

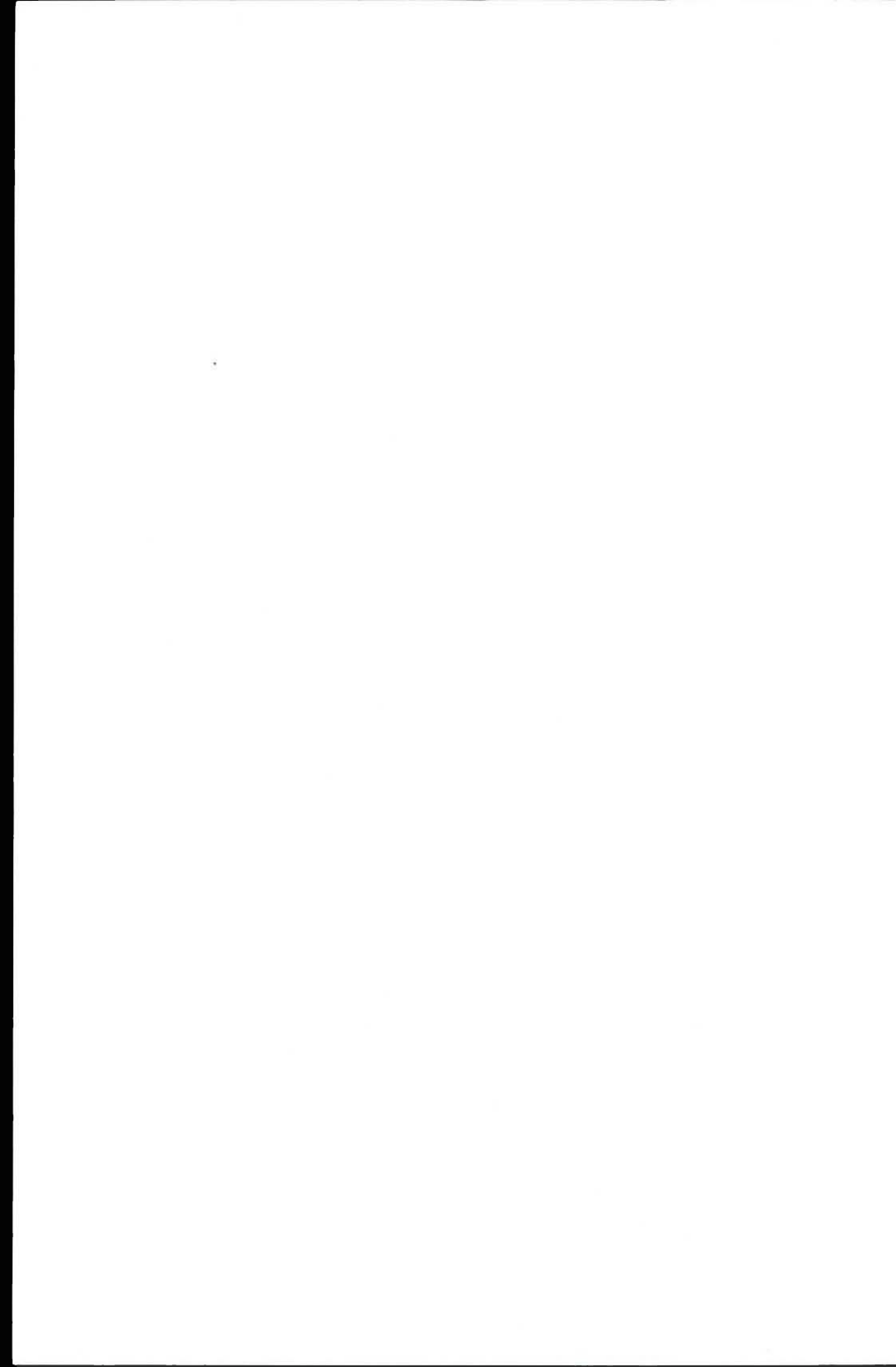
Jerusalem, June 1993

**DEPORTATION OF PALESTINIANS
FROM THE OCCUPIED TERRITORIES
AND THE MASS DEPORTATION
OF DECEMBER 1992**

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B'TSELEM

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



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شارع عيهك رفايم ٤٣، (الطابق الثاني) القدس ٩٣١٤١،
تلفون ٦١٧٢٧٤\١-٠٢. فاكس ٦١٠٧٥٦-٠٢.

ISSN 0792-8114

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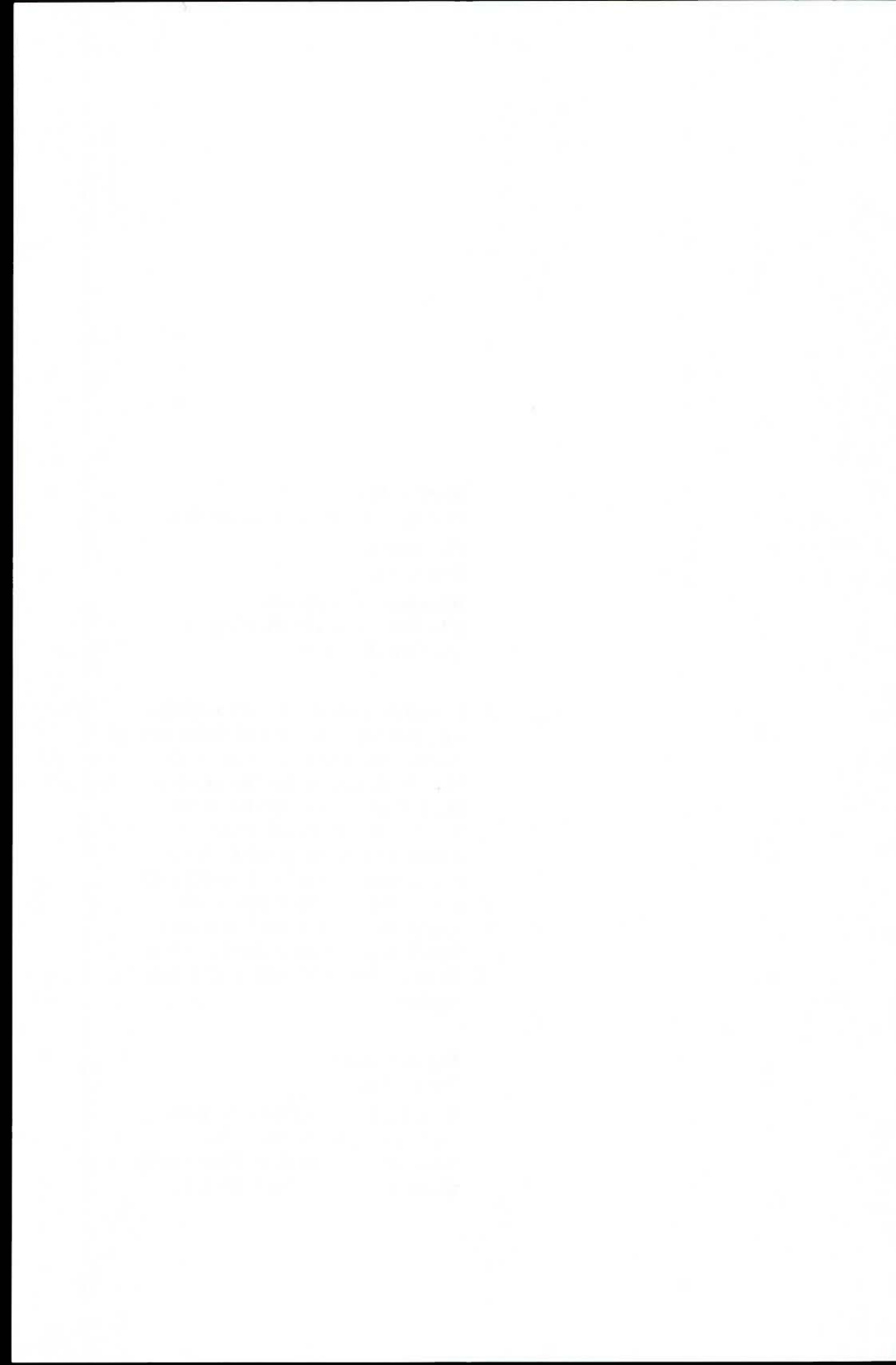
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B'Tselem would like to thank the following organizations and individuals for their assistance in preparing this report: al-Haq, the Association for Civil Rights in Israel, Moshe Negbi, Attorney Avigdor Feldman. **B'Tselem** also extends its thanks to the following individuals for their comments during this report's preparation: Attorney Eliahu Abram, Dr. Daphna Golan, Dr. Ilana Hammerman, Roni Talmor, Professor Stanley Cohen, Professor Avishai Margalit, and Dr. Edy Kaufman

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Many thanks for translating and editing assistance to: Ralph Mandel, Barak Weiss, Avi Hoffman, Emily Hauser, Lotte Geiger, Connie Hackbarth Sheffer



CONTENTS

A. Introduction

B. Deportation as a Punitive Measure: General Discussion

- | | |
|---|----|
| 1. Historical Background | 13 |
| 2. Implications of Punitive Deportation | 21 |
| 3. Deportation in International and Israeli Law | 30 |
| 4. Deportation as Punishment Without Trial | 35 |

C. The Mass Deportation of December 1992

- | | |
|---|----|
| 1. The Course of Events | 41 |
| 2. The Mass Deportation as Collective Punishment
(Including Testimony) | 46 |
| 3. High Court of Justice Ruling
The Legal Breach – Moshe Negbi | 64 |
| 4. Conclusion | 68 |

D. Appendices

- | | |
|--|-----|
| a. The Government Resolution to Deport | 73 |
| b. Order Concerning Temporary Deportation
(Emergency Provision) | 74 |
| c. Excerpts from the Written Arguments Submitted by
the Association for Civil Rights in Israel | 76 |
| d. Excerpts from the Written Arguments Submitted by
Attorneys Avigdor Feldman, Leah Tsemel and
Andre Rosenthal | 87 |
| e. Excerpts from the Written Response Submitted
by the Respondents | 95 |
| f. Selections from the High Court of Justice Ruling
Regarding the Legality of the Expulsion | 109 |
| g. List of Deportees | 120 |
| h. Data | 148 |
| i. Circular of the Irgun Jewish Underground | 151 |

CONTENTS

1. Introduction	1
2. Theoretical background	10
3. Methodology	25
4. Results	45
5. Discussion	65
6. Conclusion	85
7. Appendix	95
8. References	110
9. Index	125
10. Glossary	140
11. Bibliography	155
12. Acknowledgements	170
13. Author's biography	185
14. Contact information	200
15. Declaration of interest	215
16. Funding sources	230
17. Ethical approval	245
18. Data availability	260
19. Conflicts of interest	275
20. Author contributions	290
21. Correspondence	305
22. Supplementary materials	320
23. Additional information	335
24. Publisher's note	350
25. Copyright	365
26. Reprints and permissions	380
27. Advertising rates	395
28. Subscription rates	410
29. Distribution	425
30. Contact us	440

INTRODUCTION

On December 17, 1992, Israel deported 415 Palestinians from the Occupied Territories to South Lebanon for a period of up to two years. In the five years of the Intifada until then, sixty-six Palestinians had been deported, in addition to more than 1,000 deported in the first twenty years of Israeli military rule in the Territories (1967-1987).

The mass deportation of December 1992 was carried out following the killing that month of six members of the Israeli security forces by Palestinians. Implementation of the deportation began within hours of the Israeli Cabinet's decision on this measure. The Cabinet resolution, and the Order Concerning Temporary Deportation (Emergency Provision) which was issued in its wake and which served as the legal base for the deportation orders, stated that the deportations would be effective upon issuance of the deportation order, and that the deportees would be denied the right to a prior hearing, in contravention of the rules outlined by the High Court of Justice (HCJ) over the years.

