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# **Collective Punishment In The West Bank and The Gaza Strip**

**בִּזְלָם**

**B'TSELEM — the Israeli Information Center  
for Human Rights in the Occupied Territories**

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Researched and written by: Dr. Carmel Shalev.

English translation by: Dr. Carmel Shalev and Emily Hauser.

English editing by: Jessica Bonn and Riva Hochman.

## בֵּיתֵלֶם

מרכז המידע הישראלי לזכויות האדם בשטחים  
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B'TSELEM - The Israeli Information Center for  
Human Rights in the Occupied Territories

רחוב קרן היסוד 18, ירושלים 92149,

טלפון 667274, 02-667271, פקס 02-667946

شارع كيرن هيسود ١٨ القدس ٩٢١٤٩

تلفون ٦٦٧٢٧٤ / ١ - ٠٢

18 Keren Hayesod St., Jerusalem 92149,

Tel. 02-667271, 667274, Fax. 02-667946

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"That be far from Thee to do after this manner, to slay the righteous with the wicked, that so the righteous should be as the wicked; that be far from Thee; shall not the judge of all the earth do justly?"

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## INTRODUCTION

This report deals with the use by Israeli authorities of administrative measures as collective punishment of the civilian population in the West Bank and the Gaza Strip. In law in general and in public international law in particular, the accepted principle is that responsibility for criminal acts, including offenses under laws issued by governmental authorities in territory occupied by military forces, is individual. That is to say, no person or group of persons may be punished for acts and offenses committed by other persons. This principle finds expression in Article 50 of the Hague Convention Concerning the Laws and Customs of War on Land, 1907 (hereinafter: the Hague Regulations), and in Article 33 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949 (hereinafter: the Geneva Convention).

In general, collective punishment may be defined as follows:

- The implementation of a military or administrative measure, that is, without legal proceedings,
- with regard to a whole group (or individuals) of a defined civilian population,
- which denies or restricts the human rights and fundamental liberties of the individuals included in that group,
- because of acts that constitute failure to obey the laws of the military government authorities,
- acts for which other individuals are responsible or are suspected of being responsible, whether or not they are included in that population group.

Despite the general prohibitions against collective punishment in international law, their application to concrete cases is often unclear. Not every restriction imposed on a group of population in occupied territory will amount to "punishment," since the military government has governmental powers and even duties that necessarily entail to some extent the denial of individual rights.

Therefore, when examining concrete instances of the employment of restrictive administrative measures with regard to groups of population, one must address the question of **the purpose** of the collective restriction, and whether we are dealing with the legitimate exercise of a governmental power. Another question that must be asked deals with **the extent** of the restriction, or the proportionality between the severity of the restriction and the purpose for which it was imposed. Finally one should examine the possibility of holding **fair proceedings** before implementing the restrictive measure, to

clarify the question of the affected persons' responsibility for the offenses because of which the restriction is imposed.

This report is divided into three parts. In the first part we shall examine the norms in international law prohibiting collective punishment, and try to establish the characteristics of collective punishment according to the above tests of the purpose and extent of the collective restriction and the existence of proceedings to clarify the question of responsibility.

In the second part of the report we shall present data relating to concrete matters that raise questions regarding collective punishment in the context of Israel's rule over the occupied territories, especially in the period since the beginning of the uprising in December 1987. The subjects presented in the report are: (1) curfew and closure of the territories; (2) night curfew; (3) closure of educational institutions; (4) restrictions on travel abroad; (5) disconnection of telephone lines; (6) disconnection of electricity and water supply; (7) restrictions on marketing agricultural produce; (8) demolition and sealing of houses; and (9) uprooting of trees.

The order of these subjects roughly reflects in descending order the size of the civilian population affected by the measure, starting from the entire population in the territories, proceeding through groups of population defined by age or place of residence, and ending with families and single persons who bear no individual responsibility for the offense because of which the measure was employed.

There are additional methods that cause hardship to the civilian population in the occupied territories, mainly in relation to difficulties involved in dealing with the bureaucracy of the Civil Administration, such as: the issuing of identification cards, the assessment and collection of taxes, and the provision of medical services. Similarly, there are additional phenomena of employing measures against individual persons without regard to the principle of personal responsibility for criminal offenses, such as the detention of a person to create pressure on a relative suspected of committing a security offense to hand himself over to the authorities. However, these matters are not included in this report, which focuses on measures employed for the express purpose of punishment, or as a sanction in response to the commission of a security offense, and on measures that amount to punishment because of excessive use in light of the circumstances, and that affect whole groups of a defined population.

The third part of the report describes certain subjects that were raised in petitions to the High Court of Justice: night curfew; restrictions on travel abroad; disconnection of international telephone services; disconnection of

electricity supply; and house demolition. In some cases, the very submission of a petition led to removal of the restriction even before the court hearing. In those cases that reached the stage of actual hearings, the court rejected time after time the argument that the restrictive measure was unlawful because it violated the prohibition against collective punishment.

Finally, an appendix to the report includes accounts of field trips made by a B'Tselem team in the summer of 1990 to several places in the territories following the receipt of information about certain cases that appeared to be instances of collective punishment. Attached to these accounts are testimonies and affidavits of residents regarding the practical effect of the restrictive collective measures on their personal lives.

The sources of information used in the preparation of this report include investigations by B'Tselem workers and volunteers, publications of Israeli and Palestinian human rights organizations and reports of international organizations, reports from the local press, documents submitted in petitions to the High Court of Justice and the court's rulings, and also official documents of Israeli authorities, some of which were received in response to inquiries made by human rights activists.

One cannot ignore the legal powers of the military government in relation to maintaining public order and security in the regions under its control. Nevertheless, the emphasis on restrictions of human rights is of utmost importance. This is well illustrated by a historical example from the United States, during the period of the Second World War.

After the Japanese attack on Pearl Harbor on December 7, 1941, United States government authorities decided to prevent American residents and nationals of Japanese origin from leaving or entering certain areas on the Pacific Coast, and to confine them in mass detention centers. The declared purpose of these measures was to prevent espionage and sabotage by a fifth column in an area considered especially vulnerable to Japanese invasion.

These decisions were made in the exercise of lawful powers. They affected over 112,000 persons, including 70,000 nationals, most of whom were born and raised in the U.S.A., without any legal procedure whatsoever for reviewing the question of their personal loyalty to the United States. The exclusion order remained in effect until the end of 1944. Thousands of people were removed from their homes, separated from their sources of livelihood, detained under extremely hard living conditions, and marked with the stigma of potential traitors. The official justification for these far-reaching measures was, as already mentioned, military necessity.



In 1980 the U.S. Congress established the Commission on Wartime Relocation and Internment of Civilians to review the circumstances and effects of those actions. It published its conclusions at the end of 1982. The Commission concluded that there was no military necessity for taking those harsh measures, and that the decisions were made without any information as to demonstrable military dangers.

The Commission also analyzed the conditions which enabled those decisions, including several points that are pertinent to this report. It determined, among other things, that the decisionmakers had ignored the opinions of intelligence officials that nothing more than careful watching of suspicious individuals or individual reviews of loyalty were called for; that the military commander of the area was "temperamentally disposed" to exaggerate the necessity of security measures and to place them far ahead of any concern for the liberty of citizens; and that those bodies usually representing the interests of civil rights did not voice any protest.<sup>1</sup>

This case did not concern military rule over areas of belligerent occupation, but the action of a sovereign state towards its own citizens and residents. Nevertheless, the moral may be learned that a focus on the perspective of human rights is of utmost importance when looking at issues of collective punishment.

## COLLECTIVE PUNISHMENT IN INTERNATIONAL LAW

### 1. General

The laws of war are based on a balance between two conflicting interests: military necessity and humanity. In other words, the laws of war permit only that degree of violent force necessary to accomplish legitimate military objectives, and the use of force is prohibited by the principles of humanity where the dimension of compelling necessity does not exist.<sup>2</sup> The accepted approach is that war is a contest between states and not peoples or persons, and that it is therefore necessary to limit actions taken by reason of military necessity in order to provide appropriate humanitarian protection for the civilian population.<sup>3</sup> Moreover, the state of war does not in itself suspend the human rights and fundamental liberties of persons who are not members of the armed military forces.<sup>4</sup>

It is clear, however, that the protection of human rights in times of war will be more limited than in times of peace, and every military rule over a civilian population inherently entails restrictions on individual liberties.<sup>5</sup> Nonetheless, it seems proper in this respect to distinguish between different states of war according to the degree of the military confrontation. Military necessity in times of actual confrontation, an invasion or military operation, between the armed forces of belligerent states (or between the military forces of a state and organized guerilla or armed underground forces) differs from military necessity under belligerent occupation, after the fighting has ceased and one of the belligerent states retains military control and governmental power over an area not previously included in its sovereign territory. When the combat comes to an end, requirements of military necessity make way for interests related to effective administration and to the security of military forces within the occupied territory, and the military government must address the more long-term considerations of ensuring public order and law.<sup>6</sup> Similarly, the longer the duration of the occupation, so too the greater the scope of the authority of the military government in terms of its duty to ensure the needs of the civilian population in the occupied territory.<sup>7</sup> In other words, the longer the duration of the military government regime, the more the scope of its duty to respect the human rights of the inhabitants subject to its rule approaches that of a civilian government in times of peace.

In a certain respect, a rule of military occupation intrinsically constitutes collective punishment of the ruled nation, but when we address explicit norms of international law that prohibit the use of collective punishment, we must be more specific. The prohibition against collective punishment is an expressly defined norm in the international

treaties that specify the restrictions imposed on military forces for the protection of the civilian population. This prohibition appears in Article 50 of the Hague Regulations, 1907, and in section 33 of the Fourth Geneva Convention, 1949.

Article 50 of the Hague Regulations provides:

No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

Article 33 of the Geneva Convention provides in its first paragraph:

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.

The accepted interpretation is that the prohibition in Article 50 of the Hague Regulations left some leeway for collective punishment - in the case of "passive responsibility" of the community as such for the acts of one of its members - whereas Article 33 of the Geneva Convention prohibits collective punishment broadly and without reservation on the basis of the absolute principle of personal responsibility in criminal law.<sup>8</sup>

One should note that in Israeli law, at least, the Hague Regulations and the Geneva Convention do not enjoy the same status in terms of their binding legal effect. The Hague Regulations are regarded as a document expressing the international custom that existed at the time of their formulation (and still exists), that is, the recognition and the actual conduct of the civilized nations as to the norms of the laws of war. The Geneva Convention, on the other hand, is regarded in the main as a document that expresses the agreement (or convention) of the signatory party-states as to new and desirable norms of permissible and forbidden conduct. The practical implication of this distinction between custom and convention, according to the consistent rulings of the Israeli High Court of Justice, is that the Hague Regulations as such constitute binding legal norms, whereas the provisions of the Geneva Convention do not apply in Israeli law because they have not been incorporated into the legal system by a legislative act of the Knesset.<sup>9</sup> In view of this it is worth addressing briefly the concept of "passive responsibility" of a community, which might justify its collective punishment for offenses committed by individual persons under Article 50 of the Hague Regulations.

## 2. Article 50 of the Hague Regulations, 1907

Article 50 provides as aforesaid, a limited prohibition against general punishment of a population for acts of individuals, except where the members of the community can be regarded as responsible "jointly and severally" for those acts. The question is, obviously, under which circumstances can one say that the community bears collective responsibility for hostile action taken against the military government. The article does not provide an express standard for proof of collective responsibility, so that in practice the matter lies in the discretion of the military commander in the field.

During World War I the Germans interpreted this exception to the prohibition against collective punishment most broadly, and made excessive use of it according to legal scholars. What follows are some of the most conspicuous examples. The Germans imposed burdensome levies on different towns and cities in the areas they occupied in Russia, Rumania, France and especially Belgium. In some cases these levies were fines for offenses committed by individuals against the orders issued by the occupying military commanders. For instance, in November 1914 the city of Brussels was ordered to pay a fine of five million francs because of an incident in which a Belgian police officer allegedly attacked a German secret service agent who attempted to arrest certain people for selling "contraband" Dutch newspapers. Fines in the amount of 20 and 10 million francs were apparently imposed on Louvain and Liege following the alleged firing of shots by civilians upon German troops. In July 1915, Brussels was again fined five million francs following a "patriotic demonstration" held on the day marking Belgian national independence.<sup>10</sup>

It appears that the Germans imposed fines in numerous cases for the acts of unidentified individuals responsible for severing telephone and telegraph wires and for damaging bridges and German lines of communication.<sup>11</sup> The Germans also employed restrictive measures against entire population groups, including night curfew and "isolation" or closure of towns, consequent to the Belgian inhabitants' refusal to comply with German demands for requisition of services and labor.<sup>12</sup>

In World War II, as well, the Germans employed measures that constituted, among other things, crude violations of the prohibition against collective punishment set forth in Article 50 of the Hague Regulations. The literature mentions in this respect the destruction of the Czech village of Lidice and the extermination of most of its inhabitants in 1942. In addition, the familiar method of imposing excessive fines was used again, as in the case of the city of Paris which was fined 20 million francs because a German swastika flag had been replaced by the British Union Jack.<sup>13</sup>

Article 50 of the Hague Regulations was also mentioned in the judgment of the United States Military Tribunal at Nuremberg in the matter known as "The Hostages Case," concerning the circumstances in which large numbers of the civilian population in Greece and Yugoslavia were executed following attacks on German military troops by unknown individuals, and military orders were issued which decreed the execution of 100 "hostages" in retaliation for each German soldier killed and of 50 "hostages" in retaliation for each German soldier wounded.<sup>14</sup>

The view of the scholars of international law was that the interpretation given by the Germans to the exceptional power of collective punishment under Article 50 of the Hague Regulations far exceeded basic principles of justice. Even taking into consideration the frequent practical difficulties in identifying and locating individuals responsible for offenses or injuries to military government authorities, the exceptional power to impose collective punishment is not unlimited. In attempting to formulate the limits of that power, it was suggested that a community could not be held collectively responsible for an offense committed outside the range of its physical boundaries. Where the offense was committed within its boundaries, collective responsibility could not be ascribed, even as "passive responsibility," if the community or its public representatives had no knowledge of the act or the possibility to predict or prevent it.<sup>15</sup> Likewise a state of mind that supports the offense after the act is insufficient.<sup>16</sup> In any event, the penalty must withstand a test of proportionality to the gravity of the offense committed.<sup>17</sup>

### 3. Article 33 of the Fourth Geneva Convention, 1949

Abuses of the power of collective punishment and grave violations of its prohibition in cases where the collective responsibility of the community had not been proven at all, led to Article 33 of the Geneva Convention,<sup>18</sup> in which the norm prohibiting collective punishment was reformulated.

The article opens with an unequivocal statement of the principle of personal responsibility for offenses, and continues by imposing a strict prohibition against collective punishment in any form. The official commentary notes that the provision does not refer to punishments inflicted by a court under penal law after due legal process. In other words, the prohibition relates to the punishment of whole groups or communities of the civilian population under administrative orders because of offenses committed by individual persons. The punishment of such individuals is permitted only after they stand trial under due process of law, in fair proceedings, and are found personally responsible for commission of the offenses.

#### 4. In Practice

As already mentioned, there is a question as to whether the concept of limited collective responsibility applies in Israel as an exception to the prohibition of collective punishment under Article 50 of the Hague Regulations. In addition, even under the strict humanitarian prohibition of Article 33 of the Geneva Convention there is general difficulty in determining whether a given collective restriction constitutes punishment, or whether it was employed for another purpose in the exercise of a legitimate power of the military government. This difficulty stems from the fact that even where a restriction is imposed on a defined population group in consequence of the commission of a security offense, it is not always clear what motivated the governmental authority to impose the restriction. Only in the most rare instances will the decisionmaker make an unequivocal statement that the measure was employed for the purpose of punishing the population.

The general power of the military government, as laid down in Article 43 of the Hague Regulations, is to ensure public order and safety within the occupied territory. This power is modified by certain limitations specified elsewhere, including the prohibition against collective punishment. One can say, therefore, that where the collective restriction is imposed as a **retribution** for the commission of a security offense, this is a classic case of punishment. On the other hand, there may exist circumstances in which a collective restriction is necessary in the legitimate exercise of the military government's power under Article 43, for the purpose of **restoring public order or maintaining the security** of the civil population or the military government authorities in the occupied territory. Likewise, there may be circumstances in which the empowered authority believes that a collective restriction is required as a **preventive** measure against the future commission of security offenses or disturbances; or that such restrictions are effective as a **deterrent** measure in regard to potential offenders or even in regard to their support or concealment by the population in general.

For example, a curfew may be imposed as retribution or punishment of the local population, in consequence of civil disturbances or other security offenses committed by residents within the locality. But curfew may also serve as a means to restore order in a locality after the occurrence of disturbances, or to locate and detain individuals suspected of committing security offenses. Similarly, there may be circumstances in which a curfew will be imposed to prevent possible disturbances, as was indeed the case following the murder of seven Palestinian laborers in Rishon L'Tsion at the end of May 1990. Likewise, the empowered authority may believe that repeated curfews for extended periods of time in localities considered to be trouble-spots,

because of recurrent disturbances, will serve as a deterrent against future disturbances, or as pressure on the residents of a given locality to suppress widespread popular resistance that threatens the military government's control of the area.

All these objectives appear to fall within the general governmental power to ensure public order and safety in the occupied territory. Nevertheless, from a perspective that emphasises the duty to respect as far as possible the human rights of the governed population, one should question the legitimacy of the apparent security objective by additional standards, and distinguish between "military necessity" in the broad and the narrow sense.

**First**, not everything that serves the interests of the military government amounts to **military necessity**. The test for the existence of military necessity is the threat of **real danger** to security, that is immediate or imminent.<sup>19</sup> **Second**, not everything that serves security interests in the broad sense amounts to **necessity** in the narrow sense, and one should be wary of the tendency to confuse the claim of military necessity with **convenience**.<sup>20</sup> **Third**, it is important to note that the **efficacy** of a given measure in furthering a security interest, even if proven, does not in itself serve as a test for its lawfulness.<sup>21</sup>

It is worth mentioning here the view that the limited power of collective punishment under Article 50 of the Hague Regulations does not justify the employment of restrictive measures for the "psychological" purpose of suppressing popular opposition to the military government.<sup>22</sup> In addition, the official commentary to Article 33 of the Geneva Convention notes expressly that the prohibition extends to the infliction of collective punishment for the purpose of intimidating the population and preventing future breaches of the law and hostile acts (commenting that such practices in the past not only proved ineffective but also strengthened the spirit of resistance).<sup>23</sup>

All this can be illustrated by the following examples:

**Example A:** Imposition of night curfew and sealing off a locality - which means the denial of freedom of movement to leave and enter, as well as house detention of each of the residents during the night - for the purpose of tax collection (or collection of other debts for public utilities, such as water and electricity), and even in response to civil disobedience in the form of a collective refusal to pay taxes, cannot be regarded as a legitimate exercise of the limited power of collective punishment under Article 50 of the Hague Regulations. In these circumstances there is no apparent **danger to security**, even if the collective disobedience frustrates the regular functioning of the military government's civil authorities in the occupied territory.<sup>24</sup>



The doubt as to the legality of such measures is even greater in relation to the collection of debts for public utilities not supplied directly by governmental authorities. For instance, in the Gaza Strip, the Mekorot Company supplies water, while electricity is supplied by a local company, so the debt is owed to private corporations and does not concern the residents' relations with governmental bodies. (See Appendix D: Gaza Strip, UNRWA.)

