



International Human Rights Law  
and Israel's Efforts to Suppress  
the Palestinian Uprising

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Palestinian Uprising**



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# Abbreviations

The following abbreviations are used in footnotes:

- AF *Al-Fajr* Palestinian Weekly, newspaper, Jerusalem (English).
- AH *Al-Hamishmar* newspaper, Israeli daily (Hebrew).
- AIEH Amnesty International, *Israel and the Occupied Territories: Excessive Force: Beatings to Maintain Law and Order* (August 1988).
- AIMGSI *Report and Recommendations of an Amnesty International Mission to the Government of the State of Israel, 3-7 June 1979, Including the Government's Response and Amnesty International Comments* (1980).
- AIMT Amnesty International, *Israel and the Occupied Territories: The Misuse of Tear-Gas by Israeli Army Personnel in the Israeli Occupied Territories* (June 1, 1988).
- ANSAR Al-Haq (Law in the Service of Man), West Bank Affiliate of the International Commission of Jurists, *Ansar 3: A Case for Closure* (August 1988).
- CAABU Council for the Advancement of Arab-British Understanding, *Briefing: Bullets, Beatings and Gas: The Israeli Army's Use of Violence Against Palestinian Civilians during the Uprising in the West Bank and Gaza Strip* (June 1988).
- DPPHR Database Project on Palestinian Human Rights, "Human Rights Violations under Israeli Rule during the Uprising December 9, 1987 to December 8, 1988."
- DV *Davar* newspaper, Israeli daily (Hebrew).
- EC Esther Cohen, *Human Rights in the Israeli-Occupied Territories 1967-1982* (1985).

- EP Emma Playfair, *Demolition and Sealing of Houses as a Punitive Measure in the Israeli-Occupied West Bank* (1987).
- GF Glenn Frankel, "Israeli Army Allows Press Inspection of Detention Center for Palestinians," *Washington Post*, June 3, 1988, p. A21.
- HA *Ha'arets* newspaper, Israeli daily (Hebrew).
- HD *Hadashot* newspaper, Israeli daily (Hebrew).
- ICCPR International Covenant on Civil and Political Rights, December 16, 1966, *United Nations Treaty Series*, vol. 999, p. 171.
- IHLHR Israeli League for Human and Civil Rights, *Report on the Violations of Human Rights in the Territories during the Uprising*, 1988 (1988).
- JB Joel Brinkley, "In Desolate Israeli Desert, 2,000 Prisoners 'Just Sit,'" *New York Times*, June 3, 1988, p. A1.
- JH Joost R. Hiltermann, "Israel's Deportation Policy in the Occupied West Bank and Gaza," *Palestine Yearbook of International Law* (1986), vol. 3, p. 154.
- JK John Kifner, "Israelis and Palestinians Change Their Tactics but Not Their Goals," *New York Times*, May 15, 1988, p. A1.
- JP *Jerusalem Post* newspaper, Israeli, daily edition (English).
- JPIE *Jerusalem Post International Edition*, Israeli, weekly edition (English). Date indicated is for week ending on that date.
- JPS *Journal of Palestine Studies* (Washington, D.C.).
- KH *Kol Ha'ir* newspaper, Israeli weekly (Hebrew).
- KR *Koterei Rashit* newspaper, Israeli weekly (Hebrew).
- MA *Ma'ariv* newspaper, Israeli daily (Hebrew).
- NLG *Treatment of Palestinians in Israeli-Occupied West Bank and Gaza: Report of the National Lawyers Guild 1977 Middle East Delegation*, New York (1978).
- NYT *New York Times* newspaper.
- PHR *The Casualties of Conflict: Medical Care and Human Rights in the West Bank and Gaza Strip: Report of a Medical Fact Finding Mission by Physicians for Human Rights*, Somerville, Mass. (March 30, 1988).
- PICTET International Committee of the Red Cross (Jean Pictet, ed.), *Commentary: Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (1958).
- PJ Penny Johnson, "Behind the Interpretations: Faces of the Palestinian Uprising," *Mideast Monitor*, vol. 5, no. 2 (1988).
- TTTZ Ketzioi Detention Camp ("Ansar 3"): Memorandum Prepared by Members of Knesset Tawfik Toubi and Tawfik Zayyad Following a Visit to the Camp on 4 July, 1988.
- WP *Washington Post* newspaper.
- YA *Yediot Aharonot* newspaper, Israeli daily (Hebrew).

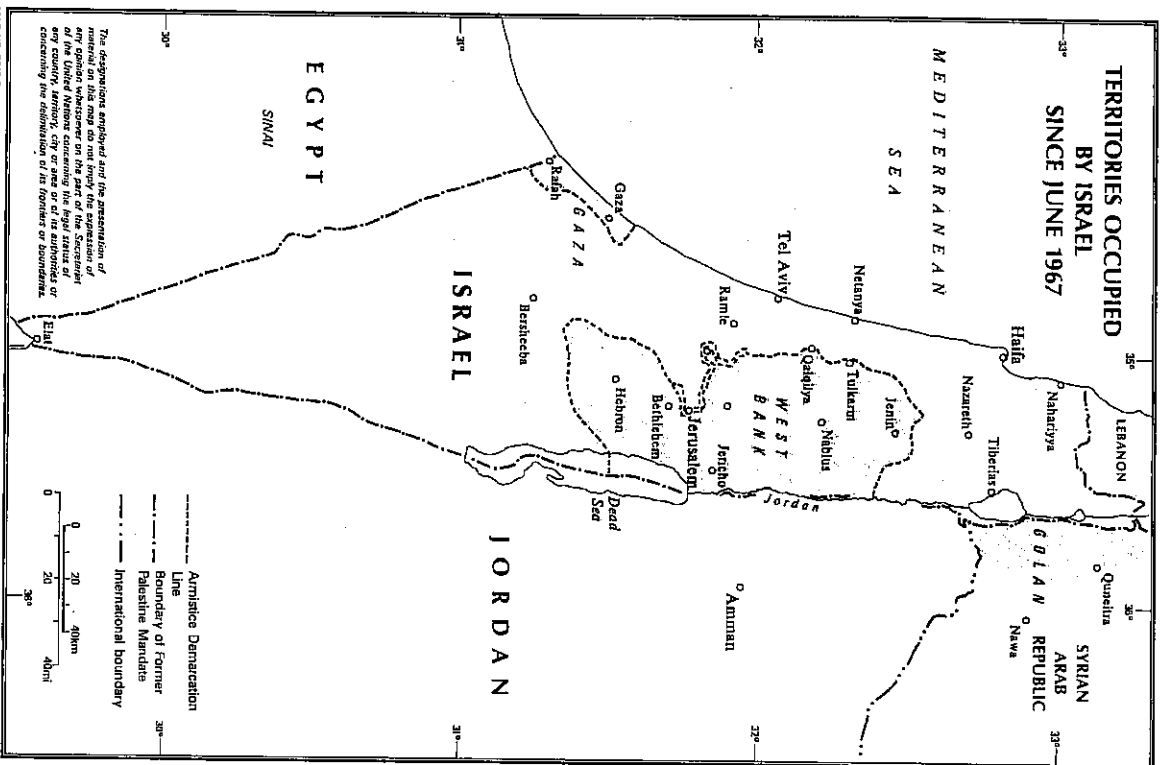
## Preface

In 1978 the National Lawyers Guild published the conclusions of an inquiry conducted by a 1977 delegation of its members to the Middle East. The delegation analyzed Israel's activity in the Gaza Strip and West Bank, which Israel held as a belligerent occupant as a result of the June 1967 war. Titled *Treatment of Palestinians in Israeli-Occupied West Bank and Gaza: Report of the National Lawyers Guild 1977 Middle East Delegation*, the report assessed Israel's conduct as a belligerent occupant.

The 1978 report was the first comprehensive analysis of Israel's practices published by any non-governmental organization concerned with human rights. The 1978 report took as its starting point the 1949 Geneva Convention Relative to the Treatment of Civilians in Time of War, a multilateral treaty that governs activities of a belligerent occupant.

The 1978 report found substantial violations by Israel of the 1949 Convention. It concluded that Israel had violated the Convention's prohibition against transfer of a belligerent occupant's population into occupied territory, by its policy of establishing civilian settlements there. It found a violation in Israel's refusal to permit the return to the occupied territories of the several hundred thousand civilian inhabitants of those territories who were forced out during the 1967 war. It found a violation in Israel's confiscation of substantial quantities of land and the eviction therefrom of their lawful Palestinian owners.

In addition, the report found a violation in Israel's suppression of the economies of the West Bank and Gaza Strip and their subordination to Israel's economy. By limiting industry through the system of permits it required for business activity, by flooding the territories with Israeli-made goods, by restricting agriculture through land confiscation, and by imposing high customs duties and a value-added tax, Israel turned the two territories into economic appendages that gave it an outlet for its own products and a migrant labor force to do low-skilled, low-paid work in Israel. The report also found that Israel had violated the Convention by establishing its control over local government, medical institutions, and schools.



Map No. 3713 Rev. 1 UNITED NATIONS  
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The designations employed and the presentation of material on this map do not imply the expression of any opinion of the United Nations concerning the legal status of any country, territory, city or area or of its authorities or concerning the delimitation of its frontiers or boundaries.

The territory presently occupied and administered by Israel includes the Gaza Strip, the West Bank and the Syrian Golan Heights. The West Bank and Gaza are bounded by the armistice lines negotiated by the United Nations Acting Mediator in 1949; they were overtaken in 1967.

The report found unlawful under the Convention a number of practices used by Israel to suppress resistance to the occupation. It established that Israel demolished houses of persons suspected of security offenses and that it imposed curfews on populations of areas where resistance was manifested. It found these practices to be unlawful as collective punishments of entire populations, which are prohibited by the 1949 Convention.

The report established that Israel repeatedly expelled inhabitants suspected of resistance activity. This practice, it found, violated the 1949 Convention's prohibition against removal of inhabitants from occupied territory. The report established that Israel had made wide use of detention without a criminal charge. This practice violated the 1949 Convention's requirement that normal criminal trial processes be followed if a person is to be incarcerated.

The report also found that where persons were charged with criminal offenses, the procedures used to establish guilt fell short of the due process required by the 1949 Convention. It found that suspects were tried before military rather than civilian tribunals and that the judges were military officers whose functions in combat against Palestinian guerrilla organizations cast doubt on their objectivity in assessing security-related charges. It detected a violation of the 1949 Convention as well in the fact that no appeal was permitted from a conviction before such a military tribunal. It found that convictions were generally based primarily on confessions of the accused. The confessions were produced by torture or lesser measures of physical coercion. The report also found that conditions of incarceration for convicted persons were below standards specified by international law with respect to space, hygiene, and medical care.

Since 1978, each of the unlawful practices identified in the report has continued to be applied. By the mid-1980s, the continuation of these practices had produced results much more serious than the effects observed in 1978. Land confiscation had progressed to the point that Israel had expropriated fully half of the land area of the West Bank and Gaza Strip.

In 1985 Israel raised the level of repression of resistance. In particular it increased the use of deportation, arrest, and administrative detention.

The Palestinian uprising (*intifada*) which commenced in December 1987, represented increased resistance to the occupation. The *intifada* led to another substantial increase in repression of resistance by Israel and increased violations of the rights of inhabitants. The unlawful repressive practices used by Israel to suppress the uprising were, for the most part, of the same type as those identified in the 1978 report.

The magnitude and severity of the violations occurring during the *intifada* call for this new report. This new report does not, however, mirror the 1978 report in scope. It does not, in particular, treat land confiscation, which has increased substantially since 1978. This report focuses on the measures used by Israel in its effort to suppress the uprising of 1988. These measures brought the issue of Israel's practices in the Gaza Strip and West Bank to world public attention for the first time. Television crews covered street demonstrations and the live gunfire used in response by Israeli troops. These crews disseminated film of Israeli soldiers maltreating Palestinian detainees. For the first time, the world press covered the expulsions of persons suspected of resistance activity.

International, Arab, and Israeli human rights organizations have chronicled the Israeli government's measures to suppress the uprising. While mention of international legal provisions violated by these measures has been included, the measures have not been subjected to a systematic legal analysis. In particular, the organized Israeli legal profession has not addressed these issues.<sup>1</sup>

The analysis that follows is based on monitoring of the 1988 uprising by the Middle East Sub-Committee of the National Lawyers Guild. That monitoring includes analysis of material compiled by human rights organizations, by the United Nations, and by the press. It also includes inquiry missions to the territories by individual Sub-Committee members in December 1987, and in January, February, May, June, July, August, September, and October 1988. While this report refers to events of the uprising in the past tense, as of the time of this writing, the uprising continues.

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<sup>1</sup> Amnon Rubinstein, "The Silence of the Jurists," HA May 25, 1988, in *New Outlook*, July 1988, p. 22D.

# Introduction

The West Bank of the Jordan River and the Gaza Strip are sectors of an area called, until 1948, Palestine. Formerly a part of the Ottoman Empire, Palestine was taken over by Great Britain during World War I and administered by it after World War I under an arrangement devised by the League of Nations called a mandate system. The League called on Great Britain to foster immigration to Palestine by adherents of Zionism, a movement dedicated to the establishment of a Jewish state in Palestine. As a result, the Jewish component of the population of Palestine increased in the next two decades, from 10% to 30%. In 1947, the United Nations General Assembly recommended a partition of Palestine into two states to be united in an economic union, the Jewish state to comprise 57% of Palestine. When Palestine's Arabs objected, the Zionist movement established a state by military force, causing more than 200,000 Palestinians to flee the country. That state, Israel, encompassed the territory of Palestine, except for the Gaza Strip and the West Bank. Jordan took the West Bank and incorporated it into itself. Egypt assumed administration of the Gaza Strip, holding it pending restoration of Palestinian sovereignty in Palestine.

In 1967, in a war it initiated against Egypt, Israel took the Gaza Strip and Sinai Peninsula. When Jordan entered the war in Egypt's defense, Israel conquered the West Bank. Israel also invaded Syria, occupying the Golan Heights. These actions also exacerbated the refugee problem, adding approximately 400,000 new homeless Palestinians. Israel continues to hold these territories, except for the Sinai Peninsula, which it returned to Egypt under the 1979 Camp David agreement.

Since 1967, Israel has controlled the Gaza Strip and West Bank in a legal status called belligerent occupation. That occupation has from the outset been opposed by the Palestinian population of the Gaza Strip and West Bank. Shortly after the occupation began, an organization of Palestinians formed in 1964, the Palestine Liberation Organization (PLO), began to play a major role in expressing that opposition in international fora. In the mid-1970s, the world community began to treat the PLO as the representative organization of the Palestinians, including those inhabiting the West Bank and Gaza Strip. In 1974, the PLO put forward a plan for a Palestinian state that would encompass the West



Bank and Gaza Strip. This goal was supported by most states of the world, which viewed it as a means to effectuate the right of the Palestinian people to national self-determination. Under the United Nations Charter, peoples have a right to political independence in the territory they inhabit. The United Nations Security Council, in its Resolution 242 of November 1967, condemned "the acquisition of territory by war," called on Israel to withdraw from the territories it occupied in June 1967, and asked for acknowledgement of the independence of every state in the area. From that time and into the 1980s, the General Assembly repeatedly called on Israel to withdraw from the Gaza Strip and West Bank.

By 1987, despite considerable diplomatic activity undertaken largely through the United Nations, the Palestinians of the Gaza Strip and West Bank had not achieved statehood. The uprising is a product of the Palestinians' perception that international processes and organizations are not likely, in and of themselves, to bring them self-determination.<sup>2</sup> It is also a product of Israel's confiscation of large areas of the Gaza Strip and West Bank, the settlement of Israelis on confiscated land there, and restrictions on the local economy that forced the Gaza Strip and West Bank into economic dependence on Israel. These measures were perceived by the Palestinians as amounting to a *de facto* annexation of their territory and presaging possible additional measures of land takeover. The economic repression gave Palestinians a strong incentive to emigrate. Palestinians perceived the measures as having that aim, particularly as certain segments of the Israeli political order began to call for their expulsion.

Beginning in 1967, the Palestinians of the West Bank and Gaza Strip expressed objections to the occupation. The uprising that commenced December 9, 1987, represented an expansion of those objections. The uprising was directed by a group that formed as the uprising took shape and that called itself the National Unified Leadership Committee of the Uprising. The demands of the Committee included: an end to the occupation by Israel of the West Bank and Gaza Strip; recognition of the Palestinian right to self-determination; and establishment of an independent Palestinian state under the leadership of the Palestine

Liberation Organization. The Committee viewed the only acceptable forum for negotiating these demands to be an international conference, convened by the United Nations with all members of the Security Council participating, and with participation of all parties to the conflict, including the PLO

In 1988, in response to the uprising, Jordan renounced its claim to the West Bank. The Palestine National Council then declared a Palestinian state.

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2 Shukri B. Abed, "The Inward Intifada," *PIH* Sept. 17, 1988, p. 8.

## CHAPTER 1

# *Anatomy of the Palestinian Uprising of 1988*

The Palestinian uprising that commenced December 9, 1987, was manifested in a multitude of actions and events. As an introduction to the uprising, and in order to illustrate the flow of Palestinian activity and governmental response, the following chronology is provided. While it is merely a sketch, it describes major developments. Many of these incidents are more fully explained in succeeding chapters.

\* \* \* \* \*

December 9, 1987: Four Palestinians are killed and seven wounded when an Israeli truck runs into two vans of Palestinians returning to the Gaza Strip from work in Israel — 4,000 demonstrators attend the funeral. Protests and street demonstrations spread throughout Gaza and the West Bank.

December 21, 1987: Total strike observed by Palestinians inside Israel as well as in the West Bank and Gaza Strip, demanding an end to the occupation. Shifa Hospital in Gaza is under military siege.

December 29, 1987: Eight Palestinians are arrested in the first round of arrests of alleged "leaders" of the uprising. Over 1,200 are arrested in the week of December 22–29, overflowing the existing prisons and resulting in the opening of a new prison at Dahriyeh. The death toll reaches 32. Hospitals and clinics are flooded with hundreds of seriously wounded.

January 3, 1988: Nine of those arrested are served with expulsion orders. Four of these are expelled to south Lebanon on January 13.

January 8, 1988: The first Statement from the National Unified Leadership Committee for the Uprising appears in the streets, tucked under windshields and doors. It calls for a total work, business, and transportation strike, which is observed throughout the West Bank and Gaza during January 11–13.

January 14, 1988: A Palestinian press conference is held in Jerusalem where "Fourteen Demands" of the uprising are announced. A journalist and a trade unionist are arrested at the press conference. Dozens of other leading figures are detained for several hours to prevent them from attending.

January 19, 1988: Defense Minister Rabin formally announces a policy of "force, might, and beatings" to suppress the uprising. Within two days of the announcement, hospitals in Gaza report almost 200 cases of broken bones.

January 28, 1988: The Committee for the Uprising calls for ongoing commercial strikes of indefinite duration. Each town is to decide what hours, not exceeding three per day, its shops will open. Arrests continue and 129 people are officially reported under administrative detention.

February 1-7, 1988: The Israeli government extends curfews; 170,000 Palestinians remain under curfew. Violence by Israeli settlers against Palestinians becomes substantial. The death toll among Palestinians, according to Palestinian sources, reaches 73. The government orders all schools and universities in the West Bank and Gaza closed indefinitely. The Committee for the Uprising calls for a continuation of protests, a complete strike on February 7-8, and for non-payment of taxes to Israel. The Statement calls on landlords to waive rents from striking merchants and on the public to boycott a pro-Jordanian newspaper.