The Israeli Cabinet decided to deport a "large number" of Palestinians. Following this decision, the security authorities were allotted very little time to prepare a list of names. The Military Censor prevented publication of any information regarding the resolution and its execution. The deportation began in the evening, shortly after the decision was adopted, the intention being to complete it that night without the matter becoming known to the HCJ until after the event. The hundreds of candidates for deportation were rounded up from detention facilities or taken from their homes and placed on buses. They were not informed of their destination, nor were detainees' families notified. Despite the blackout imposed by the Military Censor, several organizations and attorneys heard about the mass deportation in process, and a number of petitions were submitted to the HCJ that night.

After some fourteen hours of deliberation, in the course of which the deportees remained on the buses, blindfolded, hands tied behind their backs, the HCJ sanctioned the completion of the deportation. The deportees were thereupon transferred to Zumriyah Pass at the northernmost point of the Israeli "security zone" in Southern Lebanon. Because of Lebanon's refusal to allow the deportees to continue northward, and Israel's disavowal of responsibility for them on the grounds that they were in an area under Lebanese control, the deportees remained in a zone between Israeli and Lebanese-controlled

territories. They were still in this zone at the time this report was written. About a month after the deportation, the HCJ reviewed the legality of the bases in which the act was grounded and ruled that while the Order Concerning a Temporary Deportation (Temporary Provision) was null and void, notwithstanding, the deportation orders were not invalidated.

In the second half of the twentieth century, Israel is the only democracy which alongside dictatorships and totalitarian regimes employs the practice of deportation of residents as a punitive measure.

Deportation is one of the harshest punishments imposed on the Palestinians living under Israeli rule, and constitutes a severe infringement of basic human rights. Deportations are prohibited by international law, and in particular by Article 49 of the Fourth Geneva Convention, which unequivocally prohibits them "regardless of their motive." The Convention lays down rules of permissible action in situations of war and occupation, and its framers took into account the implications of these extraordinary situations. Thus any claim of a "special situation" or "exceptional circumstance" does not warrant a deviation from the sweeping ban on deportations.

By deporting a resident of the Territories, Israel unilaterally disclaims its obligations toward that individual. In the mass deportation of December 1992, hundreds of persons were deported to a State which did not agree to accept them and which was under no obligation to do so – nor was there any reason to presume it would. The deportees were thereby stripped of protection, an unacceptable situation under international law.

One of the most fundamental principles of law is that of individual responsibility, i.e., that every person shall bear responsibility for his or her own actions. Punitive action which disregards this principle, where the individual is neither tried nor sentenced, is extremely dangerous. Such a practice may expose every Palestinian resident of the Territories to arbitrary and collective punishment, particularly at times in which the State feels it is experiencing a security crisis which in its view necessitates resorting to extraordinary measures.

The deportation of 415 Palestinians in December 1992 was an action of particular gravity, in which individual consideration for each deportee was, at best, secondary. Within a period of hours, a time frame which hardly permitted serious examination of each case, the security authorities collected hundreds of names, though no evidence – not even after the fact – was adduced against a single one of the deportees. Because of the non-individual and hasty character of the deportation, a great many "mistakes," which even the State

acknowledged, were made concerning names and identity, as this report will show.

In a series of past judgments, the HCJ ruled that no deportation be executed before the existence of a threat posed by the potential deportee has been established at a judicial hearing. This procedure was followed even in cases in which the State argued that a prior hearing would be seriously detrimental to security. In its judgment on the mass deportation of December 1992, the Court in effect accepted the State's argument that a contradiction exists between upholding the basic right of every individual to due process and a fair trial, and security considerations, despite the fact that no evidence linking any of the deportees with dangerous activity was presented to the judges. As legal expert Moshe Negbi wrote in an article appearing in this report, "The HCJ's uncompromising stand prior to December 17 - that every deportation must be delayed until judicial review of the threat posed by the deportee - was an obstacle to massive, arbitrary deportation. Giving the green light to deportation without such a review removes this obstacle. From this point of view, there are grounds for concern that unwittingly, certainly without deliberate intent, the judicial foundation for the execution of a mass transfer has been laid.

The report begins with an historical review of deportation as a punitive measure throughout the world, focusing on Mandatory Palestine, Israel and the Occupied Territories. This chapter is followed by an analysis of the violation of basic human rights entailed in deportation, and an explication of the position taken by international law and by Israeli law on this subject.

Section two of the report deals with the mass deportation of December 1992, addressing its practical and legal aspects and the grave human rights issues involved. Also included is the article already referred to by legal expert Moshe Negbi on the legal ramifications of the deportation and the HCJ ruling in particular.

The report also contains testimonies and figures based on an investigation conducted by **B'Tselem's** fieldworker Bassem 'Eid in the deportees' camp in southern Lebanon on January 31, 1993, and on data from the **al-Haq** Human Rights organization.

Appendices include the text of the cabinet resolution on the mass deportation, the text of the military orders, and lengthy excerpts from documents submitted to the High Court. A full list of the deportees, with details about each individual, is also appended.

Prior to publication of this report, we sent a draft to the IDF (Israel Defense Forces) Spokesperson's Office and to the Defense Minister's Office for their response; both chose not to respond.

The first part of the book deals with the early years of the Republic, from the signing of the Constitution in 1787 to the end of the War of 1812. It covers the presidencies of George Washington, John Adams, and James Madison, and the development of the federal government and the states.

The second part of the book covers the period from 1812 to 1848, including the presidencies of James Monroe, James Madison, and James Monroe again. It discusses the War of 1812, the Louisiana Purchase, and the expansion of the United States into the West.

The third part of the book covers the period from 1848 to 1860, including the presidencies of James K. Polk, Zachary Taylor, and Andrew Jackson. It discusses the Mexican-American War, the Texas Annexation, and the growing tensions between the North and the South.

The fourth part of the book covers the period from 1860 to 1876, including the presidencies of Abraham Lincoln, Andrew Johnson, and Ulysses S. Grant. It discusses the Civil War, Reconstruction, and the establishment of the Reconstruction Amendments to the Constitution.

The fifth part of the book covers the period from 1876 to 1896, including the presidencies of Rutherford B. Hayes, James Garfield, and Chester A. Arthur. It discusses the Reconstruction era, the Gilded Age, and the rise of the Populist movement.

The sixth part of the book covers the period from 1896 to 1912, including the presidencies of William McKinley, Theodore Roosevelt, and Woodrow Wilson. It discusses the Progressive Era, the Spanish-American War, and the rise of the Progressive movement.

The seventh part of the book covers the period from 1912 to 1932, including the presidencies of Woodrow Wilson, Warren G. Harding, and Calvin Coolidge. It discusses the Prohibition era, the Great Depression, and the rise of the New Deal.

The eighth part of the book covers the period from 1932 to 1960, including the presidencies of Franklin D. Roosevelt, Dwight D. Eisenhower, and John F. Kennedy. It discusses the New Deal, World War II, and the Cold War.

The ninth part of the book covers the period from 1960 to 1980, including the presidencies of John F. Kennedy, Lyndon B. Johnson, and Richard Nixon. It discusses the Vietnam War, the Civil Rights Movement, and the Watergate scandal.

The tenth part of the book covers the period from 1980 to the present, including the presidencies of Jimmy Carter, Ronald Reagan, George H. W. Bush, Bill Clinton, and George W. Bush. It discusses the end of the Cold War, the 9/11 attacks, and the War on Terror.

**DEPORTATION AS A PUNITIVE
MEASURE: GENERAL DISCUSSION**

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL

HISTORICAL BACKGROUND

A. Punitive Deportation Around the World

In the past deportation was used extensively as a punishment for criminal offenses and for political purposes.¹ Eventually, punitive deportation lost its legitimacy, and by the twentieth century it was resorted to only by colonial regimes in the first half of the century, and dictatorships, to this day.

Deportation was a commonly-used punishment for criminal offenses in the eighteenth and nineteenth centuries, as part of colonial policy.² Its use disappeared gradually during the nineteenth century, due to several factors. First, the emergence of nation-states and the coming of age of the principle of sovereignty rendered the transfer of citizens across borders no longer viable, as it infringed upon the sovereignty of the neighboring State. Second, the developing concept of a binding tie between the State and its citizens ruled out expulsions from the home country. Another factor was the growing influence of the liberal approach to penalization according to which an individual's right to live in his country may not be tampered with by the State.

Contemporary democracies deport only aliens who have entered their territory illegally or who are viewed by the authorities as a security menace.³ The authority to deport foreign nationals to their country of origin, or to any other country willing to accept them, stems from the principle of the State's sovereignty over its territory.

-
1. On deportation as a punitive measure, see **Encyclopaedia of Social Sciences**, Macmillan Company, New York, 1931, "Exile" Vol. 5, pp. 686-690 and **Encyclopaedia Hebraica** (Hebrew), Vol. XI, pp. 289-295.
 2. Many great powers, such as Britain, France, Spain and Portugal, sent felons to overseas locations in order to reduce overcrowding in local jails and start up new colonies. The penal colonies were characterized by harsh regimes, in which prisoners were often flogged and starved. On deportation to penal colonies, see Max Grunhut, **Penal Reform: A Comparative Study**, Clarendon Press, Oxford, 1948, Ch. 5.
 3. In 1987, for example, France deported to Gabon a group of fourteen Iranian nationals and three Turkish nationals, claiming that they constituted a clear and present danger to the public order and had harmed French interests throughout the world. See **New York Times**, November 9, 1989. Similarly Britain deported two Kuwaitis and a Bahraini, on grounds of national security. See **Amnesty International Report 1991**, p. 238.

In the first half of the twentieth century, the British Empire made use of deportations to suppress the nationalist aspirations of peoples under its rule. This policy was not confined exclusively to Mandatory Palestine: many Indian political activists, for example, were deported to the Andaman Islands. In March 1956 the leader of the Greek national movement in Cyprus, Archbishop Makarios, was deported by the British to the Seychelles Islands.⁴

Dictatorships have continued to make use of deportation as an instrument of political suppression. In the twentieth century these have usually not been extra-state deportations, but rather forced internal exile to a remote area. Fascist Italy sent opponents of the regime to various islands under its control, while the Soviet Union transferred many dissidents to Siberia. But this century has also witnessed extra-territorial deportations for political reasons. Thus, for example, the Soviet Union deported Trotsky and Solzhenitsyn; Morocco deported Avraham Tsarfati in September 1991, after he had served seventeen years in prison for membership in a Marxist organization.⁵ Chile used deportations as part of its repressive policy during the period of military rule.⁶

The Hague Regulations of 1907, which regulate the behavior of an occupying power in the occupied territory, make no reference to deportations. Jean Pictet remarks in the ICRC commentary to the Geneva Conventions that this gap in the Hague Regulations "was probably because the practice of deporting persons was regarded at the beginning of this century as having fallen into abeyance."⁷ The Fourth Geneva Convention of 1949 prohibits absolutely the deportation of any resident from an occupied territory.

4. See Vol. 15, *Encyclopaedia of Social Sciences*, p. 92.

5. *Amnesty International Report 1992*, p. 190.

6. See for example, Americas Watch, "Chile Since the Coup: Ten Years of Repression," August 25, 1983, pp. 87-96; and *Amnesty International Report 1977*, p. 130.

7. J. Pictet (ed.) *Commentary, Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War*. ICRC, Geneva, 1958, p. 279. In a similar vein, George Schwartzenberger, an expert on international law, notes that the fact that drafts for the Hague Regulations do not address the subject suggests that the prohibition on deportation was self-evident. See G. Schwartzenberger, *International Law, Vol. 2: The Law of Armed Conflict*, London, Stevens, 1949, p. 228.