**Example B:** Imposition of an extended curfew on a village - meaning house detention or the denial of personal liberty of each of the residents during the night - to prevent possible incidents of throwing stones at vehicles of residents of a neighboring Jewish settlement, may perhaps serve the **convenience** of the military forces in the locality, but does not amount necessarily to a military **necessity** in the narrow sense. (See Appendix B - 'Abud. Note that the residents claimed it was not at all clear that the persons responsible for past stone-throwing incidents lived in the village.)

**Example C:** Demolition of the house of a person convicted of a security offense (even if it is a grave one) - which renders **all** the inhabitants homeless, even though they are not personally responsible for the offense or even passively responsible for giving tacit support to the hostile activity of a family member - as a means to deter potential offenders who must consider the consequence of their relatives' punishment, may or may not be proven **efficient**, but in any event, this is not a legitimate employment of such punitive measures for reasons of military necessity.

What is more, even where there is military necessity in the narrow sense, a measure employed in its furtherance must meet certain tests of legitimacy if it affects basic human rights collectively. **First**, the measure employed must meet some test of **reasonableness** that is **proportionate** to the threatening danger. This condition relates both to the **qualitative** aspect, that is, the severity of the restriction of human rights in relation to the severity of the forbidden act, and to the **quantitative** aspect, that is, the duration of the restriction, which ought to be lifted immediately once the danger has passed. In this respect, one should distinguish between permanent and temporary restrictions of human rights,<sup>25</sup> and it is worth repeating that excessive or unreasonable exercise of an administrative power that is legitimate in itself may render the consequence of the measure punitive.<sup>25A</sup> In other words, the quantitative dimension becomes qualitative in extreme cases. **Second**, subject to limitations sometimes justified by the urgency of taking military action in response to forbidden acts, there must be a **due process** for clarifying the question of the personal responsibility, or at least the passive collective responsibility, of the affected persons.<sup>26</sup>

This is illustrated by the following:

**Example A:** Disconnection of water and electricity supply in the context of a general curfew imposed on a given locality following the murder of a "collaborator" cannot be regarded as furthering any security interest as such, or as meeting any test of **qualitative proportionality** in terms of the severity of the punitive measure.

**Example B:** The duration of a curfew imposed following disturbances, to restore public order, or to detain persons suspected of organizing the disturbances, must meet the test of **quantitative proportionality**, so that the curfew should be lifted once public order is restored or the suspects are detained.

**Example C:** Similarly, in many locations in the West Bank and the Gaza Strip, barriers blocking side-streets were erected to prevent the throwing of stones or molotov cocktails at vehicles travelling on main roads. To the extent that these blocks remain in place permanently, and entail restrictions on the freedom of movement of the residents, it appears that they fail to meet the same test of reasonableness in terms of qualitative proportionality. (See Appendix D: Gaza Strip, UNRWA, in relation to Shati refugee camp.)

**Example D:** A policy of general refusal to issue exit permits for travel abroad to residents of a given locality cannot be justified, for even if there exists military necessity to prevent the travel of certain individuals, the nature of the matter is such that there will generally be adequate time to allow for a **due process** to clarify the question of the personal responsibility or involvement of those residents requesting exit permits.

**Example E:** Similarly, when a house demolition order is issued for the purpose of deterring a person suspected or convicted of the commission of a security offense, fair legal proceedings should be held to clarify the question of the passive collective responsibility of the affected family members.

## DATA - THE TEST OF REALITY

### 1. Curfews and Closure<sup>27</sup>

Placing a community under curfew is one of the most severe collective violations of freedom of movement. During the uprising, curfews have been used frequently for a variety of reasons: to restore order and to calm the atmosphere following riots; to search for persons suspected of hostile activity or of planning disturbances, and to carry out arrests, or to locate weapons and means of sabotage; to prevent disturbances during the demolition of houses of security suspects, or following unusual events (such as the assassination of Abu Jihad in Tunis in April 1988, the murder of seven Palestinian workers in Rishon L'Tsion in May 1990, or the events on the Temple Mount in October 1990); as well as on days of national or religious significance to Palestinians, such as Land Day or the 'Eid al-Fitr holiday.

In this context, it is important to note that the authorities have sealed off the territories completely on the Israeli holidays of Independence Day and Yom Kippur, preventing exit from the territories into Israel proper, as well as movement between the West Bank and the Gaza Strip. Most recently, the territories were recently sealed off following a series of knifing attacks on Israeli Jews, during October 1990. The movement of Jewish residents of the territories is not affected in such cases.

Curfews have also been utilized in order to collect taxes and other payments for public services.

It appears that in the first years of the Israeli military government in the occupied territories, curfews generally lasted no longer than 24 hours. In recent years, however, particularly during the uprising, there have been many cases in which curfews have been maintained for extended periods. All of the refugee camps in the Gaza Strip (with a total population of more than 300,000) were placed under curfew for two weeks in January 1988, a curfew accompanied by complaints of food shortages. The town of Qabatiya (pop. 17,000 residents) was under curfew for more than 40 days in 1988, following the murder of a suspected collaborator. At the end of July, the town was once again placed under curfew, this time for 28 days; and in April 1988, on the 33rd day of the curfew imposed on Jilazun, the Israeli Defence Forces (IDF) prevented a convoy carrying foodstuffs from entering the camp, since its arrival had not been coordinated ahead of time.<sup>28</sup>

In certain areas considered especially "problematic," the data available to B'Tselem indicates that curfews have been imposed again and again in a selective fashion, for varying periods of time. For instance, the town of Qabatiya, already

mentioned, was put under curfew four times in 1989, for periods ranging from two to 14 days. In 1990, curfews were enforced for periods of two to seven days, totalling 19 days. The Daheisha refugee camp was placed under curfew seven times in 1989, for periods of two to eight days, for a total of 41 days of curfew.<sup>29</sup>

Following the murder of the seven Gazan workers in Rishon L'Tsion on May 20, 1990, the entire Gaza Strip and most of the West Bank was placed under a curfew defined by the security forces as "preventative." In most places, the curfew was lifted after seven days. B'Tselem kept track of the breaks allowed in the curfew for the purpose of procuring food in three regions: the Gaza Strip, the Hebron region and the Nablus region. The data gathered indicate that the curfew was lifted inconsistently, and in many places it was lifted only once during the entire week, for two hours. In the Hebron region, the curfew was lifted relatively frequently. In other places, a two-hour break was granted only on the fifth day of the curfew (the Jabaliya, Shati, al-Bureij, and Maghazi refugee camps in the Gaza Strip, and Nablus and the 'Ein Beit al-Ma refugee camp near Nablus), or the sixth day (Nussierat), or the seventh (Rafah). In Khan Yunis, the curfew was not lifted throughout the entire week. In three refugee camps in the vicinity of Nablus (Balata, Old Askar and New Askar), individual curfews had been imposed on May 18, 1990, two days prior to the murder, and they were maintained for ten days, being lifted only once, for two hours, on the seventh day.

As mentioned previously, it is customary to seal off the territories or impose a curfew, either selective or general, on days of national significance to the Palestinians, for fear of disturbances. On Land Day, held annually at the end of March to mark the opposition of Israeli Arabs to the government's lands policy, the Administration seals off the territories in order to keep residents from participating in demonstrations or assemblies held in Israel proper. During the first two years of the uprising, a general curfew was imposed on the Muslim holidays 'Eid al-Fitr and 'Eid al-Adha in those places where disturbances were considered likely, such as Jabaliya, Rafah and al-Bureij in the Gaza Strip, and the city of Nablus and its surrounding refugee camps in the West Bank. In 1990, no curfew was imposed in these places on the holidays. On the Memorial Day for the Martyrs of Sabra and Shatilla, held on September 17, the villages and refugee camps considered likely to have disturbances were once again placed under curfew; Qabatiya, for example, was under curfew for two days at this time in 1990.

During the uprising, curfew and closure were utilized in a new way in tax collection operations. For example, on July 7, 1988, tax officials accompanied by soldiers entered the town of Beit Sahur in the early morning hours and confiscated residents' identity cards in order to force payment of taxes.

Several hours later, a number of local residents gathered outside the town hall and, in an act of protest, approximately 250 of them turned over their identity cards. Later, in the afternoon, a demonstration was dispersed by the IDF, resulting in 15 arrests. After the demonstration was broken up, the town was placed under curfew, and all local telephone lines were cut for 11 consecutive days.<sup>29A</sup>

The collective refusal of the residents of Beit Sahur to pay taxes continued, and in September 1989, an intensive operation aimed at collecting the debts was launched. The town was sealed off for 40 days.<sup>29B</sup>

While on a visit to Gaza in August 1990, a B'Tselem team was informed by the staff of the local UNRWA office that recently, areas of Gaza City had been sealed off on Saturdays in order to collect taxes, outstanding traffic fines, and water and electric bills. According to UNRWA, the army declares an area to be a closed military zone, and UNRWA staff members are thus not allowed to enter.

According to the estimate of al-Haq (Law in the Service of Man), the Ramallah-based Palestinian human rights organization, during the second year of the uprising (Dec. 1988 - Dec. 1989), no less than 1,600 curfews were imposed, 185 of which were prolonged (24 hours a day, for at least four days). About 1,000,000 people, some 60% of the total population of the territories, were placed under a prolonged curfew at some point during that year. At the same time, in comparison to the previous year, there was a significant drop in the number of places put under curfew for more than 20 consecutive days. In the first year of the uprising, curfews of 20-24 days were imposed in seven places, of 25-30 days in four places, and 40 days in one place. In the second year of the uprising, the longest curfew was 22 days, and there was only one other case of a curfew being imposed for 20 days. Likewise, there was a difference between the first and second years of the uprising in the length of curfews imposed on places prone to disturbances. In the first year, according to the al-Haq estimate, there were four places which were under curfew more than 50% of the time, as opposed to only one such place, Shabura, during the second year. Shabura is a neighborhood of the Rafah refugee camp in Gaza (approx. pop. 25,000), which was repeatedly placed under curfews of three weeks' duration.<sup>30</sup>

Following are the data compiled by UNRWA regarding refugee camps in the Gaza Strip and the West Bank.

All these data create the impression that the widespread use of curfew exceeds the legitimate operational needs of the governmental authorities, and as such is frequently a form of collective punishment levelled against the entire population involved.

Curfew and General Strike Days in Refugee Camps (only) in the West Bank (UNRWA Data)

From December 9, 1987 to August 31, 1990

	August 90	July 90	June 90	May 90	April 90	March 90	February 90	January 90	December 89	November 89	October 89	September 89	August 89	July 89	June 89	May 89	April 89	March 89	February 89	January 89	December 88	November 88	October 88	September 88	August 88	July 88	June 88	May 88	April 88	March 88	February 88	January 88	December 87				
Total	174	0	0	7	11	5	3	2	1	12	12	16	24	7	3	1	10	6	3	0	0	4	1	0	0	1	10	0	4	10	3	12	5	1			
Askar/Nablus																																					
Baqa/Nablus	250	0	0	6	11	3	3	0	1	12	12	14	16	8	11	0	6	5	6	0	5	11	6	4	11	12	9	1	15	23	7	9	13	4			
Farah/Nablus	61	0	0	1	5	0	0	0	4	0	6	2	2	5	0	19	1	0	0	0	0	0	1	1	0	0	0	0	0	4	1	1	0	1	3		
Ein Beit Ima/Nablus	173	0	0	6	6	3	6	0	1	12	12	7	16	2	3	2	6	4	6	5	0	7	1	7	0	6	10	2	4	16	2	6	5	0			
Nur a-Shams/Wikam	160	0	0	0	6	0	6	0	1	6	2	4	3	15	12	11	23	3	17	12	2	1	3	0	5	0	0	0	5	15	5	3	0	0			
Tulkarm/Wikam	347	0	0	11	11	8	10	10	10	9	6	20	8	19	8	28	23	6	7	6	14	7	7	0	27	16	5	22	3	1	3	19	14	5			
Jenin/Jenin	104	0	0	1	4	5	26	28	31	31	30	31	34	21	7	3	11	3	10	3	0	5	2	0	0	3	7	11	0	4	4	0	0	0			
Shu'afat/Jerusalem	12	0	0	0	0	0	4	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	5	0	1		
al-Amari (+Qadiriya)/Ramallah	145	0	1	0	8	0	0	3	0	0	3	0	0	5	0	1	6	2	0	0	8	12	13	14	11	3	0	0	23	3	16	11	2				
Dir 'Amar/Ramallah	21	0	0	0	7	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	3	9	0	0			
Jilazun/Ramallah	118	0	0	0	5	2	0	0	1	5	7	1	2	0	0	0	1	0	0	0	0	0	3	0	1	15	0	2	17	21	12	0					
Dahsheh/Bethlehem	107	0	0	0	13	6	26	28	31	31	30	31	37	0	3	12	10	4	0	0	9	4	1	1	0	9	6	7	13	7	1	0	0	1			
Calandiya/Ramallah	71	0	0	0	4	0	0	3	1	12	14	1	2	0	0	0	0	5	0	0	0	1	0	8	6	0	0	2	6	0	0	6	0	6	0		
Arcat/Bethlehem	76	1	0	0	4	0	1	0	4	9	4	11	3	1	2	3	6	3	2	0	2	1	0	0	0	0	6	0	1	4	0	7	1	0			
Fawar/Hebbron	10	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	7	1	0	0			
al-Azari/Hebbron	45	0	0	0	4	0	1	0	2	3	0	6	2	1	0	0	2	3	0	0	2	3	12	0	0	0	0	0	6	0	1	1	0	1	0		
al-Arubi/Hebbron	41	0	0	1	3	6	1	6	1	0	0	0	1	0	1	0	0	0	0	0	5	1	0	0	0	0	1	0	6	6	3	2	0				
Ein Sultani/Jericho	11	0	0	1	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	2	0	4	1	0	0	0	0	0	0	0	0	0	0	0			
Aqbat Jaber/Jericho	37	0	2	0	1	0	7	1	0	4	0	0	0	1	0	1	1	0	0	0	2	4	5	0	0	0	0	0	4	0	2	0	0	0			
Total	1965	1	3	34	106	39	42	25	28	65	78	80	82	86	74	81	105	50	56	30	34	53	56	44	65	65	74	47	53	152	60	113	71	17			
General Strike days	189	5	3	6	6	5	4	4	4	4	4	6	6	4	5	10	7	6	6	6	6	9	5	4	3	9	5	7	5	6	6	8					

Note: The table differentiates between night curfew and 24-hour curfew. Night curfew is indicated in bold.

**Curfew and General Strike Days in the Gaza Strip (UNRWA Data)**

From December 9, 1987 to September 31, 1990

Total	September 90	August 90	July 90	June 90	May 90	April 90	March 90	February 90	January 90	December 89	November 89	October 89	September 89	August 89	July 89	June 89	May 89	April 89	March 89	February 89	January 89	December 88	November 88	October 88	September 88	August 88	July 88	June 88	May 88	April 88	March 88	February 88	January 88	December 87		
257	5	0	1	1	0	9	7	4	0	3	1	1	0	4	5	10	14	21	13	7	6	14	5	1	6	14	14	9	15	11	5	3	17	1	Jabalya	
7	2	0	0	0	0	12	6	3	1	5	4	3	1	4	5	7	13	10	17	7	14	17	13	11	10	17	10	6	11	14	15	14	11	0	Shati Camp	
259	0	0	0	0	0	9	3	3	0	3	0	0	0	0	0	7	9	5	3	2	0	7	10	3	2	6	0	0	0	3	0	0	0	0	Caza/Shegaleh	
66	0	0	0	0	0	9	3	3	0	3	0	0	0	0	0	7	9	5	3	2	0	7	10	3	2	6	0	0	0	3	0	0	0	Caza/Sheikh Radwan		
22	0	0	0	0	0	10	7	5	1	5	1	2	0	1	0	7	15	5	3	8	9	7	12	3	11	1	2	0	0	0	0	0	0	0	Caza/Sheikh Radwan	
153	0	0	0	1	0	9	4	3	1	4	2	6	0	3	3	9	16	20	10	0	3	6	12	7	8	23	3	15	1	4	14	5	17	0	al-Bureij	
230	14	0	1	1	0	8	4	3	1	3	2	0	2	0	6	12	9	13	6	3	12	9	14	8	12	6	4	3	9	4	3	17	0	Nusseirat		
212	6	0	0	1	0	8	4	3	1	3	2	0	2	0	4	6	10	18	6	1	6	11	1	0	3	0	2	0	3	4	0	9	0	Moghazi		
24	2	0	0	1	0	7	3	4	0	3	2	1	0	1	4	2	7	13	11	7	0	20	18	15	8	0	7	0	0	4	3	13	0	Dir el-Balah		
165	4	0	0	1	0	10	3	3	0	3	2	1	4	2	2	7	13	11	7	0	20	18	15	8	0	7	0	0	4	3	13	0	0	0	Dir el-Balah	
179	0	0	0	1	0	9	5	3	0	3	1	0	2	6	9	8	12	5	12	8	3	7	5	5	4	1	3	1	8	18	1	17	0	Khan Yunis		
196	6	7	0	2	0	8	6	7	7	6	2	0	1	15	9	13	9	3	16	13	12	8	12	2	3	0	1	0	1	5	0	0	0	0	Rafah	
182	0	0	0	2	0	8	6	7	7	6	2	0	1	15	9	13	9	3	16	13	12	8	12	2	3	0	1	0	1	5	0	0	0	0	0	Rafah
95	0	0	0	2	0	11	3	4	0	3	1	0	0	1	7	12	2	9	7	1	10	0	0	0	3	0	0	0	1	3	4	0	0	0	0	Beit Hanoun
16	6	0	0	0	0	7	3	3	1	3	0	2	0	2	3	8	0	16	12	2	1	8	13	1	0	3	1	1	5	9	5	0	0	0	0	Others
205	41	7	2	4	0	98	50	45	12	44	18	16	10	36	43	107	150	158	136	58	87	119	146	75	44	106	96	43	37	68	87	29	10	11	Total	
141	14	1	0	1	0	13	13	10	5	2	2	5	12	3	2	8	11	8	7	2	6	12	5	7	1	8	2	8	5	1	8	5	1	15	1	Strike days
199	5	5	4	0	0	8	5	6	6	4	6	8	5	4	7	7	10	11	10	6	11	10	9	4	11	6	9	8	2	4	4	5	1	1	Strike days	

Note: The table differentiates between partial curfew (when only part of the area in question is under curfew) and 24 hour curfew. Partial curfew is indicated in bold.

## The Effects of Curfews

Imposition of a curfew is a basic violation of the personal liberty of those affected, who are prevented from leaving their homes. On occasion, a curfew is accompanied by the exceptional steps of cutting phone lines, as well as cutting the supply water and electricity, such as in the case of the curfew imposed on the village of Qabatiya for 40 days in February-March 1988. Beyond this, however, the use of curfews has additional general implications for the daily life of residents.

One of the more painful problems caused by the imposition of curfews in the territories is the procurement of foodstuffs, water and medicine. IDF procedure allows for occasional lifting of a curfew for a few hours at a time in order to allow residents to procure food, water and medicine. But the frequency of these breaks varies from place to place. Residents of the territories have learned to store enough food in their houses to tide them over for a few days in the event of a curfew, but they are naturally unable to store large quantities of fruit, vegetables or fresh dairy products, of particular importance to children, pregnant women, and the sick.