February 16, 1988: The Committee for the Uprising announces February 16 as a "Day of Anger." Demonstrations are reported on virtually every block.

February 20-28, 1988: An intense campaign of demonstrations and strikes, including a February 23 hunger strike, is held to protest the visit to Israel of Secretary of State George Shultz.

An Israeli weekly newspaper which reports sympathetically on the uprising, *Derech Hanitzot/Tariga-Sharara*, is closed and its staff arrested. The daily *Al-Itihaq*, published in Haifa, Israel, is also ordered closed.

March 2, 1988: The death toll reaches 108, including deaths from tear gassing. Miscarriages are reported from exposure to tear gas. Eighty such miscarriages are reported in Gaza. The United Nations Relief and Works Agency (U.N.R.W.A.), which is responsible for aid to refugees in the West Bank and Gaza Strip, begins a study of tear gas exposure and miscarriages.

March 3-15, 1988: Arab police forces and members of appointed municipalities and tax departments resign in response to Statements 9 and 10 from the Committee for the Uprising. The Israel Defense Force (IDF) confiscates identity cards from Palestinians in Gaza City and announces that they will have to report to the tax authority to retrieve them. Property taxes are raised 15% for Jerusalem residents and a roadblock is set up to check for those suspected of tax evasion. Palestinian civil guard units are set up to replace the police at night. Medical committees begin to provide first aid treatment to persons shot or beaten. One medical relief committee estimates that it has seen over 13,000 people since December 9, given over 180 lectures on first aid, and distributed 5,300 first aid kits. March 5 is observed as "Back to the Land Day;" the Committee for the Uprising asks Palestinians to work on the land and to plant trees.

March 18, 1988: The government outlaws the Shabiba youth organization, closes the Islamic Youth Association of Abu Dis, and issues a two-year closure order against the Construction Workers Union in Tulkarm. Approximately 270 Palestinians are now under administrative detention, among them many journalists, human rights workers, attorneys, union activists, and medical professionals. The government reports that 2,600 are currently imprisoned in connection with the uprising. Other sources estimate 7,000 imprisoned.

March 30, 1988: Leaflet 11 of the Committee for the Uprising, issued March 21, calls for a schedule of protests building toward Land Day strikes and demonstrations March 30. The government closes the territories completely March 29-31 and imposes house arrest on the entire Gaza Strip population of 600,000 for that period. The government cuts telephone service in and out of the Gaza Strip and West Bank and prevents journalists from entering the territories without special permission from military commanders of the areas. The government closes the Palestine Press Service, a major source of information for the international press, for a six-month period. The IDF authorizes any officer

above the rank of colonel to issue administrative detention orders; 700 are now administratively detained. Twenty-one printing presses in the Gaza Strip are closed down, but the leaflets from the Committee for the Uprising continue to appear.

April 1-18, 1988: Shooting deaths increase as Defense Minister Yitzhak Rabin declares that any Palestinian seen throwing petrol bombs or other suspicious objects can be shot by soldiers or settlers. The death toll reaches 227. Sixteen more Palestinians are expelled. Abu Jihad, military commander of the Palestine Liberation Organization, is assassinated in Tunis, Tunisia. April 16, apparently by the government of Israel; this brings intensified protest demonstrations in the Gaza Strip and West Bank. Rabin estimates the number of prisoners at 5,000, in addition to the 4,500 held before the uprising began, for a total of near 10,000. Ansar 3, a recently-opened prison camp in the Negev desert, is reported to hold 3,000 prisoners.

May 1-14, 1988: The government announces that new identity cards must be acquired by the approximately 400,000 Gaza residents over age 16. Clearances from the tax authorities, utility companies, fine collectors, and police/security services are to be required to obtain a new card. Demonstrations continue. On May 13, 17,000 reach Al-Aqsa Mosque in Jerusalem, burning Israeli and American flags after prayers. Statement 16 of the Committee for the Uprising is read over mosque loudspeakers.

May 15-31, 1988: The West Bank General Federation of Trade Unions issues an international appeal for support, calling for an international boycott of Israeli manufactured goods, an international boycott of Israeli transport services (ships and planes), and the importation of Palestinian goods, especially agricultural products. Families of the prisoners call for the closing of Ansar 3, where conditions continue to deteriorate. A total strike is observed on the 40th day after the assassination of Abu Jihad.

June 1988: The Committee for the Uprising calls, as it has done previously, on Palestinians who had worked as informants for the government to stop informing. By this time, the government's former extensive network of informants is largely non-functional. The Committee calls on Palestinian police and municipal and tax employees to resist calls by the military governor to report back to work. Tax raids and house demolitions increase. The government expels non-violent

activist Mubarak Awad, charging him with inciting violence. More than 1,600 are now in administrative detention; prison conditions continue to deteriorate. The IDF arrests and interrogates Palestinians who organized a vegetable gardening cooperative in the West Bank town of Beit Sahour. The government orders the gardening center closed. It also orders a two-year closure of In'ash el-Ura, the largest charitable society in the West Bank. The death toll reaches 286. Fires are set in Israeli forests which have been planted on the sites of destroyed Palestinian villages in Israel. The use of petrol bombs against military targets increases.

July 1988: A new stage of the uprising begins. "The first six months we tested the water, we flexed our muscles to find out how much we can go forward and how cohesive our resistance can be," Hanan Mikhail Ashrawi, Dean of the Faculty of Arts at Bir Zeit University, tells the *Chicago Tribune*. "The next stage is to transform the initiative into long-term changes, the ability to plan, to have political foresight to carry the fight from the streets into our homes." Discussion begins among Palestinians of a Palestinian peace proposal and of a declaration of independence.

August 1988: King Hussein of Jordan renounces Jordan's claim to the West Bank and cancels the jobs of 21,000 Jordanian civil servants employed there. The International Committee of the Red Cross (ICRC) issues a press release protesting the expulsion of four more Palestinians. These expulsions bring the total expelled in 1988 to 32; expulsion orders are issued and remain pending against an additional 25. The government closes the General Federation of Trade Unions of the West Bank and declares illegal all popular committees.

September 1988: To crush the popular committees, the IDF makes large and frequent raids into towns, villages, and refugee camps and arrests a large number of suspected members. Palestinians continue demonstrations and strikes. The IDF begins using plastic bullets. Casualty numbers increase. The IDF begins enforcing an order enacted May 1988 that fines parents of children who throw stones at soldiers.

October 1988: Demonstrations and heavy casualties continue, and the IDF increases house demolitions as a punitive measure. The government does not permit schools to open at the start of the school year. On October 30, Palestinians hold a general strike to commemorate the 1956 massacre by the IDF of 50 Palestinian residents of the village of Kafr

Kassem. The IDF increases troop strength in the Gaza Strip and West Bank with the approach of the November 1 Israeli general election. It puts half of Gaza under curfew.

November 12, 1988: The IDF sends more troops to the West Bank and Gaza Strip in expectation of demonstrations in connection with the convening of the Palestine National Council meeting in Algiers. A curfew is imposed on the entire Gaza Strip and on all refugee camps in the West Bank for the five-day period of the meeting. At the meeting, the Council declares statehood for Palestine.

December 8-10, 1988: Demonstrations and strikes are held to mark the first anniversary of the uprising. The IDF increases troop strength. Large numbers of injuries are reported as the IDF suppresses the demonstrations. The government permits elementary and secondary schools to re-open on December 10. All colleges and universities remain closed indefinitely.

\* \* \* \* \*

The Palestinian uprising began on December 9, 1987, with street demonstrations in the Gaza Strip in response to the killing the day before of four Palestinian youths run down by an IDF transport vehicle at a checkpoint. Street demonstrations continued as one of the two principal tactics of the uprising. Residents of refugee camps blockaded narrow entrances to the camps with large boulders and burning tires. Residents of tiny villages in the hills of the West Bank blockaded the roads leading to their towns, raised the Palestinian flag in the town center, and declared the villages "liberated territory." IDF patrols were met everywhere with youths who hurled stones at them and then fled.

The demonstrations were usually spontaneous. Incidents of repression became the occasion for additional demonstrations. The daily forced opening at gunpoint of shops observing the commercial strike became an occasion for demonstrations, as did the closure of schools and the expulsions of Palestinians. Funerals of persons killed by the IDF turned into demonstrations.

The second main tactic of the uprising was the commercial strike. Total work stoppages were called in December and January. Tens of thousands of Palestinian laborers refused to report to their jobs in Is-

rael. A partial work stoppage continued throughout the twelve months of the uprising.

On January 28, 1988, the commercial strike tactic was regularized. Shopkeepers opened only three hours per day, at a time designated by the Committee for the Uprising, so that residents could obtain necessities. The IDF tried to force shops to open by smashing locks and rolling up shutters, but shopkeepers typically refused to come to the shops and residents refrained from looting open but unintended shops.

In addition to partial strikes, complete strikes — of shops, workers, and transportation — were called periodically by the Committee for the Uprising on significant occasions, like the second month anniversary of the uprising or the assassination of Abu Jihad. During a complete strike, Palestinians boycotted Israeli goods, closed shops, and did not report to jobs in Israel.

In March 1988 the Committee for the Uprising asked Palestinians to resign from jobs in administrative positions in the Gaza Strip and West Bank. This call resulted in the virtual emptying of the Arab police forces and tax collection offices in the West Bank and Gaza Strip and the dismantling of the Israeli-appointed municipal administrations.

As the Palestinian population withdrew from the apparatus of occupation, it attempted to strengthen institutions of self-governance and to establish new ones. Local committees, called popular committees, organized daily life and built a measure of self-sufficiency.

When the government closed all schools in the West Bank and Gaza Strip, popular committees organized classes in homes and churches, mosques, and community centers. Popular committees promoted "victory gardens" to achieve self-sufficiency in fresh produce, in order to facilitate the boycott of Israeli-grown produce. In response to attacks by armed settlers, and following the resignation of local Arab police, communities organized neighborhood defense committees to protect people and property.

The Committee for the Uprising, which remained anonymous and underground, announced planned actions in clandestine leaflets distributed door to door at night. It operated a clandestine radio station, the Voice of Jerusalem. Though frequently jammed by the government, the station announced the content of Committee leaflets and reported

on demonstrations, strikes, arrests, and casualties. In one program a youth explained how to aim a slingshot accurately.

Popular committees were formed on a voluntary basis, and local representatives were elected to a larger coordinating committee which in turn established regional ties. They provided an infrastructure of leadership and resources that sustained themselves in the face of the arrest or expulsion of prominent members. Announcements were read over the mosque loudspeakers at morning prayer. Mosques and churches provided a gathering point and served as a source of information. The uprising functioned under the general guidance of the PLO, but with substantial local autonomy.

In June 1988, Dr. Hanan Milkhail Ashrawi, Dean of the Faculty of Arts at Bir Zeit University on the West Bank, explained the uprising's organization to the United Nations annual "North American Regional NGO Symposium on the Question of Palestine" in New York. She said that the uprising was "a genuine grassroots movement" that "cut across all lines of distinction such as region, sex, religion, and political/factional affiliation." She said that it had created "a two-way system of communication whereby the Unified National Leadership's role is not solely to lead but to articulate the demands and different modes of struggle which are sought and are capable of being sustained by the masses."

## CHAPTER 2

# Law Applicable to Israel's Efforts at Suppression

The government developed a multidimensional strategy to quell the uprising. At the beginning of the uprising it reacted to incidents as they occurred. As the uprising progressed, it formulated a comprehensive response. Defense Minister Yitzhak Rabin explained that the aim of the strategy was "to deter the enemy." In September 1988 he found the strategy to be achieving success: "By using all the various means at our disposal — military presence and military operations, legal measures including the application of the Emergency Regulations, administrative and economic means — we are gradually achieving the results that the deployment of armed strength can achieve against a civilian uprising."<sup>3</sup>

Israel governs the West Bank and Gaza Strip by military order. One military governor is appointed for the West Bank and another for the Gaza Strip. Each military governor issues orders that have legislative effect. In addition, the government of Israel deems applicable in both territories the Defense (Emergency) Regulations adopted by Great Britain in 1937, when it controlled Palestine.<sup>4</sup> The Regulations authorize town curfews, expulsion, detention without charge, demolition of houses of persons suspected of offenses, and trial by military tribunal. Military orders issued by the military governors of the West Bank and Gaza Strip authorize other far-reaching measures to control the Palestinian population.

3 "Rabin Says Uprising Is Failing," JPLB Sept. 17, 1988, p. 1. "War by Other Means," (interview of Rabin) *idem*, p. 3.

4 Defense (Emergency) Regulations, *Palestine Gazette*, No. 1442, Supplement No. 2, Sept. 27, 1945, pp. 1055-1098, also published as Government of Palestine, *The Defense (Emergency) Regulations, 1945 (as amended until 2nd March, 1947)* (1947). Discussed in Michael Salzman, "The Use of Mandatory Emergency Laws by the Israeli Government," *International Journal of the Sociology of Law*, vol. 10, p. 385, at p. 387 (1982).

The validity of much of this legislation, and of actions taken under it, is questionable under the international law standards applicable to Israel's occupation of the Gaza Strip and West Bank. Belligerent occupation is regulated by two bodies of law — humanitarian law and human rights law.

## (a) Humanitarian Law

Humanitarian law goes back to ancient times. It formulated rules to restrict belligerents in their treatment of enemy combatants and civilians. One important sub-field of humanitarian law regulates conduct by an army that occupies foreign territory. Such occupation is called belligerent occupation.

The contemporary humanitarian law is found in two multilateral treaties — the Hague Regulations of 1907, and the Geneva Convention Relative to the Treatment of Civilian Persons in Time of War of 1949.<sup>5</sup> These treaties require a belligerent occupant to maintain the *status quo* in the occupied territory to the extent possible, pending return to its lawful sovereign. While the Convention gives a belligerent occupant power to maintain order, it requires it to safeguard the rights of the population under occupation. It provides numerous safeguards for the occupied population, some of which are indicated above in the Preface.

Israel and all other states involved in the Middle East conflict are parties to the 1949 Geneva Convention. The Convention is universally held by governments to be binding on Israel's occupation of the Gaza Strip and West Bank. Israel alone disputes its applicability. Israel argues that the Convention applies only to occupation of territory

legitimately belonging to a state that is a party to the Convention. It contends that Jordan, from which it took the West Bank, did not have good title there, and that Egypt, from which it took the Gaza Strip, did not have good title there, either.<sup>6</sup> Its courts have held, however, that those provisions of the Convention that the Israeli government deems "humanitarian" are in fact observed, even though the Convention itself is not deemed binding.<sup>7</sup> The courts have not indicated precisely which provisions this includes.

Israel's view that the 1949 Convention is not applicable is universally rejected by other governments, which find that the Convention applies regardless of whether there may be a dispute as to who holds sovereign rights in the territory under occupation.<sup>8</sup> The Convention is aimed at protecting any population under occupation, regardless of the sovereignty situation of the territory.

Israel does, however, acknowledge that humanitarian law governs its rule in the West Bank and Gaza Strip. Both the government and courts in Israel say that Israel is bound by those principles of humanitarian law that are found not in the 1949 Convention but in international customary law. That is a body of law that reflects consistent

<sup>5</sup> Convention Relative to the Treatment of Civilian Persons in Time of War, *United Nations Treaty Series*, vol. 75, p. 287 (1950).

<sup>6</sup> On Israel's position, see Statement of Amb. Netanel Lorch, Ministry for Foreign Affairs, Statement at Symposium on Human Rights, Faculty of Law, Tel Aviv University, July 1-4, 1971, in *Israel Yearbook on Human Rights*, vol. 1, p. 366 (1971). Yehuda Z. Blum, (former ambassador of Israel to the United Nations), "The Missing Reversioner: Reflections on the Status of Judea and Samaria," *Israel Law Review*, vol. 3, p. 279 (1968).

<sup>7</sup> Military Prosecutor v. Hail Muhammad Mahmud Hail Bakhtis et al., Israel Military Court Sitting in Ramallah, June 10, 1968, *International Law Reports*, vol. 47, p. 484 (1974).

<sup>8</sup> U.S. Department of State, *Department of State Bulletin*, July 28, 1969, p. 76; U.N. Security Council Resolution 237, June 14, 1967; U.N. General Assembly Resolution 3240, Nov. 29, 1974.





## CHAPTER 3

# *Suppression of Commercial Strikes*

A primary tactic of the uprising was the commercial strike. This is a tactic that has long been used by the Arabs of Palestine to oppose Israel's control. In December 1947, when the Jewish Agency declared its intent to establish a Jewish state in Palestine, Palestinian merchants closed their shops in protest.<sup>15</sup> In the West Bank and Gaza Strip, merchants have since 1967 closed their shops periodically as an act of protest.

During the uprising, the commercial strike was designed to demonstrate that Israel cannot govern the West Bank and Gaza Strip.<sup>16</sup> Strikes were coordinated by the Committee for the Uprising, which on some days called for a general strike, meaning a shutdown of all commerce and transport. On other days, it designated hours during which shops were to close.

Palestinian shopkeepers have a right to conduct their business or not to do so. Under human rights law, they enjoy a right to freedom of association that permits them to make collective decisions as to closing shops. Further, as a people enjoying the right to self-determination, the Palestinians of the Gaza Strip and West Bank have the right to organize their economic activity in the fashion they choose.

The same is true under humanitarian law. Article 43 of the 1907 Hague Regulations obliges a belligerent occupant to permit the continuance of the "public life" of the occupied territory. This means that it must permit commerce to proceed as local merchants see fit.

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<sup>15</sup> George Kirk, *The Middle East 1945-1950* (1954), p. 251, NYT Dec. 3, 1947, p. 1; Dec. 4, 1947, p. 1; Dec. 5, 1947, p. 1.

<sup>16</sup> Roni C. Batin, "In Jerusalem, Shopkeepers on the Front Line," NYT Jan. 20, 1988, p. A10. JK p. A1.

## CHAPTER 4

### *Physical Force Against the Person*

To suppress the uprising, the government of Israel used a number of measures involving force against the person.

#### (a) Shootings

To suppress street demonstrations, the government sent into the West Bank and Gaza Strip, in addition to the customary force that rules there, troops that used live ammunition.

That tactic was widely criticized. The United Nations Security Council "strongly deplored...the opening of fire by the Israeli army, resulting in the killing and wounding of defenceless Palestinian civilians."<sup>19</sup> The United States issued a separate condemnatory statement. As a result, in January 1988, the government of Israel ordered that the IDF should instead beat demonstrators as summary physical punishment.<sup>20</sup>

Despite the declared policy limiting use of live ammunition, shootings by the IDF continued. A reservist explained that whatever the declared policy it was not explained clearly to the soldiers, though it was made clear to them that it was unlikely any proceedings would be taken against them for overuse of force, at least if the force was not recorded on television.<sup>21</sup>

In many instances the soldiers of the Israel Defense Force (IDF) forced open shops at times when shopkeepers were not present, then left the shop open and unintended. IDF personnel, to persuade shopkeepers to open, on many occasions used physical force against them. They beat many shopkeepers who did not re-open shops when ordered to do so.<sup>17</sup> An Israeli reporter described the opening of shops in the West Bank town of Ramallah by the IDF: "About ten soldiers walked down both sides of the main thoroughfare. The younger Golan (brigade) soldiers, some of whom looked like little kids who were taking part in a game, whacked the doors with their clubs, serving clear notice of their intentions. The locks of shops whose owners delayed opening — no matter how briefly — were forced open with a metal crowbar. Merchants who hesitated were grabbed by the collar, or clubbed on their backs, and forced to raise the shutters while [the soldiers] cursed and abused them. Then the soldiers confiscated the keys to the shops that had already been opened in order to prevent their closure. . . . 'We watched them] break open at least twenty locks.'<sup>18</sup>

17 Reuven Pedatzur, Eitan Rabin, Uri Nir, "Five Who Threw Stones at Paratrooper-Recruits Were Hospitalized with Multiple Fractures," HA Jan. 22, 1988, in ILHCR p. 34. Uri Nir, "An Israeli Employee of an American Television Network: I Saw Arabs Next to the 'Wall of Blows' in Ramallah," HA Jan. 29, 1988, in ILHCR, p. 42.

