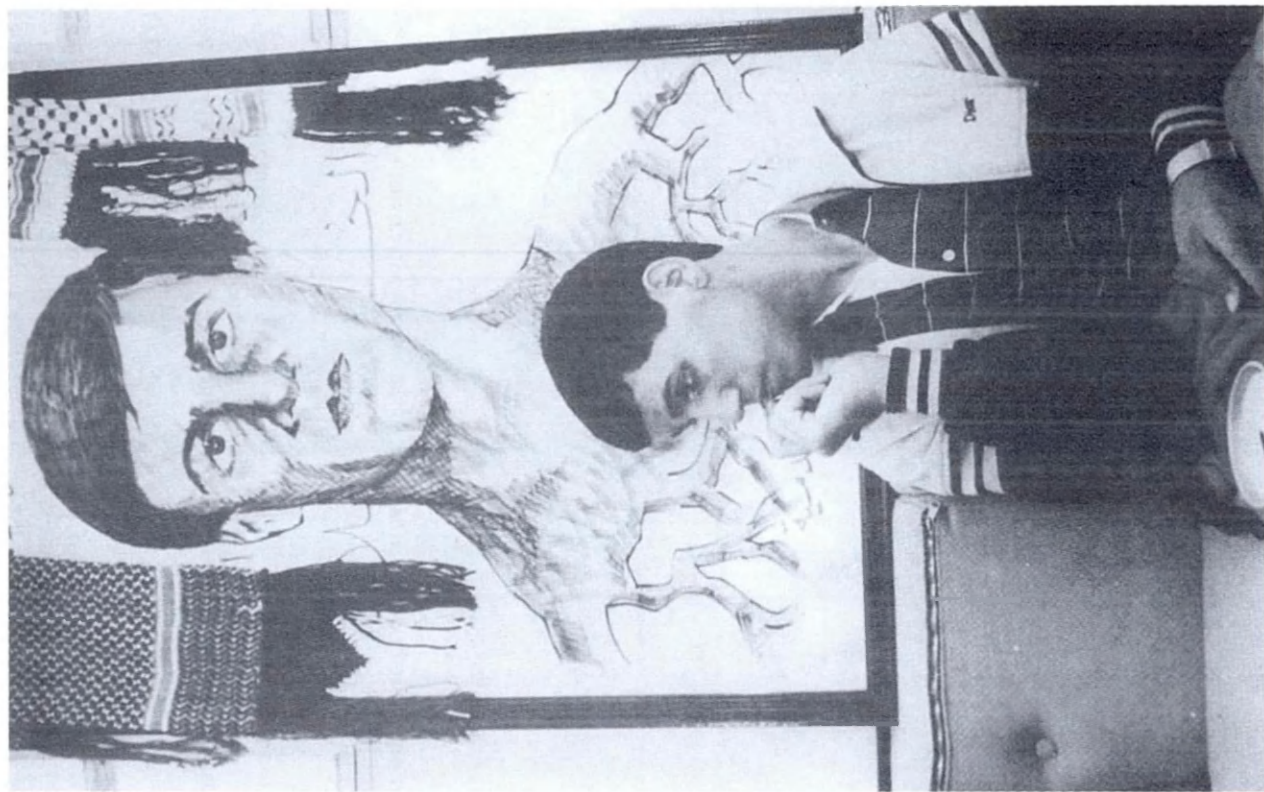


Photo: Rafi Kotz

which he requested Kessar's intervention in a matter involving the arrest of trade union activists, was permitted in the paper Al-Nahar but censored from the rest of the papers.

NOTES

1. See also B'Tselem, "On Banned Books and Authors," Information Sheet: Update October 1989.
2. See Appendix

APPENDIX

You're an administrative detainee -- bang your head against the wall.

APPENDIX

You're an administrative detainee -- bang your head against the wall

When you're an administrative detainee, you're under arrest and that's that. No need for questions, no need for answers. Neither you nor your attorney can do a thing. They say it straight: "We arrested you because we don't like you, and if you don't like it -- you can bang your head against the wall and talk to yourself..."

But you've got to get your mind working and think, in order to convince every brain cell that you're right and that in the end, you'll win. If the detention order is in the form of a person standing in front of you, you've even got to stick out your tongue and mock him. So he'll know that oppression won't work. And if the order finds some way of cutting off the very air you breathe, you've got to create a new atmosphere, so that you'll win and he'll fail.

The administrative order, whether it's for imprisonment, house arrest or destruction of a house, is the refuge of the military mind. They say that it's a tiny crack in the enormous wall of the law and that it's used only in emergencies. But over the course of time, the crack has grown and now it's possible to lead a camel through it.

Why should they bother themselves listening to you defend yourself, saying: "It's my right. I am innocent. It's my right to express my opinion. What do you have against me?"

Why should they bother themselves? It's enough for them to say: "you are an administrative detainee." This frees you from courtrooms and headaches. That officer was right when he said to me: "Don't write. We know you're not breaking the law in your writing, but we can wreck your house and neither the law nor your attorney will help you."

You remember those things when they come and knock on your door, take you in the dark of night, far from your home and family, and add fat to the fire when they tell you that administrative detention means being in the Negev [the desert]. Detention is bad. Detention in the desert is horrible.

Some prisons strip you of your freedom, but there are other prisons which aren't satisfied with taking only your liberty. They take your health, your peace of mind, and soul as well. In some prisons, the guard handcuffs you so you won't escape, but here, in the Negev, the guard closes the handcuffs so tight they leave marks on your wrists.

There's no way to speak of a "good" prison, even if it's a palace in a lush garden. It's plain to see that a bird will choose to fly in the open rather than stay in a cage of gold.

In Ansar 3, you're in the desert. Your family will need a special permit to visit you, in conditions which are difficult for the prisoner as well as his family. As if it wasn't your natural right to see your son, but rather a privilege for which you must pay dearly.

And you remember the homesickness the first time you were arrested, before the Intifada, when you would see your family once or twice a month. Actually, the crime is the same -- and you're not really a criminal.

In Ansar 3, you'll be surprised to hear less-than-month-old news of your loved ones. The prison administration delays the mail, and sometimes simply throws it in the garbage.

And when you ask for a book to read, they say it must pass through the censor. It might contain seditious material. Is there anything that could be more inciteful than the situation we're in right now?

In other prisons, an administrative prisoner is allowed to wear civilian clothes. This is because you're an administrative detainee knowledge of the accusations against you. In Ansar 4, you get one set of stench-ridden clothes filled with dust and sweat. When you want to clean them -- you've got nothing to wear instead. When a person wants to share a tent with his brother and passes on such a request by way of the Red Cross, the commanding officer says that he doesn't want a Mafia family.

When you appeal your detention, you stand before a committee for ten minutes and leave without knowing how your fate has been decided.

When you've got a stomach-ache, the doctor tells you: You won't die tonight, go to sleep. If you say "hello" or "how are you" to your friends -- you're put in confinement.

It's hard to be a person, a father, son, writer, poet -- and sleep on a very thin foam mattress beneath the tentflaps of Ansar 3 in the Negev Desert. It's hard to look at someone who killed your friends in cold blood, standing and still wanting to kill.

THE CLOSING OF EDUCATIONAL INSTITUTIONS

Contrary to popular opinion, most residents of the territories are injured by purely administrative procedures, which are implemented without the deployment of soldiers, and not necessarily as the result of actions carried out by the IDF. Actions such as prolonged curfew as a means of punishment, prohibition of exit to Jordan, restricting the marketing of agricultural produce, the administrative hassle involved in the filling out of "travel forms," censorship, and so forth -- it is actually actions of this sort which harm large sectors of the population for considerable amounts of time, with no distinction between guilty and innocent, and cause significant damage. Actions of this sort, which involve only an administrative order and entail a very limited use of force and violence, are, however, deeply injurious.

The immobilization of the educational system on the West Bank lasted 18 months -- from December 1987 through the end of July 1988 -- excepting short periods at the beginning of 1988, when studies were resumed. During all these months the entire educational system, from first grade through institutions of higher learning, was shut down for what are described by Israeli authorities as "security considerations."

The official reasoning maintained that schools in the West Bank constituted a security threat due to their being a base for stone-throwing youth activity. A high concentration of youth in one area constitutes a danger and increases the possibility of the organization of hostile activities.

It must be born in mind that these arguments were not made in the Gaza Strip or East Jerusalem. In the Gaza Strip, studies have continued as usual, excepting prolonged curfews and strike days which have cut off and severely disrupted the past two academic years. The authorities in the Gaza Strip believed that local residents would make an effort to take schools out of the Intifada's circle of activity, and so made do with spot punishments: schools from which stones or Molotov cocktails were thrown were closed for brief periods of time and opened again when a chance for relative quiet in the area was evidenced.