It is important to note that home consumption of water and food naturally increases during a curfew, because people do not leave their houses for school or work. Flocks, usually let out to pasture, must also be kept in their owner's yard during a curfew, and necessarily consume a great deal of the house's water supply. In some villages, there is no running water and residents are supplied with water by a truck which arrives daily. During a curfew, these trucks cannot enter the villages.

Added to all this is a feeling of uncertainty. As long as a curfew is in force for a day or two, people can "make do." But when a curfew lasts five to six days or longer, there is concern that available food supplies will not last, and it is difficult to ration without knowing how long the curfew will be in effect.

For example, the village of 'Awarta, in the Nablus region, was placed under curfew on May 20, 1990, following a stone-throwing incident and the blocking of the village entrance, in the wake of the Rishon L'Tsion killings. As mentioned, the killings led to the imposition of a curfew on all of the Palestinian settlements in the occupied territories. In most cases, the curfew was lifted after a week. In 'Awarta, the curfew was in effect for 15 days, and lifted only once, for two hours, after seven days.

Life in the village is carried on at a subsistence level. The local economy is based on seasonal agriculture intended for local consumption only. Even if village residents were



to know the intended duration of a curfew, they do not have the resources for stocking the basic necessities. A B'Tselem team visiting 'Awarta was told that when the May 1990 curfew was lifted to allow the residents to resupply, they discovered that many basic necessities had spoiled or rotted, with the exception of canned goods, the nutritional value of which is not high.

In addition, the residents suffered from a water shortage and sanitation problems. The village has no water or sewage system. Some of its residents have wells in their yards, but others must bring water in containers from a spring east of the village, about a kilometer from its center. For lack of a sewage system, the residents use private outhouses and sewage pits which are cleaned every few months by a contractor from Nablus, who provides a truck with the necessary pump. During a curfew, according to the testimony of residents, villagers are not allowed to leave their homes in order to bring water from the spring. Their solution was to bring water from the wells of neighbors, passed over fences. This water had to meet drinking, washing, and laundry needs. Similarly, the residents met with problems when their sewage pits filled and could not be emptied. (See B'Tselem report from 'Awarta, and affidavits gathered during the investigation, in Appendix A to this report.)

### Medical Treatment

In addition to the problems of food supply, curfews create difficulties for those in need of immediate or even routine medical care and supplies, a problem which especially affects the elderly.

For example, in 'Awarta, B'Tselem was told by villagers that after the curfew was lifted, they discovered that an elderly woman had died, her neighbors and daughters having been unable to reach her in order to care for her. In one woman's affidavit, she said that both her elderly parents were under constant medical supervision and needed regular medication. During the curfew, they ran out of medicine but were unable to travel to the pharmacy in Nablus for a new supply. Finally, the Red Cross visited the village and supplied the medication. (See Appendix A to this report.)

A further example: the village of Bal'a in the Tulkarm region (approx. pop. 6,000) was sealed off in anticipation of Fatah Day (January 1, 1990), for a period of eight days. The road leading into the village was blocked to traffic by a series of roadblocks made up of boulders and large mounds of earth set up by bulldozers at the entrance to the village, and every few kilometers thereafter. The entrance to the village is on a steep incline which continues for a number of kilometers, and it would take a healthy person one and a half to two hours to walk from the main road.

Elderly residents gave testimony to B'Tselem on January 11, 1990, that they had no reasonable means by which to leave the village for the purpose of receiving medical care.

- 1) An 80-year-old man with cancer was forced to walk from the village limits to the main road, and to return by foot, in order to reach the hospital in Nablus for a blood transfusion. The following day, on his way to the hospital for further treatment, he fainted after an hour of walking.
- 2) A 60-year-old woman had been undergoing dialysis treatment in Nablus. The ambulance driver who returned her to the village left her by the roadblock at the village limits, where she remained, unable to reach her home by herself. Finally, a local resident who passed by found people to help and, in a joint effort, they dragged her to her house in the village. (See Appendix E.)

B'Tselem's request for a response to these testimonies on the part of the Defence Minister was answered in a letter dated April 8, 1990, which stated, in part: "The village of Bal'a was declared a closed military zone for a period of eight days from January 1, 1990, for security reasons. This was necessary in order to prevent public disturbances. Along with declaring the area closed, the Civil Administration took steps to ensure the continual and regular supply of food and medicine... . Nevertheless, there is no doubt that in such situations... there are people who get hurt... . It is important to note that no one was prevented from leaving for the purpose of medical treatment. We can only express sorrow that these people did not turn to the Civil Administration in order to arrange for the receipt of medical treatment in a way which would have caused them less suffering."

### Economic Damage

Curfews cause economic damage to merchants and professionals who work within the territories, and particularly to those employed in local agriculture, who are unable to leave their homes in order to work in their fields, and thus are likely to lose an entire season's crop.<sup>31</sup>

One example of this is the curfew imposed on 'Awarta at the end of May 1990. The curfew coincided with the yearly wheat harvest, some 3,000 dunams according to the testimony given by residents. Because the farmers were not allowed to harvest the crop in time, it dried in the sun and once the curfew was lifted and the crop gathered, approximately one third blew away in the wind and was lost. One of the residents gave testimony to the effect that three dunams of lentils were destroyed when the crop dried up and was scattered.

Immediately following the wheat harvest, the farmers planned to plant a new series of crops, such as sesame, corn and

tomatoes. The delay in planting caused by the curfew apparently affected crop size, a result of the land drying-up in the early summer heat. The residents claimed to a visiting B'Tselem team that there was a significant difference between their corn harvest and the harvest of neighboring villages that had not been under a prolonged curfew.

One of the residents similarly reported damage to chickens he kept in a coop behind his grocery store. During the curfew, he was unable to feed and water the chickens, and once the curfew was lifted, he discovered that all 49 had died. (See report from B'Tselem visit to 'Awarta and affidavits given during said visit, Appendix A to this report.)

In addition to the foregoing, schools are closed for the duration of a curfew. Here the greatest impact was felt in the Gaza Strip, where, unlike the West Bank, schools have been officially open most of the time since the beginning of the uprising. Likewise, curfews disrupt the schedules of the military courts in the territories. These courts are in session even when a curfew is in effect, but while lawyers are permitted to come to court at such times, defense witnesses and relatives of the accused are not.

## **2. Night Curfew**

In addition to the imposition of general curfews, the military authorities also place different communities under night curfews of varying duration.

For instance, the village of 'Abud in the Ramallah region extends along the access road of several Arab villages and Jewish settlements. On May 21, 1990, the day after the Rishon L'Tsion murders, the village was placed under a general curfew which was lifted after four days. Thereafter, a night curfew was imposed for 31 consecutive nights. The curfew was announced every night, generally at about 8:00 p.m., but occasionally at 6:00 p.m., and was lifted the following morning at roughly 6:00 a.m. On occasion, the soldiers would announce the curfew's length in advance, but sometimes the end was announced only when the curfew was actually lifted.

Night curfew means essentially that each of the village residents is under house arrest, without knowing about it ahead of time. During the curfew, residents are not free to stroll about and get a bit of fresh air after a day's work, neither are they able to hold regular social activities or make condolence calls. Those who work outside of the village, particularly those holding night jobs, in bakeries for instance, have difficulties leaving for and returning from work. (See report from B'Tselem visit to 'Abud, Appendix D to this report.)

In March 1990, a petition was brought before the High Court of Justice regarding a prolonged night curfew imposed in the Gaza Strip, the city of Jenin and the Daheisha refugee camp in the West Bank. The curfew imposed on the Gaza Strip had been in effect since May 1988 (that is, for more than 22 months before the petition was made to the High Court), from 8:00 p.m. to 4:00 a.m. In Jenin, the curfew had been in effect since mid-August 1989 (that is, for more than seven months), during which time at approximately 4:30 p.m. each day, the curfew would be announced with IDF loudspeaker trucks, which would pass through the city's streets. The following morning, the curfew would be lifted at approximately 4:30 a.m., again by way of an announcement made by the security forces. The curfew imposed on Daheisha was also announced each day in a similar fashion starting in mid-September 1989 (that is, for more than six months), from approximately 5:00 p.m. to 5:00 a.m.

The petition noted some of the ways in which the night curfew made life difficult for the 600,000 people affected: the curfew was essentially a community-wide house arrest, denying the population their right to freedom of movement, causing them stress, anxiety and a sense of humiliation, as well as inflicting material damage on those who work outside their communities due to difficulties in leaving for and returning from work; it disrupted the fabric of their daily life, limiting family visits and social gatherings; it encumbered the process of obtaining urgent medical attention; and it led to a great deal of friction between local residents and soldiers, particularly in the case of laborers who did not manage to reach their homes before the curfew came into effect.

### 3. Closing of Educational Institutions<sup>32</sup>

Schools and institutions of higher education in the territories have been closed frequently and for extended periods during the three years of the uprising. In addition to general strike days announced by Palestinian organizations, which shut down the educational system for several days a month, and the closures forced by the imposition of curfews, the military authorities have ordered either general closures of educational institutions in the territories or closures specific to those institutions where there were clashes with the army. The general closure orders applied to the institutions of higher education and schools in the West Bank (but not the Gaza Strip).

From the end of February 1988 until March 1990, the universities and colleges of the territories were closed. During the summer of 1990, the colleges were gradually reopened. On the other hand, the universities remained closed, even though the authorities had announced their

intention to reopen them gradually, and had even allowed al-Kuds and Bethlehem Universities to reopen.

All of the schools and nursery schools in the West Bank were closed in February 1988. Some 303,000 pupils studying in 1,174 schools were kept from their studies. Eventually the general closure orders were lifted and replaced by selective orders. As a result, West Bank schools were open for only 147 of the 210 school days of the 1987-88 school year. The 1988-89 school year did not begin until December, after schools had been closed for six consecutive months. Grade schools held classes that year for a total of 35 days, junior high schools for 26 days, and high schools for 20 days. The third school year did not open until January 10, 1990, and was completed as planned in the first week of July. Classes were held on 140 of the 210 planned school days. Certain schools were closed for longer periods, however. For instance, schools were open for only 41 days in the refugee camp in Tulkarm.

In the Gaza Strip, there was no policy of closing schools, but selective closure orders were applied for long periods to particular schools at or near which there had been clashes with the army. Available data on the UNRWA school system (grade and junior high schools, that is grades one to nine, serving some 95,600 pupils) indicate, for instance, that during the first four months of the uprising, schools were open for only 22% of the planned school year. These data cover closures brought about by both general strikes and curfews.

The general closure orders in the West Bank, which have seriously affected three school years of the student population, were officially justified as necessary in terms of security considerations, to prevent clashes with the IDF, to allow tempers to cool and to guarantee the security of residents. The fact that this was not the policy in the Gaza Strip casts doubt on the contention that allowing the educational system to function as usual would increase the number of disturbances. Moreover, a study comparing the number of disturbances while schools were closed to the number while schools were open reaches the conclusion that "the effects of closing and opening the schools are unequivocal."<sup>33</sup>

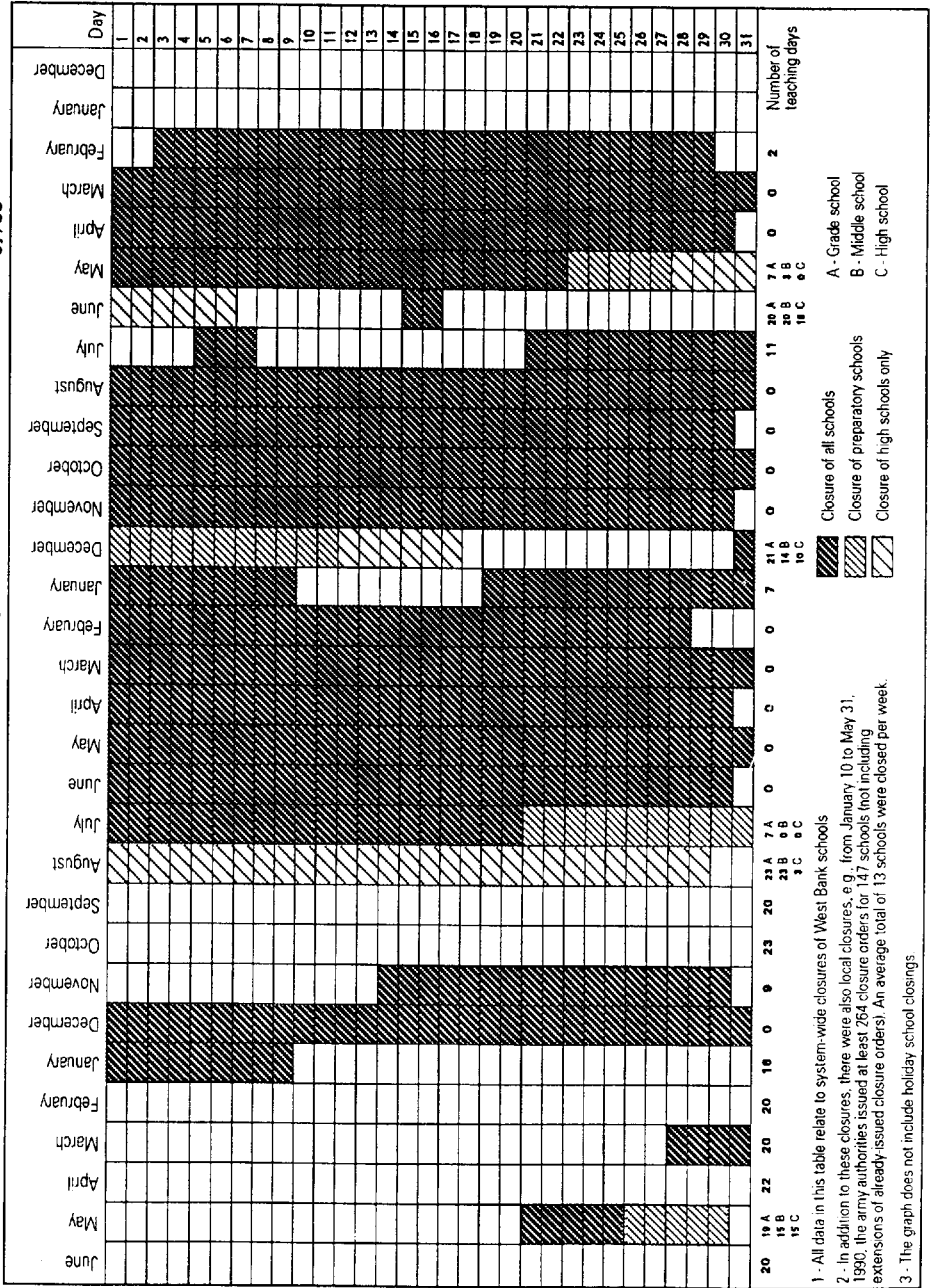
As part of the military government's general duty to maintain orderly day-to-day life in the occupied territories, it is also obliged to maintain a normally-functioning educational system. Israeli security law does indeed grant the military commanders authority to close any place, if such a closure is deemed necessary to the maintenance of public order.<sup>33a</sup> Nevertheless, the longer the period of a closure, the more it testifies to its punitive character.

# Data on School Closures in the west bank since the beginning of the intifada

89/90

88/89

87/88



1 - All data in this table relate to system-wide closures of West Bank schools  
 2 - In addition to these closures, there were also local closures, e.g. from January 10 to May 31, 1990, the army authorities issued at least 764 closure orders for 147 schools (not including extensions of already issued closure orders). An average total of 13 schools were closed per week.  
 3 - The graph does not include holiday school closings

The punitive element in the closure of educational institutions in the West Bank can also be seen in the fact that the military government prohibited alternative forms of education. In the first months of the closure, from March to May 1988, "popular instruction" was given in churches, mosques, houses, and yards by relatives, neighbors, and teachers. The universities and colleges also attempted to hold classes off-campus, in homes and offices, but such attempts were strictly forbidden. A number of teachers and students were arrested by security forces in places where alternative instruction was offered. Principals were ordered to the Civil Administration, where they were verbally informed of the ban, and given the explanation that such activities led to the gathering of large groups, which were likely to become focal points for disturbances. The authorities also frustrated an attempt by UNRWA to prepare material for independent study. In August 1988, an official order was issued, making involvement in educational activities a crime, carrying a maximum penalty of 10 years' imprisonment. At the same time, since March 1989, the military government does not interfere with informal study frameworks set up by the universities.

#### 4. Restrictions on Travel Abroad<sup>34</sup>

Immediately after the capture of the territories by the IDF in 1967, they were declared a closed military zone, and later the authority to allow entrance to and exit from the territories was prescribed in section 90(c) of the Order Concerning Defence Regulations (Judea and Samaria) (No. 378), 1970. Theoretically, entrance and exit is allowed only to those in possession of personal permits, but in practice, the Israeli authorities have followed an "open door" policy. According to the government's data, in an affidavit submitted to the High Court of Justice (HCJ 600/89), 199,716 residents left the area in 1988, and 124,747 in the first eight months of 1989. However, collective limitations on the exit of certain population groups have been imposed from time to time.

It appears that since 1976, young men aged 16-25 have been collectively limited from traveling abroad for less than six months.<sup>35</sup> Since April 1988, a similar limitation has been placed on male citizens of East Jerusalem aged 16-35 leaving for Jordan for less than nine months. Knesset Member Amir Peretz formally questioned the Defence Minister on this matter on July 24, 1990, but no response had yet been given at the time this report went to press.

During the period of the uprising, the authorities decided in several instances to entirely forbid residents of certain villages in the West Bank to travel abroad. There were cases in which a resident's request to go abroad was turned down immediately, with no discussion whatsoever as to the nature

of the request, simply because he was a citizen of a certain village. In other cases, a resident would have his request granted, only to be returned to his village by officials at the Allenby Bridge, who had refused to allow him to cross. This policy has on occasion affected Palestinians not actually living in the territories who came to visit relatives during the summer months.

Because of the large number of these cases, a petition was brought before the High Court of Justice in which the legality of this policy was questioned.<sup>36</sup> In its various forms, this petition referred to collective limitations placed on foreign travel in the village of Kufr Malek (which was in effect for more than a year), the town of Qabatiya (for more than a year and a half), the village of Khirbit Burqin (for approximately a year and a half), the village of Dannabe (approximately two years), and the village of Battir (more than four months). The individual petitioners from each place had made requests to travel abroad for a variety of personal reasons, mostly to obtain medical treatment, visit family members, or take care of work-related matters.

##### **5. Disconnection of Telephone Lines**

During the period of the uprising there were some cases of villages where telephone lines were cut off for the duration of a curfew under which it had been placed. In certain villages, telephone contact is limited to one or two lines which serve the entire population. The village of Hawarah, for instance, on the Ramallah-Nablus highway, has one telephone line that functions as a switchboard and serves 56 village subscribers, as well as 12 neighboring villages, in each of which there are approximately two subscribers. The village was first connected to a telephone network in 1965, while still under Jordanian occupation, by one telephone line, an extension of the switchboard in Nablus. People would call Nablus and ask for Hawara, and after being transferred to Hawara would ask for the local subscriber. In October 1989, the old switchboard was replaced by two new direct lines which served the local subscribers. But in February 1990, one of the lines was cut and use of it transferred to the local Civil Administration offices, which already had one additional line.