18 Uri Nir, "After Shopkeepers Open Their Shops, Their Keys Are Taken Away to Prevent Them from Closing Up," HA Jan. 20, 1988, in ILHCR, p. 84.

19 Security Council Resolution 605, Dec. 22, 1987.

20 Jonathan Randal, "New Tactic: Beatings, Not Bullets," WP Jan. 21, 1988 p. A1. John Kitter, "Israel's New Violent Tactic Takes Toll on Both Sides," NYT Jan. 22, 1988, p. A10. Joshua Brilliant, "Rabin: Use of Blows Instills Fear of IDF," JP Jan. 26, 1988, p. 1.

21 Ronit Maraton, "The Wild West," HA March 11, 1988, in ILHCR, p. 11.

The IDF shot 287 Palestinians to death,<sup>22</sup> out of a total of 390 killed by the IDF by all means.<sup>23</sup> Many of the injuries to Palestinian youths suggested that soldiers had shot intending to maim rather than to kill. The IDF used their standard-issue rifles, which are designed for military combat and project a large cartridge with a substantial quantity of powder at high velocity (1.2 kilometers per second). These bullets caused more damage than was necessary to stop a person at close range, which was the situation in which the IDF used them. When these bullets hit a bone, they typically shattered the bone into many pieces. In addition, such a bullet changes shape upon hitting a bone, and as a result causes more damage to blood vessels and tissue than an intact bullet when it moves away from the bone.

Further, these bullets were blunt-pointed, which makes them tumble rather than proceed in a straight path upon entry into the body. They produced, according to reports by Palestinian surgeons, a small entry wound but a large exit wound. The tumbling motion causes extensive tissue damage. Such rifles and bullets are not used for riot control in other countries because they cause more damage in stopping a person than is necessary in a crowd control situation.

In addition to the high-velocity metal ammunition, the IDF fired bullets composed of a metal core covered by a thin layer of rubber.<sup>24</sup> Palestinian surgeons reported that the impact of these bullets on a non-sensitive part of the body was a severe bruise. They reported that in some instances the rubber covering had been sliced with a knife before the bullet was used. The effect of the slicing was that when the bullet hit the body, the metal core escaped from the rubber. The surgeons reported deaths from bullets on which the rubber covering had been sliced.

In August 1988, the government authorized use of bullets composed primarily of plastic, with metal particles. These bullets were lethal to 75 yards. Defense Minister Rabin explained that the policy of using tear gas and beatings was no longer effective — "So we use plastic bullets." He said that plastic bullets allow soldiers to "hit or injure stone-throwers outside the range of the stones."<sup>25</sup> However, the IDF used them at lesser distances.<sup>26</sup>

An increase in shooting-deaths and shooting-woundings of demonstrators in September 1988 was attributed to use of plastic bullets.<sup>27</sup> Soldiers evidently felt free to shoot<sup>27</sup> metal ammunition. Because of their slow speed, plastic bullets embed in the body instead of exiting. Surgical removal causes so much tissue damage that surgeons in many cases decided to leave them in the body.

Asked whether the use of plastic bullets represented an escalation of force by the government, Rabin said that it did not but that it indicated "the better ability of I.D.F. soldiers to achieve their mission." He said that the purpose of the increased casualties was that Palestinians "get the message that whoever participates in demonstrations will suffer."<sup>28</sup> The United States protested the IDF's use of plastic bullets, finding "no justification" for the policy, since it "has admittedly been designed to cause an increase in casualties."<sup>29</sup>

This criticism did not lead to a change in policy, however. Rabin kept the policy in force, saying that with persons who commit violence against the IDF the threat of imprisonment is insufficient, and that they "should be left with scars."<sup>30</sup>

- 22 DPPHR December 8, 1988, p. 1.
- 23 DPPHR October 9, 1988, p. 1. The government reported 250 killed by early October 1988. Joel Greenberg and Joshua Brilliant, "Riot Death Toll Rises; Palestinians Kill 'Collaborators,'" JPHE Oct. 15, 1988, p. 1.
- 24 Robert Pear, "U.S. Protests Israeli Use of Plastic Bullets," NYT Sept. 29, 1988, p. A4.

- 25 Joel Brinkley, "3 More Arabs Die under Israeli Fire in Occupied Lands," NYT Sept. 28, 1988, p. A1. "War by Other Means," (interview of Rabin), JPHE Sept. 17, 1988, p. 3.
- 26 "Plastic-bullet ricochet," JPHE Oct. 8, 1988, p. 3.
- 27 "Overuse of Plastic Bullets Provokes Wide Condemnation," AF Oct. 2, 1988, p. 1.
- 28 Joel Brinkley, "3 More Arabs Die under Israeli Fire in Occupied Lands," NYT Sept. 28, 1988, p. A1.
- 29 Robert Pear, "U.S. Protests Israeli Use of Plastic Bullets," NYT Sept. 29, 1988, p. A4.
- 30 Joel Greenberg and Joshua Brilliant, "Riot Death Toll Rises; Palestinians Kill 'Collaborators,'" JPHE Oct. 15, 1988, p. 1.

## (b) Beatings

When Defense Minister Rabin announced the policy of beating as punishment, he said: "The first priority is to use force, might, beatings." His order resulted in widespread beatings. As indicated by television coverage, these beatings were typically administered to a non-resisting person already detained. Chief of Staff Dan Shomron repeated on an IDF radio station orders to soldiers to beat captured demonstrators. The orders led within a few days to hundreds of Palestinians being "methodically beaten, many with the bones of their hands and arms broken."<sup>31</sup> Beating was deemed more effective than arrest, reported the *Jerusalem Post* military correspondent, since "if troops break [a demonstrator's] hand, he won't be able to throw stones for a month and a half."<sup>32</sup>

The Secretary General of the United Nations, Javier Perez de Cuellar, having examined the issue at the instruction of the United Nations Security Council,<sup>33</sup> found that "in dealing with demonstrations and other disturbances, IDF has used disproportionate force, leading to fatal casualties, which could be avoided if less harsh measures were employed."<sup>34</sup> The Secretary General said that "there is an urgent need for Israel to apply in full the provisions of the Fourth Geneva Convention (1949 Convention)" and that "the problem in the occupied territories will not be solved by beatings and gun-fire."<sup>35</sup>

As Amnesty International reported: "The use of force against Palestinian demonstrators has in many cases been indiscriminate and excessive, intended to punish and intimidate. Men, women, children

and elderly people, some of whom have not been involved in the demonstrations, have been beaten with wooden truncheons and rifle butts, kicked and punched. People who have been wounded in the street or who have been under arrest have been beaten."<sup>36</sup>

A typical incident was the fatal beating February 7, 1988, of Ayad Mohammed Akel, who lived near the scene of a demonstration in the Bouweij camp in the Gaza Strip. Ten soldiers entered his house, beat him and his cousin, then drove them in a jeep to a nearby orchard, where the soldiers beat them and left them. Neighbors took them to the Shifa hospital, where Akel died the next day from his injuries.<sup>37</sup>

In addition to beatings administered at the time of demonstrations, beatings were widely reported to be administered as well in the aftermath of a demonstration or other incident. Where an incident of resistance occurred in a locality, the IDF collected names of local inhabitants considered likely to have been participants. It maintained computerized lists of names of persons who have previously come to the attention of authorities. Soldiers using such lists went to houses of persons named on these lists, collected a number of such persons, transported them to a remote area by bus, and administered severe beatings that required hospitalization.<sup>38</sup> Amnesty International reported that persons "have been taken out of their homes and beaten after night-time house-to-house searches in refugee camps and villages following earlier clashes between demonstrators and the army."<sup>39</sup> Under military orders enacted by the government, any IDF soldier who suspects a person of unlawful activity has the right to enter and search her or his house without a warrant.<sup>40</sup>

An IDF soldier who served in the Gaza Strip explained the orders he received and how they were carried out in a refugee camp during a

31 John Kihner, "Israeli Officers Ordered to Watch Tape of 4 Soldiers Beating Arabs," *NYT* Feb. 29, 1988, p. A1.

32 Jonathan Rendel, "New Tactic: Beatings, Not Bullets," *WP* Jan. 21, 1988 p. A1. John Kihner, "Israel's New Violent Tactic Takes Toll on Both Sides," *NYT* Jan. 22, 1988, p. A10. Joshua Brilliant, "Rabin: Use of Blows Instills Fear of IDF," *JP* Jan. 26, 1988, p. 1.

33 Security Council Resolution 605, Dec. 22, 1987.

34 Secretary General, Report, para. 22, Jan. 21, 1988, U.N. Doc. S/19443.

35 Secretary General, Press Statement, Feb. 8, 1988, U.N. Doc. SG/SM/4080.

36 AIBF p. 1.

37 Yitzhak Reibitshy, "17-Year-Old Ayad Dies from Soldier's Beating," *YA* Feb. 9, 1988, in ILHCR p. 46. Shmuel Tal, "Suspicion that Three Gaza Residents Died as a Result of Beatings," *HD*, Feb. 25, 1988, in ILHCR p. 55. "They Took Us by Jeep to a Desolate Spot," *AH* Feb. 26, 1988, in ILHCR p. 56.

38 John Kihner, "Israeli Officers Ordered to Watch Tape of 4 Soldiers Beating Arabs," *NYT* Feb. 29, 1988, p. A1.

39 AIBF p. 1.

40 Military Commander, Judea and Samaria, Military Order No. 378 (1970), arts. 78, 81.

curfew: "We received instructions. In order to let the camp residents know the IDF was in the camp during curfew, we were told to knock on doors, enter homes, and remove the men. The younger ones. We were supposed to take them out and beat them up. We entered almost every other house. We made the men stand outside with their faces to the wall, and while they were being questioned, the soldiers hit them with their clubs. The men screamed with pain and the women who heard them also started to scream." The soldier explained that orders for such beatings were not unique to his unit: "We received clear orders from our commander and his deputy. They made it clear that it was a general guideline. We met soldiers from other units and they told us they had received similar orders."<sup>41</sup>

In refugee camps in Gaza during August 1988, many young men spent entire nights on the street or in hospitals from fear that if they slept at home the IDF would come and beat them. In the West Bank village of Beita, where the IDF was particularly active in administering beatings, it threatened to blow up the houses of persons who spent the nights outside them.

Citing data from mid-January to mid-March 1988, Amnesty International reported: "Hundreds of Palestinian men, women and children were admitted to hospital in the West Bank, Gaza and Jerusalem with fractures, extensive bruising, damage to soft tissue and head injuries. On 25 January, 200 cases of fractures and other injuries caused by beatings were reported to have been brought to the government hospital of Al Shifa in Gaza. On 28 January Ramallah hospital doctors said they had treated 30 Palestinians whose wrists and arms had been broken in the past week. Between 1 and 10 March Al Shifa Hospital received 111 Palestinians whose injuries from beatings were sufficiently serious to require hospitalization. This figure does not include those who were treated in hospital as out-patients."<sup>42</sup> The Israeli government called Amnesty International's report "one-sided and unfair."<sup>43</sup>

A report of the United Nations Relief and Works Agency in August 1988 stated that 4,000 persons had sought hospital treatment for beatings since the uprising began. According to a United Nations count, 5,250 Palestinians had been wounded by IDF gunfire, beatings, or tear gas through early July 1988.<sup>44</sup> These figures likely understate the correct ones, as many victims sought private physicians. Many reportedly feared that if they were treated in a hospital their name might be put on a list that would result in a future beating by the IDF.<sup>45</sup> "Medical personnel working on the West Bank and Gaza have said that fewer than half the Palestinians needing hospital treatment were seeking it. Many are afraid to go to hospital for fear of being arrested and so seek treatment at local clinics."<sup>46</sup>

A medical team from the organization, Physicians for Human Rights (Somerville, Massachusetts), examined 58 hospital patients who said their injuries were the result of IDF beatings. The team reported that most of the injuries it saw were not the result of the kind of random beating likely to occur in a demonstration situation but rather the result of blows carefully directed to cause a serious fracture. It found "a deliberate policy of systematic beating designed to disable and not to kill, to inflict maximum damage while reducing the risk of death." They called this "a planned and purposeful form of brutalization, indiscriminate in choice of victim but precise in choice of injury."<sup>47</sup>

The team, made up of four medical school faculty members, further reported "the significant absence of certain kinds of injuries. We saw no fractures of the collarbones or at the MCP joints (the knuckles), and only one fracture of the ulna (the other bone of the forearm). Almost all of the soft-tissue injuries, the deep bruises with rupture of small blood vessels and swelling, were on the upper back and shoulders and the backs of the arms and legs; we saw no soft-tissue injuries to the chest, the abdomen or the lower back, sites where damage to internal

41 Menachem Shizaf, "The Soldiers Had a Fight Because of the Maltreatment of an Arab," in ILHCR p. 38.

42 AIEF p. 9.

43 "Amnesty Report Called, 'One-sided, Unfair,'" JPJE Aug. 27, 1988, p. 2.

44 Glenn Frankel, "Israel Announces Plan to Expel 10 Palestinians," WP July 9, 1988, p. A24.

45 "Beneath the Baton," JPJE Sept. 3, 1988, p. 5.

46 AIEF p. 10.

47 PHR p. 11.

organs can be lethal. In the West Bank, we saw relatively few people who had been hit on the head. Such injuries, in a much more random pattern, would have been expected in free-swinging melees, in people resisting arrest or actively attacking others." As for patients observed in Gaza, the team said: "Both the extent and the severity of the beatings seemed worse [than in the West Bank]. Indeed, the word 'beating' does not properly convey the literal pounding and mauling with clubs and other weapons required to produce the injuries we saw."<sup>48</sup>

From its observations of wounds, the team described the manner in which it believed injuries to have been inflicted: "A highly effective way to break the metacarpal bones [in the hand] is to force a victim to place his palm against a wall or table and then to hit the back of the hand with club or rifle butt. A highly effective way to break the radius in midshaft is to forcibly extend the subject's arm, outstretched with thumb side up, and then strike the forearm from above, hitting downward with considerable force perpendicular to the long axis of the bone. We note also that almost all of these hand and arm fractures occurred on the dominant side — on the right in right-handers, on the left in left-handers."<sup>49</sup> Victims and soldiers reported that the IDF instructed soldiers to beat in such a way as to fracture bones.<sup>50</sup>

IDF soldiers were issued long wooden billy clubs and used them to beat persons, as indicated in many television reports. In Gaza, residents said that soldiers carried billy clubs into the ends of which razor

blades had been inserted.<sup>51</sup> Beatings were reportedly carried out by soldiers using iron chains, clubs with nails, and other sharp objects.<sup>52</sup>

Eyewitnesses reported beatings administered by soldiers in situations in which no demonstration or other incident was occurring.<sup>53</sup> Reporters describing IDF action in the West Bank town of Nablus said: "During the days under curfew, soldiers entered homes and took out residents to clean the streets. Many of them were indiscriminately beaten, as the soldiers didn't differentiate between offenders and innocent civilians."<sup>54</sup> "The beatings are frequently carried out in a demonstrative manner to inspire fear. Frequently, the victims are law-abiding residents — both adults and children — who are not suspected of participating in violent or illegal activities in any way."<sup>55</sup> Many soldiers "beat anyone in reach. The moment an Arab passes by, he gets a kick."<sup>56</sup>

As reported by IDF Sgt. Efrayim Adam, who served in Gaza, an IDF regimental commander and a group of his soldiers entered a mosque in the Nuseirat refugee camp during Friday morning prayers and forced a worshiper to accompany them. No demonstrations had occurred. The worshiper did not resist. The sergeant reported that the sol-

<sup>48</sup> PHR p. 11.

<sup>49</sup> PHR p. 11.

<sup>50</sup> Yitzhak Rebiyeh, "They Yelled at Me: Say 'Givati Has Gaza by the Balls,'" YA Feb. 23, 1988, in ILHCR p. 53.

<sup>51</sup> Interview by Nancy Murray, Boston, Mass., Aug. 1988.

<sup>52</sup> CAABU p. 4.

<sup>53</sup> Eitan Rabin, "A Woman in Her Eighth Month of Pregnancy in the Shifa Hospital: Soldiers Hit Me and My Baby Is in Danger," HA Jan. 26, 1988, in ILHCR p. 38. Y. Rotblit, "Mini-Aberration," HD Mar. 25, 1988, in ILHCR p. 69.

<sup>54</sup> Yizhar Be'et, Munitz Mana'a, "Four Stories from Nablus," KH Feb. 12, 1988, in ILHCR p. 87.

<sup>55</sup> Reuven Pedatzur, Eitan Rabin, Uri Nir, "Five Who Threw Stones at Paratrooper-Recruits Were Hospitalized with Multiple Fractures," HA Jan. 22, 1988, in ILHCR p. 34.

<sup>56</sup> Tully Zeilinger, "The Black Hole at the End of the Tunnel," DV Jan. 19, 1988, in ILHCR p. 31.

diers took the man to the commander's tent, where the commander beat him severely.<sup>57</sup>

An American writer reported the beating of a Palestinian youth by soldiers in Gaza City after several stones had been thrown, but not by the youth whom they attacked. The writer reported that the soldiers beat the youth repeatedly with rifle butts despite the attempts of bystanders, including herself, to intervene. She said that several of the soldiers appeared to be frenzied. She said that other soldiers in the same vicinity grabbed Palestinian passers-by and brutalized them.<sup>58</sup> The IDF also instructed reservists in administering "dry blows," as they called them—blows that don't draw blood and therefore do not leave obvious marks of a beating.<sup>59</sup> In a few instances, soldiers were court-martialed for killing or wounding Palestinians during the uprising, but none was given a significant penalty.<sup>60</sup>

Beatings of individuals administered by the IDF violate the human rights norm that prohibits cruel, inhuman, or degrading treatment or punishment.<sup>61</sup> A state is obliged to deal with individuals in a humane fashion and may sanction an individual only for violation of a validly enacted criminal statute. Violent acts against an individual are characterized in human rights law as "cruel" or "inhuman," while acts that affront human dignity are characterized as "degrading."<sup>62</sup> Such acts are prohibited by Article 7 of the International Covenant on Civil and Political Rights, and by Article 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>63</sup>

The 1949 Convention prohibits cruel treatment of members of the occupied population. It outlaws "physical or moral coercion" (Article 31) and any "measures of brutality whether applied by civilian or military agents" (Article 32).

The beatings as administered during the uprising also constituted a collective punishment. Most of the victims were beaten without any determination or suspicion of individual responsibility. The beatings were a punishment against a locality for incidents that had occurred there. Such punishment violates the 1949 Convention (Article 33), which forbids collective punishment: "No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."