In Jerusalem, schools were also closed sporadically, and then only infrequently and for short periods of time. The existence of Israeli law in East Jerusalem prevented the implementation of a policy such as that in the West Bank, despite the fact that identical population, activities, and levels of violence are concerned.

That is to say, the closing of educational institutions (in the middle of the last academic year, even kindergartens were closed for several days) was comprehensive, without discrimination between the institutions, with no distinction between the level of violence in one town or another, and with no regard to student age: the first graders as well as university students were prevented from acquiring

knowledge. Thus the individual's fundamental right to learn was denied, as was the right of the Palestinian society in the West Bank to progress through the creation of an educated class, and the acquisition of knowledge and an education for its sons and daughters.

The continued closing of schools and institutions of higher learning -- despite rises and falls in the level of violence, and despite the fact that a connection between the holding of studies and the security level in the area has not been proven -- leads one to the conclusion that neither the opening nor the closing of schools is necessarily a function of the state of public order.

Actually -- if not intentionally and explicitly -- the sealing of the gates of all educational institutions in the West Bank has become a punishment. Even if this was not the original intention, the result is the "illitericization" of West Bank Palestinians.

The denial of knowledge and edification is a sanction which, in addition to the inconvenience to parents and students, has enormous implications for the future. The punishment has struck at the edification of the population and their educational foundation. This conclusion -- the creation of ignorance in the area -- is exacerbated in light of the fact that attempts at independent study in private community or political (Popular Committees) frameworks have been forbidden and prevented with force. Whoever has wished to teach first graders to write, or to hold academic studies in private apartments, has been in danger of imprisonment.

Like the other administrative steps mentioned at the beginning of this article, neither has so extended a suspension -- which has so crushing an effect on nearly every resident of the occupied territory -- required a legal permit or the supervision of any legal institution. Security forces have been free to act on this matter, as they are exempt from civil and political supervision, and have neither the fear of legal proceedings nor the rules of the court hanging over them.

Dedi Zucker

DATA

The Children's Rights Task Force of the Association for Civil Rights in Israel gathered information regarding the injury of children in the territories in the realm of education.¹

319,300 students study in 1194 schools in the West Bank, and 175,850 students study in 260 schools in the Gaza Strip. According to estimates, 86 schools operate in East Jerusalem.²

Government schools comprise 76% of the schools in the West Bank and 51% of the schools in Gaza. All educational levels -- primary, middle, and high schools -- operate within this framework.

UNRWA schools in refugee camps comprise 13% of the schools in the West Bank and 44% of the schools in Gaza. They include nine academic years -- primary and middle school.

Private schools, which include all levels of study, operate under the auspices of various institutions, foreign and local, most of which have some religious affiliation, and comprise 11% of the schools in the West Bank and 5% of the schools in Gaza. Private schools also run kindergartens, and are generally meant for well-to-do neighborhoods.

The structure of the educational system, teaching methods, lesson plans and examinations are implemented according to Jordanian law in the West Bank and according to Egyptian law in Gaza. Although Israel has maintained the general framework of studies, significant changes have occurred within this framework since 1967, as a result of the Education Authority's involvement in the territories. The Authority has banned the use of certain textbooks, supervised the appointment and advancement of teachers, and prevented the formation of professional unions.

Schools in East Jerusalem have been under the supervision of the Israeli Ministry of Education since 1967. The curriculum is Jordanian with changes introduced by the Ministry of Education. The diploma is Jordanian.

During these years of Israeli rule in the territories, educational institutions, especially universities but high schools as well, have at times been closed for limited periods of time.

Since 1987, measures which have been imposed upon the educational system include: the closing of educational institutions for long periods of time, and entry into school buildings and military use of them, at times involving the destruction of property and structures and the arrest of students on school grounds.

Educational institutions in the West Bank were closed for 18 months, and two academic years were, for all intents and purposes, irretrievably lost. In the Gaza Strip, schools remained open; however, due to numerous curfew days, studies were severely disrupted and practically worthless.

The closing of institutions -- government, private, and those run by the UNRWA -- was enacted in accordance with section 91 of the Order Concerning Security Regulations (No. 378) 1970, which allows a military commander to open and close establishments -- businesses, educational institutions, or any other place that the public or part of the public frequents.

School closure orders are given in various forms. Some are delivered as orders signed by the Civil Administration or the IDF;³ others are announced over the radio, television, or in the press, or by a phone call without written documentation.

Closure orders sometimes affect only classes of a specific age. In some places, sessions in the kindergarten were permitted, but not

in other grades. In many schools, it was impossible to hold studies even after they were opened, due to the damages incurred when they were under military use.

On August 18, 1989, the military command released an order banning the activities of a long list of organizations. Definition of these organizations was quite broad and included, among others, Catholic organizations for study purposes within the walls of the Old City. During September 1988, incursions were made into places where students were studying in an Alternative Education framework, and these activities were prohibited. The production of written learning material for correspondence courses was also prohibited.

On July 23, 1989, primary schools and twelfth grade classes were opened in the West Bank. The remaining classes were opened gradually over the following weeks. On November 12, 1989 the military commander ordered the close of the academic year to be the end of November.

In total, schools will have been open -- and this intermittently -- for four months' time.

HIGHER EDUCATION

In early January 1988, all institutions of higher learning in the territories were closed. The closure order was in force for all institutions of higher learning in the West Bank and the Gaza Strip.

There are, at present 18,000 students enrolled in institutions of higher learning in the territories. The largest university is the Islamic College in Gaza (4500 students). At A-Najah there are 4000 students, at Bir Zeit - - 2700, at Hebron -- 2500, at all of the colleges in Jerusalem -- 3500, and in Bethlehem -- 1500. All of them have until this point lost two academic years.

The continuing closure of institutions of higher learning created pressures that led to an attempt to hold academic courses off campus. In the spring of 1989, approximately 800 students studied course material outside Bir Zeit University, in private apartments, clubs, offices, and mainly in the Saint George school in Jerusalem. In a handwritten letter, and with no legal underpinning whatsoever, students who were not Jerusalem residents were forbidden to study at the institution in Jerusalem.

APPENDICES

- A. Order closing educational institutions
- B. Prohibition on accepting students from outside of Jerusalem.

NOTES

1. The Association for Civil Rights in Israel, Children's Rights Task Force, Jerusalem, **Injury to Education and Schools in the Territories**, May 1989.
2. According to data from the Central Bureau for Statistics 1988, UNRWA, and the appraisal of local professionals.
3. See Appendix A.
4. See Appendix B.



APPENDIX A

Order Concerning Security Regulations (Judea and Samaria) (No. 378), 1970.

CLOSURE ORDER

By the powers vested in me by Article 90 (a) (2) of the Order Concerning Security Regulations (Judea and Samaria) (No. 378), 1970, and being of the opinion that it is necessary for proper administration, public order, and the security of IDF forces, I hereby order the closure of all educational institutions in the Judea and Samaria region, both governmental and private, and those belonging to the UN Relief and Works Agency, including universities, from March 20, 1989, to April 19, 1989, and beyond.

Those in charge of the above mentioned institutions are to close them, to cease administering and maintaining them during the above stated period.

This order shall not apply to children.

March 17, 1989

(-)

Gabi Ofir -- Brigadier General
Military Commander
Judea and Samaria Region

APPENDIX B

On March 30, 1989, Chief Superintendent Yair Most, Commander of the Old City Police Station, wrote the following memo to Farah Kamal, Schools Superintendent for the Anglican Church.

M E M O (For internal correspondence in government offices)

To: Farah Kamal/Schools Superintendent for the Anglican Church

Date: 30/3/89

From:

File No.:

Re: Prohibition on students from the West Bank from studying in your institution, the Motran school.

1. Following our verbal notification to Mr. Farah Kamal, I am hereby notifying that we are prohibiting the studying in your institution of students from the West Bank and Gaza Strip (in particular, we mean students from Bir Zeit University which was closed who began studying in the Motran school in March).
2. Their studying in your school requires permission from the head of the Civil Administration in the West Bank and Gaza Strip.
3. These studies are to cease immediately.

Sincerely,

(-)

Yair Most, Chief Superintendent
Old City Station Commander

DEPORTATION OF ILLEGAL RESIDENTS

In addition to expulsions carried out according to the Defence Regulation, the Civil Administration expels people who are not residents of the territories, whose visitor's permit has expired, whose visitor's permit has expired, and whose request for family reunification has been rejected.

A resident of the territories is defined as a person who was counted in the 1967 census, or a child born in the territories and registered in the identity card of a resident parent, or someone who has received a family reunification permit from the Civil Administration.