B. Deportations During the British Mandate Period

During the period of the British Mandate in Palestine, some Arab residents were deported to the Seychelles and some Jewish residents to Eritrea and Kenya. In 1944, activists of the Irgun Jewish underground were deported to British colonies in Africa.

In 1945 the Mandate government issued the Defence (Emergency) Regulations. Regulation 112 empowered the British High Commissioner to deport any person from Palestine. These regulations vested the High Commissioner with power to infringe upon other basic rights: prevention of publication of books and newspapers, ordering of house demolitions, placing of individuals in administrative detention without trial for an indefinite period, sealing off particular territories, and imposing curfew.

The 1945 Regulations were repeatedly condemned by many residents of the Yishuv (pre-state Jewish community in Palestine). For example, Ya'akov Shimshon Shapira (later an Israeli Minister of Justice), speaking at a protest meeting organized by the Jewish Lawyers Association in Palestine, stated that "the Defence Regulations of the Palestine government are the destruction of the foundations of the country."⁸

C. Deportations after the Establishment of the State of Israel

In 1948 the State of Israel incorporated the 1945 Defence (Emergency) Regulations into its law. Knesset members of various political leanings occasionally voiced opposition to the Regulations. In a Knesset debate in May 1951 concerning the administrative detention of suspected members of an ultra-Orthodox underground organization, Menachem Begin urged the Regulations' repeal:

If these laws – the terror laws of a repressive government – remain [on the books] in the State of Israel, the day will come when no group will find itself unaffected by them... , The existence of these emergency laws is a disgrace, their implementation a crime.⁹

8. **Hapraklit**, (Hebrew), Vol. 3 (1946), Part II, p. 62.

9. **Knesset Record**. Vol. 12 (May 9, 1951), p. 1807.

At the conclusion of the debate, the Knesset resolved that the Defence Regulations were incompatible with the fundamentals of democracy. The Law and Constitution Committee was instructed to draft a bill for their repeal.¹⁰

Nevertheless, the Regulations were not abolished. Throughout the 1950s, and in the first half of the 1960s, proposals for their repeal were frequently raised. But they remained on the books, apparently because they served as the legal basis for the military rule then imposed on Israel's Arab citizens.¹¹ After cancellation of the military rule, the government was increasingly inclined to repeal the Regulations.¹²

The Ministry of Justice appointed a committee of experts to examine the Regulations and draw up proposals for their partial repeal. However, the outbreak of the Six-Day War in June 1967 brought the committee's work to a halt.¹³

In 1979, Regulation 112 of the Defence Regulations, under which anyone could be deported from Israel, was abolished inside the Green Line by passage of the Emergency Powers Act (Detentions). Justice Minister Shmuel Tamir, in his presentation of the bill to the Knesset, drew on personal experience:

In May 1947, together with forty-nine other fighters, I was deported to Kenya under those Regulations. As I have already said, I consider it a privilege and an honor to propose their repeal, and their replacement by Israeli law which asserts the preservation of the good and democratic principles of the rule of law and the upholding of human rights, alongside the maintenance of security needs.¹⁴

10. *Ibid.*, p. 1831.

11. See Dr. Menahem Hofnung, **Rule of Law versus State Security in Israel**. (Hebrew), p. 81 ff.

12. See, for example, the comments of Justice Minister Ya'akov Shimshon Shapira in June 1966, **Knesset Record**, Vol. 46, 1966, p. 1706.

13. In reply to a parliamentary interpellation, the justice minister stated that the committee had ceased its deliberations because of the acute security situation. See **Knesset Record**, Vol. 52, 1968, p. 3087.

14. **Knesset Record**, Vol. 83, 1978, p. 3955.

D. Deportations of Palestinians from the Occupied Territories

1. 1967-1987

Following the Six-Day War, Israel resorted from time to time to punitive deportation of Palestinian residents of the Territories, based on Regulation 112 of the Defence Regulations, as the table shows:¹⁵

year	number	year	number
1967	6	1981	-
1968	22	1982	-
1969	37	1983	-
1970-1973*	785	1984	1
1974	96	1985	29
1975	40	1986	10
1976	3	1988	32
1977	-	1989	26
1978	-	1990	-
1979	1	1991	8
1980	3	1992	415

* No further statistical breakdown was available.

According Ann Lesch's study on deportations from the Territories between 1967 and 1978, most of the Gazan deportees between 1967 and 1971 were "guerillas who had just been arrested or were serving prison terms."¹⁶ Maj. Gen. (Res.) Shlomo Gazit, former Coordinator of Activities in the Territories, said in early 1992 that over a period of a

15. The data from 1967-1982 are taken from the reply of Defense Minister Ariel Sharon to a parliamentary interpellation submitted by MK Mordechai Virshovsky: "How many deportation orders against [residents of the territories] were issued in the period [from the Six-Day War until December 1982]?" *Knesset Record*, Vol. 95, 1983, p. 1145. The data relate not to actual deportations, but to orders issued. Data for 1982-1987 are taken from PHRIC press release: "A History of Expulsion," December 17, 1992, and reflect the number of actual deportations. The data applying to the period from the start of the Intifada until this writing are provided by B'Tselem.
16. Ann Lesch, "Israeli Deportation of Palestinians from the West Bank and the Gaza Strip, 1967-1978," *Journal of Palestine Studies*, 8:2, Winter 1979, p. 110.

few years the Israeli authorities deported every person who completed a prison term for terrorist activity.¹⁷ Following this period, until the start of the Intifada, the number of Gaza Strip residents deported was relatively low.

In the initial years of Israeli rule in the Territories, a large number of political activists were deported from the West Bank for their purported allegiance to Jordan. Also targeted for deportation were persons who publicly expressed opposition to Israeli rule in the Territories, including school principals and supervisors who protested censorship of textbooks, teachers and students who initiated school strikes, and attorneys who organized lawyers' strikes.¹⁸

Between 1973 and 1977 the number of deportations declined, as compared with the previous period. In the West Bank members of the Palestinian leadership were primary targets. In November 1974, for example, five prominent West Bank personalities were deported, including Dr. Hana Nasser, president of Bir Zeit University. Dr. Nasser was a political activist and advocated the idea of an independent Palestinian State.

There were no deportations from 1977 to 1979, chiefly because of the opposition of Prime Minister Menachem Begin. In 1979, the Begin government initiated legislation outlawing deportation from Israel proper. From then until 1984 only a handful of deportations were carried out. In 1979 deportation order was issued against Nablus Mayor Bassam Shak'a, but the deportation was not executed and the order was eventually cancelled. Three West Bank figures were deported together in 1980: Hebron Mayor Fahed Qawasmeh, Halhul Mayor Muhammad Milhem and Sheikh Rajab a-Tamimi.¹⁹

As defense minister in the National Unity Government (from September 1984), Yitzhak Rabin renewed the deportation policy. From then until the start of the Intifada in December 1987, forty-two Palestinians were deported from the Territories. Three additional deportation orders issued during this period were implemented in April 1988.

17. **Ha'aretz**, January 17, 1992.

18. *Ibid.*

19. On the legal implications of this deportation, see "**Deportation as a Punishment Without Trial**," p. 35 of this report.

2. During the Intifada

The outbreak of the Intifada led to an increase in the number of deportations. In 1988 thirty-two deportation orders were issued. Rabin favored the use of deportation, stating that it was a particularly effective means of prevention and deterrence.²⁰ However, from August 1988 until the end of his term as defense minister, no additional deportations were carried out, as the security establishment claimed they were ineffective due to the protracted hearings on petitions submitted to the HCJ by deportation candidates. Accordingly, Rabin informed the Foreign Affairs and Security Committee on January 24, 1989, that "the use of punitive deportation has been recently reduced, not necessarily due to political pressure, but because doubt has been cast on its effectiveness."²¹

According to press reports in May and June of 1989, the IDF was examining the possibility of expediting deportation procedures. The idea was to deny the right to prior hearing and allow the deportee's lawyer to appeal *ex post facto*, in the deportee's absence.²² At that time Yitzhak Rabin requested that Justice Minister Dan Meridor and Attorney General Yosef Harish find a judicial solution enabling execution of deportation orders against inciters and suspects of violent acts within 72 hours to seven days of issue.²³ On July 19, 1989, it was reported in the press that Meridor and State Attorney Dorit Beinisch opposed the idea of deportation without prior hearing, as this would run counter to the rule of law and infringe upon the powers of the High Court of Justice.²⁴

As the dispute between the Defense Ministry and the Justice Ministry had not been resolved, no new deportation orders were issued from August 1988 until the end of 1990. In December 1990, during Moshe Arens' term as defense minister, following the stabbing to death of three Jews in Jaffa, four Gazan Palestinians received deportation orders and were subsequently deported in January 1991. Four more Palestinians were deported in May 1991. In January 1992 deportation orders were issued against twelve Palestinians. One of these orders, issued against Iyyad Jodah, was rescinded on January 23, 1992, at the recommendation of the advisory panel to the OC Central Command.

20. See Rabin's remarks during his period as Defense Minister to the Knesset's Foreign Affairs and Security Committee, *Ha'arets*, December 30, 1987.

21. *Hadashot*, January 25, 1989.

22. See, for example, *Hadashot* and *Yediot Aharonot*, May 22, 1989; *Davar*, June 14, 1989.

23. See, for example, *Al Hamishmar*, June 21, 1989.

24. See *Ha'arets* and *Davar*, July 19, 1989.

Chief of Staff Lieut. Gen. Ehud Barak, appearing before the Knesset's Foreign Affairs and Security Committee in January 1992, proposed deporting Palestinians from the Territories for a specified period, thus enabling more frequent use of this measure. According to Barak, deportations limited to an eighteen-month period would allow Israel to deport large numbers without arousing severe criticism in the international community.²⁵ Barak's proposal sparked controversy in the political echelon. MK Haim Ramon (Labor), then a member of the opposition, and minister of health at the time this report was written, then said:

History rules out this idea. Nations which resorted to the weapon of deportation did not reduce the level of violence against them, and reached the conclusion that this was not the solution. What will happen if the large-scale deportation proposed by the Chief of Staff – even for a limited period – will not bring the hoped-for results and will only fan the flames? Will the next step be a transfer? In any event, international public opinion will not swallow this method, even under the new name and style. [The international community] will react with sanctions and the damage will be irreversible.²⁶

Barak's proposal met objection within the military as well. On January 8, 1992 it was reported that the Judge Advocate General, Brig. Gen. Ilan Shiff, saw no substantial difference between open-ended deportation and deportation for a specified period. Shiff and other senior officers, it was reported, believed that international protest against deportations would not subside, even if a date for the deportees' return were set.²⁷

In August 1992 Prime Minister and Defense Minister Yitzhak Rabin announced that the deportation orders which had been pending against eleven Palestinians since January 1992 were being rescinded and replaced by administrative detention orders (i.e., detention without trial), "taking into account the passage of time and the developments that have taken place since the orders were issued, as well as policy considerations and security needs."²⁸

A total of sixty-six Palestinians were deported from the Territories from the beginning of the Intifada in December 1987 until December 1992.

25. See, for example, **Davar**, January 8, 1992.

26. In an interview to **Ma'ariv**, January 8, 1992.

27. **Ha'aretz**, January 8, 1992.

28. **Ha'aretz**, August 25, 1992.