No procedure existed in the West Bank and Gaza Strip, even prior to the uprising, for administrative investigation of allegations of misuse of force by the IDF. A number of Palestinians were killed during the uprising under circumstances that made it appear that the death was caused by the IDF, but where no conclusive evidence to that effect was immediately available. Military officials promised to investigate, but the results of the investigations were typically not made public. Officials frequently forced family members to bury their relative quickly, to prevent a demonstration in connection with the funeral. Thus, the body was not autopsied to detect cause of death. An example is the case of a young man who died in the Dahriyeh prison August 13, 1988, alleged by his family to have been tortured to death there. Authorities did not perform an autopsy and forced the family to bury the young man in the middle of the night under IDF guard.<sup>64</sup> Authorities claimed suicide, but reports suggested that he suffered a mental breakdown after being tortured under interrogation.<sup>65</sup>

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- 57 Yitzhak Rebihiyeh, "The Regimental Commander Grabbed Hold of a Worshiper, Roughed Him Up, and Lodged False Charges Against Him," *YA Mar.* 11, 1988, in *ILHCR* p. 62.
- 58 Karen White, "Witnessing Israeli Brutality in Gaza," *Washington Report on Middle East Affairs*, July 1988, p. 16.
- 59 Joel Greenberg, "The Diary of a Soldier," *JPIE* Sept. 24, 1988, p. 9.
- 60 Avigdor Feldman, "Why Not Murder?" *HD* Sept. 30, 1988, reprinted in *AF* Oct. 11, 1988, p. 10.
- 61 American Law Institute, *Restatement of the Law: The Foreign Relations Law of the United States*, sec. 702 (1987).
- 62 P. J. Duffy, "Article 3 of the European Convention on Human Rights," *International and Comparative Law Quarterly*, vol. 32, pp. 316-320 (1983).
- 63 39 U.N. General Assembly Official Records (Supp. No. 51), U.N. Doc. A/39/51, Dec. 10, 1984, p. 197.

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- 64 "Israel Imposes Full Curfew in Gaza Strip," *NYT* Aug. 16, 1988, p. A3. "Death of Two Palestinian Detainees Leaves Many Questions Unanswered," *AF* Aug. 21, 1988, p. 3.
- 65 *DV* Aug. 31, 1988. "Dawar: Prisoner Died of Torture," *AF* Sept. 4, 1988, p. 4. "Israel Imposes Full Curfew in Gaza Strip," *NYT* Aug. 16, 1988, p. A3.

### (c) Tear Gas

One technique used by the IDF in response to street demonstrations was the spraying of tear gas. Tear gas can be lethal if administered in a high concentration.<sup>66</sup> The government of Israel has not disclosed the chemical composition of the tear gas it uses. Some of it was manufactured by Federal Laboratories, Saltzburg, Pennsylvania. Federal Laboratories marked the canisters with a warning label that the tear gas should "not be fired directly at persons as death or injury may result."<sup>67</sup>

A U.S. medical team reported that one type used "leads to intense tearing of the eyes and irritation of the respiratory tract, creating symptoms similar to an acute asthma attack and aggravating any underlying pulmonary disease." They also found that another type was used that caused "intense nausea, retching, abdominal cramps and, particularly in children, severe and protracted diarrhea." The team found that West Bank and Gaza Strip physicians were unable to learn the composition or toxicity of the tear gas, and thus were unable to provide effective treatment. Physicians telephoned the Poison Control Center in Haifa, the central information point for poisons in Israel, but were told that information as to composition or toxicity was unavailable or classified.<sup>68</sup> The tear gas also caused the skin to blister, resulting in first-degree burns.

The IDF often sprayed tear gas at close range. It also sprayed it into houses and other buildings, either intentionally or as a side effect of spraying in a narrow street. Streets are narrow in many of the Palestinian towns and refugee camps in which demonstrations occurred. Tear

gas sprayed in streets often drifted into residences, hospitals, offices, shops, and other buildings. The IDF used canisters launched from a rifle. In many instances soldiers fired canisters into a crowd, hitting persons with them.

The IDF reported civilian injuries from the tear gas.<sup>69</sup> Sixty-three deaths were reported either from being hit with a canister or from inhaling tear gas, most of which occurred in the Gaza Strip.<sup>70</sup> In over 50 reported cases, pregnant women who had been sprayed with tear gas miscarried within a few days after the exposure.<sup>71</sup>

Amnesty International told the Minister of Defense that "the pattern of deaths following exposure to high concentrations of tear-gas was such as to warrant a thorough and urgent review of IDF use of tear-gas and an immediate investigation into deaths among civilians following exposure to tear-gas."<sup>72</sup> As a result of the deaths and injuries, the American-Arab Anti-Discrimination Committee approached Federal Laboratories and explained that its tear gas was being used improperly. As a result of these representations, Federal Laboratories stopped shipments of the tear gas to Israel.<sup>73</sup>

69 Glenn Frankel, "4 Arabs Die in Clashes with Israelis," WP Mar. 31, 1988, p. A1.

70 DPPHR p. 1. AIMT p. 1 (40 deaths to June 1988). "Tear Gas Said to Kill Arab," NYT Aug. 24, 1988, p. A6. Uri Nir, Eitan Rabin, "The IDF Cuts Off Electricity and Telephones during Curfew," HA Feb. 23, 1988, in ILHCR p. 90.

71 Eitan Rabin, "A Woman in Her Eighth Month of Pregnancy in the Shifa Hospital: Soldiers Hit Me and My Baby Is in Danger," HA Jan. 26, 1988, in ILHCR p. 38. CABU p. 5. Ben Alois, *More than Tear-Gas: Harassing Agents and Their Use in the Israeli Occupied Territories* (Aug. 1988), p. 29.

72 AIMT p. 1.

73 "US Company Stops Sales of Tear Gas to Israel," AP May 22, 1988, p. 7. AIMT p. 6.

66 PHR p. 18.

67 Ben Alois, *More than Tear-Gas: Harassing Agents and Their Use in the Israeli Occupied Territories* (Aug. 1988), p. 22.

68 PHR pp. 18-19.



In an IDF raid on the Jabalya refugee camp in Gaza on August 22, 1988, residents estimated that 200 tear gas canisters were dropped from airplanes, covering the entire camp with gas. Fifteen canisters were dropped into the house of one family,<sup>74</sup> and one camp resident died of tear gas inhalation.<sup>75</sup>

Israeli toxicologists and physicians tested the tear gas and found that use in a closed area could kill inhabitants. As a result, the IDF instructed its troops in September 1988 not to use it in closed spaces.<sup>76</sup> However, reports continued of tear gas being sprayed into houses.<sup>77</sup>

Use of tear gas in belligerent occupation violates the 1925 Geneva Protocol on gases, which prohibits "the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices."<sup>78</sup> A few states say that tear gas may lawfully be used for crowd control in belligerent occupation, so long as it is used in a way that does not cause harm to the person beyond temporary disablement. But the predominant view is that no use of tear gas is permitted.<sup>79</sup>

Use of tear gas in the manner reported during the uprising — at close range, or in closed spaces — violates not only the prohibition against asphyxiating, poisonous, or other gases, but as well the prohibition in the 1949 Convention against physical force (Articles 31, 32).

- 74 Interview with Khalil Balounsha family, Nancy Murray, Boston, Mass., Aug. 1988.
- 75 "Ten Killed as Israel Intensifies Measures," *AF* Aug. 28, 1988, p. 1.
- 76 "Army Says No More Tear Gas in Closed Areas," *AF* Sept. 11, 1988, p. 4. "Rabin Says Uprising Is Failing," *JPIE* Sept. 17, 1988, p. 1.
- 77 DPPHR "Update Sept. 28, 1988," p. 4.
- 78 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, June 17, 1925, *League of Nations Treaty Series*, vol. 94, p. 65 (1929).
- 79 Stockholm International Peace Research Institute, *The Law of War and Dubious Weapons* (1976), p. 58.

#### (d) Violence by Israeli Settlers

During the uprising, Israeli settlers living in the West Bank carried out organized violence against Palestinian Arabs.<sup>80</sup> One group of settlers boasted to the media that they had beaten up Palestinians near Jerusalem, and smashed windows in their houses, in response to the unfurling of a Palestinian flag by residents.<sup>81</sup>

Settlers are authorized to carry weapons, and many do so. Palestinian Arabs are not permitted to carry weapons. Many of the settlers are members of the IDF reserve. Settlers carry out police functions.<sup>82</sup> When they engage in organized violence against Arabs, they act as representatives of Israel. The government is thus responsible for their actions, and they, like IDF soldiers and government officials, are individually liable for violation of the humanitarian law. Engaging in such activity, settlers render themselves military targets, with the result that Palestinians may lawfully use force against them as lawful force aimed at termination of the occupation.

During the uprising, groups of settlers carried out physical attacks on Arabs or attacks on their property, destroying crops or fruit trees. In a few instances, authorities commenced proceedings against settlers.<sup>83</sup>

This phenomenon of settler violence and only modest response from authorities pre-dated the uprising. In 1982 a report authored by an assistant attorney general at the request of the Attorney General of Israel found frequent violence by settlers against West Bank and Gaza

- 80 "Settlers Take Over Where Army Stops," *AF* Feb. 14, 1988, p. 3. CAABU p. 7.
- 81 Ronit Shaked, "We Beat Up Arabs and Damaged Their Property," *YA* Feb. 29, 1988, in ILHCR p. 61.
- 82 Ronit Matalon, "The Wild West," *HA* Mar. 11, 1988, in ILHCR p. 13.
- 83 Andy Court, "Settler Charged," *JPIE* Aug. 20, 1988, p. 2.

Arabs. It also found that authorities rarely conducted serious investigations if Arabs complained to them.<sup>84</sup> That report, whose principal author was Assistant Attorney General Judith Karp, indicated, in the words of one columnist, "What every child knows today: that for the most part the settlers stand above the law."<sup>85</sup>

The settler violence was not a reaction to Palestinian attacks on Israelis. According to Defense Minister Yitzhak Rabin, Palestinians did not attack individual Israelis as part of the uprising strategy: "Fatality figures for Jews in the territories have been lower this year than in ordinary years. In Gaza, no one has been killed since December 9 [1987]." "The weapons of the uprising — the stones and the bottles — though they too can kill, are not as lethal as guns and knives."<sup>86</sup> Three Israeli civilians and one IDF reservist were killed in the West Bank by Palestinians during the uprising.<sup>87</sup>

### (e) Medical Treatment of Persons Shot or Beaten

A military occupant, under Article 55 of the 1949 Convention, is obliged to ensure provision of medical care to the occupied population "to the fullest extent of the means available to it." In a number of instances, the IDF prevented Palestinians injured by them from being taken for medical treatment. In one incident, soldiers prevented a man shot in the chest by one of them from being taken to a hospital for two hours. The soldiers beat members of a crowd that gathered to free the

man from the soldiers. The man died.<sup>88</sup> In another instance in the Gaza Strip, IDF soldiers stopped a United Nations ambulance carrying a Palestinian to a hospital, took the patient from the vehicle, and beat him.<sup>89</sup>

In some instances, IDF soldiers entered hospitals and took patients out of the hospital and beat them.<sup>90</sup> As a result of the frequency of such beatings, many injured persons feared a stay in a hospital and therefore did not seek needed hospital treatment.<sup>91</sup> Tear gas was fired into hospitals.<sup>92</sup>

Hospitals in the Gaza Strip and West Bank treated thousands of Palestinians wounded by the IDF in street demonstrations. Many of these persons were given emergency treatment regardless of ability to pay. Many were unable to pay, particularly residents of refugee camps. On July 5, 1988, Israel's health officer for the West Bank issued an order to the nine government-operated hospitals in the West Bank, forbidding them to treat patients without collecting a fee. The fee was set at U.S. \$175 per day. Under the order, patients were required upon admittance to pay in advance for three days of treatment, and after three days to pay for the next three days if further hospitalization was required. Hospitals were required in addition to compel patients to sign an agreement permitting seizure of their assets without court order in the event of failure to pay any moneys owed the hospital.<sup>93</sup>

As a result of the order, hospitals turned away many persons injured in demonstrations. They were treated either at home or in smaller, privately-operated hospitals. In April 1988, the government also stopped what had been a normal practice of transfer to Israeli hospitals of persons requiring treatment unavailable in West Bank or Gaza Strip hospitals.<sup>94</sup>

84 Israel, Ministry of Justice, "Investigation of Suspicions Against Israelis in Judea and Samaria: Report of the Inquiry Team," May 25, 1982, in *Palestine Yearbook of International Law*, vol. 1, p. 185 (1984).  
85 Amnon Rubinstein, "The Silence of the Jurists," HA May 25, 1988, in *New Outlook*, July 1988, p. 22D.  
86 "War by Other Means" (interview of Rabin), JPJ Sept. 17, 1988, p. 3. "Bottles" is a reference to petrol-filled bottles used as an explosive.  
87 Joel Greenberg, "Confession in Killing of Girl, 18, in West Bank," JPJ Sept. 17, 1988, p. 4.

88 CAABU p. 7.  
89 National Public Radio, Washington, D.C., Aug. 23, 1988.  
90 AIEF p. 9.  
91 CAABU p. 3. Pinhas Imbart, "An IDF Officer's War Against the Shwili Family," AH Mar. 13, 1988, in ILHCR p. 67.  
92 CAABU p. 3.  
93 "Israelis Raise West Bank Arabs' Hospital Fees," NYT July 10, 1988, p. A11.  
94 Khalil Touma, "Israel Imposes New Hospital Measures," AF July 10, 1988, p. 1.

## CHAPTER 5

# Harassment and Humiliation Tactics

In April 1988, Palestinian medical officials applied to the government for a permit to construct a therapy and rehabilitation center for persons crippled by injuries. No such facilities exist in the Gaza Strip or West Bank. The government requires permission for construction of all types of buildings. The government refused to act on the application, without explaining its reasons.

Medical committees were organized locally as a form of popular committee to provide emergency medical care to those wounded during confrontations. They set up clandestine clinics and organized community blood-typing.

The IDF also used harassment and humiliation to try to end the uprising. On numerous occasions IDF units forced residents, typically adult males, to remain outside their houses all night, sitting on the ground. IDF and United Nations Relief and Works Agency officials said that the purpose was to tire them so that they could not demonstrate during daylight hours.<sup>95</sup>

A letter to the Chief of Staff reported that one IDF unit in Gaza "in order to 'exhaust' the male population, prior to Friday morning prayers... would detonate a kind of concussion grenade which creates an extremely loud blast. They would detonate the grenades between the hours of 1:00 - 3:00 [a.m.] in the very heart of the refugee camps."<sup>96</sup>

Soldiers frequently entered homes and vandalized them, destroying furniture and household items, or shooting into water tanks or solar panels.<sup>97</sup> In some cases this was done in the course of searching for persons to arrest or beat. In others the property destruction was the sole activity. A Knesset member charged property destruction by soldiers in

95 John Kifner, "Israel Moves to Impose Curfew on Palestinians," NYT Jan. 13, 1988, p. A3. Pinhas Inbar, "Silwan Residents: The Police Don't Let Us Sleep," AH Mar. 30, 1988, in ILHCR p. 95.

96 Yitzhak Rebitzky, "The Regimental Commander Grabbed Hold of a Worshiper, Roughed Him Up, and Lodged False Charges Against Him," YA Mar. 11, 1988, in ILHCR p. 62.

97 Yizhar Be'er, Munitz Mana'a, "Four Stories from Nablus," KH Feb. 12, 1988, in ILHCR p. 87. Uri Nir, "Thirty Soldiers Systematically Vandalized the Contents of a House in the Village of Houssan," HA Mar. 11, 1988, in ILHCR p. 91. CAABU p. 7.

the West Bank villages of Ya'abad and Al-Silli, and reporters saw the effects of vandalism of homes in Sur Baher, a suburb of East Jerusalem.<sup>98</sup>

In Gaza the IDF devised a catapult device capable of propelling canisters filled with rocks up to a distance of one hundred meters. It mounted these devices on trucks and used them to hurl rocks into residential areas in the middle of the night. Many rocks hit roofs, making a loud noise. The apparent purpose was either to frighten or prevent the inhabitants from sleeping.<sup>99</sup> The IDF forced residents to clear streets of stones and tires used to block streets during demonstrations.<sup>100</sup>

In a suburb of East Jerusalem, police set up a target practice range in the middle of a main street and for an hour shot at paper dummies. Police sources said the aim was to deter demonstrations.<sup>101</sup> On May 2, 1988, East Jerusalem police gathered a group of adult male pedestrians in a downtown area and forced them to stand on the sidewalk facing a wall. After a short time they were ordered to face the street and to remove their shoes and the contents of their pockets. They complied. One of the officers then ordered the first man in the line to pull down his trousers. The man objected. The officer hit him in the shoulder with his club and ordered all the men to pull down both their trousers and underwear. The officers left the men standing naked from the waist down for about two minutes, then allowed them to dress and leave.<sup>102</sup>

All these measures violate the duty of a military occupant to maintain to the extent possible the normal life of a population under occupation, according to Article 43 of the 1907 Hague Regulations. They further violate provisions of both human rights law and humanitarian law requiring respect for property and for the dignity of the person. In addition, they constitute collective punishment of a population, prohibited by Article 33 of the 1949 Convention.

## Court Procedures

### CHAPTER 6

A primary tactic of the uprising was street demonstrations. These have been widely used since 1967 to protest the occupation of the Gaza Strip and West Bank. Street demonstrations are authorized by human rights law. However, a military order issued by the military governor of the West Bank prohibits the raising of any flag without permission of the governor and punishes by a jail term of up to ten years "any person who tries whether verbally or in any other manner to influence public opinion in the area in a manner which might endanger public security or order or carries out any action with the intention of carrying out or of facilitating the carrying out of any action mentioned above." That same order requires a permit for "a march of ten or more people together, or the assembling for the purpose of marching together from one place to another for a political purpose; or for a matter which can be interpreted as a political matter whether or not they were in fact walking and whether or not they had congregated."<sup>103</sup> One person was charged with incitement during the uprising for displaying Palestinian flags, using the "V" (victory) finger sign in public, and displaying a map of Palestine that did not mention Israel.<sup>104</sup>

One aspect of the government's comprehensive strategy was mass arrests. The IDF on many occasions arrested large numbers of persons in areas where demonstrations or other uprising-related actions had occurred. In the West Bank town of Qalqilya, which had been the scene

<sup>98</sup> Dani Sadeh, Roni Shaked, "MTK Zuckers: Soldiers Damaged for No Reason Contrary to What Their Commander Claimed," *YA* Feb. 16, 1988, in ILHCR p. 89.

<sup>99</sup> Interview of residents of Jabalya camp by Nancy Murray, Boston, Mass., Aug. 1988.

<sup>100</sup> Anita Vinillo, "In Camps, At Home, At Work, Onslaught Mounts," *Guardian* (N.Y.), Aug. 31, 1988, p. 14.

<sup>101</sup> Nadav Shragai, "Police Hold Target Practice in the Middle of Silwan Village—As Deterrent," *HA* Feb. 2, 1988, in ILHCR p. 86.

<sup>102</sup> Tom Segev, "The Lost Honour of Najah Mukhal," *HA* May 6, 1988, in ILHCR p. 70.

<sup>103</sup> Military Order No. 101, Aug. 27, 1967, as amended by Military Order No. 718, text in R. Shenhaden, J. Kurtab (International Commission of Jurists), *The West Bank and the Rule of Law* (1980), pp. 126–128.

<sup>104</sup> Military Prosecutor v. Samiha Yousef Khalil, Military Court Ramallah, Case No. 4640/88, Oct. 6, 1988, filed by Asher Axelrod, Military Prosecutor.

of major demonstrations, the IDF conducted a combat-style operation on September 6, 1988. It "blocked all access, disconnecting the phone service and imposing curfew, while troops searched for wanted persons. In the first two days of the operation, launched before dawn, 200 men and youths were taken away for questioning."<sup>105</sup> The IDF used computerized lists to identify persons for arrest. It blindfolded and manacled them and gathered them in a schoolyard for questioning.<sup>106</sup> The IDF took hundreds more by bus to the outskirts of Qalqilya and left them on the road, handcuffed and blindfolded.<sup>107</sup> Five hundred were reportedly arrested in the first week of September in Qalqilya and other West Bank towns.<sup>108</sup> Such mass arrests violate human rights law, which prohibits arbitrary arrest.<sup>109</sup> It also violates the 1949 Convention, Article 71 of which requires particularized charges as a basis for arrest.