It is important to note that even if security needs require that a village be cut off from the outside world in order to apprehend suspects immediately after hostile acts have been carried out, or for the sake of preventing contact with hostile organizations, excessive, indiscriminate use of this measure can reach the point of becoming collective punishment of the entire village population.

No general data are available on the intentional cutting of telephone lines to entire localities. The IDF Spokesperson



responded to a B'Tselem query on this matter in a letter dated April 12, 1990, listing two possible reasons for the disconnection of telephone lines: first, in cases of nonpayment of bills, following appropriate notification in newspapers and at local post offices; second, in cases where "pirate" phone services are operating, that is, when there is a security need to prevent unlicensed international communication with enemy states. In spring of 1988, indeed, all international communication services in the territories were suspended for security reasons.

On March 16, 1988, all direct international phone lines were blocked, and residents attempting to place international calls via the international operator were told that the line was out of order and thus it was impossible to place their calls. It transpired subsequently that notices had been hung on the bulletin boards of the Bezek telephone company that "no international connections are to be made for residents of the territories. Queries should be answered with the explanation that there is a technical malfunction." On April 10, 1988, the IDF Commander of Judea and Samaria issued an order under Regulation 130 of the Defence (Emergency) Regulations, 1945, according to which, residents of the region would not be given international phone service, whether direct or operator-assisted, except by permits given to certain persons or kinds of persons.<sup>37</sup> The order was to last six months and applied retroactively to the restrictions in services that had taken place prior to the order's taking effect. A similar order was issued in the Gaza Strip. The orders were renewed from time to time, until international phone service to the territories was reinstated on April 9, 1989.

## **6. Disconnection of Electricity and Water Supply**

During the uprising, there were numerous complaints that the military authorities had cut off the supply of water and electricity to a given locality. In some cases, this step had been taken together with the imposition of a curfew, such as, for example, in the case of the curfew placed on the town of Qabatiya for 40 days during February-March 1988. Only "on rare occasions," was this step taken with the declared purpose of punishment. In most cases, the impression is that the supply is cut off due to sheer administrative arbitrariness, while creating unreasonable bureaucratic obstacles for the local committees responsible for contacts with the Civil Administration in regard to these services.

For example, the electric current for the entire village of Salem in the Nablus region (approx. pop. 4,800) was cut off on February 26, 1990. The following day, Civil Administration workers arrived, accompanied by an official of the Israel Electric Company, which is responsible for the supply of electricity to the village, and it was determined

that one of the high tension wires had snapped. A Civil Administration officer informed the village mukhtar that the line would not be fixed until the reason for the malfunction had been investigated, since it was quite possibly the result of sabotage. The supply was not renewed for five weeks. The residents of the village of Dir al-Khatib (approx. pop. 2,000), were also affected, as they are connected to the same power grid.

At the same time, there was no supply of water to the village of Salem. The village was connected to the water system in 1985. One of the villagers was appointed to collect payment from the residents for their water consumption. Once he received the water company's bill, he would go from house to house and read the individual meters, then collect payment from residents for their part of the general bill. He then would pass the money on to the local Civil Administration. The water supply to the village was cut off on January 28, 1990, because of a collective debt of some 10,000 shekels, the result of a disagreement as to the credibility of the official assessment of village water consumption. For example, that month the village had received a bill for the consumption of 2,896 cubic meters of water, while the local treasurer's reading of the meter showed consumption of only 1,436 cubic meters.

In spite of the suffering caused in this case, it is difficult to ascribe it to an intention on the part of the authorities to punish the population. However, in other cases, the circumstances indicate such an intention.

For instance, the village of Bidya (approx. pop. 12,000) sits on the Trans-Samaria highway, and is considered a trouble-spot for security reasons. In November 1989, the Civil Administration officer ordered the heads of the local council to stop collecting payments for water and electricity consumption in the village. For four months, until February 1990, the council continued to pay the bills (by permission of the Civil Administration officer) from savings that had accumulated from the difference in the rates charged by the Civil Administration and the amount actually collected after reading the meters. In March 1990, no savings remained with which to pay the electric bill, and the electricity to the entire village was cut off. Supply was renewed in May 1990, after the Civil Administration officer visited the village, found it in utter darkness, and permitted the council to renew collections. (See the report of B'Tselem's visit to the village of Bidya, and the affidavit which was taken at the same time, in Appendix C of this report.)

In another instance, the power supply was cut off expressly in response to incidents of stone-throwing in the village of Surif, in the Hebron region (approx. pop. 10,000). Electricity is supplied locally by two generators located in the village, and managed by the local council. On May 18,

1989, the IDF placed the village under curfew and carried out many arrests. Soldiers dismantled the generators and took parts with them, effectively cutting off the power supply to the village. As a result, there was no lighting in the village, refrigerators, washing machines and televisions were inoperable, and the livelihood of butchers, carpenters and cabinetmakers was adversely affected. The generator parts were returned to the village on July 16, a few days after the matter was brought before the High Court of Justice (see below).

The official policy of the security forces is that they have no authority to cut off power supplies "as punishment or deterrence, except and exclusively for security reasons, and for short periods, and only as circumstances demand (such as stopping broadcasts intended to incite the population)." (Quoted from a letter written by the Military Advocate General, dated March 8, 1988.) According to the IDF Spokesperson (letter dated April 12, 1990), the majority of power cuts were the result of sabotage or technical malfunction, as well as non-payment of bills.

## **7. Restrictions on Marketing of Agricultural Produce**

Agriculture is of central importance in both the West Bank and the Gaza Strip, and has seen significant development since 1967. Until the early 1980's, this development was accompanied by a rise in export to Israel and Jordan. Since 1980, there has been a steady decline in export to Israel, together with an increase in export to Jordan and other Arab states. For instance, exports to Jordan rose from some 2,000 tons of vegetables in 1967 to 43,000 tons in 1985. Since 1987, there has also been export to the European Common Market, as well as export of citrus fruit from the Gaza Strip to Eastern Europe.

In addition to the crop damage resulting from the imposition of curfews (see above), data gathered by the Jerusalem Media and Communication Centre, based on newspaper reports, indicate that in the first two years of the uprising, direct collective measures were taken in relation to agricultural produce.<sup>38</sup>

The export of agricultural produce from the territories requires a permit from the authorities. In addition to the bureaucratic difficulties in getting such permits (related, for instance, to vehicle registration and drivers' licenses, or tax payment), during the uprising, a number of direct limitations on the export of agricultural products were placed on certain villages in which there had been disturbances. For example, in February 1988, in the wake of the murder of a suspected collaborator, the export of agricultural products from the village of Qabatiya was limited. In May, the mukhtar of the village of al-'Ujah

announced that the Civil Administration had forbidden the export of bananas and melons to Jordan for that season. In early July, a ban on exporting agricultural produce from the villages of Beit 'Omar and 'Eidna was announced in the media. In September of the same year the export of grapes from Halhul to Jordan was banned.

Collective limitations have been imposed on the sale of agricultural produce within the territories as well, by means of forced closure of local markets following disturbances. The market in al-Bireh was declared a closed military zone from February 27 to March 11, 1989, following an incident in which a soldier was stabbed in the vicinity of the market. The market in Bethlehem was similarly closed for 22 days in April 1988.

Likewise, measures have been taken in certain places designed to limit the production of olive oil (which comprised 49% of the income from agriculture in the West Bank in 1985-86). In October 1988, the populations of 17 villages in the West Bank were forbidden to harvest their olives over periods ranging from several days to several weeks. The bans were lifted prior to the end of the season, but the delay resulted in a decline in oil quality. In certain places, the village of Kufr Malek, for example, the quality was so low as to render the oil inedible, and the villagers were forced to use it in soap production.

#### **8. Demolition and Sealing of Houses<sup>39</sup>**

The security forces consider house demolition to be the most effective means of punishment, and thus make widespread use of it. This is an administrative procedure which is usually carried out upon the arrest of a security suspect, before he is proven guilty and convicted in a judicial proceeding. When the house of a suspect is destroyed, all those living with him suffer. According to B'Tselem's findings, there are an average of 11 such people in each case. When the demolition is carried out by means of explosives, damage is frequently caused to neighboring houses. Following the destruction of a house, the family receives a tent from UNRWA or the Red Cross, which it sets up on the rubble of their home. They may not rebuild their home.

Along with the destruction of homes, the Israeli government authorities in the occupied territories also employ the less drastic, and reversible, measure of complete or partial sealing of homes, for the purpose of punishment and deterrence. In addition, demolition orders are sometimes issued not as a punitive measure under Regulation 119 (1) of the Defence (Emergency) Regulations, 1945, but as an administrative measure against illegal building in the territories, under the local building and planning laws.

B'Tselem's data indicate that punitive demolition and sealing of houses has been employed more extensively in the West Bank than in the Gaza Strip. From December 1987, to July 1989, 173 homes were demolished and 79 sealed in the West Bank, as opposed to 63 houses demolished and 19 sealed in the Gaza Strip. Some 4,000 people were left homeless as a result. In two cases, a number of houses were destroyed at the same time, following unusual incidents: 13 homes were destroyed in the village of Beita in the West Bank in April 1988, following a clash between Israeli hikers and local youths, in which one Israeli girl and two Palestinian boys were killed; and 33 buildings were destroyed in the refugee camp of al-Bureij in the Gaza Strip in September 1990, following the murder, at the hands of a rioting mob, of a reserve soldier who found himself in the camp by mistake. (See below.)

Hundreds of other houses have been demolished because they were built illegally. Five hundred and five houses in the West Bank were destroyed for this reason in 1988, according to information provided by the Defence Minister in response to a parliamentary interpellation. There are no official data available for 1989 and 1990, but Palestinian sources maintain that more than 400 homes have been destroyed for this reason from early 1989 to July 1990.<sup>40</sup>

There are no precise official figures as to the number of houses which have been demolished or sealed since the beginning of the uprising, as there is incongruence between the IDF Spokesperson's figures, the figures of the Defence Ministry, and those of other sources. A parliamentary interpellation presented by Knesset Member Haim Ramon on this matter on July 23, 1990 had not yet received a response at the time this report went to print.

The official policy as to the grounds for employing the measure of house demolition has changed from time to time since the beginning of the uprising. At first, only the houses of those suspected of offenses resulting in deaths were destroyed. In late March 1988, the media reported that the measure would also be employed against those suspected of throwing molotov cocktails, even if the petrol bomb caused no physical damage. In January 1989, a similar report stated that the measure would be used against those suspected of throwing stones, where serious bodily injury had been caused.<sup>41</sup>

In addition to the suffering caused to the family members of suspects in such cases, demolition by means of explosives frequently causes significant damage to neighboring buildings. In April 1988, the explosion of 13 homes in Beita damaged 22 neighboring buildings. In May 1989, 22 neighboring houses were damaged from the explosion of two houses in the village of al-'Arub. The government sometimes gives monetary compensation in such cases, but it seems that

the amounts paid are not always in keeping with the cost of the damage caused.

## 9. Uprooting of Trees

According to newspaper reports, thousands of trees were uprooted in the occupied territories during the uprising. There were similar reports regarding ruined agricultural fieldcrops. However, no general data are available from the authorities. Data based on reports in Palestinian newspapers gathered by the Jerusalem Media and Communication Centre during the 15 months from December 1987 to March 1989 show 229 incidents in which trees were uprooted, including 171 reports in which the precise number of trees affected was given. In these 171 cases, a total of 14,323 trees were destroyed, an average of 84 trees in each incident. Based on this average, the estimate is that in the 229 reported cases, a total of 19,000 trees were uprooted. In 192 cases (82%), the IDF was responsible. In 12 cases, responsibility was attributed to Jewish settlers, and in 28, to unknown factors.<sup>42</sup>

One may assume that in some cases, trees were uprooted as part of the expropriation of lands for public use, such as the widening of roads or the building of infrastructure for the laying of water pipes or electric cables. It would seem, however, that most cases were punitive measures, based on the military commander's authority to destroy anything growing on the ground under Regulation 119 (1) of the Defence (Emergency) Regulations, 1945. Thus, security forces often uproot roadside trees used as shelter for throwing petrol bombs or stones at passing traffic. For example, residents of the village of Bidya reported to a visiting B'Tselem team that more than 1,000 of their olive trees have been destroyed since the beginning of the uprising, although they were unable to provide B'Tselem with precise figures. (See report of B'Tselem's visit to the village of Bidya, in Appendix C of this report.)

To the extent that the owners of the trees are not directly responsible for such attacks, this measure must be examined in the context of the general ban on collective punishment. Since there are no official figures regarding this phenomenon, there is no way to know if the number of trees uprooted is in reasonable proportion to security needs. Likewise, there is apparently no mechanism of due legal process for the owners to state their cases. In certain instances, for example, it has been maintained that the trees affected were not at all at the site of the stone-throwing incident. Similarly, it has been claimed that these measures do not solve security problems as there are innumerable trees, that could replace the uprooted trees as cover for stone-throwers.<sup>43</sup>

It is important to note that there are cases in which the damage to trees was caused not by the military authorities, but rather by Jewish settlers living in neighboring settlements. Palestinian residents maintain that the manner in which the trees are damaged allows them to draw such conclusions. The military authorities generally pull the trees up by the roots, whereas settlers usually saw off branches and chop the trees down. (See report from B'Tselem's visit to the village of 'Abud, in Appendix B of this report.)

For instance, the mukhtar of the village of 'Abud in the Ramallah region told a visiting B'Tselem team that in the spring of 1988, 65 trees were uprooted (some of which belonged to him), following the torching of a bus transporting laborers from their jobs in Israel, which was parked in a lot near the site of the uprooted trees. The mukhtar maintained that in the following months, those responsible for the arson were arrested, and it transpired that they were all youths from a neighboring village who go to school in 'Abud.

In addition, the residents claimed that during the general curfew and prolonged night curfew imposed on the village in late May 1990, Jewish settlers chopped down a number of trees along the highway where the village is located. The B'Tselem team was given leaflets, dated June 21, 1990 and written in Arabic, that had been distributed in the village, in which the residents were warned: "To our neighbors... you'd better stop throwing stones, or we'll uproot and destroy your trees... ." The village mukhtar reported that since the beginning of the curfew, 322 trees had been chopped down along the highway.

إلى جيراننا ، نعلم السلام  
إننا نتمنؤكم بأمر لا تستمروا في رمي الحجور  
لأننا سنخذ كمن الأبروات بقطع الأشجار  
وتدمير مبورهم حتى مناصي بروتكم إلى  
حد أقصى  
والكفر هذا التحذير.  
٩.٦/٢١



**Awwad Muhammad Hamdan, 55 years old, from the village of 'Awarta, Nablus District.**

However, testimony has been given to B'Tselem regarding the chopping down of trees by the army, in fact, in the village of 'Awarta, following a stone-throwing incident. During the afternoon of September 27, 1990, young men from the village stood among the trees lining the road to the Jewish settlement of Itamar, and threw stones on the vehicles of settlers. Security forces, called to the scene by settlers, entered the village in order to apprehend suspects, but left empty-handed. Later, a bulldozer arrived at the place from which the stones had been thrown. The driver of the bulldozer sawed some 70 trees belonging to different residents of the village, and then whacked them with the bulldozer to uproot them from the ground. One resident reported that since the beginning of the uprising, 22 of his trees had been uprooted, and a second told of 31 trees. They both said they were waiting for the agricultural assessor who was supposed to give them an estimate of the damage.



## JUDICIAL REVIEW

The government of Israel's official policy is to honor in practice all the humanitarian provisions of the Fourth Geneva Convention. The question whether this decision creates binding legal norms, by virtue of internal directives issued by the military government and the Civil Administration in the occupied territories, has not been resolved. However, the High Court of Justice has held that under the circumstances of a long-term military government - and the Israeli experience being unique in the political culture at the close of the 20th century - the needs of the local population gain significance and weight in relation to the security needs of the military government.<sup>44</sup> Notwithstanding, the court has never admitted any petitioner's arguments as to the illegitimacy of a restrictive measure by reason of it contravening the humanitarian prohibition against collective punishment. But as will be seen, in certain cases the actual submission of a petition has led to the removal of a restriction by the authorities even prior to the hearing in court.

## 1. Night Curfew

A petition submitted by the Association for Civil Rights in Israel (ACRI) in HCJ 1113/90<sup>45</sup> attempted to challenge the legality of the extended night curfew imposed on the Gaza Strip and on the town of Jenin and the Daheisha refugee camp in the West Bank. (See above.) The petitioners contended that the imposition of a curfew each night over such an extended period of time and affecting so large a population - without any apparent connection to specific security incidents - amounted to arbitrary, unreasonable in the extreme, and excessive exercise of the power of the governmental authorities under the principles of international law.

The legal power to impose a curfew is laid down in section 89 of the Order Concerning Security Provisions (No. 378), 1970 and in section 124 of the Defence (Emergency) Regulations, 1945. The petitioners argued that this power ought to be limited to a given area for a given period of time and be employed for determined security needs, taking into consideration the severity of the anticipated threat to security. The absolute preference of alleged security considerations, while ignoring the basic needs of the civilian population and frustrating the possibility of maintaining normal day-to-day life, was an unreasonable policy that exceeded the limits of the power vested in the military government under Article 43 of the Hague Regulations, 1907. In these circumstances, the excessive use of curfew as an alleged preventive measure became collective punishment of the population. The imposition of curfew on hundreds of thousands of residents ought to be an extraordinary state of affairs and not a matter of routine, and the duty of the authorities was, at the very least, to remove the curfew from time to time so as to examine whether the policy justified such severe impact on the lives of the residents.

In May 1990, two months after the petition was submitted, and in consequence thereof, the night curfews on Jenin and Daheisha were lifted. With respect to the night curfew on the Gaza Strip, it was argued in response to the petition that it served essential security needs, enabling the military forces to combat the "strike committees" that act mainly under the cover of darkness, and that the court should refrain from intervening in security considerations such as these.

The hearing on the night curfew in the Gaza Strip was held in August 1990, and the court dismissed the petition for the reason that it had failed to find any defect in the consideration of operational military needs, while recommending that the regional military commander examine from time to time the need for the curfew and lift it, if possible, for the sake of the population.

## 2. Restrictions on Travel Abroad

The petition in HCJ 660/89<sup>45A</sup> challenged the legality of collective restrictions on travel abroad. It should be noted that the rulings of the High Court of Justice with regard to Israeli nationals acknowledge that a restriction on freedom of movement from Israel to other countries constitutes a severe infringement of the individual's civil rights. There must therefore be serious fear or well-founded judgment of the existence of a concrete danger that the individual's travels abroad would cause significant damage to national security. The circumstances, by their nature, require that the order be issued immediately, but a right of hearing should be accorded as soon as possible thereafter.<sup>46</sup>

The petition in the above case concerned restrictions on several villages in the West Bank, contending that they were serious infringements on the right to freedom of movement from and to one's country of residence, as recognized in Article 13(2) of the Universal Declaration of Human Rights, 1948 and Article 12(2) of the International Covenant on Civil and Political Rights, 1966. Even if the authorities had power to restrict this right collectively on well-founded security grounds, it was argued that a distinction should be made between a state of military occupation in times of actual combat, the period of establishing military rule immediately after a cease-fire, and long-term military occupation. As regards the latter, the power should be limited to individual persons or, at the most, to defined groups of population for brief periods of time.