IMPLICATIONS OF PUNITIVE DEPORTATION

A. Repercussions on the Individual and on the Family

International law stipulates that a State which controls occupied territory must ensure the well-being of the population.²⁹ This obligation does not terminate even if a resident of the territory is perceived as a threat to State security. When an individual is convicted and imprisoned, the authorities are obliged to afford him or her a certain standard of living conditions including food, clothing and medical care. The State of Israel acknowledges its basic duty in this regard toward all prisoners and detainees, whether they be Israeli nationals or not.³⁰ Yet, by resorting to deportation, Israel unilaterally disclaims all responsibility for the minimal safety and well-being of a resident of territory under its control. If a deportee is transferred to a State of which he is not a citizen, that State is under no obligation to grant him shelter. Thus, a deportee may find himself without a roof over his head and with no source of livelihood. Some deportees, whether by choice or by duress, have solicited the assistance of organizations which are outlawed in the Territories, thereby furnishing the Israeli authorities with a pretext to prohibit their return even after many years.

Deportation cuts off an individual from his family. Both international norms³¹ and Israeli law³² guarantee the right of detainees and prisoners to receive visitors on a regular basis. However, families of deportees must apply to the Israeli authorities for permission to leave the Territories and visit their relatives – permission which is not always

29. Regulation 43 of the Hague Regulations; Article 27 of the Fourth Geneva Convention. See also the principal arguments of attorneys Feldman, Tsemel and Rosenthal, sections 111-112.

30. See "**Minimal Standard Procedure for Treatment of Prisoners,**" 1955, and Article 76 of the Fourth Geneva Convention.

31. See Fourth Geneva Convention, Articles 76 and 116.

32. Regarding a prisoner or a detainee in the territories, see Incarceration Facility Order (West Bank Region) (No. 29), 1976, Section 12; regarding detainees or prisoners in Israeli Prison Service facilities, see Prison Regulations, 1978, Ch. V (Visits and Letters).

granted,³³ and which in many cases is given on the condition that the visitor remain abroad for some years.³⁴ Moreover, such a visit requires the consent of the State to which the deportees were sent – generally an enemy State which Israel did not consult prior to the deportation. Deportation is thus injurious to the deportee's family, forcing the family to choose between unification in exile, or remaining behind and splitting the family unit.

The Israeli government has often argued that deportation is a less severe measure than administrative detention, as it does not deprive the individual of his freedom.³⁵ Without detracting from the gravity of the sweeping use made of administrative detention in the Territories, or minimizing its infringement on human rights,³⁶ the argument that deportation is not as harsh a measure as administrative detention is unacceptable. The deportee may not be deprived of his freedom as he would be if he were imprisoned, but he is forcibly removed from his environment, without being assured of a means of livelihood, and exposed to dangers stemming from the fact that the State to which he is transferred is under no obligation to grant him protection.

B. Deportation in the National Context

For Palestinians in the Territories, some of whom have past experience of separation from their homes, deportation is a highly charged issue. Its detrimental effect is not confined to the personal injury it inflicts on the deportee and his family; in the national context, it is perceived as an attempt to distance the deportees from the arena of political struggle. This view of deportation is not unique to Palestinians. In 1944, Meir Sternberg-Shamgar, currently President of the Israeli Supreme Court, wrote from the deportees' camp in Eritrea, to which the British had transferred him along with other activists of the Irgun:

It is accepted in the world today that when an autocratic government seeks to suppress a liberation movement or a

33. For example, Amal Wadan, whose husband, Muhammad al-Labadi, was deported in June 1989, was prohibited from leaving the territories. See al-Haq, *A Nation Under Siege*, pp. 316-317.

34. See, for example, *Ha'Ir* (Tel-Aviv weekly), December 21, 1990; *Davar*, September 27, 1991.

35. See, for example, Meir Shamgar, "The Observance of International Law in the Administered Territories," *Israel Yearbook of Human Rights*, 1971, I, p. 274.

36. See *B'Tselem, Detained Without Trial: Administrative Detention in the Occupied Territories Since the Beginning of the Intifada*, October 1992.

revolutionary movement which is embodied in a legal party, it imprisons the movement's leaders and spokesmen in order to eliminate the danger posed by the movement while it is still in its infancy. [...] While the political significance of imprisonment alone is not apparent at first, the phenomenon known as detention and exile contains elements which make it a political factor of foremost importance.³⁷

C. Deportation as Legitimizing Transfer

Deportations, and large-scale deportations in particular, are liable to serve as a basis for legitimizing a "transfer," i.e., the mass expulsion of all or part of the Palestinians in the Territories, an idea which has gained some support among part of the Jewish public in Israel and even among some parties represented in the Knesset. Israeli politicians have expressed concern about this possibility. A few years ago MK Dedi Zucker (CRM) wrote to Defense Minister Yitzhak Rabin:

Every deportation lays another building-block in the basis for legitimization of a transfer. Part of the public views deportation as a mini-transfer, and every deportation today validates the repugnant transfer in public opinion.³⁸

D. Deportation in Practice

The effectiveness of deportation, as it has been used since 1967, has never been proven. In some cases it seems to have been employed for purposes immaterial to its stated goal.

1. *Deportation as a Deterrent*

"In a law-abiding State, deportation is a lengthy and cumbersome process, and is ineffective."

– *Reuven Hazak, former deputy head of the General Security Service, Yediot Aharonot, December 18, 1992.*

37. See article by Ada Ushpiz. *Ha'aretz*. December 25, 1992.

38. Letter from MK Dedi Zucker to Defense Minister Yitzhak Rabin, August 18, 1988.

To a large extent, deportation is employed because it is considered to be particularly effective as a deterrent.³⁹ At first glance, it seems logical to assume its deterring power, given the particular severity which the Palestinians ascribe to it.

However, even if one accepted that deportation is effective, it would still not be justifiable. Effectiveness cannot sanction a severe infringement of human rights, which circumscribe the legitimate boundaries of government operations. Failure to distinguish between legitimate and non-legitimate means, and a conception that the end justifies the means, may render all human rights vulnerable.

Moreover, no connection has been demonstrated between deportations and a reduction in the extent of violence perpetrated by the Palestinians in the Territories. It is difficult to assess the effectiveness of deportation as a deterrent. Unlike other punitive measures, such as the death penalty, it is difficult to conduct comparative studies between different states and periods on the impact of deportation, as it is not a commonly used form of punishment.

An attempt to examine the deterrent effect of deportation was made by Brig. Gen. (Res.) Aryeh Shalev, who used this measure on numerous occasions when he served as Commander of Judea and Samaria from 1974 to 1976. Shalev's comparison between the number of deportations carried out per month during the first eighteen months of the Intifada, and the number of violent incidents which occurred in the month following, shows that in the month after a deportation was carried out, the level of violence among the Palestinians in the Territories actually rose. The following table shows his findings:⁴⁰

39. So thought, for example, Rafael Eitan, former Chief of Staff, and subsequent leader of the Tsomet movement: "The government headed by Rabin, with Peres as its Defense Minister, deported the largest number of people. That's why there was no Intifada then. Afterwards, the Likud government came to power and the deportations stopped. The Likud brought this upon itself: petitions to the High Court, appeal committees, and all that. Only later when Rabin became Defense Minister did they start deporting again. Later, when Rabin, as well, stopped deporting, the Intifada began." - **Ha'aretz**, January 17, 1992.

40. Shalev, Aryeh, **The Intifada: Causes and Effects**, Jaffee Center for Strategic Studies, Tel-Aviv University, 1991, p. 115.

No. Residents Deported			No. Incidents in Following Month				Change from previous month	
Month	WB	Gaza	Total	Month	WB	Gaza		Total
1/88	4	0	4	2/88	1,773	525	2,298	+413
4/88	11	5	16	5/88	1,472	258	1,730	+244
8/88	6	6	12	9/88	1,614	824	2,438	+441
1/89	7	6	13	2/89	2,353	509	2,852	+384

The 415 Palestinians were deported in December 1992 "for absolute security reasons," and the State argued before the HCJ that to rescind the deportation would have disastrous consequences. Yet in this instance, too, it is difficult to see in what way the deportation was effective. Far from bringing about a decrease in the level of violence or in the number of killings in the Territories and in Israel, the incidence of such events rose significantly in the period following the mass deportation.⁴¹

2. Immaterial Considerations in Deportation Policy

Most of the material which forms the grounds for deportation is classified. The information available to the public, and even to the deportee and his lawyer, is formulated in vague, general terms such as incitement, subversion, and belonging to a hostile organization. Until recently, hearings before the advisory panels were conducted *in camera*. It is therefore impossible to determine the bases for deportation in each individual case. However, the timing of a deportation, the information published about the deportees, and statements made by personnel of the defense establishment and by politicians involved in the deportation, suggest that immaterial considerations frequently enter into the decision. In theory, the purpose of deportation is prevention; it is meant to be employed only in cases where a clear and immediate danger would be posed to the safety of the region and its inhabitants if the candidate for deportation were to remain in the Territories. Deportation is not supposed to serve as a punishment for past offenses – the judicial system exists for that purpose.⁴² In practice, however, deportation is often an easy substitute for legal punishment, and is utilized to a large extent for political reasons, rather than according to specific security considerations regarding the individual candidate for deportation.

41. See data in the concluding chapter, p. 68.

42. For example, in a 1991 ruling, Justice Goldberg stated that the authority for deportation is preventive, it looks toward the future, and it is intended to prevent concrete danger to the region on the part of the deportee, which cannot be avoided in any other way. Quoted in *Ha'aretz*, May 13, 1991.

a. **Deportation as a Reaction to Public Pressure**

We continue to deport because it is an easy way, and because we are programmed... . Every time instances of murder accumulate, we deport. It is easy, but it is no longer effective.
– *Yehoshua Sagi, former Chief of Military Intelligence, and later a Likud MK.*⁴³

An examination of the timing of deportations over the years illustrates that the government frequently resorts to this measure in reaction to public pressure and to dispel feelings that the security situation is deteriorating.

In 1980, three West Bank Palestinians – Hebron Mayor Fahed Qawasmeh, Halhul Mayor Muhammad Milhem, and the Islamic Court Judge (qadi) of Hebron, Sheikh Rajab a-Tamimi – were deported the day after six yeshivah students were killed in Hebron. In the summer of 1985 the government decided to renew the policy of deportation following public pressure to adopt an iron-fist policy against the Palestinians in the aftermath of the "Jibril deal" (Israel's freeing of approximately 1,150 Palestinian prisoners in return for four Israeli soldiers held by Ahmad Jibril's organization in Lebanon).⁴⁴ After a period of some eighteen months in which the deportation policy was abandoned in view of the defense establishment's conclusion that it was no longer an effective deterrent, Defense Minister Moshe Arens stated, in December 1990, that the authorities would soon employ deportation. His statement followed heavy pressure exerted by the right-wing parties in the wake of a series of attacks inside the Green Line.⁴⁵ Four deportation orders were issued against Hamas activists the day after the stabbing murders of three Jews in Jaffa. In January 1992, immediately after the murder of Doron Shorshan, an Israeli settler, Defense Minister Arens asked the General Security Service to prepare a list of candidates for deportation. Around the same time, defense establishment sources told the press that the previous weeks had seen increasing pressure exerted on Arens by the right-wing parties and the Jewish settlers in the Territories to reinstate the practice of

43. *Ha'aretz*, January 17, 1992.

44. On the events which led to the renewal of deportations as a result of public pressure, see Joost Hilterman, *Israel's Deportation Policy in the Occupied West Bank and Gaza*, al-Haq, 1988, Ch. 4.