Defense Minister Yitzhak Rabin told the Knesset Security Committee in September 1988 that during the uprising the IDF had arrested 18,000 persons. Of these, 5,600 were still incarcerated in early October.<sup>110</sup> The government established new detention camps so rapidly that it did not have the administrative apparatus to maintain reliable records on the location of detainees. As a result, concerned relatives were forced to go from facility to facility inquiring whether a detainee was being held there.<sup>111</sup>

The International Committee of the Red Cross tried to keep track of detainees, but with only partial success. It has access to a detainee twelve days after arrest, though authorities reserve the right to deny access on security grounds. The ICRC reported a steady stream of persons coming to its offices in the Gaza Strip and West Bank asking about

the location of detained relatives. An ICRC staff worker reported being stopped on a road in the Gaza Strip in July 1988 by a young boy who said that his brother had been arrested six days earlier and that his family had been unable to ascertain his whereabouts. The staffworkers, unable to supply the information, explained to the boy that "there used to be few detainees, now there are thousands. Come to our office in another two or three days. Maybe we'll have new lists by then."<sup>112</sup>

The system for conducting trials broke down. Under the pressure of the great numbers of detainees, the courts were unable to conduct trials fairly. The inability to conduct trials doubtless contributed to the decision to give low-level officials the power to detain under the administrative detention procedure, and to eliminate judicial review of administrative detention. The only way to incarcerate the numbers the government wished to detain was to permit low-level military officials to make the decision unilaterally and to forego trials.

An Israeli charged with a criminal offense in the West Bank or Gaza Strip is tried in a civilian court in a proceeding following rules of evidence similar to those used at common law in England. A person convicted has a right to appeal to a higher court. A Palestinian charged with a criminal offense in the West Bank or Gaza Strip is tried in a military court.<sup>113</sup>

The 1967 Security Provisions Order (West Bank) provides that no appeal shall be taken from a military court conviction: "There shall be no appeal against judgment to a judicial instance but the convicted person may make appeal and application to the Commander of the Region

<sup>112</sup> Michele Jacquierey, "All in a Day's Work: Gaza South," International Committee of the Red Cross, *Bulletin*, No. 151, Aug. 1988, p. 2.

<sup>113</sup> Article 2, Jurisdiction in Criminal Offenses Order (West Bank), as amended June 25, 1967, gives military courts broad jurisdiction: "A Military Court shall be competent to try any criminal offense in accordance with the laws in force at the time such offense was committed, whether the offense was committed before or after the Israel Defense Force entered the Region." And *id.*, Article 3, "Every criminal offense shall be deemed to be an offense against the Security Provisions Order, whether or not jurisdiction to try such offense is exclusive to a particular court or tribunal."

<sup>105</sup> "Rabin Says Uprising Is Failing," JPIB Sept. 17, 1988, p. 1.

<sup>106</sup> Joel Brinkley, "Likud Party Opens Its Election Drive," NYT Sept. 7, 1988, p. 8.

<sup>107</sup> "Army Raids Qalqilya, Arrests Hundreds and Demolishes Houses," AP Sept. 11, 1988, p. 1.

<sup>108</sup> "Israel Says It Seized 200 Arabs to Crush a Political Network," NYT Sept. 9, 1988, p. 2.

<sup>109</sup> ICCPR art. 9.

<sup>110</sup> Joel Greenberg and Joshua Brilliant, "Riot Death Toll Rises, Palestinians Kill 'Col-laborators,'" JPIB Oct. 15, 1988, p. 1.

<sup>111</sup> ANSAR p. 4.

or the Military Commander, as the case may be, concerning conviction or sentence."<sup>114</sup> A convicted person may, however, apply for discretionary (*habecas corpus*) review before the High Court of Israel.

The Security Provisions Order permits a military court to depart from rules of evidence: "As regards the law of evidence, Military Courts shall proceed according to the rules prevailing in Military Tribunals trying soldiers. However, a Military Court may deviate from the rules of evidence for special reasons which shall be recorded, if it deems it just to do so."<sup>115</sup> The government of Israel claims that this power is not exercised.<sup>116</sup>

Rabin explained that with youths charged with incidents of violence, "we exact surety-bonds of NIS 1,500 [U.S. \$950] from the fathers of young first offenders. We hope thereby to engage the family's economic interest in preventing a recurrence."<sup>117</sup>

Procedures followed in the military courts violate human rights law and the 1949 Convention in significant respects. Human rights law entitles a suspect to a presumption of innocence, to "a fair and public hearing by a competent, independent and impartial tribunal," and to review of a conviction and sentence as a matter of right "by a higher tribunal."<sup>118</sup>

Article 71 of the 1949 Convention permits conviction and sentence only after "a regular trial." Article 64 requires an occupant to permit continued functioning of the courts. Article 66 permits it to try before military tribunals persons charged with breach of penal enactments of the occupant, but in the Gaza Strip and West Bank, the military court jurisdiction has almost entirely eclipsed that of the local courts.<sup>119</sup> This

divestment of jurisdiction of the local courts violates Article 64. The government provides no right to appeal a military court conviction.<sup>120</sup> Article 73 of the 1949 Convention requires an appeal.

Amnesty International conducted a study of the West Bank and Gaza Strip military courts in 1979 and found deficiencies in the fact that the judges were military officers and that no appeal was provided. It also found difficulty for lawyers in gaining access to clients before trial to prepare their cases.<sup>121</sup>

The military court system came under particular stress during the uprising. To cope with the large number of cases, military courts conducted group trials. Particularly severe problems of evidence were presented, as authorities attempted to make eyewitness identification of large numbers of persons arrested in demonstrations. Many Palestinians were convicted on the basis of having run from the scene of an incident at which there was gunfire by soldiers, with no proof that the individual had acted illegally.

Lawyers were hard pressed to provide adequate representation because of the large numbers arrested. Military courts tried to force lawyers to proceed to trial in situations in which the lawyer had had little opportunity to confer with the client, much less to prepare a defense. The government had, moreover, established many new detention facilities and had made it difficult for a lawyer to ascertain in which facility a client was being held.<sup>122</sup> A number of lawyers were placed in administrative detention,<sup>123</sup> and the lawyers' association was shut down. As before the uprising, lawyers were not permitted access to incarcerated clients until interrogation was completed, often a period of several weeks.<sup>124</sup> A further problem in legal representation during the

<sup>114</sup> Security Provisions Order, art. 43.

<sup>115</sup> Security Provisions Order, art. 9.

<sup>116</sup> Letter of Attorney General, Jerusalem, Dec. 31, 1979, to Secretary General, Amnesty International, in AIMGSI p. 61.

<sup>117</sup> "Rabin Says Uprising Is Failing," JPIB Sept. 17, 1988, p. 1. "War by Other Means," (interview of Rabin) JPIB Sept. 17, 1988, p. 3.

<sup>118</sup> ICCPR art. 14. American Convention on Human Rights, art. 8(2)(h).

<sup>119</sup> Raja Shehadeh, *Occupier's Law: Israel and the West Bank* (1985), p. 85.

<sup>120</sup> *Idem.*, p. 32. BC pp. 131-132.

<sup>121</sup> AIMGSI p. 43.

<sup>122</sup> Martin Garbus, "Israel's Military-Injustice System," NYT Jan. 26, 1988, p. A25.

<sup>123</sup> Yaron Zeig, "The Prisoners in 'Ansar 3' Don't Have Names," AH Mar. 29, 1988, in II.HCR p. 94.

<sup>124</sup> Paul Hunt, *Justice? The Military Court System in the Israeli-Occupied Territories* (1987), p. 21.

uprising was that many Palestinian lawyers were subjected to house or town arrest or to administrative detention.<sup>125</sup>

In the Gaza Strip, Palestinian lawyers collectively decided in January 1988 to boycott the courts, taking the view that they were able to provide no benefit to an accused person and that their representation served only to provide public legitimacy to illegitimate proceedings. On January 18, 1988, a military court in Gaza held attorney Raji Sourani in contempt for saying that he and other lawyers would not defend clients.<sup>126</sup> Later, lawyers began again to try to represent persons charged.

## CHAPTER 7

### *Coerced Confessions*

A problem in the military trials that predates the uprising but continued during it is that most convictions are based on confessions for which little or no corroboration was presented. Amnesty International was critical of the proceedings on this point.<sup>127</sup> Use of uncorroborated confessions provided little protection against coerced confessions. Throughout the time of the occupation, Palestinian detainees have frequently alleged torture under interrogation by the security service. In 1978, the East Jerusalem consulate of the United States studied the issue because Palestinians applying for a United States visa were entitled to a visa only if they had no criminal record. Many visa applicants with criminal records claimed that convictions were based on confessions gained by torture. After investigating a number of such cases, the consulate concluded that torture had occurred frequently.<sup>128</sup>

Torture was reported during interrogation of Palestinians arrested during the uprising. U. S. Assistant Secretary of State Richard Murphy said, with respect to Palestinian youth under interrogation, that "charges of mistreatment of Palestinian young people by some Israeli authorities have been largely substantiated."<sup>129</sup> Torture allegations relayed by attorneys included charges of use of beatings, sleep deprivation, burning with cigarettes, and placing a foul-smelling sack over the head for long periods causing near suffocation.

In 1987, an Israeli government commission (Landau Commission) ruled that, in criminal trials on "terrorism" charges, security officials

<sup>127</sup> AIMGI p. 43.

<sup>128</sup> Cable titled "Jerusalem 1500" sent by U.S. Consulate, East Jerusalem, to U.S. Dept. of State, May 31, 1978, text in *Christian Science Monitor*, Apr. 4, 1979, p. 26.

<sup>129</sup> "Canon Abu el-Assal Plans to Sue Israeli Justice Ministry for Libel," *AF Sept.* 4, 1988, p. 4.

<sup>125</sup> *AF July* 11, 1986, p. 2 (order of Gaza military governor prohibiting attorney Raji Sourani from representing clients in military courts, security reasons cited).

<sup>126</sup> Martin Garbus, "Israel's Military-Injustice System," *NYT Jan.* 26, 1988, p. A25.

had, since 1971, routinely testified to having not used physical force to gain a confession, when in fact they had.<sup>130</sup> The Commission reported interviewing "service personnel who felt that the judges were part of the game," meaning that judges were aware that security service interrogators were lying when they denied having used force. The Commission did not summon any judges to verify this view, stating that such judicial malfeasance was "inconceivable to us."<sup>131</sup> The fact that judges accepted the false testimony was an "abrogation of the duty of the court, deciding on guilt or innocence, to the investigating authority's."<sup>132</sup>

While it criticized the false testimony, the Commission ruled that in interrogation of persons suspected of security offenses "the employment of moderate physical pressure cannot be avoided."<sup>133</sup> It did not define in public documents what "moderate physical pressure" means but drafted secret guidelines to set limits. The cabinet endorsed the Commission's report.<sup>134</sup> Thus, the government has ceded to police the power to use physical force to extract confessions.<sup>135</sup>

While it is unknown precisely how much force is authorized, authorization of any degree of physical force against a detainee violates both human rights law and the 1949 Convention. Human rights law prohibits "torture" or "cruel, inhuman or degrading treatment or punishment."<sup>136</sup> Torture means a more serious use of force than that involved in cruel, inhuman, or degrading treatment.

Human rights law also protects a suspect from being "compelled to testify against himself, or to confess guilt."<sup>137</sup> A person subjected to physical force to extract a confession and who does confess as a result

has been forced "to testify against himself, or to confess guilt." The 1949 Convention, Article 31, provides: "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties." Article 32 outlaws any act that causes "physical suffering," a prohibition that includes "torture," "corporal punishments," and "any other measures of brutality."

The approach thus taken by both human rights law and the 1949 Convention is to outlaw any physical force to obtain a confession. This approach is in line with that followed in the legislation and case law of most countries. It is impossible to prevent physical force by interrogators without an absolute prohibition.

The fact that the cabinet has endorsed the Landau Commission conclusions means that the government of Israel condones a level of force against detainees that constitutes at the least "cruel and inhuman treatment," prohibited by humanitarian and human rights law, and perhaps torture as well. Cabinet members are thus responsible for torture or ill treatment committed by interrogators.

The U.S. Department of State's highest human rights official referred to reports of "physical mistreatment in the process of interrogation and detention" during the uprising as "troublesome." He said that "physical abuse of prisoners in detention, whether for the purpose of eliciting information or for deterrence must also be condemned." He said that the United States had urged Israel "that instructions be issued to end such practices."<sup>138</sup>

The Jewish editors of the newspaper *Derech Hanitzotz*, detained in the spring of 1988, said that they saw a detained Palestinian, whom they were later able to identify as journalist Hani Issawi, being interrogated with his head covered by a sack and his hands cuffed to an iron pipe. They also reported hearing screams of detainees who were apparently being physically abused. The *Derech Hanitzotz* editors said

130 Commission of Inquiry, composed of Moshe Landau, Yitzhak Ho'i, Ya'acov Malz (Landau Commission), JPJE Nov. 7, 1987, p. 1.

131 Benny Morris, "A Strain on Credulity," JPJE Nov. 14, 1987, p. 10.

132 David Kretzmer, "Legal Double Standards," JPJE Nov. 21, 1987, p. 10.

133 Landau Commission findings, summarized in "The Panel's Findings," JPJE Nov. 7, 1987, p. 1. Language in text in Avigdor Feldman, "We Have Therefore Formulated Guidelines for Interrogators," AF Nov. 15, 1987, p. 10.

134 "Cabinet Adopts Inquiry Findings," JPJE Nov. 14, 1987, p. 1.

135 John Quigley, "International Limits on Use of Force to Elicit Confessions: A Critique of Israel's Policy on Interrogation," *Brooklyn Journal of International Law*, vol. 14, no. 3 (1988).

136 ICCPR art. 7.

137 ICCPR art. 14.

138 Testimony by Assistant Secretary of State for Human Rights and Humanitarian Affairs Richard Schifter, Subcommittee on International Organizations and Human Rights, House Foreign Affairs Committee, "Recent Disturbances in the Territories Occupied by Israel," Mar. 29, 1988 (typewritten).



that interrogators threatened to torture Palestinian detainees if they (the editors) refused to sign confessions to certain charges.<sup>139</sup>

## CHAPTER 8

### *Detention Without Charge*

About half the Palestinians confined during the uprising were not charged with a criminal offense. They were held instead in administrative detention. Regulation 111 of the Defense (Emergency) Regulations permits such detention: "A military commander may by order direct that any person shall be detained in such place of detention as may be specified by the military commander in the order." The person incarcerated has no judicial recourse and need not be informed of the reasons for the suspicion that led to the incarceration. The practice is to order detention for six months, after which a decision is made whether to renew for an additional six months.

In the West Bank and Gaza Strip, the military governments by order introduced administrative detention on the same basis as provided in Regulation 111.<sup>140</sup> The area commander of the West Bank and the area commander of the Gaza Strip each had authority to order administrative detention. In 1980 the orders were amended to provide limited judicial review. A detainee was to be brought before a military judge within 96 hours. The judge could quash the detention if the order

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<sup>140</sup> Military Order 378, Order Concerning Security Provisions (1970), arts. 84A, 87, Emma Playfair, *Administrative Detention in the Occupied West Bank* (1986), p. 11.

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<sup>139</sup> Letter of Assaf Adiv, Roni Ben Efrat, Ya'akov Ben Efrat, Michal Schwartz to International Symposium for Freedom of the Press, Tel Aviv, June 2, 1988.

was not issued for objective reasons of security. The judge was then to review the detention order every three months.<sup>141</sup> The detainee under the 1980 order had no right, however, to be told the grounds for suspicion, information which was generally declared to be of a classified intelligence nature.<sup>142</sup> But the detainee bore the burden of proof to show that the reasons leading to the order "were not objective reasons of state security," or that the order "was made in bad faith or from irrelevant considerations." Appeal may be taken to the Supreme Court of Israel.<sup>143</sup>

The government administratively detained about 4,000 during the uprising through October 1988.<sup>144</sup> The maximum number held in administrative detention at one time was about 3,000, with releases reducing the number to 2,000 by autumn.<sup>145</sup> On March 17, 1988, the military administration issued a new regulation on administrative detention.<sup>146</sup> Newspapers reported that it permitted any IDF officer above the rank of colonel to order administrative detention.<sup>147</sup>

The March 17, 1988, regulation also revoked the 1980 procedures for review by a military court. The purpose, according to a press account, was "to ease the heavy burden on the military courts and the

<sup>141</sup> Military Order 815, Jan. 11, 1980.

<sup>142</sup> Israel National Section, International Commission of Jurists, *The Rule of Law in the Areas Administered by Israel* (1981), p. 73.

<sup>143</sup> Military Order 815, art. 87.

<sup>144</sup> DPPHR p. 1.

<sup>145</sup> "IDF Beefs Up Forces in Areas," JPJE Nov. 5, 1988, p. 1 (quoting Brig. Amnon Strashnow, IDF Judge Advocate-General), Joel Greenberg, "Should IDF Fire at Stone-throwers?" JPJE Sept. 10, 1988, p. 1 (2,600 were under administrative detention in early Sept. 1988).

<sup>146</sup> Military Commander, Judea and Samaria, Order Concerning Administrative Detainees (Temporary Provisions)(No. 1229); Military Commander, Gaza Strip, Order Concerning Administrative Detainees (Temporary Provisions)(No. 91). Text in *Administrative Detentions and Detention Centers since the Onset of the Uprising*, Sept. 2, 1988 (memorandum prepared by government of Israel at request of U.S. Secretary of State George Shultz).

<sup>147</sup> HA Mar. 20, 1988, GF p. A21.

military prosecutor resulting from the large number of administrative detention orders issued in the last three months." Judicial review within 96 hours was also eliminated. However, a detainee was given the right to appeal to a newly established Military Appeals Committee composed of a military judge and two IDF officers.<sup>148</sup>

Under a June 13, 1988 amendment to the March 17, 1988 regulation, appeal to a single judge was substituted for appeal to a three-judge panel.<sup>149</sup> In hearings before this judge, the detainee was not permitted knowledge of the information on which the detention was based.<sup>150</sup> Because of the large number of cases, requested appeals were not being heard promptly.<sup>151</sup>

The government's use of administrative detention during the uprising violated the 1949 Convention. Article 6 does not permit administrative detention more than one year after the "general close of military operations,"<sup>152</sup> as administrative detention is deemed an extraordinary measure. Military operations closed in June 1967. Further, Article 78 permits internment only "for imperative reasons of security." Even apart from Article 6, "imperative reasons of security" were not involved in most of the large number of detentions made during the uprising.

The administrative detentions also violated human rights law, which gives a detainee a right "to take proceedings before a court, in order that such court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."<sup>153</sup>

<sup>148</sup> GF p. A21. HA Mar. 20, 1988, ANSAR p. 31.

<sup>149</sup> Military Commander, Judea and Samaria, Amendment to Interim Order (No. 1236), June 13, 1988. Military Commander, Gaza Strip, Amendment to Interim Order.

<sup>150</sup> Case of Abu Saur, Abu Zeid, Abu Yassin v. IDF Commander in Gaza Strip and IDF Commander in West Bank, High Court of Justice 42/88, Petition of plaintiffs: TTYTZ p. 1, Kate Casa, "The Story of an Answer-III Survivor," *The Return*, Sept. 1988, p. 11. Hatem Abdul Qader, "The Ordeal of an Administrative Detainee," *idem*, p. 18.