In the context of Israeli rule over the territories, it was argued, the authorities should address the requests of individual residents for permits to leave the region and exercise discretion out of consideration for personal circumstances. The imposition of a general and sweeping travel prohibition on entire localities did not further directly any security interest, and constituted collective punishment of all the inhabitants for security offenses allegedly committed by individual residents.

The authorities argued in response that the military government is empowered to control the entry and exit of persons in the region and to refuse to issue personal permits where there is fear of harm to security. In the case of travel to an enemy country it is sufficient if such fear has not been refuted. Furthermore, the restrictions were imposed on material grounds after examining the security needs of each of the affected localities. During the period of the uprising, the authorities had come up against difficulties in locating the organizers of hostile activities and those who assisted them by carrying messages outside the region. The restriction on the travel of residents of a given locality was a measure to prevent offenders from fleeing the region and other persons from transmitting information to hostile

bodies outside the region and receiving from them instructions for local activists. Thus, for example, the restriction on the village of Kufr 'Abbush in August 1989 was imposed after the kidnapping of an Israeli citizen, in order to detain those responsible for the act who had gone underground. Personal permits were issued if necessary even in localities subject to collective travel restrictions. Finally, it was argued that the restrictions were justified in terms of ensuring public order, because certain village mukhtars had resigned, thus preventing orderly contact with the military authorities.

In relation to these arguments, the petitioners contended that the scope of the restrictions did not comport with the immediacy of the security needs. In the immediate wake of a violent incident, during its actual investigation, there may be grounds to prevent the exit of all the residents of a given village, but this cannot justify a long-term restriction. With respect to the transmission of information and instructions, the petitioners charged that the efficacy of travel restrictions was doubtful, since a resident of a neighboring locality would not be prevented from carrying messages. As for the resignation of the mukhtars, the petitioners argued that this was an administrative matter bearing no relation to the alleged security needs that might justify the travel restrictions. The restrictions did not therefore serve the legitimate interests of preventing violent incidents or holding effective investigations, but were a sweeping and long-term collective infringement of rights, designed to put pressure on local residents, and their true purpose was collective punishment.

In the course of the time in which the petition was pending before the court, the restrictions were removed one by one. Likewise, in consequence of the petition, directives were prepared according to which any person affected by a general restriction on a locality could apply to the Civil Administration offices for an individual permit. The policy of this directive was to issue individual permits so long as there was no adverse intelligence information in relation to the applicant. If an application was rejected, an appeal could be made to a higher Civil Administration officer. In addition, officials at the Jordan bridges would be appointed to handle problems on the spot, if a person holding an individual permit was prevented from leaving.

After all this, the authorities finally submitted a statement that "for some time now there have been no villages in the region of Judea and Samaria in which the travel of residents to Jordan is generally prevented." In light of this and the new directives, the petition was withdrawn.

### 3. Disconnection of Telephone Lines

Following the disconnection of international telephone lines to the territories in March 1988, a petition was submitted to the High Court of Justice at the beginning of May by al-Haq, the Ramallah-based Palestinian human rights organization, and by two lawyers active in the organization.<sup>47</sup> Al-Haq claimed that the order prevented its routine telephone communications with its umbrella organization in Geneva, the International Commission of Jurists, as well as with other human rights organizations around the world. The petition stated further that the order affected the private practice of one of the lawyer petitioners from her office in Ramallah, preventing communication with her clients abroad, as well as with one of her two brothers residing abroad. The petitioners contended that despite the order, it was possible to make international telephone calls through East Jerusalem or areas within the Green Line, so that it could be concluded that the whole purpose of the order was to impose hardship, raising a question as to the legality of the exercise of this measure for purposes of collective punishment.

The court allowed the petitioners' request to issue an order nisi instructing the commander of IDF forces in the region to show cause (a) why the order should not be cancelled; (b) show why it should not be restricted to those residents with whom there existed specific grounds to suspect that the telephone would be used in the service of hostile activities; and (c) why he should not take more moderate measures such as restricting international communications by means of a switchboard. Thereafter, on June 23, 1988, an amendment to the initial order was promulgated, adding a right of appeal before an appellate board to any person whose request for a permit to use international telephone services had been denied.

In legal terms, the petitioners argued that the order exceeded the authority of the Military Commander under Regulation 130 of the Defence Regulations, which authorizes the commander to order restrictions on the use of telephone services "with respect to those persons or kinds of persons as he deems so deserving." The order also affected freedom of expression - by way of prior restraint - without meeting the requirement of the court's accepted rulings that there be danger to security in the degree of "proximate certainty." Finally, it was argued that the order's general and sweeping limitation was a violation of the prohibition against collective punishment, since one could not ascribe to all the inhabitants joint responsibility for the use of the telephone by individuals, and that the mechanism of permits and the right of appeal could not rectify all the above defects.

The court dismissed all the petitioners' arguments, without relating specifically to the prohibition against collective punishment or to the possibility of restricting the order to

specific persons suspected of hostile activity. The purpose of Regulation 130, held the court, was to supervise communications with countries abroad and to prevent contact with enemy elements, and such supervision is accepted in the practice of the civilized nations within the framework of the international laws of war. The employment of Regulation 130 was not unreasonable, for these reasons:

Reasonableness of the exercise of authority must be examined in light of the circumstances of the place and time, and its employment in a period of events that have the countenance of an uprising, fed also by external influence and guidance, cannot be regarded as senseless. The use of the telephone to transmit instructions from the headquarters of terrorist organizations to their activists in the field and to convey reports from the field, for instance, is an obvious and clear likelihood that goes beyond proximate certainty. The substitute, suggested by the petitioners, of listening to conversations, would not prevent such use of the telephone, for it could cut off the connection only after the words had been said. It is also not effective where agreed codes are used.

On the other hand, it is impossible to comprehend why the request of a permit should create a special difficulty for a person seeking to make an international phone call in good faith.\*

#### 4. Disconnection of Electricity and Water Supply

It is difficult to find any logical connection between any security need and disconnecting the supply of electricity or water to a given locality, a restrictive measure which affects the basic conditions of the civilian population's subsistence. When the restriction is imposed as a show of force in a "problematic" location, one may conclude from the general circumstances that this is in fact a forbidden act of collective punishment. But in other cases, irregularities in the supply of electricity or water to a given village are the consequence of inadequate infrastructure, and even simple administrative incompetence. One should distinguish such administrative failures from punitive arbitrariness. The issue of administrative failure is a matter of interpreting the duty of a long-term military government to ensure the basic needs of the population subject to its rule.

As already noted, despite the fact that the High Court of Justice has not so far admitted petitioners' arguments with regard to collective punishment, it is often the case that application to the court in itself leads to removal of the collective restriction. Indeed, this was the result of a petition submitted in relation to the disconnection of electricity in the village of Surif in May 1989, in HCJ 572/89 Brad'ayah v. Commander of IDF Forces in Judea and Samaria.

Surif is situated in the Hebron district in the West Bank, with a population of approximately 10,000. Electricity is supplied locally by two generators in the village, managed by the village council. On May 18, 1989 at 3:00 a.m., IDF forces imposed a curfew on the village, and in the course of the morning arrested some 45 residents. The soldiers also ordered the person in charge to open the structure housing the generators, and then dismantled them, removing different parts so that they could not be used to supply electricity.

The next day, the mukhtar of the village, together with members of the village council, went to the Civil Administration offices in Hebron and requested to renew the generation of electricity. They were told that they must submit a request in writing, which they did. Some two weeks later, at the beginning of June, the members of the village council were invited to a meeting on the matter, where an officer of the military government explained that the electricity had been cut off because of stone-throwing by village youths at army personnel. The mukhtar tried twice more to approach the Civil Administration authorities on the matter, at the end of June and again at the beginning of July, but to no avail. Finally, the mukhtar filed a petition with the High Court of Justice on July 12.

The petition described the hardships suffered by the village residents as a result of the disconnection of electricity:

There is no proper lighting in the houses, the refrigerators are not working and therefore people cannot preserve meat and milk products. As a result, the livelihood of the butchers and dairy producers has also been affected. There are some 10 carpenters and locksmiths in the village who cannot work because their machines are inoperable. The washing machines are inoperable. The television sets are also inoperable.

The petitioners claimed that disconnecting the electricity supply without giving the village council a right to be heard was an unreasonable and arbitrary violation of the governmental duty to guarantee public order and daily life, and that the employment of this measure as punishment for disturbances in the village was forbidden under the rules of international law. The 10,000 residents of Surif could not be regarded as jointly and severally responsible for the stones thrown by a handful of youths, especially since it had not been proven that those responsible for those incidents were in fact residents of the village.

The petition also referred to a letter from the Military Advocate General to the ACRI legal advisor, dated March 8, 1988. The letter stated:

Indeed the IDF commanders do not have legal power to disconnect electricity as a punitive or deterrent act, but only for security reasons and for short periods, as required by the circumstances (for instance, to prevent subversive broadcasts).

In the case of the village of Surif it was clear that there was no relation between the decision to cease the generation of electricity and the security of the IDF forces or the region.

Four days after submitting the petition, on July 16, 1989, representatives of the village council were informed that the generation of electricity would be permitted again, and the generator parts removed by the soldiers were returned. The petition was therefore withdrawn.



## 5. Demolition and Sealing of Houses

In the context of house demolition, too, the argument that this measure violates the prohibition against collective punishment has not succeeded in the High Court of Justice. In a series of judgments, various panels of justices have repeatedly dismissed the argument.

A military commander is empowered to order the demolition or sealing of a house under Regulation 119(1) of the Defence (Emergency) Regulations, 1945. This rule provides in its relevant parts as follows:

A military commander may by order direct the forfeiture... of any house, structure or land from which he has reason to believe that any firearm has been illegally discharged, or any bomb, grenade or explosive or incendiary article illegally thrown, detonated, exploded or otherwise discharged, or of any house, structure or land... the inhabitants or some of the inhabitants of which he is satisfied have committed or attempted to commit or abetted the commission or have been accessories after the fact to the commission of any offense against these regulations involving violence or intimidation or any military court offence; and when any house [or] structure or land is forfeited as aforesaid, the military commander may destroy the house or the structure or anything in or on the house, the structure or the land."

There have been several attempts to argue before the High Court of Justice that this regulation is invalid, in light of the prohibition against collective punishment under Article 50 of the Hague Regulations and Article 33 of the Geneva Convention, because of the suffering caused to family members who are not responsible personally for the offenses committed.

The severity of the demolition measure has indeed been acknowledged by the court as "drastic" in three respects: (1) it dispossesses the inhabitants of their living abode; (2) without it being possible to revoke the harm and restore the previous state of affairs; and (3) while sometimes affecting neighboring residences.<sup>49</sup> Nevertheless, the court's consistent position has been: The regulation empowering the military commander to order the demolition of a house is, indeed, a punitive provision, its main objective being to serve as a legitimate deterrent against the commission of similar acts, and thus to maintain public order. The court will review the lawfulness of the military commander's discretion and the reasonableness of the exercise of his power, balancing considerations relating to the severity of the acts attributed to the inhabitant and their consequences - in light of the scope of the phenomenon and

the need for a deterrent - as against considerations relating to the severity of the deterrent measure, its impact on the inhabitants of the structure and neighboring structures, as well as the degree of assistance that the inhabitants gave to the commission of the offense and the steps they took to prevent it.<sup>49a</sup> Notwithstanding, the entailed suffering of the offenders' families is not sufficient to prevent the employment of this severe measure.<sup>50</sup>

The reasoning of this position was explained in HCJ 698/85 as follows:<sup>51</sup>

There is no ground to the petitioners' complaint that house demolition amounts to collective punishment. They claim that no one but the terrorists and the offenders themselves should be punished, whereas house demolition affects other family members who are rendered homeless. Were we to adopt such interpretation, the above regulation and its provisions would be emptied of content, leaving only the possibility of punishing a terrorist who lives alone by himself in the house.

The objective of the regulation is to attain a deterrent effect, and such effect by its very nature must apply not only to the terrorist himself but also to those surrounding him, certainly the family members living with him. He must know that his criminal acts will harm not only himself but might also cause great suffering to his family. In this respect the sanction of demolition is no different from imprisonment imposed on the head of a family, a father of young children, who are left without a supporter and provider. Here too, the family members are affected. However, ... a petitioner is obliged to take this into account before committing his crimes, and he must know that his family will also perforce suffer the consequences of his acts. ... Needless to add that the concept of "collective punishment" bears no relation at all to the sanction of house demolition: in the case before us it is clear that the terrorists departed from certain houses, and these houses - and no others - are to be demolished. It follows that the "punishment" is not imposed on other houses of uninvolved persons, and it is difficult to see where the argument that this concerns collective punishment arises in this case.

This reasoning is not entirely lucid. First, the reasoning that the argument as to collective punishment cannot be admitted, because it empties the regulation of content, begs the question. If the entire regulation does indeed contradict the prohibition in international law against

collective punishment, then it exceeds the power of the military government according to the laws of belligerent occupation, and is invalid.

Second, not every exercise of Regulation 119(1) necessarily contradicts the rules of international law, and this depends on the circumstances of each case. For example, Article 53 of the Fourth Geneva Convention grants the power to demolish a structure "where such destruction is rendered absolutely necessary by military operations" - that is, where there exist imperative military needs. The demolition of a structure that serves as a base for hostile "military" action might be regarded as an imperative military need, and likewise a house from which a weapon has been fired or a bomb, hand grenade, explosive or incendiary article has been thrown, as provided by the regulation. What is more, the regulation also refers to situations in which the inhabitants of the house are themselves responsible in a way for the offense, in that they "abetted the commission or have been accessories after the fact." Under these circumstances, demolition of the house would not constitute collective punishment of innocent persons.

Third, the fact that the family members of an offender might be affected by a punishment imposed upon him after standing trial in a court of law, and that penal sanctions of this kind may contain a deterrent factor, does not justify the exercise of an administrative power to punish people for purposes of deterrence, without inquiry into the question of the responsibility - albeit passive - of the persons affected, in violation of the rules of international law. And the question of responsibility should be examined by due process of law, including the right of persons affected to be heard on the matter.

The question of the right to a hearing before execution of a demolition order was brought before the High Court of Justice in HCJ 358/88.<sup>2</sup> This principled petition was preceded by another petition, both submitted by ACRI, subsequent to a violent incident that occurred in the village of Beita in April 1988. A group of Israeli youths from a neighboring Jewish settlement went on a hike during Passover, accompanied by two armed escorts, but without coordination with the IDF forces in the area, and encountered a group of Palestinian youths from the village. In the course of the clash that ensued, two residents of the village and one Israeli girl were killed by bullets fired by the escorts. Several more Israeli hikers were also wounded. The army immediately declared the village a closed military zone, and demolished 13 houses without further ado. It transpired afterwards that one of the demolished houses was owned by a village resident who had in fact given cover to the Israeli youths until the IDF forces arrived on the spot. The petition submitted to the High Court of Justice was meant to prevent demolition of additional houses without the right to a hearing. However,

after the military authorities agreed to give advance notice of 48 hours as to the demolition decision, to allow for appeal to the appropriate tribunal, the petition was withdrawn.

The agreement reached in the Beita matter was limited to that particular case. Therefore, a second petition was submitted four months later in order to clarify the question of the right to a hearing as a matter of general principle, and to establish determinate and general rules of appeal on a decision to issue a demolition order. The petitioners claimed that there should be an opportunity to appeal to the commander who issued the order prior to its execution, to try to persuade him that the order ought not be issued under the circumstances of the particular case, and that there should be an additional stay in the order's execution to allow a petition to the High Court of Justice where the commander refused to revoke his decision.

Precisely because of the severity of this punitive measure, the petitioners argued, the right to a hearing should be strictly observed as a rule, so that the decision be well-considered and based on appropriate factual grounds: "When an order is issued immediately after a horrifying terrorist act, or a grave incident (as in the case of Beita), the military commander may reach a decision as a result of his and the public's emotional reaction, and often enough before the facts of the matter have been clarified and confirmed," it was stated in the petition. "The commander must act out of rational and material considerations. He is forbidden to act - and the public must not have any ground to fear that he acts - out of anger, or haste, or in a public atmosphere demanding revenge. A reasonable delay and a hearing of the affected person are the best guarantee for giving a considered decision." Denial of the right to a hearing might be justified only in exceptional cases, to prevent grave danger or to avoid complete frustration of the governmental action, or for immediate operational reasons such as preventing terrorists from hiding in the structure.

The response of the military authorities stressed, on the other hand, the deterrent effect of house demolition, as well as the importance of implementing the measure quickly and soon after the criminal act, so as not to frustrate the principle objective of maintaining law and order.

The court admitted the petition for the following reasons: The lawfulness of the military government's actions - as an arm of the Israeli executive - is examined not only under the rules of international law, but also according to the additional standards of Israeli administrative law. Therefore, judicial review of the discretion of a commander issuing a demolition order also examines whether the decision was properly considered and weighed. "The demolition of a building," noted the court, "is in all views a harsh and

severe penal measure, and its inherent deterrent force does not lessen its described character. One of its central features is that it is irreversible, that is, it cannot be corrected after the fact; this means that any hearing after implementation of the order will always be extremely limited in terms of its practical significance. According to our legal conceptions, it is therefore important that the concerned person be able to present his objections to the commander before the demolition, so as to inform him of facts and considerations that he might not have been aware of."<sup>33</sup>

The court ruled, accordingly, that the right to a hearing should be accorded before carrying out the decision, with an exception for operational-military circumstances, such as "when a military unit is carrying out an operation in the course of which it must remove an obstacle, or overcome opposition, or react on the spot to an attack on the military forces or on citizens occurring at the same time."<sup>34</sup> Except for cases of this nature, the court held that a demolition order issued under Regulation 119 should include notice regarding the possibility of retaining a lawyer and appealing the order before the military commander within a specific period of time prior to its execution, as well as the possibility of obtaining a further delay in execution by petition the High Court within a specific period of time prior to the order's execution. In urgent cases the court suggested that the structure may be sealed immediately, even before hearing the appeal or petition, instead of being demolished irreversibly.

The question as to the nature of the "operational-military circumstances" justifying an exception to the right to a hearing, arose recently in the wake of a fatal incident in al-Bureij refugee camp in the Gaza Strip on September 20, 1990, the first day of the Jewish New Year. A reserves soldier entered the camp unintentionally in his civilian car after losing his way, and was attacked by a violent mob. When he tried to flee the spot he collided, apparently in his haste, with a donkey cart carrying two children. A mob of dozens of people subsequently attacked him, pelting him with stones and finally setting fire to his car and burning him alive. The soldier was carrying a firearm but did not use it, and it appears that there had been no intentional provocation of the local people on his part.

The Israeli public responded by calling for employment of severe punitive measures, and the Military Commander of the Gaza Strip decided to demolish seven residential structures and 26 shops in the immediate vicinity of the spot where the incident occurred. The Association for Civil Rights again petitioned the High Court of Justice, on September 24, 1990, so as to allow the inhabitants - upon whom a curfew had been imposed - time to retain lawyers and take advantage of their right to a hearing.

The court issued an interim injunction against the demolition operation, and set a hearing on the order nisi for the following day, September 25. Prior to the interim order, 15 shops had been demolished.