45. *Ha'aretz*, December 4, 1990.

deportation.⁴⁶ In December 1992, government sources justified the mass deportation by saying that it was necessary to appease the public.⁴⁷

That deportation is not exercised only in order to remove those whose presence poses a danger to security, is reflected in the words of the official who initiated the deportation of Qawasmeh, Milhem and a-Tamimi, namely Brig. Gen. (Res.) Binyamin Ben-Eliezer, then Military Commander in Judea and Samaria, currently minister of housing:

If we had not deported them, the whole area would have slid into chaos. The settlers would have reacted to the murder and the Arab population would have reacted in return. Simply absolute anarchy. Sheikh a-Tamimi was an agitator of the worst kind. Milhem, too, was no little agitator. Qawasmeh was actually one of the most moderate and pragmatic leaders. He cooperated with us. But we had no choice. We had to deport him because he was mayor of Hebron and this terrible murder happened in Hebron.⁴⁸

This statement illustrates how deportation is used in order to give the Israeli public the feeling that the defense establishment is being tough against perpetrators of violence. Taking a punitive measure – and certainly one so extreme – in order to assuage an outraged public, is unacceptable. Not only does it conflict with the declared policy of the authorities in the Territories,⁴⁹ but it also contradicts the rule of law, which holds that a government may act on relevant considerations only and not yield to pressure. While the showcase character of deportation creates the impression that its security benefits are great, in fact, its use is largely dictated by a desire to calm the Israeli public.

46. **Ha'aretz**, January 3, 1992.

47. See, for example, statement of then Minister of Environment Ora Namir, **Ha'aretz**, December 18, 1992; in addition Attorney General Harish told the HCJ: "It is inconceivable that the public should have the feeling that no one is working to ensure the safety of people walking in the street... I hope I am wrong, but if the hand of the law is unable to fulfill its mission, people will feel entitled to do a wrong act, and the impatient will take the law into their hands. This is a cry, for heaven's sake, that something be done to stop the killing." **Hadashot**, December 18, 1992.

48. **Ha'aretz**, January 17, 1992.

49. Shlomo Gazit, former Coordinator of Activities in the Occupied Territories, wrote in 1970: "We as a government do not look for the motive behind the act of sabotage and crime which has been perpetrated, even though at times the urge to do so is great." Shlomo Gazit, "The Administered Territories Policy and Action," **Maarakot** 204, (Hebrew) January 1970, p. 37.

b. Deportation as a Political Punishment

In the first years of Israeli rule in the Territories, deportation policy was clearly politically motivated. The goal was to deport every Palestinian who was involved in political activity. In the words of Shlomo Gazit:

We employed deportation against those who were involved, or tried to be involved, in political activity. We did not want to deal with political activists in Court. That would embarrass us. It was inconvenient for us, so we decided to get rid of them, and it proved itself. After a few deportations the level of political activity declined.⁵⁰

The use of deportation later lessened, but the policy of deporting mainly political activists, who were not suspected of terrorist action, continued.

For example, political considerations played a role in the deportation of Dr. Ahmad Hamzi Natsheh from Hebron and Dr. 'Abd al-'Aziz al-Haj from al-Bireh, candidates in the 1976 West Bank municipal elections. Military sources said the two were deported because of the security threat which would be posed if they remained in the Territories. Defense Minister Shimon Peres declared that the elections would be conducted "without pressure, without intervention and without intrigues."⁵¹ However, representatives of the Military Government, and the defense minister himself, urged former Hebron mayor Sheikh Muhammad 'Ali Jabri to submit his candidacy. The deportation of Natsheh and al-Haj, both considered more radical than the traditional pro-Jordanian mayors, appears to have been direct intervention in the elections, with the aim of removing anti-Jordanian candidates from the arena. Prof. Aharon Barak, then the Attorney General, provided the legal foundation for the immediate deportation of the two. Later, though, Barak said the action had been a political mistake.⁵²

By employing vague terms such as "incitement" or "subversion," the authorities can define as security offenses types of action which by any other criteria would be considered legitimate political activity.

Here is Gazit's explanation of how a demonstration comes to be defined as a violent act:

From day one, the Military Government drew a clear distinction between the rights of the population in the

50. **Ha'aretz**, January 17, 1992.

51. Quoted by Yehuda Litani, **Ha'aretz**, April 30, 1976.

52. Yehiel Guttman, **The Attorney General v. the Government**, Idanim Publishers, (Hebrew), quoted by Moshe Negbi, **Justice Under Occupation**, (Hebrew) 1981, p. 88. For additional details about this affair, see *Ibid.*, pp. 82-88, and Yehuda Litani, *op. cit.*

Territories to reject the very existence of the Israeli Military Government and to say so openly, and the use of violent means. **And a demonstration – even if it is not an act of terrorist sabotage – is a violent act, which disrupts traffic and nearly always causes violent incidents with the demonstrators.** [Emphasis added.]⁵³

Gazit goes on to explain the meaning of the term "incitement":

In September 1967, Maj. Gen. Uzi Narkis published an order prohibiting incitement in the West Bank... . The order barred the holding of a procession or a meeting without the permission of the Military Commander, prohibited the raising of flags and political symbols without authorization, and banned the printing and/or publication of an announcement, placard, photograph, pamphlet or any printed matter with political significance, without permission from the Military Commander. **Naturally, there were no illusions that this order by itself could stifle rebellious actions. Its main importance lay in its outlawing of these actions and deeds. Thus was created the legal foundation for the various punitive measures. The first measure attempted was punitive exile.** [Emphasis added.]⁵⁴

The blurring of the distinction between legitimate political activity, such as demonstrations, strikes, etc., and violent action, turns anyone who organizes such action into an "inciter" and thereby a potential candidate for deportation.

An additional reason for deportation is "belonging to a hostile organization." In most cases, there is no clear definition of "belonging" to an organization so defined. Part of the population of the Territories identifies with organizations which the Israeli authorities consider hostile, but such identification is not manifested in any practical manner. Anyone against whom there is evidence of activity in a hostile organization will most likely be charged accordingly, and not just with "belonging" to the organization. By citing the vague term "belonging," the security forces can punish an individual without having to prove active participation in prohibited activity. This punishment is often of an administrative character – administrative detention or deportation – thus sparing the authorities the need to prove the "belonging" in a Court of law.

53. Shlomo Gazit, **The Stick and the Carrot**, (Hebrew), p. 275. Emphasis added.

54. *Ibid.*, p. 276. Emphasis added.

DEPORTATION IN INTERNATIONAL LAW AND ISRAELI LAW

Under the Proclamation on the Law and Administration Ordinance issued by the Military Governor in the Territories on June 7, 1967, the law in effect in the Territories on that date would remain in force, "insofar as it does not in any way conflict with the provisions of this Proclamation or any other proclamation or order which may be issued by me, and subject to modifications resulting from the establishment of government by the Israel Defense Forces in the Region."⁵⁵ The authorities take the position that the Defence (Emergency) Regulations from the British Mandate period remain in force in the Territories, and thus deportations from the Territories are carried out by Israel pursuant to Regulation 112.⁵⁶

In any event, deportations are prohibited under international law. According to Article 49 of the Fourth Geneva Convention, 1949:

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

The Convention, to which Israel is a party, lays down the rules of behavior applying to a State holding territory which was captured by armed forces and which contains a civilian population. Its purpose is to protect the rights of the civilian population during a war or afterward, as long as the population is under military rule. These are the most

55. Par. 2 of the Proclamation on Law and Administration (West Bank Region) (No. 2), 1967, and a parallel proclamation issued in the Gaza Strip. NOTE: English version from Meir Shamgar (ed.) **Military Government in the Territories Administered by Israel 1967-1980: The Legal Aspects**. Vol. I, Hebrew University, Jerusalem, 1982, p. 450.

56. A controversy exists over whether the Defence Regulations were in force in the West Bank on the eve of the Six-Day War. It has often been argued that the Jordanian constitution of 1952, one provision of which prohibits the deportation of residents, effectively annulled the Regulations. To remove all doubts on the matter, the IDF stated, in its Interpretation (Additional Provisions) (No. 5) Order (Judea-Samaria) (No. 224) 1968, that the Defence Regulations were in force in the territories. It is not clear whether the military commander was empowered to "revive" the Defence Regulations if they had in fact been revoked. See also **The Judicial and Administrative System: Studies on Civil Rights in the Administered Territories**. (Hebrew), The Association for Civil Rights in Israel, 1985, p. 9.

elementary and basic rights, which the Convention's formulators deemed must be upheld even in a situation of war or occupation, and which due to these situations, encompass less than full civil rights.

A. Application of the Geneva Convention to the Occupied Territories

Although Israel has ratified the Fourth Geneva Convention, it has not recognized its applicability in the Territories. At the same time, Israel has declared on numerous occasions that it takes upon itself to respect the humanitarian provisions of the Convention in the Territories. To this day, the Israeli government has not specified what it means by "humanitarian provisions." However, the Fourth Geneva Convention is essentially entirely humanitarian, dealing solely with treatment of civilians in time of war and occupation. In any event, it is obvious that the provision prohibiting deportations bears a saliently humanitarian character.

The debate over the applicability of the Fourth Geneva Convention in the Territories emanates from the question of the status of the Territories according to international law. Those who reject the Convention's application in the West Bank and Gaza Strip argue that on the eve of the 1967 war, those territories were not under the sovereign control of any State; therefore they were not taken from a previous sovereign, and it follows that they are not occupied territories.

This approach is not accepted by the international community or by most Israeli experts on international law, who believe that the Geneva Convention applies to the West Bank and to Gaza, whether because the territories were taken from a previous sovereign (in the case of the West Bank), or because a territory containing a civilian population is considered to be under "belligerent occupation" as long as it is under military rule.

B. Article 49 and the Position of the Israel Supreme Court

Israel's High Court of Justice has never decided on the question of the Convention's applicability to the Territories, but has often made reference to the Convention because, as Chief Justice Shamgar explained in the *Shahin* case, "As we find it acceptable, and according

to the position of State Attorney's office, the problem before us is examined on the basis of the assumption that Israel respects the humanitarian provisions of the laws of war, independent of the question of the applicability of the Fourth [Geneva] Convention."⁵⁷

The HCJ does not consider itself bound by the prohibition in Article 49 of the Convention regarding deportation of Palestinians from the Territories by Defence Regulation 112, irrespective of the question of the status of the Territories. Thus did the High Court interpret the article as not applicable to deportations carried out by the IDF against residents of the Territories.

1. Force of the Prohibition in Local Law

Norms of international law may be customary or conventional. Customary international law reflects a norm which exists among states, accepted by most of them: it may be grounded in a convention, or accepted as a custom. Customary international law is considered to be binding on all States. Conventional international law, on the other hand, is created through treaties which determine new norms, and state parties to conventional treaties have a legal obligation to uphold them.

The position of the Israeli Supreme Court is that the provisions of a conventional treaty are not binding on the national level, so long as they have not been adopted by internal legislation.

The Supreme Court takes the view that the Fourth Geneva Convention falls under the category of conventional international law, and is therefore not binding on the Israeli administration operating under the Defence Regulations.⁵⁸ Some, though, argue that certain clauses in this Convention are customary, since they reflect existing norms. This view was expressed by Justice Haim Cohen, in a dissenting opinion, rendered in the second *Qawasmeh* case⁵⁹:

There is nothing new in the prohibition on deporting a citizen from the State in which he holds citizenship: whether States confer this prohibition on themselves explicitly in their laws or their constitutions – as did the Kingdom of Jordan in Par. 9 of its Constitution – or not. In any event, they are obligated by law to recognize the right of their citizens to reside on their land. Indeed, this is an international obligation as well, and not only the obligation of a State toward its citizens.

57. HCJ 13/86, *Shahin et al. v. Commander of IDF Forces in Judea-Samaria Region*. *Piskei Din*, (Hebrew) 41(1), 197, 206.

58. See, for example, HCJ 698/80, *Oawasmeh et al. v. Defense Minister et al.*. *Piskei Din*, (Hebrew), 35(1), 627-628.

59. HCJ 27/88, 845, 785/88, *Piskei Din*, (Hebrew), 42(2), pp. 4, 28

[T]he behavior of States in fulfilling their lawful duty by prohibiting themselves from deporting their citizens from their land is universal and constant, having become virtually a custom of international law... .