<sup>151</sup> GF p. A21. Joshua Brilliant, "Inmates Hopeful after Justices Visit Keizor Prison," JPJE Sept. 10, 1988, p. 3. TTYTZ p. 31.

<sup>152</sup> *Country Reports on Human Rights Practices, Report Submitted to the Committee on International Relations, U.S. House of Representatives and Committee on Foreign Relations, U.S. Senate, By the Department of State In Accordance With Sections 116(d) and 502(B)(b) of the Foreign Assistance Act of 1961 As Amended* (February 5, 1978), p. 367 (giving this interpretation of the interplay between arts. 6 and 78).

<sup>153</sup> ICCPR art. 9.

## CHAPTER 9

# *Conditions of Incarceration*

The government of Israel was hard-pressed to provide incarceration facilities for the large number of persons it arrested, both on criminal charges and via administrative detention. Israeli prisons have been overcrowded for many years as a result of large numbers of West Bank and Gaza Strip Palestinian inmates.<sup>154</sup>

"A cornerstone of Israel's approach to quelling the... uprising" was "to lock up anyone suspected of involvement, and that quickly filled up all the regular jails."<sup>155</sup> During the uprising the government opened four new detention facilities — one at Dahiyeh near Hebron in the West Bank,<sup>156</sup> one on the Gaza coast, and one in the Negev Desert. It made available facilities as well at an existing prison at Aitit, near Haifa, in Israel.

The makeshift prisons lacked the hygienic, food-service, and other requisites of minimal standards of incarceration required by international law. The Gaza facility was called by its inmates "Ansar 2" after a prison camp at Ansar, Lebanon, in which the IDF incarcerated Lebanese and Palestinians under harsh conditions when Israel occupied southern Lebanon in 1982. "Ansar 2," where inmates were housed in tents, did not provide protection from the heat of the Gaza region. The same was true of the largest of the new facilities, at Ketziot, in the Negev Desert. This facility was called by its inmates "Ansar 3." The government established the Ketziot facility primarily to house administrative detainees. As of July 1988, 2,400 of the 2,700 inmates at Ketziot were administrative detainees.<sup>157</sup>

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<sup>154</sup> NLG pp. 91-95.

<sup>155</sup> JB p. A1.

<sup>156</sup> Saïda Hannaf, "Attorney's Report Details Appalling Conditions in Detention Camp," AF Mar. 13, 1988, p. 1.

<sup>157</sup> TTTZ p. 1.

Articles 79-135 of the 1949 Convention require that persons subjected to administrative detention ("internment") be held in facilities that meet higher standards than facilities used to house persons convicted of offenses ("imprisonment"). The International Committee of the Red Cross, which regularly visited Ketziot, found that the facility did not meet the Convention's standards. The Lawyers Committee for Human Rights, which also visited the facility, reached the same conclusion and called for its closure.<sup>158</sup>

Both groups criticized the government for establishing the facility "in particularly harsh climatic conditions."<sup>159</sup> Daytime temperatures at Ketziot regularly exceed 100°F.<sup>160</sup> Many inmates passed out from the daytime heat. Inmates were forced to sit on the ground exposed to the desert sun for periods of hours.<sup>161</sup>

At night by contrast temperatures descend to the freezing point. Inmates slept on thin foam pads laid on wooden planks on the ground.<sup>162</sup> Confinement in such conditions violates Article 85 of the 1949 Convention, which requires the occupant to intern only "in buildings or quarters which afford every possible safeguard as regards hygiene and

health, and provide efficient protection against the rigours of the climate." The phrase "buildings or quarters" excludes tents.<sup>163</sup> Inmates were "packed 28 to a tent, their two-foot-wide foam pads shoved up against one another." They slept "elbow to elbow."<sup>164</sup>

A visiting U.S. lawyer found that the sewage attracted vermin.<sup>165</sup> She said that the faces and clothing of inmates are visibly dirty.<sup>166</sup> "The sanitary conditions are horrific: the sewage is open," reported Reserve Sgt. Doron Ben Sira, who was assigned to guard inmates in Ketziot during his reserve service.<sup>167</sup> Inmates were not permitted to change or wash their clothing or underwear for weeks at a time.<sup>168</sup> Article 85 of the 1949 Convention requires that inmates "shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning."

Water was reportedly unavailable for hours at a time.<sup>169</sup> Article 89 of the 1949 Convention states that "sufficient drinking water shall be supplied to internees." This requirement is deemed particularly important "in desert areas."<sup>170</sup>

158 *Report on Ketziot*, Lawyers Committee for Human Rights (1988).

159 "ICRC Reacts to Israeli Violations of Geneva Convention," *International Committee of the Red Cross, Bulletin*, No. 152, Sept. 1988, p. 1. *Report on Ketziot*, Lawyers Committee for Human Rights (1988).

160 *IB* p. A1.

161 Saïda Hamad, "American Delegation Calls for Closure of Ansur 3," *AF* Aug. 14, 1988, p. 3.

162 *IB* p. A1.

163 PICTET p. 386.

164 *IB* p. A1.

165 Saïda Hamad, "American Delegation Calls for Closure of Ansur 3," *AF* Aug. 14, 1988, p. 3.

166 Barbara O'Dair and James Ridgeway, "Buried and Scorned: Life in a Palestinian Detainee Camp," *Village Voice*, Oct. 11, 1988, p. 21 (interview with Mary Howell, attorney, New Orleans, La.).

167 Dan Segir, "This Isn't the Way to Suppress the Uprising," *HA* Aug. 26, 1988, reprinted in *AF* Sept. 4, 1988, p. 10.

168 Avi Katzman, "Life in Ansur 3," *KR* Apr. 20, 1988, in *ILHCR* p. 71.

169 *ANSAR* p. 10.

170 PICTET p. 394.

The only toilet facilities in Keiziot were simple latrines — a hole in the ground with a board above it. Inmates reported that these latrines were typically overflowing with feces.<sup>171</sup> Odor from the toilets invaded nearby tents.<sup>172</sup> Inmates were not permitted to leave their tents to visit the latrine during the night and therefore had to use buckets placed in their tents for that purpose. These conditions violated Article 85 of the 1949 Convention, which states: "Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness."

Keiziot inmates complained to visiting Supreme Court judges that they were prohibited from exercising, had inadequate water to drink, were given insufficient food to prevent hunger, and were permitted only one shower per week.<sup>173</sup> Food poisoning was reported as a result of spoiled food being served.<sup>174</sup>

Many Keiziot inmates were reported to have serious pre-existing medical problems. Often only one physician was available for the entire facility.<sup>175</sup> Article 91 of the 1949 Convention states: "Every place of internment shall have an adequate infirmary."

The I.C.R.C. further found a violation of the 1949 Convention in the fact that the facility is located in Israel rather than in the native territories of the inmates. Article 76 of the Convention prohibits detention of members of an occupied population at any location outside their own

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171 JB p. A1.

172 "The Keiziot Cauldron," JPBE Sept. 3, 1988, p. 3.

173 Joshua Brilliant, "Inmates Hopeful after Justices Visit Keiziot Prison," JPBE Sept. 10, 1988, p. 3.

174 Saida Hamed, "Conditions Bad in Ansar 3 Detention Compound," AF May 1, 1988, p. 3. TTT2 p. 1. ANSAR p. 19.

175 ANSAR p. 18.

territory. IDF Chief of Staff Dan Shomron acknowledged that the camp's location violated Article 76.<sup>176</sup>

Inmates charged physical brutality.<sup>177</sup> An IDF reservist working as a guard told a reporter that guards frequently beat prisoners, either as punishment or for no reason.<sup>178</sup> As punishment for rules violations, inmates were often bound hands to ankles behind the back.<sup>179</sup>

Two inmates at Keiziot were killed by soldiers on August 16, 1988. Soldiers tried to force inmates to clean their living area, which the inmates refused to do. Soldiers beat one refusing inmate, at which point other inmates attacked soldiers. Soldiers used rubber bullets and tear gas to subdue the inmates. One inmate died of tear gas inhalation. Another was shot at close range by an IDF officer.<sup>180</sup> The International Committee of the Red Cross criticized the government for the two deaths.<sup>181</sup>

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176 GF p. A21. JB p. A1.

177 ANSAR pp. 20-21.

178 JB p. A1

179 "The Keiziot Cauldron," JPBE Sept. 3, 1988, p. 3.

180 "Israeli Press Reports Contradict Government Version on Ansar 3 Incident," AF Aug. 28, 1988, p. 3.

181 "ICRC Reacts to Israeli Violations of Geneva Convention," International Committee of the Red Cross, *Bulletin*, No. 152, Sept. 1988, p. 1.

## CHAPTER 10

### *Expulsion (Deportation)*

Another technique Israel used to suppress the uprising was expulsion (also called deportation) of persons the government suspected of being leaders of the uprising. During the uprising, expulsion orders were issued to 60 Palestinians.<sup>182</sup> Expulsion is considered a particularly harsh penalty by Palestinians since the issue in dispute between them and the government of Israel is the right to control the territory in which they live. Expulsion removes expellees from the territory. It also deprives the Palestinian population of persons who have evidenced leadership ability.

The government has used expulsion as a control technique since the occupation of the West Bank and Gaza Strip began. In the first decade of the occupation, it expelled more than one thousand persons.<sup>183</sup> Expulsion was stopped in the late 1970s and early 1980s but began again in 1985. From August 1985 to April 1986, the government expelled thirty-six persons.<sup>184</sup> An Israeli government commission found that expulsion "has a considerable deterrent influence in restraining terrorist acts and hostile subversion."<sup>185</sup>

During the uprising, the government's stated intention was to expel persons leading the uprising. On July 8, it announced expulsion of 10 trade unionists, journalists, students, and businessmen who it said were uprising organizers.<sup>186</sup>

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<sup>182</sup> As through Aug. 24, 1988, Figure given by U.S. Dept. of State, in "U.S. Criticizes Expulsions," NYT Aug. 25, 1988, p. 3.

<sup>183</sup> NLG p. 74.

<sup>184</sup> Joost R. Hillemann, *Israel's Deportation Policy in the Occupied West Bank and Gaza* (1986), pp. 90-91.

<sup>185</sup> *State of Israel: Press Bulletin: Report of the Commission of Inquiry into the Methods of Interrogation of the General Security Service Regarding Hostile Terrorist Activity (communicated by the coordinator of the commission of inquiry)*, (Landau Commission), Nov. 1, 1987, para. 4.16.

<sup>186</sup> Phyllis Bennis, "Dual Power Emerging in Israel's Occupied Territories," *Frontline*, Aug. 1, 1988, p. 13.

Since December 1987 the government has expelled 35 persons and held 25 more pending expulsion.<sup>187</sup>

Expulsions are carried out under Regulation 112 of the Defense (Emergency) Regulations, which empowers the High Commissioner of Palestine (powers exercised in the Gaza Strip and West Bank by the military governors) to expel "any person from Palestine." The only limitation — one applicable as well to administrative detention — is provided by Regulation 108, namely, that the Commissioner "is of opinion that it is necessary or expedient to make the order for securing the public safety, the defence of Palestine, the maintenance of public order or the suppression of mutiny, rebellion or riot."

There is a right to appeal to an appeals board, and to appeal as well to the High Court,<sup>188</sup> although there is no right to see evidence on which the expulsion order is based.<sup>189</sup> To date, the Court has never invalidated an expulsion order.<sup>190</sup>

Expulsion violates Article 49(1) of the 1949 Convention, which 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."

Despite this clear language, the High Court of Israel found that the expulsion of West Bank or Gaza Strip residents is permitted, because of its view that the Convention is not applicable to the occupation. The

Court reviewed Article 49(1) nonetheless and decided "it prohibits only mass deportations for purposes of forced labor or extermination."<sup>191</sup>

That view of Article 49(1) has been rejected by virtually all other states and by most international law experts.<sup>192</sup> The United States government protested these deportations as a violation of Article 49(1),<sup>193</sup> as did the European Economic Community.<sup>194</sup> The Security Council of the United Nations unanimously adopted a resolution January 5, 1988, condemning the expulsions.<sup>195</sup> The United States, explaining its vote in the Security Council, said that Article 49(1) prohibits expulsions "regardless of their motive." The United States said that "such harsh measures are unnecessary to maintain order. They increase tension rather than contribute to the creation of a political atmosphere conducive to reconciliation and negotiation."<sup>196</sup> On January 14, 1988, as expulsions continued, the Council again adopted a resolution condemning them once again.<sup>197</sup>

In a formal reply to the United States protest note, the government of Israel claimed that the expulsions were "unusual measures" applied "in extreme cases only." The United States had charged that expulsions had "become the norm."<sup>198</sup> The International Committee of the Red Cross protested to the Israeli government that the expulsions violate Article 49(1). The I.C.R.C. provided refugee relief to the expellees.<sup>199</sup>

191 Abu Awad vs. IDF Commander of Judea and Samaria, High Court of Justice 977/79, 33(3) *Piskei Din* (1979), p. 309, quoted in JH p. 171. Statement of government of Israel, quoted by Joel Brinkley, "U.S. Criticism Sets Off a Furor in Israel," *NYT* Aug. 25, 1988, p. 3.

192 EC p. 110.

193 Joel Brinkley, "U.S. Criticism Sets Off a Furor in Israel," *NYT* Aug. 25, 1988, p. 3.

194 "U.S. Criticizes Israeli Expulsion Policy," *AF* Aug. 28, 1988, p. 4.

195 Security Council Res. 607, Jan. 5, 1988.

196 Security Council, U.N. Doc. S/PRV.2780, p. 11, Jan. 5, 1988.

197 Security Council Res. 608, Jan. 14, 1988 (U.S. abstaining on ground that resolution was repetitive of Res. 607). Paul Lewis, "U.N. Council Again Asks Israelis to Stop Deporting Palestinians," *NYT* Jan. 15, 1988, p. A9.

198 Menachem Shalev, Wolf Blitzer, "Israel Defends Deportations," *JPIH* Sept. 3, 1988, p. 1.

199 "ICRC Reacts to Israeli Violations of Geneva Convention," International Committee of the Red Cross, *Bulletin*, Sept. 1988, No. 152, p. 1.

## CHAPTER 11

### *Demolition of Houses*

Since occupying the West Bank and Gaza Strip, the government of Israel has demolished houses of persons suspected of security-related offenses.<sup>200</sup> The stated aim is to pressure family members to prevent anyone among them from engaging in acts of resistance to the occupation. In some instances houses are sealed shut with concrete instead of being demolished. Demolition is typically carried out shortly after arrest, prior to a court determination of guilt or even of probable cause.<sup>201</sup> The United States has criticized this aspect of the demolition policy.

From 1967 to 1981, the government blew up or sealed 1,265 houses, according to its statistics.<sup>202</sup> Other estimates are as high as 20,000.<sup>203</sup> In the early 1980s it blew up few houses but in 1985 resumed the practice, as part of the "iron fist" policy of repression it instituted during that period. In 1985-86 it demolished or sealed 102 houses.<sup>204</sup>

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<sup>200</sup> EP p. 1, NLG p. 63.

<sup>201</sup> "Israelis Blow Up Homes Linked to Arab Slayings," NYT Oct. 13, 1988, p. 4.

<sup>202</sup> "Peres Hits Back at Premier on Demolition of Arab Houses," JP Nov. 24, 1981, p. 1.

<sup>203</sup> NLG p. 65.

<sup>204</sup> EP p. 2.



During the 1988 uprising, the government demolished about 130 homes and sealed about 25.<sup>205</sup> Whereas previously it had demolished homes inhabited only by persons it charged with offenses of violence, during the uprising it demolished homes of persons it charged with less serious offenses.<sup>206</sup> Demolition or sealing may be ordered not only of a house owned by the suspect or her or his family, but of a house rented by them from another.<sup>207</sup> Demolitions in some instances engendered local riots that resulted in violent confrontations between local inhabitants and military demolition crews.<sup>208</sup>

The government on a number of occasions discovered after demolishing a house that the house's inhabitants were not responsible for the act charged.<sup>209</sup> The demolitions created a large homeless population, since the houses demolished were frequently of substantial size, being home to a number of persons. The International Committee of the Red Cross provided tents to some families whose houses were demolished.<sup>210</sup> The United Nations Commission on Human Settlements asked Israel to stop house demolitions and said that the policy conflicted with the Commission's goals of providing shelter for the homeless.<sup>211</sup>

Demolitions took away not only shelter but personal property. The IDF typically carried out demolitions rapidly, to minimize the possibility of physical obstruction of the bulldozers by relatives and neighbors.

- 205 "PLO Fronts' Closed," JPHE Sept. 3, 1988, p. 1 (gives 70 demolished), DPPHR p. 1 (gives 92 demolished, 19 sealed, to Oct. 9, 1988). Joel Greenberg, "Army Ready to Face Firearms in Uprising," JPHE Oct. 22, 1988, p. 1 (9 demolished, 6 sealed that week), "Scores Injured in Clashes This Week," AF Oct. 30, 1988, p. 1 (25 demolished Oct. 27, 1988).
- 206 Pinhas Inbari, "Harsher Punishments: Homes of 'Inciters' Also Demolished," AH Apr. 6, 1988, in U.HCR p. 95.
- 207 *Idem.*, pp. 4-5.
- 208 "Israelis Blow Up Homes Linked to Arab Slayings," NYT Oct. 13, 1988, p. 4.
- 209 PJ p. 3.
- 210 Michele Jacquier, "All in a Day's Work: Gaza South," International Committee of the Red Cross, *Bulletin*, No. 151, Aug. 1988, p. 2.
- 211 United Nations, Commission on Human Settlements, Res. 11/10, "Reconstruction of Palestinian Homes," Apr. 12, 1988. Vote: 35-1-9, in U.N. Division for Palestinian Rights, *Bulletin*, vol. 11, no. 6 (June 1988), p. 12.

bors. Often it carried out the demolitions at a time of day when adult males were away at work. In these circumstances, inhabitants typically had little opportunity to remove furniture, jewelry, or other possessions prior to a demolition. Many persons lost large amounts of currency and other valuables in demolitions. Many West Bank and Gaza Strip Palestinians keep life savings in currency in their houses, since the government has prohibited the functioning of Palestinian Arab banks, and since Palestinians do not trust Israeli banks.

Demolition and sealing are permitted by Regulation 119(1) of the Defense (Emergency) Regulations. Demolition is authorized when the military governor "is satisfied" that an offense has been committed, even prior to a determination by a court. But demolition and sealing violate human rights law, which protects the right to property.<sup>212</sup> They also violate Article 53 of the 1949 Convention, which allows destruction of property only in limited situations: "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 interprets the final phrase to mean that the destruction is required 'for the armed forces to engage in action, such as making way for them. This exception to the prohibition,' the I.C.R.C. continues, 'cannot justify destruction as a punishment or deterrent, since to preclude this type of destruction is an essential aim of the article.'<sup>213</sup> A similar rule is found in an earlier humanitarian treaty of 1907, the Hague Rules, which prohibits destruction of property "unless such destruction be imperatively demanded by the necessities of war."<sup>214</sup>

The government of Israel has sought to justify the demolitions and sealings as a deterrent, and the Supreme Court has upheld them on that

- 212 Universal Declaration of Human Rights, art. 17. African Charter of Human and People's Rights, art. 14.
- 213 Communication of I.C.R.C., Nov. 25, 1981, cited in EP p. 12.
- 214 Laws and Customs of War on Land, Oct. 18, 1907. Annex, Regulations Respecting the Laws and Customs of War on Land, art. 23(e). U.S. Congress, *Statutes at Large*, vol. 36, p. 2277 (1910).