The Civil Administration claims that family reunification is a privilege, and not a natural right, and therefore requests for family reunification are usually rejected. According to Red Cross statistics, 140,000 requests for family reunification were submitted between 1967 and 1987, and only 9000 were granted. Since the outbreak of the Intifada, only few requests for family reunification have been granted.

People who were not present in the territories in September 1967 when the census was taken for reasons such as studying abroad, visiting relatives, etc., did not participate in the census and did not acquire resident status. Others lost their resident status for living outside the territories or holding a foreign passport.

At the beginning of May 1989, the newspapers reported that the Civil Administration had deported two women from the West Bank to Jordan. The two women, born in the village A'warta near Nablus, have lived for a long period of time in Jordan and do not hold ID cards issued by the Military Government. One of them came from Jordan in 1983 and the other in 1986. Their visitor's permits were about to expire, and when they went to renew them they were sent to the Allenby bridge and deported to Jordan. Maryam Sleiman was nine months pregnant and her two year old son stayed with his father. Huda Qawariq was deported with her three young daughters, the youngest of whom was 10 days old.¹

At the end of May the newspapers reported that during the previous week at least 8 people were deported and others received warnings about their coming deportation,² and that the Civil Administration intends to deport residents of the territories who do not possess valid visitor's permits and not to renew permits of spouses married to residents.

In the beginning of June, Ori Nir of Ha'aretz reported that sources in the Defence establishment had said that the increase in deportations of Palestinians who are not residents of the territories does not indicate a change in policy, but rather a recent improvement in the enforcement ability of the authorities. The Civil Administration, said Ori Nir, does not view these actions as

deportations proper but as enforcement of the limited period of time granted to temporary visitors to the territories⁴

In recent months, the Civil Administration has expelled dozens of residents of the territories each month to Jordan. Palestinian sources put the number of deportees in recent months at about 200, mostly from the Ramallah area.

METHOD

The deportations are usually carried out in the early hours of the morning. A village is surrounded by soldiers equipped with lists of those slated for expulsion. The deportees are given between five and 20 minutes to prepare, and are not permitted to take any luggage except clothes. They are taken to the Military Government offices, where they are served deportation papers. Often the husband is not aware of what is happening because he is with the rest of the village men in the central square, while his wife and children are being taken away.

The deportees are put in a taxi and driven to the bridge, where they must pay the taxi fare and a fine for illegal residency. There have been cases in which women and children stayed on the bridge for days because they were unable to pay.

The documents of children whose father is a resident are torn up at the bridge. Without them they will be unable to become residents in the future and will lose their legal rights to their family's estate.

At the time of the expulsion the woman is promised that she will be able to visit her family in the territories in three months. Usually, when the woman requests a visitor's permit, her request is rejected. In some cases the visit is approved, but her entry is blocked at the bridge.

DATA

PHRIC, the Palestine Human Rights Information Center, has documented 81 cases of expulsion of non-residents between May and the end of October 1989. All are from the Ramallah area.

Four men and 77 women, aged 17 to 72.

127 children, of whom 57 were registered in their resident father's ID card.

23 children whose mothers were expelled remained in the territories with their fathers.

45 of the expellees had lived in the West Bank for more than a year.

66 of them had applied for family reunification and had been rejected.

Sanabel Press Services in Jerusalem has documented 67 expulsions between August and October 1989, of which five were from the Tulkarm district, one was from the Nablus district, and 61 were from the Ramallah district (6).

Six men and 61 women, one of whom was 94 years old.

100 children of whom 34 were registered in their resident fathers' ID cards.

24 children remained with their fathers after their mothers were expelled.

On November 29, 1989, Gabi Nitzan stated in Hadashot that in two nights the week earlier, four women and six children were expelled from the village of Hawara in the Nablus district. Among the expellees were two infants aged eight months and one aged two months.

NOTES

1. See, for example, Oren Cohen, **Hadashot**, May 4, 1989, as well as Ori Nir, **Ha'aretz**, May 5, 1989.
2. "Yesterday in the village of Silwan, Mohammed 'Afif Iyad, 30, whose wife is a Jordanian resident, was arrested. His wife was hospitalized in Ramallah, having just given birth. Representatives of the Civil Administration who came to his home informed him that the Administration intended to end her stay there and arrested him when he told them she was in the hospital. The arrest was to ascertain that the expulsion would indeed take place.
"These incidents have become more frequent recently, and just last week four additional people from the village of Silwan were expelled under similar circumstances. Additionally, in the city of Nablus several cases are known about in which residents are married to non-residents, and the Civil Administration does not intend to permit them to remain in the West Bank."
Oren Cohen, **Hadashot**, May 30, 1989.
3. Oren Cohen, **Hadashot**, May 30, 1989, as well as Ori Nir, **Ha'aretz**, May 31, 1989.
4. Ori Nir, **Ha'aretz**, June 1, 1989.
5. PHRIC, the Palestine Human Rights Information Center, **Deportation of "Non-Residents," Field Work Results**, October 31, 1989.

6. **Sanabel Press Services, Mass Expulsions of "Non- Residents" Becoming Routinized, September 4, 1989.
List of Adults and Children Expelled as Non-Residents since August 14, 1989.**

DISCRIMINATORY ENFORCEMENT OF THE LAW

Over the course of two years of the Intifada, there have been numerous violent clashes between Israeli civilians and Palestinian residents in the occupied territories. The Palestinians throw stones and at times even Molotov cocktails at Israeli vehicles travelling West Bank roads and build rock barricades to disrupt traffic. The settlers respond with "retaliatory acts" in the Arab villages and settlements, smash windows, shoot solar water heaters, damage vehicles, and occasionally set fire to fields, stores, and cars.

It would be almost superfluous to mention what happens to a Palestinian caught throwing stones. For such a crime Palestinians have been sentenced to up to 10 years' imprisonment,¹ and there have been cases where security forces have demolished the houses of stone throwers who caused no damage.² Molotov cocktail throwing, whether or not it caused any damage, has constituted almost routine grounds for house demolition.³ On November 13, 1989, the Gaza military handed down a sentence of 12 years' imprisonment for Mohammed Mahmoud Musa, who had on four occasions thrown Molotov cocktails at IDF patrols without causing any damage.⁴

On the other hand, in incidents where Israeli civilians rioted in Arab settlements, no action was generally taken by the authorities, and in any case no one was brought to trial. Even in cases in which settlers clashed with IDF troops, no action was taken against the settlers. In a letter to the Ministers of Justice, Police, and Defence, MKs Yossi Sarid and Dedi Zucker write: "Around the West Bank, overt, flagrant, and unconcealed activity is taking shape which is liable to overshadow the activity of the 'underground,' which grew out of the same background." The MKs go on to say that: "Until this day in not one of the incidents in which there were clashes [between settlers and soldiers] has the IDF taken any firm action which has led to settlers being brought to trial. The settlers are able to act under the protection of the IDF's lenient attitude."⁵

Over the last two years, violent incidents have occurred which have ended in the deaths of Palestinians or Israeli civilians. Since the beginning of the Intifada, 9 Israelis have been killed by Palestinian residents of the territories in six separate incidents. In four of the six, suspects were apprehended and brought to trial. In two incidents suspects were not caught, and only the circumstances indicate the involvement of Palestinians.

In 24 other incidents, 25 Palestinians were killed under circumstances in which Israeli civilians were suspected. In only one case were legal proceedings concluded and the suspect tried and convicted. Another case is currently being heard. 22 other cases are in various stages of unfinished proceedings, including incidents that took place nearly two years ago.

These facts indicate discrimination on the part of the authorities between Israelis and Palestinians when it comes to enforcement of the law in the territories.

DATA

1. Punishment of Palestinians suspected of killing Israeli civilians in the territories

Since the beginning of the Intifada, nine Israeli civilians have been killed by Palestinians. Five of these were in the first year, through December 8, 1988; four were in the second year.

1.1 The First Year

- 1) On August 15, 1988, the charred corpse of 17 year old Holon resident Ziva Goldovsky was found near Ramallah. She had been killed by a shot to the head and her body had been burned. The killer was apprehended, tried, and convicted.
- 2) On October 30, 1988, a Molotov cocktail was thrown near Jericho at a bus on its way from Tiberias to Jerusalem. Rachel Weiss and her three small children perished in the fire. Soldier David Dolorosa was critically wounded and died in London on December 22, 1988. Members of the cell that threw the Molotov cocktail were captured immediately, and the following day, October 31, 1988, six houses belonging to their families were demolished in Jericho.