The Military Commander submitted an affidavit, which stated that the section of the road in which the incident occurred had been a center of gravity for disturbances endangering traffic. Other measures had been taken - blocking the alleys from which stones were thrown and through which the culprits fled, and warnings given to the mukhtars - but to no avail. He had therefore concluded it was necessary to broaden the road to allow for better control by the IDF. The demolition decision was based on urgent military necessity to take measures vital to security in the area and the safe movement of vehicles along main routes, and it was not made as a punitive act. The argument made to the court was that under these circumstances there was no room for judicial review by way of according the right to a hearing. In any event, there was no suspicion that the inhabitants of the houses were actually involved in the murder, and there was therefore no point in hearing their arguments. The inhabitants would receive full compensation for the damage caused them, as well as alternative housing.

The argument that the decision was to expand the road and not to take punitive action sounded somewhat tenuous in view of the proximity of the events, and it did not explain why the action could not be delayed, if only for a few days, to allow the inhabitants to plead their arguments before the military commander.

The court, however, accepted the position stated by the Military Commander and cancelled the interim order.<sup>33</sup> The very same day the demolition operations were completed, and in addition, four houses of persons arrested as suspects in the murder of the soldier were sealed.

The court found that the decision was made because of urgent and immediate military necessity, and after taking into consideration the need to cause the least harm to the population as was possible under the circumstances. It added:

According a right to a hearing in the said circumstances, ... which means delay in carrying out the actions for the period required to hold a hearing in this court, ... would incur substantial danger to human life. ... In matters such as these the supreme value of preserving human life prevails over the value of the right to a hearing.

## CONCLUSION

This report addresses the various administrative measures employed by the military government in the West Bank and the Gaza Strip which raise a question of collective punishment, a practice forbidden by the norms of public international law. It addresses those measures that restrict the human rights of entire population groups - curfew and closure, closure of educational institutions, disconnection of telephone lines, restrictions on travel abroad, disconnection of electricity and water supply, and restrictions on marketing agricultural produce - as well as measures employed as a sanction consequent to the commission of a security offense against persons who are not personally responsible for its commission - demolition and sealing of houses, and uprooting of trees.

The report shows that only rarely are these measures employed with an express declaration that the purpose is punitive. Usually the official justification relates to security needs, prevention or deterrence. However, the general impression is that the discretion as to employment of these measures does not properly balance security considerations with considerations of basic human rights, and does not attach weight or importance to the governmental duty to guarantee as far as possible individual liberty, which falls within the general governmental duty to maintain normal everyday life under the laws of belligerent occupancy.

The universal norm prohibiting collective punishment is based on the accepted principle that responsibility for criminal acts is personal, whether we are dealing with a person who actually committed the act, or with others who were accessories to the crime in one way or another. It is therefore of utmost importance to establish a due process of law for clarifying the question of responsibility for the criminal act. This too is a matter of human rights.

The report also addresses the question of the judicial review exercised by the High Court of Justice in relation to the employment of collective punishment measures. It appears that in extreme cases, submission of a petition to the court was sufficient to induce governmental authorities to lift the restrictions. But where matters reached the stage of actual hearing before the court, it repeatedly dismissed the argument that the restrictive measure was unlawful because it amounted to collective punishment prohibited under international law. As regards house demolition, the court did order the authorities to observe a due process of law before employing the punitive measure, but the argument addressing directly the issue of collective punishment was not explored in depth, which is regrettable.

The motivation to employ collective restrictive measures is a matter of subjective intention, and thus difficult to prove.

Nevertheless, external features can provide an objective test for the question whether a given measure is punitive. Excessive use of restrictions that go beyond the principle of personal responsibility, in terms of the frequency, scope, and duration of their employment, indicate the existence of a punitive dimension even if not stated expressly. Where governmental discretion ignores the basic needs of the civilian population or restricts human rights to an unreasonable extent, it would seem to exceed the governmental power under public international law and violate the prohibition against collective punishment.

Finally, the prohibition against collective punishment is not at all foreign to legal thinking even within the Israeli system of law. It is appropriate therefore to conclude with a quotation from Judge Yaakov Bazak's classic treatise on penal policy in Israeli law:<sup>46</sup>

Criminal punishment is also subject to several basic limitations, which derive partly from principles of justice and morality and partly from commonly accepted humanitarian views. Punishment of an offender's family relatives, as well as punishment of innocent persons, even if such has a deterrent effect, is unacceptable, being contrary to principles of justice and equity.



## FOOTNOTES

1. "Personal Justice Denied: Report of the Commission on Wartime Relocation and Internment of Civilians" (Washington, D.C., December 1982); Hirabayashi v. United States, 320 U.S. 81 (1942); Korematsu v. United States, 323 U.S. 214 (1944).
2. R.W. Gehring, "Protection of Civilian Infrastructures," 42 Law & Contemporary Problems 86 (1978) pp. 98, 138.
3. J.W. Garner, "Contributions, Requisitions and Compulsory Service in Occupied Territory," 11 Am. J. Int'l L. 74 (1917) p. 81 [hereinafter: Garner I].
4. See, e.g., per Murphy J in Hirabayashi v. U.S., supra, p. 110.
5. See, e.g., per Frankfurter J in Korematsu v. U.S., supra, p. 224; Hirabayashi v. U.S., supra, p. 99; and also the Official Commentary, Geneva Convention IV, 1949 (ed. J. Pictet, Geneva 1958) [hereinafter: Pictet] pp. 201-202 .
6. See Gehring, supra, pp. 104-105. Cf. the February 1948 judgment of the Military Tribunal at Nuremberg in the matter known as "The Hostages Case," brought in The Law of War, Vol. II (ed. L. Friedman) pp. 1303, 1310.
7. See, e.g., HCJ 393/82 Jamayat Askaan El-Maalmun v. Commander of IDF Forces in Judea and Samaria 37 P.D. (4) pp. 785, 811.
8. Pictet, p. 225.
9. See, e.g., HCJ 393/82, supra, p. 793.
10. J.W. Garner, "Community Fines and Collective Responsibility," 11 Am. J. Int'l L. 511 (1917) [hereinafter: Garner II], pp. 516-517.
11. Ibid., p. 534.
12. Garner I, pp. 103-105.
13. G. Von Glahn, The Occupation of Enemy Territory: A Commentary on the Law and Practice of Belligerent Occupation (Minneapolis, 1957), p. 233.
14. "The Hostages Case," supra, p. 1320.
15. Von Glahn, p. 233; Garner II, pp. 528-530.

16. C. Reicin, "Preventive Detention, Curfews, Demolitions of Houses and Deportations: An Analysis of Measures Employed by Israel in the Administered Territories," 8 Cardozo L. Rev. 515 (1987) p. 526.
17. Garner II, p. 531.
18. Von Glahn, p. 234; Pictet, p. 225.
19. Cf., e.g., Hirabayashi v. U.S., supra, p. 113; and Korematsu v. U.S., supra, p. 218, and per Murphy J, ibid., p. 234; and also Reicin, p. 545.
20. Cf. The Hostages Case, supra, p. 1317.
21. Cf. Garner II, p. 527.
22. Ibid., p. 526.
23. Pictet, p. 226.
24. The System of Taxation in the West Bank and the Gaza Strip As an Instrument for the Enforcement of Authority During the Uprising (B'Tselem Report, Jerusalem, February 1990) pp. 34-37.
25. Cf., e.g. Korematsu v. U.S., supra, p. 219. See also Garner II, pp. 513, 525-526, 531; and Wright, The Killing of Hostages as a War Crime, 25 British Year Book of International Law (Oxford University Press, 1948) pp. 296, 309.
- 25a. See HCJ 660/88 Inash El-Ussra Society v. Commander of IDF Forces in Judea and Samaria 43 P.D. (3) pp. 673, 678.
26. Cf. Hirabayashi v. U.S., supra, pp. 107-108; Reicin, p. 557.
27. See also B'Tselem Information Sheet, June 1989.
28. Restrictions on the Right to Freedom of Movement in the Occupied Territories, Studies in Civil Rights in the Occupied Territories (2) (Association for Civil Rights in Israel, 1989) p. 32.
29. According to the response of the Minister of Defence on April 22, 1990 to a parliamentary question presented by Knesset Member Haim Ramon on December 12, 1989.
- 29a. According to information given during the curfew by inhabitants to Attorney Shlomo Lecker.

- 29b. For details see The System of Taxation in the West Bank and the Gaza Strip - As an Instrument for the Enforcement of Authority During the Uprising, supra, pp. 34-37.
30. Nation Under Siege, al-Haq Annual Report on Human Rights in the Occupied Palestinian Territories, 1989, pp. 366-367.
31. Bitter Harvest: Israeli Sanctions Against Palestinian Agriculture During the Uprising, December 1987 - March 1989 (Jerusalem Media and Communication Centre, May 1989) pp. 5-9.
32. See, in general, B'Tselem Information Sheet, October 1990.
33. A. Shalev, The Intifada: Causes and Characteristics (Tel Aviv 1989) pp. 131-136.
- 33a. Section 91(a)(2) of the Order Concerning Security Provisions (No. 378), 5730-1970.
34. See also B'Tselem Information Sheet, November 1989.
35. Restrictions on the Right to Freedom of Movement in the Occupied Territories, supra, p. 39.
36. HCJ 660/89 Hama'il v. Commander of IDF Forces in Judea and Samaria. The petition was withdrawn prior to its hearing, after the restrictions were lifted.
37. Defence (Emergency) Order (Restriction of Use of Telephone Services) (Provisional Order) (Judea and Samaria), 5748-1988.
38. Bitter Harvest, supra, pp. 9-14.
39. See at length in House Demolition and Sealing as a Punitive Measure in the West Bank and the Gaza Strip During the Uprising (B'Tselem Report, September 1989).
40. See B'Tselem Information Sheet, Restrictions on Residential Building in the West Bank, August 1990.
41. See also HCJ 610/89 Bahri v. Commander of IDF Forces in Judea and Samaria 43 P.D. (3) p. 177.
42. Bitter Harvest, supra, pp. 14-17.
43. Nation Under Siege, supra, pp. 414-415.
44. See, e.g., HCJ 393/82, supra, pp. 794, 800-801.

45. HCJ 1113/90 Shawwa v. Commander of IDF Forces in Gaza Region. The judgment of August 19, 1990 has not yet been published.
- 45a. *Supra*, note 37.
46. HCJ 448/85 Daaher v. Minister of Interior 40 P.D. (2) p. 701.
47. HCJ 270/88 L.S.M. - Law in the Service of Man v. Commander of IDF Forces in Judea and Samaria 40 P.D. (3) p. 260.
48. *Ibid.*, p. 263.
49. HCJ 361/82 Hamri v. Commander of Judea and Samaria 36 P.D. (3) pp. 439, 443, 444.
- 49a. HCJ 798/89 Shugri v. Minister of Defence. The judgment of November 27, 1989 has not yet been published.
50. See, e.g., HCJ 434/79 Sahawwil v. Commander of Judea and Samaria 34 P.D. (1) pp. 464, 466; HCJ 22/81 Haamed v. Commander of Judea and Samaria 35 P.D. (3) pp. 223, 224; HCJ 274/82 Hamaamra v. Minister of Defence 36 P.D. (2) pp. 755, 756; HCJ 779/88 Alfasfus v. Minister of Defence 43 P.D. (1) pp. 576, 578; HCJ 387/89 Rajbi v. Commander of IDF Forces in Judea and Samaria 43 P.D. (3) p. 177; HCJ 610/89 Bahri v. Commander of IDF Forces in Judea and Samaria 44 P.D. (1) p. 92.
51. HCJ 698/85 Dajlass v. Commander of IDF Forces in Judea and Samaria 40 P.D. (2) pp. 43, 44.
52. HCJ 358/88 Association for Civil Rights in Israel v. Commanding Officer, Central Command 43 P.D. (2) p. 529.
53. *Ibid.*, p. 540.
54. *Ibid.*
55. HCJ 4112/90 Association for Civil Rights in Israel v. Commanding Officer, Southern Command - as yet unpublished.
56. Y. Bazak, Criminal Punishment (Dvir, 1981) p.68

## APPENDIX A

### Field Trip to the Village of 'Awarta July 8, 1990

From B'Tselem: Bassem 'Eid, Carmel Shalev, Kenneth Mack

#### Data on the Village

The village of 'Awarta is situated southeast of Nablus. The approach to the village is from a secondary road, off the main Nablus-Jenin road leading to the settlement of Tel-Ha'im.

According to data in the West Bank Database Project's West Bank and Gaza Atlas, the area of the village is 1,540 dunams, and its population was 2,978 in 1987.

According to the testimony of village residents with whom we met, the population of the village is approximately 4,000. All the residents work in agriculture for their livelihood. Approximately 400 men work in addition as laborers in Nablus and in Israel.

There is a primary school in the village for boys and girls, where they learn in separate classes. Approximately 50 pupils are enrolled in secondary school outside the village, and approximately 50 students are enrolled in universities.

The village has a private medical clinic, but there is no local doctor. A doctor comes to the village for three hours every day. There is no telephone in the village. There used to be one switchboard which is no longer operable.

#### Water and Sewage

There is no water infrastructure or sanitation system in the village. Some of the residents have water cisterns in their courtyards. Others bring water in jerrycans from a spring, situated east of the village, approximately one kilometer from its center. In the absence of a sanitation system, the residents use private sewage pits, which they empty every few months by means of a Nablus contractor who provides a truck with an appropriate pump.

#### The Village Lands

According to the testimony of the residents with whom we met, the village owns approximately 6,000 dunams of land. Between 500 and 1,000 dunams were expropriated for the establishment of the Elon Moreh settlement at its initial location, and these lands were not returned after the settlement was moved

to its present location (following a High Court of Justice decision). In addition, the Tel Ha'im settlement was established in 1984 on 700 dunams of village lands.

According to the village planning scheme, the villagers claimed, the built-up area of the village extends over 131 dunams. Since the beginning of the occupation there have been no building permits for new houses, and since 1985 there have also been no permits for building extensions. Three houses that were built without permits were demolished in recent years.

Three thousand dunams of the village lands are cultivated by the residents. They claim that they are afraid to cultivate lands to the north of the village, near the Tel-Haim settlement, since there were some cases in which the settlers chased them away.

The residents claim that since the beginning of the Intifada, between 2,000 and 4,000 olive trees along the road leading to Tel-Haim were uprooted, apparently following the throwing of stones from the cover of the trees.

### Agriculture

As already mentioned, all the inhabitants of the village work in agriculture, with basic non-mechanized tools. There is no irrigation system. The crops are mainly seasonal: tomatoes, squash, okra, wheat, barley, sorghum, broad beans, sesame, chickpeas, lentils and sheep fodder. There are approximately 500 goats in the village, between 70 and 100 cows, and approximately 4,000 chickens in home coops. The residents did not receive licenses to keep modernized chicken runs.

All the agricultural produce is for the exclusive consumption of the village residents, except for olive oil (in good years) which is sold to a merchant from outside the village. The residents claimed that they never bothered to ask the Civil Administration for a license to export the oil to Jordan.

### Contacts with the Civil Administration

Since the beginning of the Intifada, the residents have encountered bureaucratic delays in their contacts with the Civil Administration. For six months they have not been able to renew vehicle licenses, and are forced to use the services of a collaborator (in exchange for payment of several hundred shekels) or to sell their cars. They claim that even when they obtain the required certification from the various authorities, they are still held up at the Civil Administration, where they are told to go and come back, or referred to the General Security Services, or told simply that "permits are not given to 'Awarta." Our impression was that these complaints are not out of the ordinary.

## The Curfew

On May 20, 1990, there were stone-throwing incidents and the main entrance to the village was blocked, following the murder of the seven Gazan laborers at Rishon L'Tsion. During the day the army could not enter the village. At midnight, the soldiers entered the village and announced a curfew by means of a megaphone.

After the murder at Rishon L'Tsion, a general curfew was imposed on the entire West Bank and Gaza Strip. The curfew imposed on 'Awarta was unusual in its duration. In all other areas the curfew was removed within three or seven days. The curfew in 'Awarta lasted for 15 days, until June 5, 1990. Seven days after it was first imposed, the curfew was raised for two hours, so that residents could stock up on food and water. Aside from this time, the curfew was not raised at all during the entire period. During the curfew there were occasional disturbances and clashes with soldiers.

When a curfew is imposed for a long period, one of the main problems is that the residents do not know in advance for how long to prepare to be closed up in their homes. In the case of the village of 'Awarta, the villagers live at a subsistence level from agricultural produce raised exclusively for self-consumption. The economics of the place are such that even if they knew in advance how long the curfew would be, they would not have the means to care for their basic daily needs. The people of the village told us, for example, that when the curfew was raised to stock up with food, they discovered that many of the products in the stores had spoiled or rotted, except for cans of preserves, not high in nutritional value.

In addition, some of the residents who make a living as wage laborers outside the village complained that they had lost their jobs because they were unable to get to work during the curfew.

### Personal Suffering

During the curfew, the residents suffered mainly from lack of water, because they were not allowed go from their houses to the spring. Their solution was to pass water from neighbors' cisterns over the fences. This water served primarily for drinking, and for essential laundry and washing (primarily for young children). Similarly, residents were unable to leave their houses to bake pitot at the wood ovens located among the houses at various locations in the village. Some of the inhabitants also encountered sanitation problems, when the sewage pits filled and they were unable to empty them. The solution was to use buckets for toilets.

In addition, some of the inhabitants were prevented from receiving their routine medical treatment and medication. According to the testimony of the residents with whom we met, when the curfew was removed, they discovered that an old woman had died, since her neighbors and daughters could not reach her home to take care of her. In one instance, the soldiers allowed a woman in labor to leave the village for the maternity hospital in Nablus, but did not allow her husband to accompany her. The residents said there was a traditional midwife (daya) in the village, an old woman who does not normally work anymore, except for helping women give birth in emergency cases.

### Damage to Agriculture

Aside from the personal suffering of the residents, much damage was caused to the agriculture. The period of the curfew overlapped with the time of the wheat harvest - some 3,000 dunams, according to the testimony of the residents. Since they could not harvest the crop on schedule, it dried in the sun, and approximately one third of the crop was lost when it was gathered after the curfew was lifted, blown away by the wind. One of the residents stated in an affidavit that the entire crop of three dunams of lentils was destroyed as a result of drying up and scattering over the ground at the time when it should have been harvested.

Immediately following the wheat harvest, the farmers were supposed to sow new crops, such as sesame, corn and tomatoes. The delay caused by the curfew will apparently affect the size of the yield, because the earth dried up before planting. The residents claimed, for example, that there is a marked difference between their corn fields and those of neighboring villages that were not subject to the curfew.

Similarly, the farmers could not plough land in their olive orchards or prune the trees during the curfew. The pruning done subsequent to the curfew period was more difficult because the branches had dried up.

One of the residents stated in an affidavit that he could not get from his home to his grocery store where he tends chickens in the backyard. After the curfew was lifted he discovered that all 49 chickens had died.