## CHAPTER 12

### *Curfews*

basis: "The aim of the regulation is 'to achieve a deterrent effect,' and such an effect should naturally apply not only to the terrorist himself, but to those surrounding him, and certainly to family members living with him. He should know that his criminal acts will not only hurt him but are apt to cause great suffering to his family."<sup>215</sup>

Thus, the aim as stated by the government and Court, rather than providing justification under Article 53, demonstrates the illegality of the demolition and sealing policies. Demolition and sealing affect not only the person suspected of an offense but all others who inhabit the building. Frequently the house demolished is rental property, in which case the landlord is directly affected. Since demolition and sealing affect persons other than those suspected, they constitute as well a collective punishment, which is prohibited by Article 33 of the 1949 Convention: "No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."

To suppress the uprising, the government of Israel made extensive use of curfews on areas where demonstrations occurred.<sup>216</sup> It maintained them for periods of days or weeks. In some instances it prohibited movement only out of the village or municipality. With some curfews, the IDF impounded all vehicles belonging to the inhabitants. During others it prohibited movement out of houses, or even exiting to the roof of a house to hang laundry, or leaving window curtains open. An IDF reservist reported having chased down a nine-year-old who went outside when he saw a piece of bread in the gutter. Soldiers beat people who left their homes during curfews.<sup>217</sup> Outsiders, including journalists, were prohibited from entering towns under curfew.

IDF patrols toured the streets with loudspeakers, threatening physical violence against persons who might emerge from their houses. Several times the IDF imposed a curfew on the entire Gaza Strip, whose population is 600,000.<sup>218</sup>

Curfews are authorized by Israeli law applicable in the Gaza Strip and West Bank. Regulation 124 of the Defense (Emergency) Regulations states that "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

216 John Kifner, "Israel Moves to Impose Curfew on Palestinians," *NYT* Jan. 13, 1988, p. A3.

217 Joel Greenberg, "The Diary of a Soldier," *JPIE* Sept. 24, 1988, p. 9 (curfew in Qabatiya, West Bank, August 1988).

218 Glenn Frankel, "4 Arabs Die in Clashes with Israelis," *WP* Mar. 31, 1988, p. A1. "Israel Imposes Full Curfew in Gaza Strip," *NYT* Aug. 16, 1988, p. A3.

to issue such permits, he shall be guilty of an offence against these Regulations."

Ephraim Sneh, former military governor of the West Bank, explained that the IDF believed it had to punish the entire population, not simply individuals, to suppress the uprising. "The intifada," he said, "has very broad popular support. Our confrontation is with the entire Palestinian population, and that is why punishment is necessarily collective measures."<sup>219</sup> Collective punishment, whatever the rationale, is unlawful, however.

Curfews may legitimately be used under the 1949 Convention to quell an immediate situation of disturbance. If used as a punitive measure, however, curfews are unlawful. In such a case they are a collective punishment, since the aim is to punish an entire village or municipality for the acts of some of its members. In the instance of the curfews instituted against the Gaza Strip as a whole, the population punished comprises half a million persons. Collective punishment violates Article 33 of the 1949 Convention, quoted above.

One major hardship from the curfews was food supply. In the longer curfews, the IDF typically permitted exit from houses for an hour or two every few days to get food. But serious hunger problems developed in some towns.<sup>220</sup> During a 30-day curfew in the West Bank town of Qabatiya, the IDF did not allow transport of food into the town. Inhabitants who tried to sneak into their fields to pick vegetables were

beaten by soldiers.<sup>221</sup> Residents of neighboring towns smuggled food into the town on donkeys over hill trails.<sup>222</sup> Soldiers meanwhile picked vegetables for themselves in the fields to which the inhabitants were not allowed access.<sup>223</sup>

Inhabitants violated curfews to take food to neighbors in need. This occurred, for example, in the West Bank village of Beita, which the IDF kept under curfew for 25 days. This followed the mistaken killing of an Israeli girl by the Israeli who was guarding her and other hikers. Food shortages during curfews were a particular problem in refugee camps in the Gaza Strip.<sup>224</sup> The United Nations Relief and Works Agency of force in the Gaza Strip, which is responsible for food distribution in the camps, acknowledged that there were serious shortages there.<sup>225</sup> It complained that the Israeli government had stopped U.N.R.W.A.'s food convoys from entering curfewed areas.<sup>226</sup> It reported that in refugee camps under curfew neighbors frequently emerged from their houses, thereby violating the curfew, to take food to neighbors. They said that IDF soldiers were observed confiscating food from such persons and dumping it on the ground. U.N.R.W.A. complained to the government about these incidents and charged that the government was using food

219 Joel Brinkley, "Some Israelis Sense a Futility in Steps to Suppress Uprising," *NYT* Oct. 12, 1988, p. A1.

220 Mohammed Halila, "Darousha Reports to Rabin: Severe Hunger in Kalkilya Endangers Residents' Lives," *DV Apr. 7, 1988*, in *ILHCR* p. 80. Reem Nuseibeh, "Situation Critical at Jalazoun," *AF Apr. 24, 1988*, p. 1.

221 Joel Greenberg, "The Diary of a Soldier," *JPIE* Sept. 24, 1988, p. 9.

222 Zvi Gilat, "Back to the Land, Eating Grass," *HD Apr. 7, 1988*, in *ILHCR* p. 81.

223 Joel Greenberg, "The Diary of a Soldier," *JPIE* Sept. 24, 1988, p. 9.

224 "The Last Supper: Tea and Pita Crumbs," *AH Jan. 18, 1988*, in *ILHCR* p. 75. "Milk, Eggs and a Plate of Beans for 13 Children," *HD Jan. 20, 1988*, in *ILHCR* p. 76.

225 John Kifner, "Rabin Vows to Quell Palestinian Unrest," *NYT* Jan. 19, 1988, p. A3. Amira Hassan, Shimon Elkevitz, "UNRWA: 'There Is a Real Shortage of Basic Goods in the Gaza Camps. The IDF Is Making Distribution Difficult,'" *HD Jan. 21, 1988*, in *ILHCR* p. 78.

226 John Kifner, "Israel Moves to Impose Curfew on Palestinians," *NYT* Jan. 13, 1988, p. A3.

deprivation to break the uprising. Several members of the Knesset made the same charge.<sup>227</sup>

An Israeli journalist was stopped in a line of cars entering the Bouweij camp in the Gaza Strip. Two IDF officers searched the vehicles for food being transported into the camp. "The officers pulled baskets of vegetables, fresh pilsas and meat out of the cars and threw them to the roadside. Then they ordered the drivers to crush the piles of food under the wheels of their cars. Driving their jeeps back and forth, the officers crushed the heaps of food."<sup>228</sup> Residents left clandestinely from camps under curfew in the Gaza Strip to buy food. Soldiers finding them re-entering with food frequently beat them and destroyed the food.<sup>229</sup>

Curfews also jeopardized the food supply by keeping farmers away from their fields. Many lost their crops as a result, particularly the citrus crop.<sup>230</sup> Farmers were unable to get perishable produce to market. It is estimated that they destroyed over 100,000 fruit and olive trees by bulldozing or uprooting.<sup>232</sup>

Curfews also interfered with medical care. The area in which a curfew was imposed was often an area in which some demonstration or

other IDF action had occurred. Thus, there were typically many persons in need of medical care. The prohibition on leaving the house, or on leaving village or municipality, left many injured persons untreated. Dysentery developed in some curfewed towns and went untreated.<sup>233</sup>

With many curfews, the IDF cut off electricity, water, and telephone service. In an instance in which this was done in the Gaza Strip, an IDF officer explained, "the aim was to show the residents who is the real boss in the Strip and to prove to them that we can employ measures they haven't dreamt of."<sup>234</sup> Electricity shutoffs were common: "The IDF routinely disconnects the electricity supply and the telephone lines of Arab towns under curfew," reported an Israeli newspaper. The purpose, it said, was "to punish and deter problematic towns."<sup>235</sup>

During the uprising Palestinians in the Gaza Strip and West Bank received moral and material support from Israeli Palestinians, who held strikes in sympathy with the West Bank and Gaza Palestinians.<sup>236</sup> The government sought to thwart this alliance, which threatened Israel's control over the latter group of Palestinians, and enhanced the possibility that the uprising would continue.<sup>237</sup> Palestinians living in Israel organized truck convoys of food supplies to the Gaza Strip. The trucks were marked with signs indicating the geographic origin of the shipments. The government stopped these truck convoys from entering Gaza.<sup>238</sup> It agreed to have U.N.R.W.A. transport this food into Gaza itself but did not want it known that it was coming from Palestinians

227 Moti Basok, Yaron Zeilig, "MK Grossman: Blocking Food Reminds Me of Horrible Scenes," *AH* Mar. 29, 1988, in *ILHCR* p. 80.

228 Avino'am Bar-Yosef, "An Army Jeep Crushed Heaps of Contraband Pitas and Vegetables," *MA* Jan. 20, 1988, in *ILHCR* p. 76.

229 Yitzhak Rebitzky, "Residents Flee the Camps," *YA* Jan. 20, 1988, in *ILHCR* p. 77.

230 Mohammed Halila, "Darausha Reports to Rabin: Severe Hunger in Kalkiya Endangers Residents' Lives," *DV* Apr. 7, 1988, in *ILHCR* p. 80.

231 Shefi Gabai, "Merchants: We Are Being Harassed, They Send Our Lories Back and Forth from the Bridges," *MA* Mar. 18, 1988, in *ILHCR* p. 93. Joel Greenberg, "Infatada: the Fight to Keep the Lid On," *JPIE* Oct. 1, 1988, p. 1.

232 *DPPHR* p. 3.

233 Joel Greenberg, "The Diary of a Soldier," *JPIE* Sept. 24, 1988, p. 9.

234 Shimon Elkavitz, "The IDF Cut Off Electricity and Water during the Riots," *HD* Jan. 19, 1988, in *ILHCR* p. 84.

235 Uri Nir, Eitan Rabin, "The IDF Cuts Off Electricity and Telephones during Curfew," *HA* Feb. 23, 1988, in *ILHCR* p. 90.

236 Glenn Frankel, "4 Arabs Slain in Clashes with Israelis," *WP* Mar. 31, 1988, p. A1. Michel Schwartz, "Palestinians in Israel at a Crossroad," *Palestine Focus*, May-June 1988, p. 4.

237 Glenn Frankel, "4 Arabs Die in Clashes with Israelis," *WP* Mar. 31, 1988, p. A1.

238 "Food Convoys Intercepted," *AF* Jan. 24, 1988, p. 4.

resident in Israel.<sup>239</sup> In September 1988, Defense Minister Yitzhak Rabin claimed success in thwarting this mutual aid: "Practical cooperation between the Palestinians in the areas [Gaza Strip and West Bank] and the Israeli Arab community has greatly declined."<sup>240</sup>

## CHAPTER 13

### *Termination of Communications*

As one technique to suppress the uprising, the government tried to prevent communication to the outside world from the Gaza Strip and West Bank. It limited press coverage of the uprising and cut telephone communication to and from the area.

#### **(a) Interference with Press Coverage**

The uprising drew the attention of the local and foreign press. Viewing press coverage as a factor promoting continuation of the uprising, the government forbade media from areas of confrontations between inhabitants and the IDF.<sup>241</sup>

The government arrested several Israeli journalists whose reports had been particularly unfavorable to the IDF. It closed two newspapers, the weekly Hebrew-language *Derech Hanizotz* and the affiliated fortnightly Arabic-language *Tariq A-Sharara*. Both had been critical of the IDF and the government for their handling of the uprising. Jerusalem District Commissioner Eli Swissa ordered the closure February 18, 1988, under Regulation 94(2) of the Defense (Emergency) Regulations. The Regulation requires a permit for publication of a newspaper and authorizes the district commissioner "in his discretion and without assigning any reason therefore" to "suspend or revoke any such permit." Editors are not entitled to court review. Swissa said publicly only that "he had reason to believe" that there was a "real linkage" between the newspaper and the Democratic Front for the Liberation of Palestine, an affiliate of the Palestine Liberation Organization. A Palestinian staff journalist was arrested February 16 and placed under administrative detention. Between April 15 and May 17, five Israeli editors were arrested, four of whom were charged with "contact with a foreign agent," "membership in an illegal organization," "service for an illegal or-

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239 Amira Hassan, Shimon Elkevit, "UNRWA: 'There Is a Real Shortage of Basic Goods in the Gaza Camps, The IDF Is Making Distribution Difficult,'" HD Jan. 21, 1988, in ILHCR p. 78.

240 "War by Other Means," (interview with Rabin) JPIE Sept. 17, 1988, p. 3.

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241 Glenn Frankel, "4 Arabs Slain in Clashes with Israelis," WP Mar. 31, 1988, p. A1.

ganization," and "membership in a terrorist organization." The fifth was released. Police raided the home and office of Abed Assali, an attorney for the *Derech Hanizotz* defendants, and searched his files on the case.<sup>242</sup>

One of the editors of *Derech Hanizotz*, Hadass Lahav, testified in the Jerusalem District Court that during an interrogation of her, officials of the Shin Bet police brought into the room an Arab prisoner who, in her words, "looked like a vegetable." She said that the prisoner had evidently been beaten badly. She said that the officials told her that they had tortured the prisoner and that they would continue to do so until she agreed to answer questions. Two other arrested editors of *Derech Hanizotz*, Roni Ben Efrat and her husband Ya'acov Ben Efrat, also testified that an apparently tortured Arab prisoner was presented to them by officials in the same manner, with the same threat.<sup>243</sup>

Approximately 30 Palestinian journalists working for various Arabic-language newspapers were placed under administrative detention during the uprising. Other journalists, some local and some foreign, reported being beaten by police or the IDF. The head of the Foreign Press Association in Israel, Robert Slater, complained of these assaults to the Minister of Defense.<sup>244</sup>

On March 30, 1988, Swissa ordered a six-month closure of the Palestine Press Service, which had collected detailed reports on actions of the IDF to suppress the uprising.<sup>245</sup> On September 30, 1988, the closure was extended for an additional year.<sup>246</sup> Swissa ordered closure of the weekly *Al-Awdeh*, which is associated with the Service, from May 1, 1988.

242 "Police Confiscate Files from Lawyer's Apartment," AF May 8, 1988, p. 4.

243 HA May 10, 1988, HA May 26, 1988.

244 JP March 1, 1988.

245 Glenn Frankel, "4 Arabs Slain in Clashes with Israel," WP Mar. 31, 1988, p. A1; Francis X. Clines, "4 Palestinians Die in Day of Protest Against Israel," NYT March 31, 1988, p. A1; "PPS Closed," AF Apr. 3, 1988, p. 1.

246 "Palestine and People," AF Oct. 2, 1988, p. 16.

During the uprising, the government kept in effect its order of February 1987 closing the Alternative Information Center, an Israel-operated press service that supplied the foreign press with information about repressive acts of the IDF in the occupied territories. The government charged the Center and its director with "rendering typing services to prohibited organizations" and "possession of material belonging to a prohibited organization," both under Regulation 85 of the Defense (Emergency) Regulations.

Beginning in February-March 1988, the government impeded press coverage of confrontations.<sup>247</sup> It declared certain areas closed to the press for given periods. Soldiers regularly blocked access to other areas and in some instances confiscated film and physically attacked journalists.

Israeli officials justified the press ban as a step that would reduce demonstrations, on the theory that demonstrators sought media attention. Labor Minister Moshe Katzav said: "I came to the conclusion after 80 days of riots that the presence of the media causes the riots. If the media will not be there, I don't think there will be any more riots."<sup>248</sup>

## (b) Severance of International Telephone Communication

On March 16, 1988, the government severed telephone communication from the West Bank and Gaza Strip to other countries. The only exception was for Israeli settlements in the two territories. The government stated its purpose as being to prevent coordination between the Palestine Liberation Organization and the local leadership of the uprising.<sup>249</sup>

247 Reem Nuseibeh, "Al-Awdeh Ordered Closed," AF May 8, 1988, p. 3; Francis X. Clines, "4 Palestinians Die in Day of Protest Against Israel," NYT March 31, 1988, p. A1; Ellen Ray, "Covering the Intifada and Israel's Dirty War," *CoverAction Information Bulletin*, no. 30, Summer 1988, p. 13; AIFP p. 1.

248 John Kifner, "Israeli Officers Ordered to Watch Tape of 4 Soldiers Beating Arabs," NYT Feb. 29, 1988, p. A1.

249 Zohar Be'er, "No Answer at the International Exchange," KH Mar. 18, 1988, in ILHCR p. 92; Saida Hamad, "Israel Employs Harsh Economic Measures to Suppress Uprising," AF Mar. 20, 1988, p. 1.

## Chapter 14

# *Banning of Organizations and Institutions*

The telephone cutoff made it difficult for inhabitants to communicate with relatives abroad about their situation. It posed problems for West Bank and Gaza Strip human rights organizations in communicating with international human rights agencies. The cutoff violates the human right to freedom of expression, which includes the right "to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print...or through any other media."<sup>250</sup>

Human rights law provides a right to freedom of the press and a related right to access to information. According to the International Covenant on Civil and Political Rights, "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."<sup>251</sup> A state may curtail freedom of the press and access to information in a situation of declared emergency. Israel has not declared an emergency. It is not entitled to declare an emergency, since under human rights law an emergency must affect the country as a whole, not just one part of it. Even if the government had declared an emergency, the restrictions were unlawful since they were more stringent than required by the situation.

To terminate the uprising, the government sought to suppress those organizations that were part of the infrastructure of the uprising, provided services to the public, or could potentially form part of the infrastructure of an independent Palestinian state. Prime Minister Yitzhak Shamir told the Knesset that Israel would use "iron fist" tactics to prevent establishment of a Palestinian state.<sup>252</sup>

As part of that effort, the government banned most major Palestinian institutions. These banings violate Article 43 of the Hague Regulations, which requires a military occupant to maintain "public life." An occupant is obliged to permit the ordinary activities of the occupied population to continue unimpeded. By closing institutions, Israel violated that obligation. A further violation of that obligation resulted from the fact that the government made its determination to close the institutions by executive decision that did not permit the institutions to respond to allegations against them.

The banings occurred in August 1988, after Jordan relinquished its claim to the West Bank. In subsequent discussions among Palestinians on declaring statehood in the West Bank and Gaza Strip, a number of institutions and organizations were identified as forming an infrastructure for that state. Pending statehood, these institutions and organizations could have become a shadow government, providing alternative services to those offered by the military government. The government of Israel viewed these institutions as the "primary threat of

<sup>252</sup> "Palestinians Discuss Declaring Independence," *AF* Aug. 14, 1988, p. 1.

<sup>250</sup> ICCPR art. 19.