Justice Cohen later adds:

It turns out that positioned opposite the Regional Commander's legislation, which left in force his authority under Regulation 112 of the Defence Regulations to deport any person from the Administered Territories, is the rule of customary international law, according to which it is prohibited to deport an individual from his State to outside its boundaries. The law is that legislation by the Regional Commander has no weight when brought up against a rule of customary international law.

2. Interpretation of the Article

As reflected, *inter alia*, in Justice Shamgar's opinion in the 'Afu case,⁶⁰ the HCJ considers Article 49 as inapplicable to individual deportations implemented on security grounds:

The drafters of the Convention had in mind mass deportations for extermination, mass population shifts for political or ethnic reasons, or transfer for forced labor. This is the "purpose of the legislation" and the relevant context... .

This interpretation conflicts with the plain language of the Article, which prohibits both individual and mass deportations for whatever reason, and is not reconcilable with the Article's legislative history.⁶¹

In the 'Afu case, Justice Gabriel Bach expressed his opinion that the wording of the Article allows for no reservations:⁶²

The language of Article 49 of the Fourth Geneva Convention is clear and unequivocal. The combination of the words "individual or mass forcible transfers, as well as deportations," with the phrase "regardless of their motive," leaves no room for doubt, in my opinion, that the article applies not only to

60. *Ibid.*, p. 71.

61. For more on the legislative history of Article 49 of the Fourth Geneva Convention see "Excerpts from the Written Arguments Submitted by the Association for Civil Rights in Israel," Appendix C.

62. Still, Justice Bach arrives at the same result as Justice Shamgar, one reason being that he affiliated himself with the approach that Article 49 is not part of customary international law, but "at most an addition to the conventional international rules." *Ibid.*, p. 77.

mass deportation but also to the deportation of individuals, and that the prohibition is meant to be a blanket one, sweeping and without reservations – "regardless of their motive." [...] The wording of the article, even in context and on the backdrop of the article in its entirety, does not, in my opinion, admit of the interpretation that it is directed to prevent only and exclusively acts such as those which were perpetrated by the Nazis for racial, ethnic or nationalist reasons.

But it is Justice Shamgar's interpretation, as articulated in the *'Afu* judgment, which guides the HCJ today. Petitions before the HCJ by candidates for deportation no longer focus on the legality of deportation according to the Geneva Convention, nor even on the Convention's applicability. Instead, the Court views deportation as the legitimate use of the power vested in the Military Commander by Regulation 112, which it considers to have remained in force as local law in the Territories. In view of this position and the Court's acceptance of the authorities' considerations, the HCJ has approved all the deportation orders against Palestinian residents of the Territories which have been brought before the Court.

DEPORTATION AS PUNISHMENT WITHOUT TRIAL

Administrative punishment is penalization imposed by an administrative authority outside the framework of judicial procedure, without regard to the right to due process. Proper legal procedure for criminal offenses, including security offenses, must be based on a detailed indictment before an authorized court. Under normal procedure the court examines the evidence presented by both parties, after ensuring that the accused has reasonable opportunity to refute the charges. If it is found beyond a reasonable doubt that the accused is guilty, he or she may be convicted. After hearing the parties' arguments regarding the punishment, a sentence may be meted out in accordance with the law.

The 1948 International Declaration of Human Rights details some of the basic rights of a person to due process, including the following:

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. (Section 11(1)).

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

A. Evidence

In a long series of judgments the HCJ has insisted upon the requirement that every deportation be based on clear, unequivocal and convincing evidence.⁶³ This evidence must indicate that the continued presence of that particular person in the area constitutes real danger to the security of the area or to the welfare of the public. The HCJ ruled that deportation may only be used if less drastic measures would be ineffective. In fact, these conditions often are not met, as was the case in the mass deportations of December 1992. This point is elaborated in part C of this report.

63. See, *inter alia*, *HCJ 358/85 Nadel v. IDF Commander. Piskei Din*, (Hebrew) 39(3) 645(3), p. 655.

Colonel (res.) Yitzhak Aksel, an attorney who served as Legal Advisor for the West Bank during 1982-1986, commented on the question of evidence in deportation proceedings in a December 1990 interview to Ha'aretz:⁶⁴

Question: From your experience, are you able to state that there have been cases in which people were deported although the evidence against them did not justify this?

Aksel: It is impossible to know this. This would be speculation. But the fact is that people have been put on trial when the prosecution was convinced that the evidence they had collected was strong enough to convict and yet the court eventually acquitted them. This was because the prosecution's evidence was disclosed and the defense was able to cross-examine. It is not impossible that if the deportations were carried out in a normal judicial process in which the evidence is revealed to the defense, the courts would have prevented some of them. However, there are security limitations which must be understood and accepted. But since this is not a regular judicial process, special care must be taken in issuing administrative deportation orders. Of course, this cannot be done in a wholesale manner or by cutting corners in processes that have already been shortened.

B. The right to be heard

In every administrative decision (all the more so when the decision involves severe injurious effect on an individual) the authorities must allow the affected party to be heard before a court or a quasi-judicial body. Israeli courts have often emphasized the right to a hearing as one of the fundamentals of natural justice. The authorities are obliged to grant this right even if it is not required by the relevant legislation. Recognition of this obligation was reflected, for example, when the HCJ required granting the right to be heard prior to the demolition of houses by military order issued under the Defence (Emergency) Regulations.⁶⁵ The HCJ recognized the right to be heard in this case as one of the principles of natural justice, notwithstanding that the Defence (Emergency) Regulations do not mandate a right to a hearing

64. Interview by Yerah Tal, Ha'aretz, December 5, 1990.

65. See HCJ 358/88, *The Association for Civil Rights in Israel v. OC Central Command, Piskei Din* (Hebrew), 43(3) 529.

prior to house demolition. On the other hand, Regulation 112(8) of the Defence Regulations does grant a deportation candidate the right to be heard.

Over the years, certain procedures have developed regarding deportation. When the deportation order is issued the candidate is allowed to contest the deportation before an advisory panel composed of military personnel, acting by authority of Regulation 112(8) of the Defence Regulations. The panel's conclusions are non-binding recommendations. After applying to the panel the deportation candidate may appeal the decision before the HCJ.

However, even when the deportation candidate exhausts the procedures available to him, this does not necessarily constitute full and fair exercise of the right to be heard. Due process requires that a person wishing to contest an administrative decision that harms him be allowed the right to examine the material on which the decision is based. However, in the appeals process before the advisory panel, the deportation candidate or his lawyer are generally not allowed to examine the file and evidence on which the deportation order is based, since it is generally classified for security reasons. Lack of access to the material precludes an effective attack on the deportation order. On this matter Col. (res.) Aksel said:

The candidate for deportation is effectively prevented from defending himself properly, because most of the material on which the decision to deport him is based is classified and presented only to the judge. In this way the defense is prevented from examining the prosecution and the evidence presented. This resembles a boxing match in which one of the boxers has his hands tied behind his back.⁶⁶

Another problem, which has recently been solved, is the issue of public proceedings. In the past, the advisory panel's sessions were held *in camera*. On January 12, 1992, the HCJ ruled in response to a petition by the Association for Civil Rights in Israel⁶⁷ that the advisory panel's hearing be public because of the public's right to know and the petitioners' right to due process.

The second course of action open to the deportation candidate is an appeal to the High Court. However, because of the High Court's position on the legality of deportations, the proceedings generally focus on administrative grounds which the specific petitioner argues require

66. *Ha'aretz*, December 5, 1990.

67. HCJ 120/92, *Sami 'Ativeh Samhadana and two others v. the Advisory Committee to the IDF Commander in the Gaza District*. *Piskei Din*, (Hebrew), 46(1), p. 466.

the Court's intervention. This means that the Court does not examine the wisdom underlying the reasoning for the decision but only whether it is not unreasonable and based on sufficient factual grounds. To this day the Court has rejected all petitions brought before it on this matter. In the *Qawasmeh* case, the HCJ held that Regulation 112(8) requires exercise of the right to be heard before the deportation is carried out. In May 1980, the then-military commander of Judea, Samaria and the Gaza District, Brig. Gen. Binyamin Ben-Eliezer, issued deportation orders against Mayors Fahed Qawasmeh and Muhammad Milhem and the Sheikh a-Tamimi. The three were taken from their homes and transferred, without being informed of their destination, across the Lebanese border. The deportees' families petitioned the HCJ contesting the validity of the orders. The authorities admitted they were aware of their obligation to allow the candidates the right to be heard, but due to the special security situation they had decided to deport immediately without allowing the deportees this right. The government announced to the Court that it was prepared to consider an appeal after the fact, in the deportees' absence. The Court rejected the government's position. Chief Justice Landau ruled that natural justice and the wording of Regulation 112(8) required that deportation candidates be allowed to appeal to the advisory panel immediately after issuance of the deportation order, before its implementation. In his opinion he explained that when the deportee is already across the border his effective right to present his case before the advisory panel is impaired:⁶⁸

Even if the Respondents considered it extremely desirable, because of urgent security considerations, that the deportation be carried out without delay, this did not justify disregarding... the necessity to uphold the law.

The Court consequently ordered the return of deportees Qawasmeh and Milhem to enable them to exhaust the appeals procedure.⁶⁹

The implementation of the mass deportation of December 1992 began immediately after it was decided upon, denying the deportees their right to apply to the advisory panel and to the High Court. In this case the HCJ sanctioned the deportation although the prior right to hearing had been denied, as will be described in full in section B of this report.⁷⁰

68. *Ibid.*, p. 19.

69. Regarding the third deportee, it was decided not to allow him to return because of the instances of severe incitement attributed to him.

70. The principle points of the ruling appear in Appendix F of this report.

**THE MASS DEPORTATION OF
DECEMBER 1992**

THE GREAT BRITISH
MUSEUM

THE COURSE OF EVENTS

Early December, 1992

In its Response to petitions submitted to the HCJ against the legality of the deportations, the State said the decision to deport was taken in response to a "series of events" which reached an apex in the first two weeks of December.⁷¹

Six members of the Israeli security forces were killed by Palestinians during this period. Reserve soldiers Uri Zamir, Hagai Amit and Shalom Tzabari were shot dead in an incident which occurred at the Saji'aya Junction in the Gaza Strip. Another reservist, Yuval Totanjani, was killed in Hebron. The Hamas organization claimed responsibility in both cases. Sasson Morduch, a member of the Border Police's anti-terrorism unit, was killed in a confrontation with a member of the Islamic Jihad in the Jenin District.

December 13, 1992 Border Guard Nissim Toledano was kidnapped in Lod by Hamas activists. The kidnappers presented the Israeli government with an ultimatum, according to which Toledano would be executed if the leader of Hamas in Gaza, Sheikh Ahmed Yassin, serving a life sentence in the Kfar Yonah Prison, were not released by 9:00 p.m. that same evening. That night, Toledano was stabbed and strangled to death by the kidnappers.

Immediately after the kidnapping was known, mass arrests were carried out in the Territories, in which, according to official sources, some 1,300 Palestinian men suspected of being Hamas or Islamic Jihad activists were arrested.⁷² They were defined as members of these organizations' political echelons or administrative mechanisms, or as holding treasury positions. "Hard core" members wanted for having carried out the attacks were not apprehended.

December 15, 1992 Prime Minister Yitzhak Rabin announced that the Israeli government intended to take severe action against the Hamas. "The world should not be surprised," Rabin announced, "if we're forced this time to use particularly harsh measures in order to ensure Israel's security."⁷³

71. Response submitted on January 17, 1993 and signed by Attorney General Yosef Harish. See Sections 6-11, 16-21 of the government brief. The principle arguments appear in Appendix E of this report.