1.2 The Second Year

- 1) Ya'akov Pereg, of Har Beracha, was attacked and killed on December 13, 1988, by Hamdan A-Najjar, who had taken his weapon, shot, and killed soldier Arthur Herstig. Two other soldiers pursued and killed him. The next day, December 14, 1988, the house of A-Najjar's family was demolished in the village of Burqin.
- 2) On January 5, 1989, the corpse of taxi driver Shimon Edri, of Petah Tikva, was found at the Yakir intersection; having been shot with a pistol. Security forces attribute the killing to terrorist activity. The killer has not been found.
- 3) Fredrich Stephen Rosenfeld, of Ariel, was stabbed to death on June 18, 1989. Two days later, on June 20, 1989, the murder suspects were apprehended, and security forces demolished

three houses belonging to their families in the village of Burqin.

- 4) On August 14, 1989, a Molotov cocktail was thrown at a car belonging to Civil Administration tax department employees in Ramallah. Gideon Zaken was badly burned and died on August 31, 1989. Immediately after the Molotov cocktail was thrown a curfew was declared. The next day the doors of all nearby stores were welded shut, and gravel was dumped in the entrance to the alley.

1.3 Summary

In all of these instances security forces acted without delay, suspects were almost always found immediately and brought to trial, one of them was killed by security forces, and in almost all cases their families' houses were demolished.

2. Punishment of Israelis suspected of killing Palestinians in the territories

Since the beginning of the Intifada 25 Palestinians have been killed in the territories in killings in which Israeli civilians are suspected of involvement. In the first year, through December 8, 1988, 14 Palestinians were killed under these circumstances, and in the second year 11.

On May 25, 1989, MK Dedi Zucker submitted a parliamentary question to the Minister of Police concerning the status of investigations into incidents in which Israeli civilians are suspected of killing Palestinians (6). The Minister of Police responded on July 12, 1989 (7). The list below is taken from the response of the Minister of Police to MK Dedi Zucker.

2.1 The First Year

- 1) Ranem Hamed, 17, from the village of Beittin, was killed January 11, 1988.
An indictment was issued against Pinhas Wallerstein, chairperson of the "Binyamin" regional council.
The trial is still in progress in the Jerusalem district court.
- 2) Abdel Baset Jum'ah, 27, of Kafr Qadum, was killed February 7, 1988.

Yosef Farber and Shimon Rav, residents of Kedumim, were arrested and released on bail by Judge Aviva Talmor in Netanya.

Minister of Police: Investigation concluded, file with State's Attorney.

- 3) Kamal Darwish, 23, of Deir Amar, was killed February 21, 1988.
Minister of Police: Military Police/CID are investigating (soldiers also involved).
- 4) Raudeh Najib Hasan, a 13 year old girl from Baqa el Sharqiya.
A Khermesh resident was suspected.
Minister of Police: File transferred to Attorney General for examination.
- 5) Ra'ed abu-Mohammed Urda, 17, of the village of 'Abud, was killed February 27, 1988.
Minister of Police: Investigation concluded, file with State's Attorney.
- 6) Ahmed abu-Hussein Barghouti, 12, from the village of 'Abud, was killed February 27, 1988.
Minister of Police: Investigation concluded, file with State's Attorney.
- 7) Hamed Mohammed Hamida, 41, of Mazra'a el-Sharqiya, was killed March 7, 1988.
Minister of Police: Investigation concluded, file with State's Attorney.
- 8) Najeh Hasan Hazrogh, 18, of the village of Turmus Aiya, was killed March 8, 1988, by a bullet shot, according to witnesses, from an Israeli bus.
Minister of Police: Police are unaware of any such incident.
- 9) Musa Saleh Musa, 20, of the village of Beita, was killed April 6, 1988.
Minister of Police: File transferred to Military Prosecutor.
- 10) Hatem Ahmed el-Ja'abar, 19, from the village of Beita, was killed April 6, 1988.
Minister of Police: File transferred to Military Prosecutor.

- 11) Abdullah 'Awad, 28, of Turmus Aiya, was killed May 4, 1988. Yisrael Ze'ev was sentenced to three years imprisonment on December 4, 1988.
- 12) Mustafa Halayiq, 20 from the village of Shuyukh, was killed in the village of Sa'ir on June 3, 1988.
Minister of Police: File closed, assailant unknown.
- 13) Saib Mohammed el-Hayyaq, 18, of Jericho, was killed by a bullet shot from an Israeli bus.
Minister of Police: Investigation concluded, case with State's Attorney.
- 14) Qaid Abib Salleh, 42, of Hebron, was killed September 30, 1988.
On April 12, 1989, an indictment was issued against Rabbi Moshe Levinger. The trial has not yet concluded.

2.2 The Second Year

- 1) 'Adli Maher, 14, of O'srin, was killed March 22, 1989.
Suspect arrested: Ovadia Salome of the moshav Masuah. Released on bail.* {*On April 6, 1989, Yediot Aharonot published that Ovadia Salome was released for 5000 NIS bail and would remain under house arrest for 15 days. This was in consideration of the fact that detention in jail was liable to be detrimental to his economic status.}
Minister of Police: File returned by State's Attorney to the Police with instructions to complete the investigation.
- 2) 'Awad Farah 'Amdo, 24, of Hebron, was killed March 30, 1989.
Suspect arrested: Gershon Bar-Kochba, a resident of Hebron. Released on bail.
Minister of Police: Case still under investigation.
- 3) Nad Da'neh, 16, of Hebron, was killed April 28, 1989.
Suspect arrested: Haim Ben-Lulu, a resident of Kiryat Arba. Released on bail.
Minister of Police: Case still under investigation.
- 4) 'Omar Yusuf abu-Jaber, 42, of Jalqamus, was killed in Jenin on May 17, 1989.
Suspect arrested: Menashe Ben-David, a resident of Kiryat Bialik. Released on bail.

- 5) Ibtisam Abdel Rahman Buziyeh, a 16 year old girl from Kafel Haress, was killed May 29, 1989.
Eight suspects, students of the Kever Yosef yeshiva in Nablus, were arrested and released on bail.
Minister of Police: Police transferred file to State's Attorney with a recommendation to file manslaughter charges.
- 6) 'Aziz Hamis Yusuf 'Arar, 20, of Qarawat Bani Zeid, was killed June 23, 1989.
Suspects arrested: Ariel Begun, a resident of Hebron, and Meir Berg, a resident of Pesagot. Released on bail. Charges against them were changed from murder to causing death by negligence.
- 7) Fayeq Subhi Sweidan, 19, of the Sija'iyeh neighborhood in Gaza, was killed by a bullet to the heart on July 30, 1989, near Beit Hannun.
Suspect arrested: David Stivi, a resident of Rafiah Yam. Released for 50,000 NIS bond on August 8, 1989, after the police announced they had finished his investigation. (8)
- 8) Nidal Miseq, 20, of Hebron was killed on August 10, 1989, by gunfire shot at him from a bus on its way to Kiryat Arba.
Police Spokesperson, Judea district (September 19, 1989): No investigation.
- 9) Sami Mohammed 'Atweh e-Sabah, 18, from the village of Tuqua, was killed on August 21, 1989, by a bullet to the chest.
Police Spokesperson, Judea district (September 12, 1989): A resident of the Teqoa settlement was arrested and released on bail. His weapon was taken for examination.
- 10) Mustafa abu-Safiyeh, 17, of Beit Sira, was killed October 12, 1989.
According to witnesses, a settler in a yellow Volvo, whose car had been stoned, got out of his car and fired six shots.
Police Spokesperson, Judea district (October 31, 1989): Investigation begun, nobody arrested.
- 11) 'Issa Mohammed 'Ali, 29, of el-Khader, was wounded October 24, 1989 and died of his wounds November 18, 1989.
Eyewitnesses say that a stone was thrown at his car from Egged bus no. 161 on the Hebron-Jerusalem line.



Photo: Nitzan Shorer



Police Spokesperson, Judea district (November 19, 1989):
Investigation in progress, nobody arrested.

2.3 Summary

On June 5, 1989, MK Haim Ramon submitted a background sheet on the activity of settlers in the occupied territories to the Labour Alignment faction of the Knesset. The Minister of Police responded to the document on July 3, 1989. (9)

According to the Minister of Police in his response to MK Ramon, between January 1988 and June 1989, 16 Palestinians were killed by settlers in the territories, and 15 files were opened as follows:

- a. Tried and convicted: one file.
- b. Suspects indicted: four files.
- c. State's Attorney has possession: two files.
- d. Still under investigation: four files.
- e. Under Judea and Samaria Legal Advisor's care: one file.
- f. Closed, assailant unknown: one file.