<sup>251</sup> ICCPR art. 19.

the uprising.<sup>253</sup> The closings thus violated the right to self-determination.<sup>254</sup>

### (a) Closure of Popular Committees

On August 18, 1988, the government declared as illegal the many local so-called popular committees that were directing uprising activities.<sup>255</sup> As a result, membership in such a committee became a criminal offense punishable by ten years imprisonment. The same penalty became applicable to attendance at a meeting of such a committee, possession of its literature, or contribution of money to it. Rabin explained: "As for the 'popular committees,' they have now been outlawed and we can prosecute for membership; we use in addition administrative detention and selective deportation."<sup>256</sup>

The committees had formed in many localities in the Gaza Strip and West Bank in the early 1980s to provide security and emergency food supplies, and to organize collective agricultural production. The local committees organized uprising activities. One of their aims was to reduce reliance on Israeli goods and services. By May 1988, 45,000 local committees reportedly were functioning.<sup>257</sup>

The government outlawed the popular committees on grounds that they were trying to establish services parallel to the government's. For

example, a group of physicians went to the West Bank town of Kabatiya to provide first-aid training so that residents could treat injuries resulting from confrontations with the IDF. The IDF detained the physicians and later released them. In the West Bank town of Beit Sahour, a popular committee helped residents grow vegetables to provide food during curfews and strikes. The IDF arrested the members of the committee.<sup>258</sup> The government denied marketing permits to farmers selling their produce through Arab marketing cooperatives.<sup>259</sup>

After declaring the popular committees illegal, the government sent the IDF into Gaza Strip refugee camps to make mass arrests of persons it believed to be committee members.<sup>260</sup> Defense Minister Rabin said that he had put 200 to 300 members of popular committees in administrative detention,<sup>261</sup> and that he had ordered expulsion of 25 more.<sup>262</sup> The Defense Ministry issued a statement that "any person remaining a member of the popular committees, and any person assisting them faces imprisonment and prosecution." Membership in an illegal organization, attendance at a meeting of an illegal organization, possession of the literature of an illegal organization is punishable by a prison term up to ten years under a military order in effect in the West Bank and Gaza Strip.<sup>263</sup>

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- 253 Joel Greenberg, "Moves to Block 'State-in-the-Making,'" JPJE Aug. 27, 1988, p. 1.  
254 Letter of Al-Haq to David Yafia, Legal Advisor of Military Government, Beit El (West Bank), Sept. 1, 1988.  
255 "Israel Bans Popular Committees," AF Aug. 21, 1988, p. 3. "Israel Says It Seized 200 Arabs to Crush a Political Network," NYT Sept. 10, 1988, p. 2.  
256 "Rabin Says Uprising Is Failing," JPJE Sept. 17, 1988, p. 1. "War by Other Means," (interview of Rabin) JPJE Sept. 17, 1988, p. 3.  
257 JK p. A1, Zvi Gilat, "Back to the Land, Bating Grass," HD Apr. 7, 1988, in ILHCR p. 81. Phyllis Bennis, "Uprising's Institutions Reshape Palestinian Life," *Frontline*, May 23, 1988, p. 13.

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- 258 Joel Greenberg, "Moves to Block 'State-in-the-Making,'" JPJE Aug. 27, 1988, p. 1.  
259 Anita Vinillo, "In Camps, At Home, At Work, Onslaught Mounts," *Guardian* (N.Y.), Aug. 31, 1988, p. 14.  
260 Anita Vinillo, "The Intifada Can't Be Arrested," *Guardian* (N.Y.), Sept. 21, 1988, p. 1.  
261 "Israel Says It Seized 200 Arabs to Crush a Political Network," NYT Sept. 10, 1988, p. 2.  
262 Joel Greenberg, "Moves to Block 'State-in-the-Making,'" JPJE Aug. 27, 1988, p. 1.  
263 Military Commander, West Bank, Military Order No. 378, Joel Greenberg, "Moves to Block 'State-in-the-Making,'" JPJE Aug. 27, 1988, p. 1.



## (b) Closure of Professional Associations

The Minister of Defense, acting under Regulation 129(1)(b) of the Defense (Emergency) Regulations, closed the Arab Studies Society for a one-year period commencing July 30, 1988.<sup>264</sup> The Society, founded in Jerusalem in 1980, conducts social science research on the occupied territories. The government announced that a draft of an independence declaration for a Palestinian state had been found at the Society's office.<sup>265</sup> Simultaneously, it placed the head of the Society, Faisal Husseini, in administrative detention.

The government closed other institutions, on grounds that they might constitute an infrastructure for a Palestinian state. On August 22, 1988, it ordered the closure of the General Federation of Labor Unions in the West Bank, located in Nablus, West Bank.<sup>266</sup> The building of the Federation housed offices of trade unions representing municipal workers, workers in soup factories, bakeries, health services, printing shops, and unions representing machinists, electricians, and drivers.

On August 25, 1988, the government closed for a one-year period the Professional Unions Complex building in Beit Hanina (West Bank) that houses seven professional associations — those of physicians, dentists, veterinarians, pharmacists, lawyers, engineers, and agricultural engineers. The closure order claimed that meetings had been held at the building at the insistence of the PLO to establish alternative administrative institutions for the West Bank.<sup>268</sup> According to police, the organizations had been taken over by the PLO and were being prepared as new institutions of governance.<sup>269</sup> Defense Minister Yitzhak Rabin

issued an order forbidding all public meetings in East Jerusalem, on grounds that they are political events — connected with the PLO — and held under the guise of professional or academic conferences.<sup>270</sup>

## (c) Closure of Charitable Institutions

On June 20, 1988, the military commander of the West Bank, Amram Mitzna, issued an order closing for a period of two years the charitable society In'ash El-Ustra (Support of the Family), located in the town of El-Bireh. The society provides job training for young women and is the largest charitable organization in the West Bank.

At a press conference announcing the closure, a military official said that In'ash El-Ustra had indoctrinated children with anti-Semitic propaganda and that it was "a major center for teaching the slogans and goals of the uprising." The official presented photographs he claimed had been seized during a June 8 search of the society's building. Under the military government system prevailing in the West Bank, no court order is required for the closure. Officials conducting the search confiscated files, address lists, manuscripts, cultural documents, and videotapes. The search was conducted in the absence of officials of the society, who said they could not confirm whether the photographs presented by the IDF at its press conference in fact came from the society.

In'ash El-Ustra, founded in 1965, operates an orphanage for 150 girls, a daycare center for 200 children, two small factories that produce confections and lingerie, and a catering service. It employs 152 persons and trains 200 young women annually in vocational programs. It coordinates work on embroidery projects undertaken at their homes by 4,800 women. It provides financial aid to needy persons. Society officials denied that the society indoctrinates children with anti-Semitic

264 Ishag al-Budeini, "The Arab Studies Society Is a Purely Research Institution," *AF* Aug. 7, 1988, p. 16.

265 Yehuda Lijani, Elaine Ruth Fletcher, Joel Greenberg, "PLO Statehood Plan Is Dismissed as 'Crazy Dream,'" *JPI* Aug. 13, 1988, p. 1. Text of document in *JPI* Aug. 12, 1988, reprinted in *New Outlook*, Sept.-Oct. 1988, p. 37.

266 Sami al-Aboudi, "Israel Targets Palestinian Institutions and Unions," *AF* Aug. 28, 1988, p. 1.

267 Saida Al-Ghazali, "Israel Closes Charitable Societies," *AF* Sept. 4, 1988, p. 1.

268 Sami al-Aboudi, "Israel Targets Palestinian Institutions and Unions," *AF* Aug. 28, 1988, p. 1.

269 "'PLO Fronts' Closed," *JPI* Sept. 3, 1988, p. 1.

270 Anita Vinullo, "In Camps, At Home, At Work, Onslaught Mounts," *Guardian* (N.Y.), Aug. 31, 1988, p. 14.

tism.<sup>271</sup> The closure order did not apply to the orphanage or daycare center.

On August 22, 1988 the military commander ordered the closure of the Friends of the Patient Society,<sup>272</sup> a charitable society for health care located in Tulkarem, West Bank. On August 28, the government closed the Welfare Federation Association, a charitable organization that caters to the needy in the Jerusalem area. The government claimed that the Association was "an instrument for the distribution of PLO funds, which are distributed under the cover of welfare and economic aid." The Association said that its aims were charitable only.<sup>273</sup>

#### (d) Closure of Educational Institutions

The government closed the institutions of higher learning and all secondary and primary schools in the West Bank and Gaza Strip on February 4, 1988, for an indefinite period.<sup>274</sup> It kept the universities closed through 1988. It allowed primary schools in the West Bank to re-open May 23, 1988, and secondary schools around June 1, 1988. Closed schools were in many instances occupied by IDF soldiers, who

vandalized them and used them as temporary headquarters or detention centers.<sup>276</sup>

The government closed the primary and secondary schools for the remainder of the school year beginning July 21, 1988.<sup>277</sup> They were scheduled to open September 1, 1988, but the government ordered them to remain closed until October 1, 1988.<sup>278</sup> At that time it allowed East Jerusalem schools to re-open but ordered schools in the Gaza Strip and other parts of the West Bank to remain closed until November 15.<sup>279</sup>

The government claimed that the closure of the universities and schools was necessary to maintain order. The IDF alleged that schools were organizational centers of the uprising.<sup>280</sup> However, there was little evidence of direct organizing of the uprising from educational institutions.<sup>281</sup> After the closures, the uprising continued. The closures violated Article 43 of the 1907 Hague Regulations, under which the government must maintain "public life" in occupied territory. Giorgio Giacomelli, Commissioner-General of UNRWA, said that as a result of the long-term closures of schools, "a generation of Palestinian children are unable to exercise their basic right to education."<sup>282</sup>

In response to these closures, neighborhood committees formed in many West Bank towns to provide instruction in private homes to primary and secondary school students.<sup>283</sup> The IDF sought to close these alternative schools. Its justification was that such schools would be "exploited by groups of inciters."<sup>284</sup>

- 271 Reem Nuselbeh, "Military Closes Inn ash al-Ura for Two Years," AF June 26, 1988, p. 1.
- 272 Sami al-Aboudi, "Israel Targets Palestinian Institutions and Unions," AF Aug. 28, 1988, p. 1.
- 273 Joel Brinkley, "West Bank Man Is 2d in 3 Days to be Killed by Other Palestinians," NYT Aug. 29, 1988, p. A3. Said Al-Ghazali, "Israel Closes Charitable Societies," AF Sept. 4, 1988, p. 1.
- 274 Reem Nuselbeh, "Israel Closes All Palestinian Academic Institutions," AF Feb. 7, 1988, p. 1.
- 275 Said Hamad, "Students Return to School 4 Months Later," AF May 29, 1988, p. 1. "4-Month Vacation 'To End,'" JPJE May 21, 1988, p. 1.

- 276 Joel Greenberg, "The Diary of a Soldier," JPJE Sept. 24, 1988, p. 9.
- 277 Database Project on Palestinian Human Rights, *Update*, July 25, 1988, p. 12.
- 278 "Education Prevented on Every Scale," AF Sept. 11, 1988, p. 3.
- 279 "Way Jerusalem Arabs Back in School," NYT Oct. 7, 1988, p. A8. "Schools to Remain Closed Another Month," AF Oct. 2, 1988, p. 3.
- 280 "4-Month 'Vacation' To End," JPJE May 21, 1988, p. 1.
- 281 Penny Johnson, "Palestinian Universities Under Occupation, February-May 1988," *Journal of Palestine Studies*, no. 68 (1988), p. 102.
- 282 Palestine Human Rights Campaign, "Action Alert," Oct. 21, 1988, p. 3.
- 283 Penny Johnson, "Palestinian Universities Under Occupation, February-May 1988," *Journal of Palestine Studies*, no. 68 (1988), p. 117.
- 284 "Rabin Says Uprising Is Failing," JPJE Sept. 17, 1988, p. 1.

## CHAPTER 15

# *Liability Under International Law for Violations*

International law prescribes remedies for violation of obligations imposed. Liability under international law is borne both by states and by individual persons. Israel's violations of human rights law and humanitarian law in the West Bank and Gaza Strip give rise to liability on the part of Israel as a state and on the part of individual officials who carry out unlawful policies.

Israel is required under international law to terminate the violations of human rights and humanitarian law. In addition, for its violation of the right to self-determination of the Palestinians of the West Bank and Gaza Strip, Israel is obliged to give the Palestinians an opportunity to effectuate their right to self-determination.

A dependent people can exercise self-determination in one of three fashions. It may elect independence, merge with an existing state, or establish a relation of autonomy within an existing state. The normal method of choice is an internationally-controlled plebiscite. Israel must permit such a procedure. If the choice were independence or association with a state other than Israel, then Israel would be required to withdraw its military and administrative apparatus.

Officials of the government of Israel are personally liable for certain violations of the 1949 Geneva Convention. Article 146 of the Convention establishes personal liability for what it terms "grave breaches" of the Convention. "Grave breaches" are defined by Article 147 to include killing, torture, inhuman treatment, expulsion, or willful deprivation of the right to a fair trial. "Inhuman treatment" includes beatings. Israeli officials who engage in these practices are guilty of criminal offenses under Article 146. As a party to the 1949 Convention, Israel is obliged under Article 146 to provide penal sanctions in its criminal legislation and to try persons guilty of such offenses.

Individual liability for serious breaches of humanitarian law is a principle of customary international law, even apart from the 1949 Con-

vention. The Charter establishing the international military tribunal at Nuremberg after World War II said that certain violations of humanitarian law were punishable as war crimes. These included (Article 6) "murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory." Under the Nuremberg Charter, liability falls not only on actual perpetrators but as well on those who set policy: "Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan."

Under these principles, Israel's cabinet and its officials who make policies that result in physical mistreatment and expulsions from the West Bank and Gaza are individually guilty of war crimes. The cabinet has endorsed the principal unlawful measures undertaken by the IDF. By endorsing the Landau Commission report, it has authorized force that constitutes torture or cruel or inhuman treatment against detainees. The cabinet also authorized beatings as punishment, which are unlawful for the same reason. Thus, for a variety of acts, the government leadership of Israel is individually liable for the commission of war crimes.

The international community as a whole bears legal responsibilities with respect to Israel's violations of the rights of the Palestinians during the uprising. A situation of military occupation is one of particular international concern. The 1949 Convention requires every state adhering to it to ensure that other states live up to their obligations under it. It does so in Article 1, which mandates that states "ensure respect" for the Convention by other states that are parties to it. At present, 165 states are signatories of the 1949 Convention and therefore are required to use their best efforts to keep Israel from violating it. The United Nations General Assembly has "urged all States...to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its right to self-determination."<sup>285</sup> States must not assist Israel by helping to finance the substantial expenditures it has made to suppress the uprising.

Human rights law also places obligations on other states to ensure Israel's compliance. Human rights law involves obligations of states towards individuals and obligations among states as well. On the theory that only if all states protect human rights can such rights be effective, each state has an obligation to all others to protect human rights. Articles 55 and 56 of the United Nations Charter require all member states to promote the universal observance of human rights.

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<sup>285</sup> General Assembly Res. 34/44, Nov. 23, 1979.

## CHAPTER 16

# *Palestinian Demands Regarding Rights Violations*

The Palestinians of the West Bank and Gaza Strip have demanded rights to which they are entitled under international law. When the government closed Bir Zeit University on January 10, 1988, the University administration appealed to the international community "to act firmly to protect the occupied population under the terms of its responsibilities under Article 1 of the Fourth Geneva Convention (1949 Convention)."<sup>286</sup> In December 1988, the government announced that it would allow elementary and secondary schools to open; first, grades 1-6, then grades 7-9, and finally grades 10-12. However, the government indicated that it would not allow universities to reopen.<sup>287</sup>

In addition to its overall demand for an end to the occupation and for Palestinian statehood, the National Unified Leadership Committee for the Uprising put forward interim demands, referred to as the "Fourteen Demands," to stop ongoing rights violations and thereby to prepare the atmosphere for an international conference at which statehood can be discussed. The Fourteen Demands were presented by Professor Sari Nusseibeh of Bir Zeit University at a press conference in Jerusalem on January 14, 1988, in the name of Palestinian nationalist institutions and personalities. The Fourteen Demands call on Israel to:

"1. Abide by the Fourth Geneva Convention and all other international agreements pertaining to the protection of civilians under military occupation; declare the British Mandate Emergency Regulations null and void; stop applying the Iron Fist policy.

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<sup>286</sup> Press release, Bir Zeit University, Jan. 10, 1988, quoted in Penny Johnson, "Palestinian Universities Under Occupation, November 1987-January 1988," *Journal of Palestine Studies*, no. 67 (1988), p. 101.

<sup>287</sup> "Arab Schools Reopen as Violence Abates," *JPIE* Dec. 10, 1988, p. 3; in same issue, Marcia Kreitzmer, "Class Struggle," p. 11.

2. Comply immediately with Security Council resolutions 605 and 607, which call upon Israel to abide by the Geneva Convention...

3. Release all prisoners who were arrested during the uprising...

4. Cancel the policy of expulsion and allow all exiled Palestinians to return to their homes...; release all administrative detainees and cancel house arrest orders...; grant all pending applications for family reunions...

5. Lift the siege of all Palestinian refugee camps in the West Bank and Gaza and withdraw the Israeli army from all population centers.

6. Carry out a formal inquiry into the behavior of soldiers and settlers...; take due punitive measures against all those convicted of having unduly caused death or bodily harm to unarmed civilians.

7. Cease all settlement activity and land confiscation and release lands already confiscated...; end the harassments and provocations by settlers in the West Bank and Gaza...

8. Refrain from any act which might impinge on the Muslim and Christian holy sites or which might change the status quo in Jerusalem...

9. Cancel the Value Added Tax (VAT) and all other direct Israeli taxes, ending the harassment of Palestinian business and tradesmen.

10. Cancel all restrictions on political freedoms...; provide for free municipal elections under the supervision of a neutral authority.

11. Release all monies deducted from wages of laborers from the territories who work inside the Green Line...

12. Remove all restrictions on building permits and licenses for industrial projects, artesian wells and agricultural development programs...

13. Terminate the policy of discrimination against industrial and agricultural produce from the occupied territories...

14. Remove restrictions on political contacts between inhabitants of the occupied territories and the PLO, in such a way as to allow for the participation of Palestinians from the territories in the proceedings of the Palestine National Council, in order to ensure a direct input into

the decision-making processes of the Palestinian nation by the Palestinians under occupation."

As a result of actions of the IDF to suppress the uprising, an additional demand was added subsequently—a call on the United Nations to send an international force into the West Bank and Gaza Strip to protect the local population from vigilante attacks by Israeli settlers, repression by the IDF, and the threat voiced by leading Israeli politicians to expel the entire Palestinian population of the West Bank and Gaza Strip.

## Conclusion

The demand for an international force reflects the fact that the situation in the West Bank and Gaza Strip is not a domestic dispute. It is an occupation by a state of a territory whose population has not yet been able to determine its own political destiny. The Palestinian people have yet to free themselves of the colonial rule they have experienced for centuries. The United Nations General Assembly has stated that colonized peoples have a right to use force to attain self-determination.<sup>288</sup> It has forbidden states holding peoples in dependence from using force to maintain that hold: "Every state has the duty to refrain from any forcible action which deprives peoples...of their right to self-determination and freedom and independence."<sup>289</sup>

The Human Rights Commission of the United Nations recognized the right of the population of Palestine to rise up against Israel. It referred to "the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions" and stated that "the uprising of the Palestinian people against the Israeli occupation since 8 December 1987 is a form of legitimate resistance, an expression of their rejection of occupation."<sup>290</sup>

It is in the hope of bringing an end to this denial of self-determination that this report highlights the substantial violations of rights of the Palestinian people during the 1988 uprising. The cycle of resistance and suppression will likely continue until the Palestinian people are free to determine their future.

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288 General Assembly Res. 2908, Nov. 2, 1972.

289 Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, art. 1, *General Assembly Official Records*, 25th sess., Supplement No. 28, p. 121, U.N. Doc. A/8028 (1971), reprinted in *International Legal Materials*, vol. 9, p. 1292 (1970).

290 United Nations, Commission on Human Rights, Resolution "Situation in Occupied Palestine," Feb. 22, 1988, para. 3, U.N. Doc. E/CN.4/1988/88. Vote: 30-4-8.