These are the affidavits given by the residents of the village:



## AFFIDAVIT [TRANSCRIPT]

I the undersigned, Hassan Qasem Qawariq, I.D. 962501813, having been warned that I must state the truth and that I shall be subject to the penalties prescribed by law if I fail to do so, hereby declare in writing as follows:

1. I am 67 years old, a resident of 'Awarta village, father of nine children.
2. I own a grocery store in the center of the village.
3. My home is approximately 500 meters from the store.
4. In the backyard of the store I raise chickens, up to approximately 250, for the purpose of selling them to the residents of the village for food.
5. At the time the curfew was imposed, on the night of May 20, 1990, I had 49 chickens.
6. Throughout all the days of the curfew I could not reach the store. I could not open it for business, nor could I water and feed the chickens.
7. When I reached the store after the curfew was lifted on June 5, 1990, I discovered that all 49 chickens had died.
8. In addition to the store, I also work as a farmer. I have private ownership of 30 dunams, and partial ownership of another 30 dunams. During the curfew I could not leave the village to cultivate my lands.
9. As a result, three dunams of lentils were destroyed. The lentils were ready to be harvested; they dried up and scattered on the ground. I had 17 dunams of wheat, one third of which dried-up and was irreparably damaged. In addition, five dunams of bakiya, fodder for sheep and goats, dried up and fell on the ground.

I, Carmel Shalev, attorney, hereby confirm that Mr. Hassan Qasem Qawariq, who identified himself with I.D. card no. 962501813, appeared before me in his store in the village of 'Awarta on July 8, 1990, and after I warned him that he must state the truth and that he shall be subject to the penalties prescribed by law if he fails to do so, he testified to the truth of the above statement and signed it.

## AFFIDAVIT [TRANSCRIPT]

I the undersigned, Nadia Ahmad Muhammad Awwad, I.D. 960620623, having been warned that I must state the truth and that I shall be subject to the penalties prescribed by law if I fail to do so, hereby declare in writing as follows:

1. I am 52 years old, a resident of 'Awarta village, and there are 17 people in my family.
2. There is no running water in my house. There is no water cistern in my courtyard.
3. I have approximately 20 jerrycans in my home, and every two or three days I go with the women of my household to the spring, which is at a walking distance of about a quarter of an hour, and we fill up water.
4. At the time of the curfew that was imposed on May 20, 1990, the water in the house ran out after three days.
5. On the fourth day I went with one of my daughters to the spring, each one of us carrying a jerrycan on her head.

We filled up water there, and on our way back we came across three soldiers.

7. The soldiers took the jerrycans from our heads and spilled the water on the ground. One of the soldiers hit me on the arm. He said things I did not understand, and we left the place, leaving the jerrycans.
8. Throughout all the days of the curfew we did not wash. One time we brought water for laundry from neighbors who have a water cistern, and every day we brought drinking water from them.
9. This is my name, this my signature, and the content of this affidavit is true.

I, Carmel Shalev, attorney, hereby confirm that Mrs. Nadia Ahmad Muhammad Awwad, who identified herself with ID card no. 960620623, appeared before me in her home in the village of 'Awarta on July 8, 1990, and after I warned her that she must state the truth and that she shall be subject to the penalties prescribed by law if she fails to do so, she testified to the truth of the above statement and signed it.

## AFFIDAVIT [TRANSCRIPT]

I the undersigned, Najiyah Ahmad Muhammad Abdat, I.D. 960600823, having been warned that I must state the truth and that I shall be subject to the penalties prescribed by law if I fail to do so, hereby declare in writing as follows:

1. I am 55 years old, a resident of 'Awarta village, living with my father and mother.
2. My father is approximately 80 years old, and he suffers from heart disease and urinary problems.
3. My mother is also approximately 80 years old, and she suffers from paralysis of the right side of her body, due to a nerve disease.
4. My father is being treated by a physician from Nablus, a specialist for heart problems, Dr. 'Izat al-Sharif.
5. My mother is being treated by a physician from Nablus, a specialist for nerve problems, Dr. Najih Zein al-Din.
6. Both my parents regularly take medication, which we have been buying for years at a pharmacy in Nablus, Mazhdi Pharmacy.
7. Three days after the curfew was imposed on May 20, 1990, these medications ran out: my father's Cordil 5, Spasmalgin, and Serepam; and my mother's Kaluril, and Corotenol.
8. There were soldiers sitting on the fence of our neighbors' house. I went outside to talk with the soldier. I told him that we have two sick people whose medicine has run out, and that I want to look for a car to go and bring the medicine. The soldier told me that there is a curfew, and one cannot go out during the curfew, and that I must go home immediately. I went home.
9. One week after the curfew was imposed I heard that representatives of the Red Cross had come to the village and were set up near the mosque. I went to them with the [empty] medicine packages, and the next day they brought me the medication.
10. My father was in a difficult condition with pains in the chest and shortness of breath and swelling in the legs.
11. My mother, during the week that she did not receive her medicine, could not stand on her feet,

and suffered from high blood pressure.

12. This is my name, this my signature, and the content of this affidavit is true.

I, Carmel Shalev, attorney, hereby confirm that Mrs. Najiyah Ahmad Muhammad Abdat, who identified herself with ID card no. 960600823, appeared before me in her home in the village of 'Awarta on July 8, 1990, and after I warned her that she must state the truth and that she shall be subject to the penalties prescribed by law if she fails to do so, she testified to the truth of the above statement and signed it.

## AFFIDAVIT [TRANSCRIPT]

I the undersigned, Fozan Awwad, I.D. 932516545, having been warned that I must state the truth and that I shall be subject to the penalties prescribed by law if I fail to do so, hereby declare in writing as follows:

1. I am 31 years old, a resident of 'Awarta village, living with my mother, my wife, and my one year old son.
2. There is no running water in my house, there is no water cistern in the yard, and we bring water from the spring and fill a three cubic meter tank on the roof of our house.
3. On the sixth day of the curfew that was imposed on May 20, 1990, the water in my house ran out. From then, until the curfew was lifted, we brought water for drinking and washing the baby from neighbors who have a water cistern in their yard.
4. We do not have any sewage pipes in the house but we have a sewage pit which we empty every three months by means of a pump from a Nablus contractor.
5. On the ninth day of the curfew the sewage pit became full, and we could not bring the contractor to empty it. The house filled with odors, and we were forced to relieve ourselves in a bucket.
6. I work as a farmer for the family's livelihood. I have seven dunams of wheat and barley, and I had four dunams that were planned for sowing sesame, and about half a dunam planned for okra.
7. Because of the curfew I could not harvest the wheat and the barley, and about one third of the crop was damaged. It dried up and scattered over the ground.
8. After the curfew I sowed the sesame approximately 12 days late. Because of the delay, the growth of the seeds was damaged.
9. This is my name, this my signature, and the content of this affidavit is true.

I, Carmel Shalev, attorney, hereby confirm that Mr. Fozan Awwad, who identified himself with I.D. card no. 932516545, appeared before me in the home of his friend in the village

of Awarta on July 8, 1990, and after I warned him that he must state the truth and that he shall be subject to the penalties prescribed by law if he fails to do so, he testified to the truth of the above statement and signed it.

## APPENDIX B

### Field Trip to the Village of 'Abud July 15, 1990

From B'Tselem: Bassem 'Eid, Carmel Shalev, Kenneth Mack

#### Data on the Village

The village of 'Abud is situated northwest of the town of Ramallah, and lies along the length of a road serving several Arab villages and the Jewish settlements of Neve Tzuf - Halamish and Ateret.

According to data in the West Bank Database Project's West Bank and Gaza Atlas, the area of the village is 390 dunams, and its population was 1,610 in 1987.

According to the testimony of village residents with whom we met, the population of the village is approximately 2,000, part Moslem and part Christian. The livelihood of most residents derives from the labor of family members in Ramallah and in Israel. Some of the residents are supported by family members working in Saudi Arabia and Kuwait. In addition, those who cannot find employment as manual laborers work in agriculture, growing mainly olives, but also grain and legumes.

There are four schools in the village, two private and two governmental. Boys and girls learn together in the private schools, one from first to sixth grade, and the other from first to ninth grade. The Civil Administration maintains a girls' school from first to twelfth grade, and a boys' school from seventh to twelfth grade. Students from neighboring villages also attend these schools. Approximately 40 village youths study at Bir Zeit and Bethlehem Universities, or at universities abroad.

The village has a private medical clinic, open for three hours two days a week. For the past five months, a physician, who has returned from the U.S.A., has been living in the village, and he receives patients in a private clinic in his home. During the time of our visit to the village, the physician was away in Jordan. The women of the village go to a hospital to give birth, and there is no local dava. There is no public maternal-child health clinic in the village.

There used to be one telephone in the village, but it is no longer in working condition. According to the testimony of the residents, the telephone line was disconnected approximately 15 years ago when the road passing through the

village was paved. The mukhtar, who has been in office since 1965, when the village was under Jordanian rule, said that he had submitted many complaints about this to the Civil Administration, but without result.

According to the testimony of the residents, approximately four years ago the Administration prepared the base for paving a road that circumvented the village, and for that purpose expropriated agricultural lands and uprooted trees, causing damage valued at tens of thousands of dinars. The residents had given their consent, but the road is not in use because the asphalt was never laid.

In the village, on the road, there is a permanent IDF look-out post and roadblock.

### Curfew

According to the testimony of the residents, more than ten curfews were imposed on the village, for periods ranging between three and eight days. As mentioned, there is a permanent IDF presence in the village, but during curfew, Border Police forces enter.

(1) Only once, during a curfew imposed on January 8, 1990, was the curfew lifted for one hour, on January 14, to stock up with food, after the residents went in an organized fashion to Sunday services at the church. This curfew ended on January 16.

On January 13, the residents said, an elderly man died after inhaling tear gas fired near his home. His family moved him to Augusta Victoria Hospital in Jerusalem, but he died the following day. When they returned to the village with the body, soldiers stopped them at the roadblock, and the body remained there for approximately two hours. Finally, the soldiers allowed them 15 minutes for burial, while limiting the number of those attending the ceremony to 15 persons.

(2) In April 1990, during the Ramadan fast, a curfew was again imposed on the village for four days. One night the soldiers called over the megaphones to all the men between the ages of 14 and 40 to leave their homes and assemble near the army stronghold. They ordered them to stand against the wall with their hands above their heads from 9:00 p.m. till 9:00 the next morning. If they wanted to urinate, they were told to do so where they were.

Those that were late in reaching the place were beaten, and in some cases the soldiers extinguished cigarettes on their arms. The witnesses said that one soldier forced them to shout slogans such as "Kahane is good" and "Abud village throws stones," shooting in the air if they refused to obey. The residents of the village believed that they were gathered



along the road so that the Jewish settlers would see them when passing by.

At 4:00 a.m., some women asked to bring their family members food and drink because of the Ramadan fast, but the soldiers prevented them from doing so. In the end, at 4:30, the men were allowed to smoke a cigarette and drink a glass of water.

The witnesses spoke of a youth, Raid Marwan, 16, who was beaten after being blindfolded with a rag. He was left all night long blindfolded with his hands tied. When his father asked to take him home, the soldiers said "first we have to finish with him."

Marwad 'Abd al-Majid, 17, had a bandage on one of his arms and could not lift it above his head. The soldiers hit him on the wounded area, and he still could not lift his arm. The soldiers told him to do push-ups on the floor, and forced him to run. Finally, they hit him until he fell down on the floor, exhausted.

Yusuf Mahmud Saleh, 24, vomited several times, but the soldiers refused his request for a glass of tea. A neighbor from the house opposite heard his shouts and prepared some hot tea for him, but she was told to return home. Only after an hour did the soldiers give him the glass of tea, which had cooled in the meantime.

At 8:30 a.m., the representative of the Civil Administration from Halamish arrived at the mukhtar's home. The representative asked the mukhtar: "What is going on?." He answered, "What, you don't know?" and the representative told him "Now I shall go to release them."

### The Night Curfew

On May 21, 1990, the day after the murder of the workers at Rishon L'Tsion, at 4:00 a.m., a curfew was imposed on the village which lasted four days. When the full curfew was lifted, a night curfew was imposed for 31 consecutive nights. It was also announced subsequently from time to time. The night curfew was announced each night, usually around eight o'clock but sometimes even at six, and was raised the next morning around six o'clock. Sometimes the soldiers announced the hour of the curfew's end in advance, and sometimes they announced its end in the morning. The residents claimed that during the night curfew, the soldiers used to throw tear gas grenades and "shock grenades" (which only make noise), and shoot in the air near the residents' homes.

The residents also claimed that under cover of the night curfew, settlers from the neighboring Jewish settlements would chop down olive and fruit trees. On our visit to the village we did, indeed, see many trees along the road whose

branches had been cut off. The residents claimed that when the army uproots trees after stone-throwing incidents, the trees are uprooted by a bulldozer. The residents gave us a notice written in Arabic that was distributed in the village at the end of June 1990, which read as follows:

To our neighbors, greetings!  
We warn you not to continue throwing stones, because we  
will take measures, uprooting and destroying trees until  
the harm reaches your homes  
Therefore this warning

June 21, 1990

The residents with whom we met, including the mukhtar of the village, claimed that the village is normally quiet, and that there were only a few stone-throwing incidents. The mukhtar believed it was possible that those responsible were youths from neighboring villages who study in the village schools.

The meaning of night curfew is that house arrest is decreed on all the residents of the village, without advance notice. Residents who work at night, for example in bakeries, cannot reach their places of employment. Jihad Saleh said that he has been working in the warehouse of the "Hyper" supermarket in Or Yehudah for the past four years and is sometimes required to stay there until ten o'clock at night. He claimed that one of his employers wanted to fire him because of the disruptions caused by the night curfew, but the employer's partner told him to continue to come to work.

When the village is under night curfew the residents cannot take walks to breathe fresh air after the day's work. They cannot visit their relatives and neighbors to comfort them in their mourning. We heard that on the afternoon of July 12, 1990, there was a wedding celebration for two brothers and their brides, but the guests were dispersed to their homes before eight o'clock, and a night curfew was imposed. However, the mukhtar of the village, who gave us a detailed affidavit on the events of the continuous night curfew, had not heard of this.

This is the text of the affidavit given by the village mukhtar, Salim Mussa 'Akhfuss:

### AFFIDAVIT [TRANSCRIPT]

I the undersigned, Salim Mussa 'Akhfuss, I.D. 92335571, having been warned that I must state the truth and that I shall be subject to the penalties prescribed by law if I fail to do so, hereby declare in writing as follows:

1. I have the mukhtar of the village of 'Abud since 1965, and am 57 years old.

2. On May 21, 1990 at 4:00 a.m., after the murder of the workers at Rishon L'Tsion, the army imposed a curfew on the village, and after four days it was lifted.

3. On the evening of the day the curfew was lifted, at approximately 7:00 p.m., a Border Police patrol declared a curfew until further notice, by megaphone. The next morning, at around five o'clock, they announced the end of the curfew.

4. Since then, for 31 consecutive nights a night curfew was imposed on the village of 'Abud, and was announced each evening anew. Subsequently a night curfew was imposed from time to time, approximately six or seven times.

5. On the first night of the night curfew, my son and sister told me that soldiers in a jeep had hit the entrance gate to their homes and the gate was damaged, and then I approached the officer in command of the permanent look-out post on the road that passes through the village.

6. I went to the officer, I presented myself as mukhtar of the vilage, and I said "I want to talk to you." He said "Go home, for your own good." I went home. I did not dare to make another approach.

7. The road that passes through the village serves the Jewish settlements of Neve Tzuf - Halamish and Atarot. To the best of my knowledge there were only a few incidents of stone-throwing from the village houses, and ever since the curfew was imposed, there have been no such incidents.

8. It is true that students from five neighboring villages study in the schools in the village, but our village is normally quiet.

9. During the night curfew, the soldiers would throw tear gas grenades and fire shots into the air near the houses. About three weeks ago an MKII 560CS grenade fell in the garden of my home and caused a fire. When the neighbors came to help extinguish the fire, the soldiers fired shots in the air and scared them away. My wife and I had to extinguish the fire by ourselves.

10. On the night of July 4 there was a night curfew in the village, and the following morning, July 5, two roadblocks were erected on the road in addition to the permanent roadblock near the look-out post. At 7:00 a.m. I boarded the bus to Ramallah, and when the bus reached the roadblock we were stopped. One soldier got on the bus, identified me as the mukhtar, and told me to announce that no one would be leaving the village before 8:00, and to have the passengers disembark. The bus returned to the village and departed again at eight o'clock. This is a local bus that belongs to the Bir Zeit bus company, leaving at 7:00 a.m. for Ramallah, stopping in villages along the way, and returning at 1:00 p.m., arriving in the village at 2:00. 'Abud is the last stop.

11. Since the curfew was first imposed on May 21, 1990, a total of 322 olive trees near the road were sawed down. We colored the stumps with red paint to prevent the the sun rays from penetrating and drying up the trees. To the best of my knowledge, the neighboring settlers do this under cover of the curfew.

12. For instance, on the third or fourth day of the full curfew, Captain Ridan, the representative of the Civil Administration whose office is in the Jewish settlement of Neve Tzuf - Halamish, came to my home.

He asked me whether I had seen the trees that had been sawn. I said "No, there is a curfew and I cannot go out." He gave me a written permit to take a car and go count the damaged trees and to check to whom they belonged. I counted 45 olive trees and 25 almond trees, and I notified him in writing the owners' names the same day.

13. I want to note that at the beginning of the Intifada, in the spring of 1988, a bus belonging to the Dan company, which brought back laborers from their work in Israel, was set on fire on its way out of the village. After three days I learned that the olive trees near the place of the

incident, some of which belonged to me, had been uprooted, a total of 65 trees. Six months later they arrested the youths who were responsible for the arson, and it transpired that they all came from the Dir Amar camp and not from the village of 'Abud.

14. We cannot visit families to comfort them in their mourning, and cannot hold night and morning services in the mosque and church.

15. This is my name, this my signature, and the content of this affidavit is true.

I, Carmel Shalev, attorney, hereby confirm that Mr. Salim Mussa 'Akhfuss, who identified himself with I.D. card no. 92335571, appeared before me in his home in the village of 'Abud on July 15, 1990, and after I warned him that he must state the truth and that he shall be subject to the penalties prescribed by law if he fails to do so, he testified to the truth of the above statement and signed it.

## APPENDIX C

### Field Trip to the Village of Bidhya July 29, 1990

From B'Tselem: Bassem 'Eid, Carmel Shalev

#### Data on the Village

The village of Bidhya is in the Kalkilya District, southeast of the town of Tulkarm, on the side of the main Trans-Samaria Highway, and adjacent to the Jewish settlements of Emanuel and Elkanah.

According to data in the West Bank and Gaza Atlas of the West Bank Data Base Project, the area of the village is 1,400 dunams, and its population was 3,300 in 1987.

According to the testimony of village residents with whom we met, the population of the village is approximately 12,000, living in approximately 1,200 dwellings. Approximately two thirds of the houses are connected to the electricity and water system of the village. The main street of the village is a dirt road.

There are four government schools in the village - two primary schools and two secondary schools, for boys and girls separately. There is also an UNRWA medical clinic which includes a maternal-child health center, and three private clinics. In addition, there is a laboratory for blood tests etc. These medical services are also at the disposal of the neighboring villages. Women in labor go to hospitals in Nablus to give birth. There is an elderly daya in the village, for emergency cases, but the residents claimed that approximately six months ago a woman who could not get to the hospital died after giving birth with the daya's assistance.