In his response, the Minister does not treat the 16th killing which, according to him, is listed by the police as a Palestinian killed by a settler.

And more. The numbers he gave MK Ramon do not correlate with the numbers he gave MK Dedi Zucker ten days later. A summary of the response of the Minister of Police to the above-mentioned query shows the following:

- a. Tried and convicted: one file.
- b. Suspects indicted: no files.
- c. State's Attorney has possession: seven files.
- d. Still under investigation: three files.
- e. Closed for lack of evidence: no files.
- f. Under Judea and Samaria Legal Advisor's care: no files.
- g. Closed, assailant unknown: one file.
- n. Transferred to Attorney General: one file.
- i. Transferred to Military Prosecutor: two files.
- j. Transferred to Military Police/CID: two files.

Either way, the picture that emerges is that the status of investigations into deaths in the occupied territories in which Israeli civilians are involved has not changed since the Karp Commission report, issued seven years ago, stated: "the monitoring group's impression of the investigation ... was that appropriate rigor and expected expedience for this sort of investigation were not apparent, and questions arose as to the very method of investigation."

3. Disturbances

Israeli civilians resident in the territories take deliberate action against the Palestinian population, occasionally as a reaction to the stoning of Israeli cars moving on West Bank roads.

Although these actions are deliberate, the army and police do not do enough to prevent them. Even in cases of confrontation between settlers and IDF troops, punitive and deterrent measures are not taken against the former.

In a background sheet for the June 5, 1989, Labour Alignment faction meeting on settler activity in the territories, MK Haim Ramon spells out the figures collected by B'Tselem on activities carried out by settlers against the population and settlements of the territories in the month of May 1989.

In his above-mentioned response of July 3, 1989, the Minister of Police responded with the status of the investigation into each of these incidents.

- 1) May 2 - Dozens of Nili residents entered Harabta, set fire to shops, shattered windows, damaged vehicles, fired at and punctured solar water heaters.
Minister of Police: Incident was not reported to the police.
- 2) May 3 - Kiryat Arba residents went to Hebron, smashed windows and solar water heaters, damaged vehicles and fired into the air.
Minister of Police: Police are investigating the incident. Two residents were slightly injured.
- 3) May 7 - A group of settlers entered the village of Masha near Elkana, and threw stones at residents' houses. Village youths responded by throwing stones, and an IDF force had to come to the village to separate the two sides.
Minister of Police: Incident was not reported to the police.
- 4) May 10 - Some 30 members of the Jericho Group, affiliated with the Kach movement, accompanied by Rabbi Meir Kahane, damaged Palestinians' vehicles on the road to Jericho.
Minister of Police: Two files were opened and are currently under investigation.
- 5) May 10 - Settlers rioted in the village of Beitin, fired in the air, burned two cars completely, and smashed the windows of several other cars and of numerous houses.
Minister of Police: Incident was not reported to the police.

- 6) May 10 - A group of settlers arrived in the village of Ein Yabrud, at 11:30 pm, in two vehicles, one of them a Ford Transit. They burnt a shop, tried to set fire to another shop, chopped down trees, broke the windows of the village mosque and daubed the walls with graffiti "Am Israel Hai" - (the people of Israel lives).
Minister of Police: Incident was not reported to the police.
- 7) May 14 - Hundreds of Ariel residents entered the village of Biddya following the throwing of two Molotov cocktails at an Ariel resident's car. Olive trees were burned and stones were thrown at village residents.
Minister of Police: Incident was not reported to the police.
- 8) May 19 - Kiryat Arba residents fired at solar water heaters, broke windows and destroyed cars.
Minister of Police: Not reported to the police.
- 9) May 21 - Hundreds of residents of Maaleh Adumim rampaged at night through the village of El-Azariya. They set fire to watermelon stalls, pushed a bus over a cliff, overturned vehicles, and set fire to a truck loaded with boxes of tomatoes.
Minister of Police: Not reported to the police.
- 10) May 23 - 100 dunam of wheat and citrus groves were burned in Anabta.
Minister of Police: Not reported to the police.
- 11) May 24 - Around 8:00 pm settlers driving some 20 vehicles entered the village of Dir Jarir, east of Ramallah, smashed windows, and burned trees.
Minister of Police: Not reported to the police.
- 12) May 25 - At noon some 30 settlers entered the village of 'Arura and fired in all directions. Four residents were injured by the gunfire.
The Judea Police and the Civil Administration say they have no record of any investigation into the incident.
- 13) May 25 - 150 residents of Kiryat Arba rioted in Hebron.
Minister of Police: Not reported to the police.
- 14) 30 settlers rioted in the village of 'Arura and injured four villagers.
Minister of Police: Not reported to the police.

- 15) May 26 - Dozens of residents of Sha'are Tikva, Oranit, and Barkan rampaged through the village of Azzun Atma.
Minister of Police: Not reported to the police.
- 16) May 27 - At 4:00 am, settlers from Hebron smashed five vehicles that were parked in a garage in the center of Hebron, and damaged the garage offices.
Minister of Police: Not reported to the police.
- 17) May 28 - Three Israeli civilians, wearing skullcaps, arrived at the house of the elected Mayor of Tulkarm in a white Autobianchi car, smashed the windows of his house and damaged his car.
Minister of Police: Not reported to the police.
- 18) May 29 - Several dozen civilians, apparently students at the Joseph's Tomb Yeshiva, at Nablus, arrived at the village of Kafel Haress near Ariel. They fired in all directions, killed Ibtisam Abdel Rahman Buziyeh, 16, and injured two villagers, one of them severely. They also caused much damage to property, and shot at livestock. Two donkeys were killed and one wounded.
Minister of Police: Investigation begun. Eight suspects arrested.

3.1 Summary

Most of the incidents of riots and damage to property were not reported to the police, and the police do not investigate unreported incidents. Residents are in no hurry to submit complaints about Israeli civilians because of distrust in the police and judicial system as well as because of the delay of running around from one police station to the next.

The police do not investigate incidents brought to their attention indirectly, such as by way of MK Haim Ramon's document or events reported in the media.

It can thus be concluded that the police are slow to investigate reports of riots and damage to property perpetrated by Israeli civilians against Palestinians in the territories, and that in the few cases in which investigations are begun, they drag on for lengthy periods of time and their results are not readily apparent.

NOTES

1. In one instance, following an appeal, a sentence was reduced to three years' imprisonment for throwing stones. In another, a minor was sentenced to four years' imprisonment for the same crime. See, for example, **Davar**, September 2, 1988.
2. See **B'Tselem, The Demolition and Sealing of Houses as a Punitive Measure in the West Bank and Gaza Strip During the Intifada**, September 1989.
3. *Ibid.*
4. See, for example, Eitan Rabin, **Ha'aretz**, November 14, 1989.
5. MK Yossi Sarid and MK Dedi Zucker, SR-408, February 22, 1989.
6. MK Dedi Zucker, interpellation to the Minister of Police, May 25, 1989.
7. Haim Bar-Lev, Minister of Police, response to interpellation, July 12, 1989.
8. **Hadashot**, August 4, 1989.
9. Haim Bar-Lev, Minister of Police, 11118, July 3, 1989.

See also **B'Tselem, Information Sheet: Update June 1989**, pp. 6-7.
Also, **B'Tselem, Information Sheet: Update July 1989**, p. 6.

SOLDIERS' TRIALS

When civil rights and the rule of law in the occupied territories are discussed, it is essential to make it clear right at the start that under a regime of occupation it is not at all possible that the rule of law will exist and that civil rights will be respected in the accepted sense of these terms in the free world. It certainly can not be expected that these principles will exist fully when the IDF has the impossible mission of putting down a widespread popular uprising, and when young soldiers confront the waves of violence and hatred from the Palestinian Population.

We are not deceiving ourselves: in this situation the "irregularities" are foreseen and inevitable, even if the government and the IDF command have done everything to prevent them. We struggle for the bare minimum: safeguarding those basic moral and judicial principals without which a human society completely loses its human semblance.

Nevertheless there is no doubt that some of the unbearable phenomena we have witnessed during the last two years could have been prevented had figures in the political establishment, the military, and the judicial system taken the required and available means even in the present situation.

They had an obligation to convey to the troops a clear and explicit message of maximal restraint, refraining from unnecessary injury to humans and from the phenomena of abuse and sadism. Instead of such a message of restraint, the opposite message was conveyed, and we all remember the astonishing declarations made by the Minister of Defence regarding "no nonsense blows" and that "one does not die from blows." The result was to be expected. We all saw what terrible interpretation was given in the field to these declarations. I am convinced that the Minister of Defence did not intend these results, but he must take note of the full significance of what he said. One does die from blows. The law which forbids hitting a detainee is essential to the preservation of the IDF's moral image and for its ability to act as a disciplined body.