72. See, for example, **Davar**, December 17, 1992.

73. **Davar**, December 16, 1992.

December 16, 1992 In the course of the morning, the Israeli government decided to order deportation for up to two years, of "inciters, those inhabitants of the area who endanger human lives by their activities, or those who incite others to such actions." The deportations were to be carried out "without prior notification."⁷⁴

The security forces began carrying out the deportations that same evening, while two deportation orders were being issued in the West Bank and three in Gaza. More than 400 Palestinians were put on buses and taken north, towards South Lebanon, handcuffed and blindfolded. Most of the deportees were taken directly from prison facilities; the remainder were taken from their homes.

The IDF censored publication of any information regarding the deportation decision and its execution. In spite of this, news of the intended deportations reached Israeli, Palestinian and foreign organizations and individuals.

During the night, attorneys Leah Tsemel and Andre Rosenthal filed a petition on behalf of some of the deportees. Justice Aharon Barak issued an interim injunction prohibiting the deportation of those persons whose names the lawyers managed to locate, pending the State's explanation before the Court as to why the State should not be prevented from implementing such a measure.

As a result of the interim injunction, the convoy of buses was stopped. Later, a second petition was filed by the Association for Civil Rights in Israel, challenging the legality of the deportation. Justice Barak issued another interim injunction hindering the deportation.

December 17, 1992 The hearing of the petitions before the HCJ began at 5:00 a.m. before three justices, and was later scheduled to continue before a panel of seven. According to official sources, 35 of the deportees were taken off the buses and returned to prison or to their homes in the course of the hearing. Others, it was then said, were placed on the buses in their stead.

After a 14-hour hearing, at which Chief of Staff Ehud Barak gave a statement before the seven-judge tribunal, the Court decided to cancel the injunctions. The deportees were transported to the Zumriyah Pass at the northernmost point of the "security zone," near Marj a-Zahur, northeast of Metulla.

December 17, 1992 The Lebanese army prevented the deportees from continuing north, and they were left in an area between Lebanese

74. The complete text of the government decision can be found in Appendix A of this report.

and Israeli-controlled territory. From this point on, the Israeli government maintained that the deportees were in an area controlled by the Lebanese and thus were the responsibility of the Lebanese government, while the latter maintained that Lebanon had not permitted the entrance of the deportees into its territory and so the Israeli government was responsible for them. The Lebanese government set up a dirt barrier, while the Israelis blocked off the Zumriyah Pass and mined the road leading to it.

December 18, 1992 Three petitions were filed with the HCJ, demanding that the government be instructed to return the deportees, because of the threat posed to their lives. The petitions were rejected by a panel of seven justices, who accepted the State's argument, ruling that "the deportees are now located in a Lebanese-controlled area" and that the Lebanese government was therefore responsible for their safety.

December 18, 1992 The U.N. Security Council unanimously adopted Resolution 799 condemning the deportation. The Security Council found that the deportation contravened Israel's duties as an occupying power, under the Fourth Geneva Convention, and called upon Israel for their immediate return. The Security Council also instructed the UN Secretary General to consider sending a special envoy to monitor execution of the resolution.

Two special envoys, James Jonah and Chinemaya Jarakan, held a number of fruitless meetings with the political leadership in Israel at the end of December and throughout January.

December 21, 1992 The deportees marched to the Zumriyah Pass but turned back after the South Lebanon Army fired a number of shells at them.

For a period of a few days, representatives of the Red Cross and UNRWA were allowed to bring food, tents, mattresses, heaters, medical and other equipment to the area, and camp was set up. Afterwards, the Lebanese authorities decided to prohibit Red Cross and UNRWA representatives from further provision of food and equipment from Lebanese territory. The authorities even returned a number of deportees who had been hospitalized in Lebanon to the tent encampment. Israel also prevented the provision of any kind of aid through the territory under its control. The deportees continued to regularly receive supplies from the residents of nearby villages.

December 25, 1992 The Israeli Cabinet resolved, by a vote of eight to six, not to allow provision of humanitarian assistance to the deportees through the territory under Israeli control.

December 28, 1992 The IDF Spokesperson announced that 10 of the deportees had been deported by mistake and would be allowed to return.

January 9, 1993 Following a decision defined by the Israeli government as "one-time only," two Red Cross representatives (one a physician) were flown in UNIFIL helicopters from Naqura in the "security zone" to the deportees' encampment. They returned with Bassem Suyuri, a 16-year-old Hebron youth whom the Israeli authorities admitted had been deported by mistake, and Zuheir a-Lubeidah, a kidney patient from Nablus. A-Lubiedah was hospitalized in Marj 'Ayun, in the "security zone."

January 13, 1993 Attorney General Yosef Harish informed the Court that six additional Palestinians had been deported by mistake and would be allowed to return.

January 17-25, 1993 The HCJ held hearings on the petitions against the deportation from January 17 to January 20. On January 25, Attorney General Harish presented the Court, upon its instruction, with a document detailing the means by which the deportees would be able to contact their lawyers and families in order to file appeals against their deportation, including face-to-face meetings in the Zumriyah Pass area.

January 25, 1993 Another 13 persons who had been deported by mistake were returned by helicopter. Two others refused to return. In addition, four sick deportees were hospitalized in Marj 'Ayun, in the "security zone."

January 26, 1993 UN General Secretary Boutros Boutros Ghali presented a report to the Security Council, in which he recommended *inter alia*: "to take the necessary steps in order to ensure that the decision, regarding which there was a full consensus - will be upheld."

January 28, 1993 The seven HCJ justices reached the unanimous decision that the Order Concerning Temporary Deportation (Emergency Provision), on the basis of which the Regional Commanders had decided upon the deportation, were not valid, but given that the deportation was grounded in Regulation 112 of the Defence (Emergency) Regulations of 1945 as well, the deportation itself was valid. The Court said that while optimally, the right to a hearing is granted prior to deportation, the hearing may be postponed in exceptional cases. "If no early hearing was held, one must be held later," the Court ruled. At such a hearing, the State must allow every deportee who submits an appeal to appear personally before the

advisory panel. The Court also ruled that the deportation order in question "was not a collective order but rather a collection of personal orders". [Emphasis in the original.]⁷⁵

February 1, 1993 An agreement was reached between Israel and the United States, by which approximately 100 deportees would be returned immediately, and the period of the others' deportations would be cut in half. Following this agreement, Israel publicized a list of 101 deportees who were free to return. The deportees rejected the agreement and announced that as long as they were not all allowed to return, not one of them would.

May 10, 1993 Israel informed the Washington administration of its willingness to return 25 additional deportees, after the IDF appeals boards which reviewed the deportees' matter had concluded their work. Charges are pending against six of these deportees. To the time this report was written, no developments have occurred: the deportees remain at Marj a-Zahur, and neither the government's position nor that of the deportees has changed.

75. The principle points of the ruling appear in Appendix F of this report.

THE MASS DEPORTATION AS COLLECTIVE PUNISHMENT

One of the most basic principles of law is that a person is responsible only for his or her own deeds. Collective punishment, i.e. the punishment of individuals or groups for actions not specifically attributed them, is forbidden under Israeli and international law.

Article 33 of the Fourth Geneva Convention of 1949, states:

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited... . Reprisals against protected persons and their property are prohibited.

THE MASS DEPORTATION OF DECEMBER 1992

The State contended that the punishment of deportation was imposed individually on each of the deportees. In his reply to the petition before the HCJ, the Attorney General stated (Section 51):

The IDF commanders in Judea, Samaria and the Gaza District examined the case of every candidate individually. They weighed each case on its merits in order to authorize or reject the deportation, taking into consideration the continuous and close legal advice of the district legal advisors and security sources.⁷⁶

In its ruling of January 28, 1993, the High Court accepted this claim and ruled that (Section 8):

The orders that were issued in this case were based on particular information about each deportee... . That is to say, this was not a collective order, but rather a collection of personal orders, each one of which stands on its own. [Emphasis in the original.]

76. See also Section 53 of the Response, appearing in Appendix E of this report.

In Section 12, the High Court referred to "individual deportation orders."

A careful examination of the facts reveals that this assertion does not in any way reflect the true state of affairs. From three major aspects the deportation can be seen to have been, in fact, collective punishment:

1. **The decision making process:** The commanders who issued the orders acted under pressures of quantity and time, which did not allow them to seriously consider each case. They deported according to unclear and sweeping criteria. In Gaza the orders included two lists of deportees in "rounded" numbers, which were signed after the deportation had begun.

2. **The nature of the orders:** The deportation orders were – in form and content – patently collective, not personal or individual.

3. **Cancellations, mistakes, contradictions and confusion:** Many of the Palestinians whose deportation was presented as a security necessity were not deported. The deportation of others was recognized as a "mistake," and additional Palestinians were deported or not deported by mistake or in contradiction to previous recommendations of the security authorities.

1. THE DECISION MAKING PROCESS

a. Instructions to regional commanding officers to deport a "large number" of Palestinians:

The Attorney General stated in his Response to the petition before the HCJ that the Prime Minister had informed the IDF Chief of Staff and the Head of the General Security Services (GSS) that he intended recommending to the government "to allow the deportation of a large number of Hamas and Islamic Jihad activists for a specified period" (section 22). In addition, the Attorney General asserted that the deportation had to be "extensive." (section 29)

According to reports in the media, Prime Minister Yitzhak Rabin and Construction and Housing Minister Binyamin Ben Eliezer, in a preliminary discussion, decided to propose the deportation option at a Cabinet meeting. Ben Eliezer spoke at the Cabinet meeting of deporting "200-300" Palestinians.⁷⁷

77. **Ha'aretz**, December 24, 1992. According to the same report, when Ben Eliezer was asked why 415 were deported he answered, "What's the difference?"

From what has been related above, it is apparent that the regional commanding officers were acting under pressure to deport large numbers of people suspected of belonging to the Hamas or the Islamic Jihad. This pressure limited the possibility of deliberation concerning each candidate for deportation.⁷⁸

b. Unclear and sweeping criteria

In the State's Response the Attorney General detailed the criteria according to which the authorities had decided on the deportation (Section 49):

These are people, some of whom took part in the organization and support of violent acts, or in directing, inciting or preaching such acts. Others aided the activities of the organizations [Hamas and the Islamic Jihad] in economic or organizational infrastructure, recruitment, collection of funds, and in formulating circulars and orchestrating their distribution.

The criteria are widely inclusive, and the Attorney General effectively admitted, in the High Court hearing regarding the legality of the deportations, that many thousands of Palestinians may fall within their bounds:

Justice Barak: [N]ext to each name, what is the terrorist act that justified the deportation and which may be disclosed, because this touches upon the question of the infrastructure. Is it possible to deport everyone who is a member of an organization and more, meaning that it is possible to deport all 10,000?⁷⁹ You yourselves agree that there must be individual guilt of some kind. My question is, at what level of gravity does one decide to deport? Every member of a hostile organization?

Harish: Maybe so. It may be that if one wishes to uproot the organization, it is necessary to deport all of them.

Barak: Is there an estimation of how many persons are members of terrorist organizations in the Gaza Strip?

Harish: Everyone, I think.⁸⁰

78. The number of deportees on December 16, 1992 was unprecedented. In comparison, the greatest number of Palestinians who had been deported *en masse* from 1967 to that day was 17 (on three occasions during 1971).

79. This figure seems to refer to all the Palestinian detainees, even though it is less than the number actually detained.

80. **Ha'aretz**, January 18, 1993.