#### The Olive Oil Industry

Most of the village residents subsist on the income of family members who work as laborers in Israel. The main local source of livelihood is from growing olives. The residents with whom we met noted that thousands of dunams of olive trees are owned by local residents, but they could not give a precise figure. They claim that their village and the nearby village of Salfit are the only ones in the area that produce large quantities of olive oil beyond the needs of self-consumption.

There are four modern oil presses in the village. In a good season, every other year, the oil output is approximately 20,000 cans. The large land-owners sometimes hire pickers

for the harvest. Even residents who do not own lands work in the harvest, receiving half of their pickings as wage. The oil presses charge one can for every twelve cans of oil produced.

The oil is marketed through the marketing associations in Tulkarm, Nablus and Ramallah. Until the 1980's there was a marketing association in the village, but the head of the village league, Abu Zeid, stopped its operation. The marketing associations buy up to 10 cans from each person. The price of a can in Jordan is approximately 30 dinars (NIS 90), and the association pays approximately 25 dinars. If someone has a larger quantity than that allowed by the marketing association, he sells the oil to merchants who pay less than the associations. In 1988 a ban on exporting oil to Jordan was imposed, and as a result the price of a can went down to only 12 dinars. The export licenses are issued to the marketing associations.

The residents claimed that since the beginning of the Intifada more than 1,000 olive trees had been damaged, either uprooted by the security forces or sawn by settlers.

### Collective Punishment

The village of Bidya is a center of tension for the Israeli security forces. According to the testimony of village residents, over 300 local young men had been detained since the beginning of the Intifada. The village received publicity after the October 6, 1988 assassination of the head of the village league, Abu Zeid, on October 6, 1988, on suspicion of collaboration with the Israeli authorities as well as corruption and embezzlement (including forgery of documents and sale of lands which he did not own). The village was under curfew many times for periods ranging between two and ten days. During April and May 1990, a night curfew was imposed on the village for 45 consecutive days. The most recent full curfew imposed on the village lasted four days, from July 13 to 16, 1990.

The residents claim that they applied to the Civil Administration requesting that the main road be paved at the village's expense, with help in financing from a Christian organization, but the Administration denied the request.

The residents also complained about the boys' secondary school, which is located on the edge of the Trans-Samaria Highway. The building was taken over by the army as a stronghold for a certain time. The fence was destroyed, apparently because it served as cover for throwing stones, and the Administration will not approve its reconstruction. Approximately one month ago, the principal's room in the school caught fire. The residents with whom we met claimed that collaborators from the village admitted responsibility

for the fire, set on the General Security Services' initiative.

### Disconnection of Electricity

The testimony that we took on our visit to the village relates to a period of about one and a half months, from March to May 1990, during which the electricity current to the entire village was cut off. According to the attestant, a member of a committee appointed by the head of the Civil Administration in Kalkilya, the cut-off was due to administrative arbitrariness. The committee took care of the monthly payments of the bills, and was prepared to continue doing so, except that it was forbidden to make collections from the residents. The collection rate for one kilowatt of electricity is set by the Civil Administration, and is higher than the payment rate. The committee receives the monthly bill for the entire village's consumption, and its members are responsible for collecting the relative portions of the single consumers according to their private meters, and for transferring the full amount to the offices of the electricity company at Ariel. One of the six committee members serves as a collector for a monthly salary of NIS 600, determined by the Civil Administration.

The committee members are also responsible for collecting payment for the village's water consumption. The instruction they received to cease collection related to the water bills as well. Despite the fact that they could not pay the accumulating debt, the water authority officials at Beit-El said they would continue to supply water to the village as long as they had not received any other instruction from the Civil Administration.

### TESTIMONY [TRANSCRIPT]

Testimony of Yusuf Mahmud Salem (I.D. 991371113), resident of the village of Bidhya, taken on July 29, 1990 by Attorney Carmel Shalev and Bassem 'Eid, in the home of Na'il Taha in the village of Bidhya.

1. I am a resident of the village of Bidhya, 58 years old, [and] a member of the electricity and water committee.
2. At the beginning of 1988, following a dispute with the head of the Bidhya village league, Abu Zeid, in connection with abuse of his public office, the village residents refused to continue paying him for electricity and water consumption.
3. As a result, in February 1988, the electric current to the village was cut off.



4. We approached the mukhtar of the neighboring village of Kufr Masha, and he mediated between us and Captain 'Amer, who is the villages officer at the Administration in Tulkarm. On May 20, 1988 Captain 'Amer summoned a delegation of 15 village elders, and proposed to select six of them to handle the collection of payments for water and electricity, and I was selected as one of the committee members.

5. On May 22, 1988, the electricity was reconnected to the village after three months of being cut off.

6. When we went to arrange the bills, we discovered a debt in the sum of NIS 65,000 that had accumulated over a period of about nine months, during which Abu Zeid had not transferred the monies he collected from the residents.

7. There are approximately 1,200 houses in the village of Biddya. During the period that Abu Zeid was responsible for collection and payment of the water and electricity bills, about 500 houses were connected to the electricity system and about 300 to the water system.

8. The water and electricity committee operated from May 1988 until September 1989, for one and a half years, and it invested in the repair and expansion of the water and electricity systems. Today approximately 800 houses are connected to electricity and approximately 700 to water.

9. During the same period of one and a half years, the committee managed to save approximately 40,000 Jordanian dinars (NIS 120,000) from the difference between the collection rate set by the Administration and the payment rate. We deposited these sums in a bank account in the village's name, according to the advice of the head of the Civil Administration in Kalkilya, who is known by the nickname of "Dabur" [wasp].

10. On November 17, 1989 the heads of the Administration in Kalkilya and Tulkarm came to the village and ordered the committee members to cease collection. On that same day, the head of the Administration in Kalkilya summoned us to his office in Kalkilya and told us to establish a village council instead of the committee. The head of the Administration, Dabur, said he had heard there were families that had not been paying their dues. We said there were two families that had refused to pay, and we had cut off the electricity

to their houses because of this. Our treasurer showed Dabur the books, which had all been kept properly. Despite this, he told us to stop collecting payments. The committee asked to be allowed to continue paying from the savings in the bank, and Dabur agreed.

11. The bank savings were sufficient to pay the bills for four months, until February 1990. When we paid the last bill that month in the offices of the electricity company at Ariel, we told the clerk that this was the end of the money and asked for permission to start collecting payments from the residents again. The clerk told us this was a matter for the Civil Administration.

12. One month previously, in January 1990, one of the three main circuits in the village burned out, and about one third of the houses connected to the electricity system were left without electricity. When we asked the electric company to repair the circuit, they told us we needed approval from the Administration, and they did not make the repair.

13. In March another bill arrived, but we did not have the money to pay it, and the current to the entire village was cut off. The savings had been used up and we did not have permission to collect payments from the village residents.

14. I personally approached MK Darhawshe with Daoud Abu Leila approximately one week after the electricity was cut off, and other persons approached the mayor of Nazareth, Tawfik Ziyad, on our behalf, and they both promised to investigate the matter.

15. On May 7, 1990, Dabur, the head of the Administration in Kalkiḷya, summoned us to his office, and all six committee members went. He told us that he had been in the village two days before in the night, when the security forces came to demolish the fence following a stone-throwing incident, and had seen the village shrouded in darkness and felt sorry for us. He told us we could again collect payments from the residents for the electricity.

16. We immediately collected payments from all the residents and payed the debt that had accumulated to the amount of NIS 32,050. The electricity company came to repair the burned circuit, and the current to the entire village was renewed.

17. I want to note that the committee never had any difficulty in collecting payments from the village residents.

18. Now that the electricity current has been reconnected there is one problem, that the current is weak between 7:00 and 12:00 p.m., and in remote places there is no electricity at all during these hours. Since we started collecting payments again from the residents in May, we have been also saving again. We suggested to the electricity company that we pay for an additional generator for the village, and they told us that we need the approval of the Administration.

Visit to UNRWA - GAZA  
August 5, 1990

From B'Tselem: Bassem 'Eid, Carmel Shalev, Kenneth Mack

We met with Hashim Abu Sido, Public Information Officer, Christian Berger, Legal Officer, and Alexandra Snefft, Public Information Officer.

UNRWA is a United Nations agency that since 1950 has been in charge of the Palestinian refugees in Jordan, Lebanon, Syria, the West Bank and the Gaza Strip. The refugee population in the Gaza Strip numbered approximately 180,000 in 1950. In 1990 UNRWA takes care of a population of 496,000 in the Gaza Strip, with the overall size of the population in its care reaching approximately 2,422,500 people.

In the Gaza Strip, UNRWA deals mainly with the management of a school system (1st through 9th grades) attended by approximately 95,600 children. In addition, it provides medical services in nine clinics dispersed throughout the Strip. It is also responsible for supplying limited welfare services in the refugee camps - mainly water and basic food (flour).

Water Supply Problems

We inquired about a rumor that the al-Bureij camp has been suffering for the past two months from water supply problems. We were told that this is a problem of low pressure that recurs each summer, so that the high houses do not receive water. The local council blames the Mekorot water company, which claims in turn that it does not have a sufficiently high quota from the Civil Administration. We were told that when the Civil Administration is contacted on this matter, the full water supply is renewed for several days, and afterwards a shortage is felt again.

It appears that in 1982, UNRWA signed a contract with the Civil Administration, according to which UNRWA relinquished its control over some of the wells and pumping stations in the middle camp area in exchange for a free supply of water to welfare cases and UNRWA installations. Mekorot agreed to provide a minimum supply of 1,200 m<sup>3</sup> of water per day in exchange for payment. The Civil Administration claims that there are consumers who connect illegally with the water system, stealing from the fixed quota, and this is the reason for the shortage. It should be noted that UNRWA supplements the water supply in cases of need, by means of tanks.

The governor of Dir-al-Balah (Civil Administration) who is responsible for the al-Bureij camp, allegedly claimed that there would be no regular supply of water in the camp as long as the stone-throwing continued, with incidents of this kind occurring frequently.

### Blocking off of Streets

In Gaza City as well as in Shati Camp we saw many streets blocked with high walls of cement-filled barrels. The phenomenon is especially conspicuous in Shati Camp, where the sidestreets leading from the road down to the sea, and marking the border between the camp and the city suburbs, are blocked in this manner one after the other. We were told that these barriers do indeed prevent stonethrowing, and thus enable regular classes to take place in the nearby schools. We were also told that there are many alternative ways of entering and leaving the camp, by car or on foot.

In Jabaliya camp, three barriers of this sort were recently erected, on July 25, 1990. We saw two of them, blocking the side streets on either side of the mosque in the center of the camp. The UNRWA clinic is situated on the other side of the main street, and next to it the military stronghold. The conjecture is that these barriers were erected to make it difficult for stone-throwers to flee.

### Curfew

According to UNRWA data, the peak in the number of curfew days in the Strip was reached in the months April and May, 1989, a total of approximately 150 days for all of the different areas in each of these two months. (\* We received two different documents which do not completely correlate.) The calculation is based on a division into 11 areas, such that in each area there was an average of 14 curfew days each month (accurate figures appear in the tables).

After May 1989 there was a significant decrease in the number of curfew days. This is attributed to an event that occurred on the festival of 'Eid-al-Fitr in the same month. We were told that on the morning of the festival many residents left their homes for the cemeteries, and the IDF forces thought the gatherings were demonstrations. Within hours three residents were killed, and three hundred injured.

The impression is that ever since that event, curfew has been used not as a punitive but as a preventive measure. According to the UNRWA tables, there was a significant increase in curfew days in May 1990, reaching a total of 109 days. The explanation for this large number is the curfew imposed on the entire Strip for eight days, following the slaying of the workers at Rishon L'Tsion.

Curfew serves as an indication of the level of violence, and it is indeed effective in calming things down. We were told that on curfew days in the Shati Camp, the residents often fill the streets and the beach. Nonetheless, the high number of consecutive curfew days indicates that curfew is being used as a punitive measure.

UNRWA had data on continuous curfews in these places:

- Dir-al-Balah - 16 days (December 6 - 21, 1988) and again 12 days (January 4 - 15, 1989);
- Beit Hanun - 11 days (February 2 - March 7, 1989);
- al-Bureij - 16 days (August 2 - 17, 1988);
- Nusseirat - 21 days (May 6 - 26, 1989).

As previously stated, there has been relatively little use of curfew recently. In June 1990 there was not even one curfew day. In July 1990 there were two days. These figures all refer to full curfew, and do not include data as to curfew imposed only on parts of the 11 areas.

Recently, partial curfew has been used in a new fashion, on Saturdays, to allow collection of tax debts, traffic fines, and electricity and water bills. In these cases, the military forces declare the designated area a closed military zone, so that UNRWA officers are not permitted to enter. We were told that there is some doubt as to the legality of the use of this measure to collect electricity and water bills, since these apparently concern the obligations of the residents towards private companies that are not arms of the government. The Mekorot company supplies water in the Gaza Strip, while electricity is supplied by a local company.

### Night Curfew

Since the beginning of the Intifada there has been a night curfew in the entire Gaza Strip region, from 8:00 or 9:00 p.m. until 3.00 or 4.00 the following morning. Last year, during the period in which residents of the Gaza Strip were issued magnetic cards for passage to Israel, the night curfew was raised for a short time in order to allow workers to reach their places of work during the issue operation.

We were told that the night curfew also has certain advantages, for example, prevention of crimes such as burglary.

### Restrictions on Foreign Travel

We inquired about a rumor regarding collective restriction on foreign travel applying to all residents of Bani Suheilā, but the UNRWA officials had no knowledge of this. Nevertheless,

we were told that restrictions on whole areas are sometimes imposed after certain irregular incidents. For example, a travel ban was imposed for several days on Gaza City and the Sheikh Radwan neighborhood following the killing of two IDF soldiers in November 1989.

### House Demolition

It was noted that house demolition and sealing is a punitive measure par excellence, since the affected persons are always told the reason for the measure, relating to a security offense committed by one of the family or household members.

According to oral data, pertaining only to the refugee population in the Strip, between the months of July 1989 and June 1990, a total of 173 rooms (living units) were demolished, affecting 105 families and 540 persons. Likewise 34 rooms were sealed, affecting 26 families and 149 persons.

### Confiscation of I.D. Cards

We were told of the case of an UNRWA employee whose I.D. card was confiscated so as to induce him to turn in a family member wanted by the security forces. He was promised that the card would be returned to him if the wanted individual appeared before the authorities.

This case, it was claimed, is not an isolated incident, but an example of a method used against many family members of wanted persons.

### Uprooting of Trees

UNRWA did not have any compiled data on the uprooting of trees. They told us, based on newspaper items, that the number of cases is too high to count. We were also told of reports of the destruction of vegetable fields.

It is difficult to know whether these are punitive measures or legal measures taken, for example, to widen roads or lay water pipes. It was noted that these acts should not be attributed to settlers, since they generally live quietly in their settlements and do not enter the actual area of the Strip.

### Miscellaneous

We were told about an apparent pattern, whereby Israeli men carrying rifles and wearing partial military clothing (civilian shirts and military trousers and shoes) seize private cars belonging to residents, apparently in exercise

of the military government's power to requisition property for military purposes. It appears that these armed men actually drive around the area in private cars as provocateurs.

We were asked about the monies which parents are required to pay for offenses committed by their minor children, under the age of criminal responsibility. These monies are a guarantee for the good behavior of the children for a set period, and are supposed to be returned at the end of the period of good behavior. It appears that there has not yet been any attempt to request a refund of the deposit.



## APPENDIX E

### TESTIMONIES FROM BAL'AA VILLAGE

taken by B'Tselem and Rabbinic Human Rights Watch during a visit to the village on January 11, 1990

1. Tawfiq Ibrahim Hassin Shakhrur Saffiya, I.D. 96922011, 80 years old, suffering from cancer, had to go to the hospital in Tulkarm to receive a blood ration. He managed to reach the first roadblock by car. From there he was forced to go on foot, in the mud on a rainy day, supported by his son, for a distance of about one and a half kilometers. The walk lasted for approximately two hours. He claimed that he was on the verge of collapse. He managed to reach the main road, and from there he got to the hospital. On the way back he suffered again, when he was forced to climb the length of the road to the village in the rain on foot. The next day he needed to go to the hospital in Nablus to receive three injections. On his way to the barrier, after walking for about one hour, he collapsed.

2. Rassima 'Abd Yihiyeh Hamda, I.D. 97363092, 60 years old, resident of the village, suffers from a kidney disease. She was in hospital in Nablus for dialysis. The ambulance driver who brought her back to the village left her at the roadblock because he could not enter. The woman lay on the ground next to the roadblock, almost completely unable to walk. A local resident who passed by called for help, and with assistance dragged her to the village.

APPENDIX F

IDF Spokesperson  
Public Relations Department  
November 10, 1990

B'Tselem: attention Zehava Gal'on  
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re: B'Tselem report on collective punishment in  
Judea, Samaria and the Gaza Strip  
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Dear Ms. Gal'on:

The aforementioned report clearly exposes, in an unequivocal fashion, the characteristic research and work procedures employed by the organization "B'Tselem," i.e. the drawing of biased conclusions before the report is written, and later gathering and distortion of the facts in order to substantiate the conclusions reached beforehand.

The opening statement of the report already states: "This report deals with the way in which the Israeli authorities use administrative instruments as collective punishment of population groups in the West Bank and the Gaza Strip." Thus, already at the outset, the writers of the report have no doubt that the IDF authorities are indeed using the unacceptable measure of collective punishment - anything that is written afterwards will only be written in order to prove the fact, without any effort being made - not even in the slightest - to analyze and to survey the objective situation in the field.

The report deals extensively with the subject of the imposition of curfew on the Arab population in Judea, Samaria and the Gaza Strip: Curfew is one of the means used by the IDF in order to keep order in the territories. It is a quiet and non-violent measure, aimed at protecting the residents from themselves, and in order to not allow agitators to exploit a sensitive situation (e.g. in the days after the murder of the laborers in Rishon L'Tsion, mentioned in the report) for their own needs. The aim of a curfew instituted immediately after an event is to calm the atmosphere and to prevent unnecessary agitation that would lead to disturbances of order and attacks by extremist elements.

As with previous "B'Tselem" reports, this report does not address, even in a side remark, the circumstances prevailing in the territories: the report does not mention the daily violent incidents initiated and organized by the

uprising's leadership, as well as their widespread extent; the wide variety of forms these incidents take (the murder of Israelis and Palestinians, the throwing of firebombs, blocking of roads, stone-throwing, arson attacks on fields and forests, threats, the burning of buildings and property, assaults - the list is yet longer)

All this is apparently irrelevant in the opinion of the writers of the "B'Tselem" report. Every step that the IDF takes is in order to maintain order and security, in order to protect lives, and to allow a normal daily life. All that the representatives of "B'Tselem" and the writers of the report have to say about this is that "the impression is created" of collective punishment.

The writers of this report pretend to be mind-readers, and with the help of statistics - that even they admit are partial and inaccurate - assess the security considerations involved in implementing a certain measure, and in their conclusion make the severe and unfounded assertion that "the discretion as to employment of these measures does not properly balance security considerations with considerations of human rights."

Even the High Court of Justice ruling receives only superficial treatment, and this is juxtaposed with a in-depth and detailed analysis of the petitions submitted by the plaintiffs in each and every case.

The writers of the B'Tselem report shot the arrow, and afterwards drew the target around the point of impact - is it any wonder that they cry out: "bullseye?"

Cap. Avital Margalit  
Hebrew Public Relations Officer