Another grave issue concerns regulations for opening fire. The legal and moral principle which should have guided us is a simple one: One must not take another's life except to protect life, out of self defence or while protecting others. However, with respect to the use of plastic bullets - which sad experience has proven to be deadly weapons in all but name - the official regulations for opening fire stand in clear and blunt contrast to this principle. When using plastic bullets one is allowed to reach the shooting stage even when soldiers' lives are not in danger.

Is Israeli society, which refrains from handing down the death penalty upon murderous terrorists, prepared to reconcile with regulations whose practical meaning is that it is allowed to impose death penalty on those who disturb the peace? The grievance must be

directed not toward the soldier - who often has to confront stressful and harsh situations - but toward the regulations and official policy, which do not instruct him as to how he should act and do not instill in the soldier an awareness of the elementary principle that you do not shoot to kill except to protect life.

There exists some ambiguity regarding the regulations for opening fire on people wearing masks. If the intent is to bring about their arrest - to prevent their murderous and dreadful injury upon those whom they term "collaborators" - then the directive is legal. But concern is growing that this directive is being interpreted as actual permission to shoot to kill without the self-defence precondition.

The few Members of Knesset who deal with the subject of human rights in the territories know that the Military Police/CID and the Judge Advocate General's Corps are collapsing under their work load, which impairs their very ability to function, and that they need urgent reinforcement. Do the Minister of Defence and the heads of the army not know this? But even when, in the case of severe violations, the implicated soldiers are found and convicted, and a substantial sentence is meted out (something which does not always take place), it does not mean that justice has been done and not merely shown. It is then that pressure for military clemency commences. Thus have we seen the significant verdict in the Givati episode made laughable by a military pardon, which was granted by the OC Southern Command, inspired by the Minister of Defence. Clemency given by a commanding officer ridicules the military courts of law, according to the recommendations of a committee headed by Judge Shamgar, this practice should be discontinued.

It is not surprising that in the present state of things the staff of the Judge Advocate General's Corps do not feel that they receive adequate support for their actions against what have been called "irregularities." It is the only way one can explain - but not justify - the decision not to appeal the shocking verdict which acquitted the Golani soldiers who brutalized a prisoner who died from beatings, or the decision not to bring Colonel Yehuda Meir to trial for the dreadful crime he committed.

This latest episode has got to give us all food for thought. The Israeli public, for the most part, has shown impressive restraint in the face of severe provocation, and this even after murderous and lowly terrorist attacks. Few are the societies which have withstood such provocation without resorting to violence, pogroms, and lynching. But the above episode, the gravest committed in Israel since the massacre in Kafr Kassem - a war crime in the full sense of the word - was carried out by IDF soldiers, according to the order of a high ranking officer. This is hard to bear: a crime was committed against handcuffed, helpless prisoners - and the criminal was only reproached, and in fact not even expelled from the army as had been promised.

One need not be a jurist to be alarmed and revolted in the face of these things. And possibly the thing which hurts me most, is the

thundering silence of the Israeli judicial system, the bar, and the faculties of the law schools.

Amnon Rubinstein

DATA

Between the beginning of the Intifada and the end of November 1989, 586 Palestinians were killed in the territories in incidents involving Israeli security forces. During this period, the public has been exposed to hundreds of reports of beatings, abuses, and damage to property perpetrated by IDF troops and other security forces in the territories.

Official sources report that as of October 10, 1989, 52 indictments against 86 soldiers had been issued to the military courts. These soldiers were accused of various offenses, including manslaughter, causing death through negligence, assault, criminal physical abuse, conduct unbecoming, theft, and others. In 43 cases the proceedings have concluded: 63 soldiers were convicted and 9 were acquitted. In addition, according to the Judge Advocate General, 500 - 600 soldiers have had disciplinary proceedings brought against them.

We checked the official data, which included only general information about the indictments, court's decisions, and sentences, without descriptions of the incidents and without names, ranks, or dates, and cross-checked them against reports that appeared in the Israeli press. However, it should be pointed out that the press did not report about 25% of the 52 court cases reported by official sources. In addition, the press reported on only a few dozen out of the hundreds of cases of disciplinary proceedings against soldiers.

1. Manslaughter (Shooting)

Twelve indictments were issued against six soldiers (non-coms) and seven officers, the highest ranking of them a captain. In ten cases, the charge was causing death by negligence and in two cases manslaughter.

The proceedings in eight cases have been completed, and four cases are still awaiting the court's decision, two of them from 1988.

Two cases ended in acquittal of three officers. Six cases ended in conviction. In two cases, non-coms were given suspended sentences. In the other four cases, three non-coms and an officer were given jail sentences.

The officer, Second Lieutenant Alex Deutsch was sentenced to three months in jail and an additional six months' suspended

sentence. This punishment was reduced to 2 1/2 months' imprisonment by the Regional Commander.

One soldier, Sergeant Ilan Arav, was sentenced to two years imprisonment and one year's suspended sentence for causing the deaths of two residents of the territories. An appeal has been submitted which has not yet been heard.

Two soldiers were convicted of manslaughter. Private Ya'akov Tamir was sentenced to a year in jail and two years' suspended sentence but was released after six months on the recommendation of a committee appointed to consider reducing his sentence. Private Eli Yedidya was sentenced to 1 1/2 years in jail and 1 1/2 years' suspended sentence for the same offense.

2. Beating, Assault, Injury, and Abuse of Palestinian Residents

Thirteen indictments have been issued against 25 soldiers (non-coms), one warrant officer, and nine officers, including a major, the highest ranking officer brought to trial so far.

The charges include manslaughter, criminal physical abuse, assault, aggravated assault, conduct unbecoming, shameful conduct, injury with grave intent, injury in aggravated circumstances, and negligence.

Three of the incidents for which indictments were issued ("Givati I," "Givati II," and "Golani") resulted in the death of Palestinians. Yet in only one ("Givati I") were soldiers charged with manslaughter, and these were later acquitted of that charge.

In eleven cases the trials have concluded and in two cases sentence has not yet been passed ("Givati II", in which two officers and two soldiers were charged, and a case against a soldier accused of criminal physical abuse).

Two trials ended in the acquittal of two officers and three soldiers, and a reprimand for one medical officer. Another medical officer was acquitted in the "Givati I" trial, in which four soldiers were convicted. Eight trials ended in convictions.

Two officers and two soldiers were given suspended sentences. One officer was sentenced to five months in jail, seven months' suspended sentence, and demotion to private. The warrant officer received four months' imprisonment, two months' suspended sentence, and demotion to private.

The punishment of the 17 non-coms who were sentenced to active prison terms ranged between one month and nine months with an average of 4.3 months. Fifteen of them also received suspended sentences, ranging between 2.5 and 9 months. Six were demoted to the rank of private.

The punishment of the four soldiers who were imprisoned (in the "Givati I" trial) was reduced by the Regional Commander and they served only half of the prison terms to which they were sentenced.

3. Opening Fire in Violation of Orders (without proof of casualties)

Eight indictments have been handed down against eight soldiers who were charged with illegal use of firearms. No officers have been tried on this charge. In three of the cases, proceedings have not been completed. Five trials resulted in convictions.

In one case, a soldier was sentenced to two months' imprisonment. Four others received suspended sentences of from one to six months. In two cases, where damage was caused by the shooting, the offenders were fined NIS 200. One soldier was demoted to the rank of private.

4. Property Offenses

Seventeen indictments were issued against 24 soldiers and two IDF employees. The charges were causing damage to property, robbery, and theft.

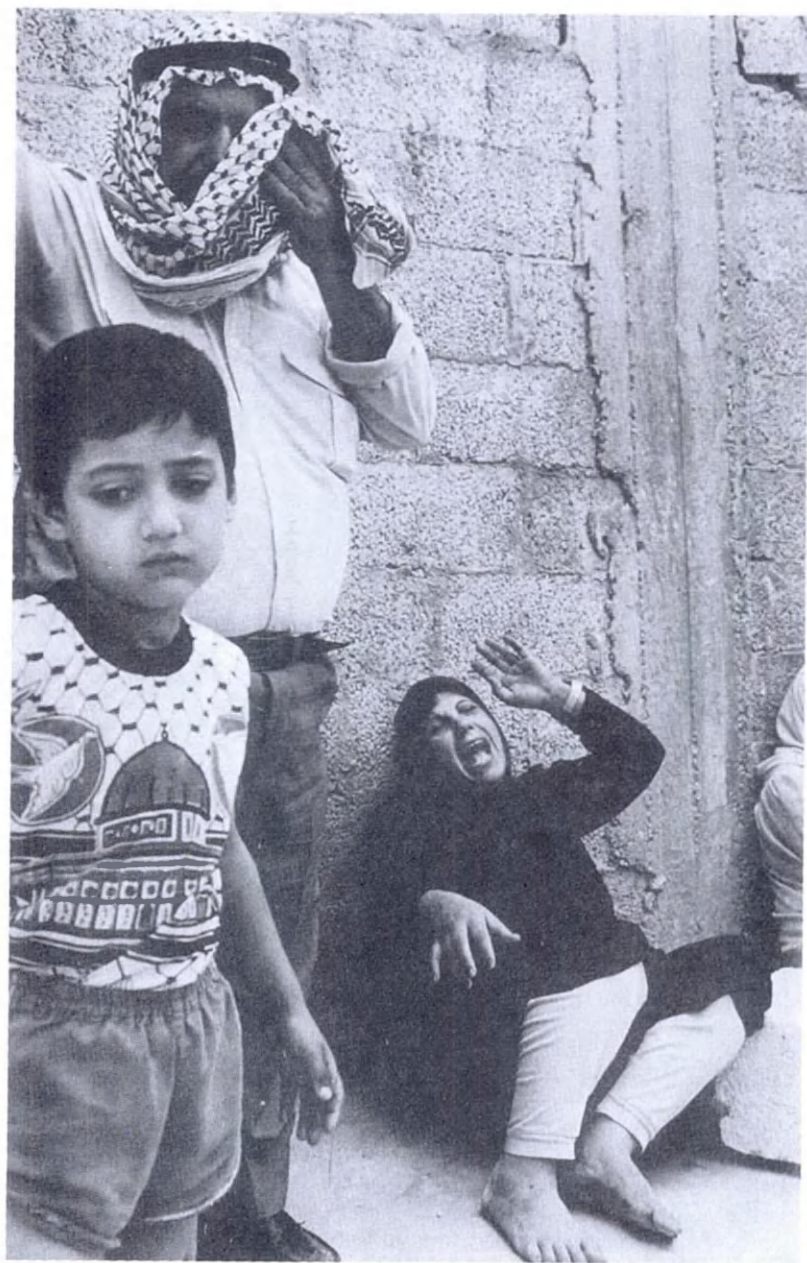
The two IDF employees, who had stolen watermelons from a Palestinian, were convicted of shameful conduct and sentenced to 14 days' actual imprisonment, 2.5 months' suspended sentence, and a fine of NIS 100.

The trials of 22 soldiers have concluded. Only one soldier was acquitted; the Judge Advocate General's Corps appealed the acquittal and the matter is pending. All the soldiers who were convicted received actual prison terms. In one case, in which 4 soldiers were convicted of robbery, they were tried and received, following appeal, prison terms ranging from one year to 45 months, and suspended sentences of between 24 and 27 months. The other 18 soldiers were sentenced to terms ranging from a minimum of 40 days' imprisonment to a maximum, for theft, of six months.

5. Other Offenses

One soldier was convicted of striking a journalist, making threats and malicious causing of damage. He received a four month suspended sentence and was ordered to pay NIS 1,200 compensation to the injured party.

An officer with the rank of captain, who made a Palestinian sign a false document under threat, was convicted of extortion by



threats and conduct unbecoming. He received a five month suspended sentence and was demoted to the rank of second lieutenant.

A soldier who was convicted of trespassing was sentenced to ten days' detention, two months' suspended sentence, and demotion to private.

6. Summary

All told, the trials of 56 soldiers and 12 officers have been completed.

Acquittals: 6 officers (50%) and 3 soldiers (50%).

Reprimand: one officer.

Suspended sentence only: 3 officers (25%) and 9 soldiers (16%).

Prison terms: 2 officers (17%) and 44 soldiers (79%).

Between the beginning of the intifada and the end of October 1989, no officer above the rank of Major was tried in a military court for an offense related to events in the territories.

In a few cases disciplinary measures were taken against senior officers: reprimand, removal from post, or both.¹

The heaviest punishments have been given to those convicted of property crimes:

In July 1989, Private Shimon Ben Huta was sentenced to 4.5 years' actual imprisonment and 1.5 years' suspended sentence on ten counts of robbery and looting in Gaza's Sheikh Radwan quarter. Following appeal, the sentence was commuted to three years and nine months' imprisonment and two years and three months' suspended.

Private Victor Barel was sentenced to 3.5 years' imprisonment and 1.5 years' suspended for the same offenses. Following appeal, his sentence was commuted to two years and ten months' imprisonment and two years and two months' suspended.

Private Alon Salem was sentenced to 2.5 years' imprisonment and 1.5 years' suspended sentence for the same offenses. Following appeal, his sentence was commuted to one year and eleven months' imprisonment and two years and one month suspended sentence.

APPENDIX

Senior Officers

NOTES

1. See Appendix

APPENDIX

Senior Officers

- * **Col. G. (as he was called in the press), a brigade commander in the Judea district.**

On April 4, 1988, during pursuit, he and his soldiers opened fire from a helicopter at fleeing residents, killing Abed Ziatti from the village of Bani Na'im. Col. G. was severely reprimanded by Deputy Chief of Staff Maj. Gen. Ehud Barak. He was removed from his post and left the IDF.

- * **A Lt. col. (res.), a battalion commander in the Tulkarm district.**

Following an incident in which detainees were stripped naked in an orchard in order to prevent their escape, beaten and had a dog set on them, an investigating committee found that the Lt. col. failed to prevent excessive behavior, and he was removed from his post. The commanding officer of the sector at the time was censured.

- * **Lt. Col. (later promoted to Col.) Yehuda Meir, Commander of the Nablus District.**

In late January 1988 he ordered his troops to round up twelve residents from the village of Hawara and eight from the village of Beita, to beat them, and to break their arms and legs.

In May 1989, in a disciplinary trial, Col. Meir was severely reprimanded by the Chief of Staff. According to an agreement reached with him, he concluded his service in the IDF and took retirement leave. After the IDF's intention to loan him to a state institution fell through, Col. Meir took leave without pay until his retirement with pension in November 1992. A petition to the High Court of Justice by four residents of Hawara, the "Parents Against Erosion" group, and the Association for Civil Rights in Israel to force the IDF to court-martial Col. Meir, is still pending.

- * **A colonel, Commander of the Judea Brigade.**

Following the recommendation of an investigating committee, the brigade commander was reprimanded for his overall responsibility for events and for the lack of coordination between the IDF and the Border Police during the raid on the village of Nahalin on April 13, 1989, in which five Palestinians were killed and twelve wounded.

* **Lt. Col. Tzion, Commander of the Bethlehem Sector.**

Transferred from his post following the recommendation of an investigating committee which examined the events at Nahalin. He was assigned to a similar posting in Samaria.

In one trial ("Givati I") the verdict clearly suggested the involvement of senior officers in issuing manifestly illegal orders, and in another trial ("Golani") the verdict noted that the orders issued were manifestly illegal. In the former case, the Military Police/CID conducted an investigation and the file was transferred to the Judge Advocate General's Corps. In the "Golani" case, the Association for Civil Rights in Israel asked the Military Advocate General to examine the responsibility of senior officers in issuing orders, and to consider placing them on trial. The Military Advocate General responded that a Military Police investigation into the matter had been begun.

THE DAILY ROUTINE

Aside from violations of human rights described and documented in the previous chapters, numerous kinds of ruthless acts, abuse, intimidation and harassment are being carried out daily as a matter of routine. Some of these acts, such as demanding that passers-by disassemble road blocks or the confiscation of private cars are well founded in defence regulations and in orders issued by the military commander; some of them contravene international law and even IDF regulations; others are the result of the imagination and initiative of soldiers, which although they may not violate any written law, violate the obligations of morality, justice and humanity. All of these acts insult a person's dignity, freedom, and rights.

Acts such as forcing inhabitants to take flags off trees and electric poles or making them erase slogans off walls, clean streets, remove road blocks and burning tires, arbitrary confiscation of identification cards, the soiling and dirtying of courtyards and houses by soldiers and the like cannot be quantified or documented systematically. However, in trying to summarize human rights violations in the occupied territories, they cannot be ignored. In attempting to give the reader some sense of human rights violations in the occupied territories, we present a number of affidavits, all of them from November 1989, which were taken by Advocate Dan Simon of the Association for Civil Rights in Israel. For understandable reasons, the names of the people giving the affidavits have been deleted.

AFFIDAVIT

I the undersigned, resident of the Askar refugee camp, having been warned to state the truth or face the punishment specified by law if I do not, hereby declare as follows:

1. I am a resident of the Askar refugee camp near Nablus.
2. On November 15, 1989, at 9:30 pm, soldiers came to my door. They knocked on the door and, while my mother went to get the key, the soldiers knocked so hard that the door was broken (just before that my mother had asked them to wait a minute till she opened it). The door is still broken to this day.
3. The soldiers took my identity card and told me to come out to the main street. Together with me about 30 camp residents were brought out. As we were leaving the house one the soldiers told me that today is the anniversary of the state of Palestine and that we were going to celebrate the occasion.

4. In a street by the camp there was a burning tire. We were asked to remove the tire and this we did. Using a broom stick we removed it from the street.
5. One of the soldiers (whose right leg was in a cast) asked: "What day is today?" No one answered. The soldier himself replied that today is the anniversary of the marriage of the state of Palestine and we shall celebrate the occasion.
6. The same soldier separated me from the group and told me to sing a song of Farid El-Atrash and I refused. The soldier struck my left temple hard with his fist. I almost lost consciousness.
7. The soldier ordered me to sing "Mabrouk 'aleika ya-'aris" (Congratulations to you, Oh Bridegroom), and ordered me and the rest of the people to dance to the rhythm of the song in front of everybody. This we did, we sang and danced. I did not want to sing, I felt humiliated and ashamed, but I sang because I feared more blows and the possibility that the soldiers would arrest me, and that I might thus miss the upcoming matriculation exams.
8. The same soldier ordered me to shout "Golani ba" (Golani troops are coming) and the rest of my friends to reply "Golani ba-la-gan" (Golani is a mess). This we did dozens of times. The soldier told me to sing louder. He said he wanted my shouting to be loud enough to make the rain fall.
9. They ordered us to curse Arafat in obscene curses -- and this we did (this instruction was given to us by another soldier who appeared to be the highest ranking in the group).
10. The soldier with the cast told us to curse Allah as well. We all refused and the soldiers did not react to this.
11. One of the soldiers came up to me and told me to curse Ilan out loud, he told me curses (among them "Ilan is a maniac") and ordered me to repeat them. This I did, and then one of the soldiers approached me from behind, kicked me with tremendous force in the bottom and shouted at me "Am I a maniac?" The soldiers broke out laughing. At the same time the soldier with the cast hit me hard in my stomach. I fell down from pain. At that time I did not know that Ilan is a man's name in Hebrew.
12. Around 23:00 our identity cards were given back to us and we were released to our homes.

13. During this entire ceremony I felt humiliated and disgraced; feelings of self hate came up in me as well. I was forced to humiliate myself for the pleasure of the soldiers for fear that I might receive more blows or be arrested and even miss the matriculation exams. During all of the ceremony the soldiers were happy and entertained. They laughed at us a lot; at times they joined our singing and clapped their hands to the rhythm. From time to time soldiers passed between us and slapped us. My friends who were with me told me that they too felt disgraced and humiliated.
14. I am signing this affidavit after it was translated and read before me in Arabic.

AFFIDAVIT

I the undersigned, resident of the village of Hawara, having been warned to state the truth or face the punishment specified by law if I do not, hereby declare as follows:

1. I am a resident of the village of Hawara in the district of Nablus. I live by the main Jerusalem-Nablus road.
2. On November 15, 1989, around 8:00 pm, I heard noises outside my house, among them the sound of tires screeching and then the sound of two-way radios. Two soldiers came to my house, took my identity card and told me to go out to the street.
3. I went out to the street and there found my brother Shehada and other neighbors. An Israeli car with its windshield smashed stood there.
4. One of the soldiers, who appeared to be the soldier in charge of the other soldiers spoke to me. He was very mad; he cursed and swore. He made it clear to me (in obscene language) that he was going to teach the citizens of Hawara a lesson.
5. The soldier who appeared to be the one with the most responsibility among them, told us to divide into four pairs. He ordered my brother and me to watch the street and to make sure no more stones were thrown.
6. The soldier warned us that if more stones were thrown we would stay on watch until morning, and if stones were not thrown, we would be released around 10:30 pm.



7. My brother Shehada and I were ordered to watch the street by the gas station, and this we did. During the watch we were afraid both of the "masked youths," lest they might want to hurt us, since we had agreed to watch, and of Jewish civilians who might suspect that we intended to throw stones at their cars.
8. Army jeeps came twice to check whether we were carrying out the guard duty. One of those times, my brother Shehada was absent since he had gone for a moment to relieve himself a few meters away. The soldier got angry with me and told me: "Ass, tell him to come and stand beside you."
9. There were no more "disturbances" the rest of that night. At 10:30 pm the soldiers came, gave us our identity cards and let us go home.
10. During the watch I felt humiliated. I was angry that the soldiers were punishing me for the acts of others.

AFFIDAVIT

I the undersigned, resident of Jenin, after having been warned that I have to state the truth and failing to do so will be subject to the penalties subscribed by law hereby declare in writing as follows:

1. I am a resident of Jenin, living beside the street called "Atarri Road".
2. On Saturday, November 4 1989, a soldier came up to my store and demanded that I come out to erase slogans off the walls. One of them took my identity card.
3. After I had finished erasing slogans, the soldier wrote on one of the walls the word "Golani" in the Hebrew language and in the Arabic language. He told me to write the number 51 in regular numerals and in Arabic numerals. This I did.
4. Following that he gave me back my identity card and I went back to my work.

AFFIDAVIT

I the undersigned, resident of the Ein Beit Alma camp, having been warned to state the truth or face the punishment specified by law if I do not, hereby declare as follows:

1. I am a resident of the Ein Beit Alma camp, and live on the main road from Nablus to Tulkarm. I am 53 years old.
2. Because my house is so close to the road, I am often called by soldiers to come out and perform various tasks on the road. During the last months I have been taken out to the street more than twenty times. At times I have been forced by soldiers to dismantle road blocks or burning tires.
3. About ten times I was ordered by soldiers to sweep and wash the street. That was when no road block or burning tires were in the street or for no other apparent reason.
4. For example, on Friday morning, November 3, 1989, soldiers came to my house, among them an officer named "Kobi." He took my identity card from me and ordered me to come clean the street. He told me to bring a broom and a pail of water with me. Together with me six more people who had been taken from cars cleaned. During the washing I brought about 20 pails of water. We cleaned the entire width of the street for a length of 50 meters. At last our identity cards were given back to us.
5. For example, on the November 2, 1989, as I was leaving of the prayer in the mosque, the soldiers ordered us to go up to the dump and extinguish the burning refuse. We were about 30 adults. We were forced to take pails of water from houses and extinguish the fire. Later on, we were taken down, about seven people, to the main road, and we were ordered to sweep and wash the street, and this we did. At the end of the work our identity cards were given back to us after having been taken away from us at the beginning.
6. Cleanups of this kind usually take about an hour, but sometimes we are forced to clean for longer.
7. During these cleanups we are told to remove little bits of dirt, including small stones, cigarette butts, and dust, from the road. Several times a soldier passed through the area I was cleaning and ordered me to go back and pick up a cigarette butt or a small stone which was left on the street.

8. During one of the times I was forced to clean the street, a high ranking officer, whose rank was Colonel (three insignias in the form of vine leaves) was present, and to the best of my knowledge his name is "Segev." I spoke with him and complained to him during the cleanup, broom in hand, and he did not do a thing.
9. In October, on one of the nights during the curfew, soldiers ordered a group of about six youths to march around the camp and sing, accompanied by hand clapping, "Golani ba, Golani ba-la-gan." One of the six soldiers who were with them set the rhythm of the song by hitting an iron pipe with a stick. I saw the singing group march below my house and heard the singing.
10. The cleaning jobs which are forced upon me insult me exceedingly and annoy me. Doing senseless cleaning jobs at the order of young soldiers is a humiliating experience, more so in light of the fact that I am an adult. I am called out to these jobs at various hours; usually I am woken up to do them.
11. I am signing this affidavit after it was translated and read to me in Arabic.

B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories was established in 1989 by a large group of lawyers, doctors, scholars, journalists, public figures, and Knesset members.

B'TSELEM has taken upon itself the goal of documenting and bringing human rights violations in the Occupied Territories to the attention of the general public and policy and opinion makers and of fighting the repression and denial which have spread through Israel society.

B'TSELEM gathers information - reliable, detailed and up-to-date - on human rights issues in the Occupied Territories, follows changes in policy, and encourages and assists intervention whenever possible. The center is assisted in its work by a lobby of ten Knesset members from various parties. B'TSELEM makes its information available to any interested individual or organization.

B'TSELEM was created through commitment to and concern for the security and humanistic character of the State of Israel. This commitment and concern underlie all of the center's activities and form the core and cause for its existence.