The High Court of Justice ruled, in spite of these explanations by the State, that the deportation orders are "individual orders" based on "particular grounds [for each individual]."

c. The Time at the Generals' Disposal Was Insufficient for a Thorough Case-by-Case Examination

In the petitioners' written arguments, Attorneys Feldman, Rosenthal, and Tsemel calculated and found, based on the time that passed between the government decision and the issue of the expulsion orders, that "the OC Central Command, Dani Yatom, deported one person per minute while the OC Southern Command, who was slower, deported one person every minute and 10 seconds." (Section 96 of petitioner's arguments).

Even if we assume that preparation of the list of deportees was begun on the morning of December 16, 1992, based on the announcement by the Prime Minister to security officials of his intention to recommend a mass deportation, the time available to the generals to examine each and every case was very limited. Within a number of hours, a list of 486 names was prepared.

d. The Deportations in Gaza – "Rounded" Numbers

In Gaza, the OC Southern Command at first signed two orders, according to which one hundred people were to be deported for two years and one hundred for eighteen months.⁸¹ The statistical probability that a detailed consideration of each and every deportee would twice give rise to a list of exactly 100 people whose deportation was imperative for "decisive security considerations" is extremely low. The "rounded" numbers indicate that the OC Southern Command filled a pre-determined quota, in which individual consideration was secondary, at best.

e. Deportation Orders in Gaza – Signature *Ex Post Facto*

The three deportation orders issued in the Gaza Strip were signed on December 17, 1992 – after midnight on the night between the 16th and 17th of December. According to **B'Tselem's** data, some of the buses that carried deportees from the Gaza Strip left between 22:00 and 23:00 that night. The deportation therefore began before the

81. In addition, the OC signed an order to deport two people for a period of two years.

orders were signed. The signature was thus to a large extent an almost retroactive authorization of decisions taken by officials who did not have the authority to deport, and who received permission to begin the action prior to the issuance of the official order.

In the West Bank, the deportation orders were signed on December 16, 1992, in the evening. **B'Tselem** does not know the precise time of the beginning of the deportation, but it is clear that very little time elapsed between the issuance of the orders and the beginning of their implementation.

2. NATURE OF THE ORDERS: COLLECTIVE, NOT PERSONAL OR INDIVIDUAL ORDERS WERE ISSUED

The mass deportation was carried out by authority of five orders issued by the IDF commanders – two in the West Bank and three in the Gaza Strip. No personal orders were issued. In the High Court of Justice hearing on December 17, 1992, the Chief of Staff stated, in response to a question by Justice Shlomo Levine, that "The order was collectively written." Appended to each order was a list. The list contained names of the deportees, and their places and areas of residence (in the orders issued in the West Bank identification numbers were also included). The orders contain no reference to "particular information" on the basis of which it was decided to deport each one of the deportees.

In deportations implemented in the past, an individual, separate order was issued for each and every deportee. Past orders also included the illegal activities attributed to the individual candidate for deportation. The five orders for the mass deportation included uniform grounds for the deportation: "Due to their membership and activities in the area in the framework of the Hamas organization or the Islamic Jihad organization in a manner which severely harms the security in the area and the public order."⁸²

82. In the orders issued in the Gaza Strip, the clause "in the framework of the Hamas organization or the Islamic Jihad" was omitted apparently by mistake.

Deportation Order

By the authority vested in me according to Regulation 112(1) of the Defence (Emergency) Regulations, 1945, and in that I am convinced that it is necessary for the security of the area and the maintaining of public order here, I hereby order that:

Sami 'Atiyeh Zaid Abu Samhadana

ID: 97504717, born 1962, resident of Rafah

be deported from the area.

A central activist in the Fatah organization in the Gaza Area, sentenced to three years imprisonment after admitting during his interrogation that he had been recruited into Fatah. After his release from prison in 1984, he returned to his activities and became one of the prominent activists in the "Shabiba" in the Gaza Area. Because of his activities against the security of the area, he has been detained a number of times since 1985 in administrative detention. He continued his activities both in the place of his imprisonment and outside of it. He continues in his activities today in the place of his imprisonment. He is one of the primary leaders of Fatah in the area.

27 Tevet 5752

January 3, 1992

Matan Vilnai, Maj. Gen.
Commander of IDF Forces
Gaza Area

Individual order, January 3, 1992: Includes explanation of suspicions on account of which the decision to deport was rendered.

Temporary Deportation Order

By the authority vested in me according to Regulation 112(1) of the Defence (Emergency) Regulations, 1945, and by the Temporary Deportation Order (Emergency Provision) (Gaza Area) 5753 - 1992, and having been convinced that definitive security reasons necessitate it, I hereby order the deportation from this area of those individuals listed in the addendum to this order, due to their membership and activities in the area in the framework of the Hamas organization or the Islamic Jihad organization in a manner which severely harms the security in the area and the public order.

This Temporary Deportation Order will be valid for 24 months from date of signature.

December 16, 1992

Date

Danny Yatom, Maj. Gen.
Commander of IDF Forces
Judea and Samaria Area

Mass deportation order. December 1992. Uniform grounds: more than one hundred deportees' names appear on the appended list.

3. CANCELLATIONS, MISTAKES, CONTRADICTIONS AND CONFUSION

a. Cancellation of Deportation Orders Due to "Organizational Difficulties"

In the State's Response to the petition, Attorney General Harish wrote:

In the Judea and Samaria Area and the Gaza Area, there remain today 78 people against whom standing temporary deportation orders have been issued and not implemented. (section 60) [U]ltimately, these people were not deported, in accordance with instructions from the senior echelon of the IDF, due to the issue, on the night between the 16th and 17th of December 1992, of interim injunctions by the Supreme Court (cancelled only toward the end of the same day) and owing to organizational difficulties related to the implementation of their deportation upon cancellation of the aforementioned interim injunctions. (section 61)⁸³

On the 13th and 19th of January, 1993, amending orders to the deportation orders were issued by the IDF Commanders in the West Bank and Gaza Strip respectively. The amendments cancelled the deportation orders against 88 Palestinians.

Forty-two of the orders cancelled were for West Bank residents. Two of them, Bassem Suyuri from Hebron and Subhi 'Anabtawi from Nablus, were not listed in the original deportation orders (Suyuri was deported without an order and 'Anabtawi was not deported). Seven were deported and their deportation was recognized as a mistake (including Suyuri), and 35 were not deported (including 'Anabtawi).

In Gaza the order was cancelled with respect to 46 persons, of whom three were actually deported and whose deportation was recognized as an error, and 43 were not deported.

83. In addition to the interim injunction, personal orders were also issued by Justice Aharon Barak, per the request of Hotline: Center for the Defense of the Individual, and Attorneys Leah Tsemel and Andre Rosenthal. According to **B'Tselem's** research, interim injunctions were issued for only 19 of the Palestinians whose names were included in the deportation orders. Eighteen of them were deported when the orders were cancelled. Petitions were submitted on behalf of twenty additional people whose names were not included in the orders, since the attorneys did not have the names of the deportation candidates. These twenty were not deported, though three of them were loaded onto buses on December 16, 1992, without deportation orders, and taken off the buses before the deportation, perhaps as a result of the interim injunctions.

Within a few days the Commanders had made a complete turnaround in their decision. Mere "organizational difficulties" were sufficient reason to cancel the deportation of some 80 people, whose deportation, only a short while before, had been imperative due to "decisive security considerations." The deportation of each and every Palestinian against whom an order was issued was not a decisive consideration, but a matter of happenstance. The principle requiring personal liability in punishment was blatantly violated.

b. The "Erroneous" Deportation of Convicted Prisoners and Detainees Awaiting Completion of Proceedings

In his Response, Attorney General Harish admitted that 16 of the deportees had been mistakenly deported. The Response stated that for seven of them there were no "valid deportation orders," (section 56) that "the names of three persons were accidentally included in the temporary deportation order," (section 56) and that six additional persons "were deported in accordance with valid deportation orders, but in retrospect it became evident that they had been convicted and were supposed serve prison sentences." (section 59)

B'Tselem discovered that of the three who were "mistakenly" deported, two brothers from the village of Majdal Bani Fadal (Nablus District), Jawad and Iyad Zein a-Din, were detainees awaiting trial.

The "mistakes" admitted by security authorities may thus be classified into three categories:

1. deportation without an order
2. deportation of detainees awaiting trial
3. deportation of convicted prisoners

Yet according to data of **B'Tselem** and **al-Haq**, among the deportees whose orders were not cancelled were another 17 detainees at various stages of legal proceedings at the time of the deportation (11 from the West Bank and 6 from the Gaza Strip). In addition, the deportation orders of two convicted Palestinians were not cancelled.

c. Contradictory Decisions by the Security Authorities

At least eight deportees were deported despite earlier decisions made by security officials that these individuals' deportation or continued administrative detention were no longer mandated by security needs:

Khadar Mihjez and Ahmad Nimer Hamdan, whose previous deportation orders were cancelled in August 1992, were deported in December.⁸⁴

84. The two were in administrative detention at the time of the deportation.

Five additional deportees who had been in administrative detention on the eve of the deportation, had their detention shortened on the 14th or 15th of December 1992, with the consent of a GSS representative.⁸⁵ Nonetheless, on December 17, they were deported. Another deportee was released from administrative detention in the beginning of December, after his detention had been shortened by two months, with consent of a GSS representative. On December 17, he was deported.⁸⁶

d. Confusion

The authorities confused the cases of two brothers from Beit Lahiya in the Gaza Strip. An 18-month deportation order was issued against Salameh Muhammad Hammad. Salameh was deported and the order was later cancelled. However, the authorities did not declare that he had been deported by mistake or that he would be allowed to return. An order had also been issued against Salameh's brother Akram. That order has not been cancelled, as far as we know, to this day. Despite this, Akram was never deported.

CONCLUSIONS

From the above, it appears that the deportation of one of every four Palestinians whose names were included in the deportation orders (113 out of 486) falls into one of the following categories: (a) recognized as an error and cancelled, (b) cancelled for other reasons, (c) implemented, in contradiction to criteria determined by the security authorities themselves, or (d) contradictory to previous decisions of the security authorities. In addition, seven Palestinians were deported without an order.

These conclusions are based solely on the disclosed material. **B'Tselem** has no means to examine the considerations on which the decision to deport each and every deportee were based.

The decision to deport was taken hastily, based on unclear and sweeping criteria, and under pressure of time and quantity. Mass deportation orders, in which no individual reasons were specified, were signed at night, some after the deportation was underway.

85. Salah 'Ali Salem 'Aidi, Iyyad Fallah Mahmud Ghanem, Yihya Ahmad Ziyadeh, Zakariya 'Abd Rabbu Mussa Abu Mustafa and Subhi 'Abd al-Qader Ahmad Kulab, all residents of the Gaza Strip.

86. Muhammad Saleh Hassan 'Abdallah, a resident of the al-Bureij Refugee Camp.

The HCJ proceedings illustrated the non-individual nature of the deportations: Subhi Anabtawi, after whom the petition was named in some of the parties' documents,⁸⁷ was not listed in the deportation orders nor was he deported. Unlike Court hearings on deportations in the past, names were not mentioned during the hearing and there was no discussion of any specific deportee. Instead, numbers were mentioned.⁸⁸

On December 16 and 17, deportation orders were issued against 486 Palestinians. In the High Court of Justice hearing on December 17, 1992, the eve of the deportation, the IDF Chief of Staff convinced the judges of the vital necessity to deport 418 Palestinians. Four hundred and fifteen were actually deported. During the hearing, the justices did not review the list of the deportees, for the list was not then available to the Chief of Staff. Within two weeks, ten "errors" were reported and six more followed.

On January 21, 1993, the High Court of Justice approved the deportation of 399 Palestinians, only some 80% of the original number. The High Court of Justice accepted the State's claim that weighty considerations necessitated the deportation of each and every one of those 399 persons, without taking into consideration the absence of the very same considerations concerning 87 others.

87. The State's response was thus entitled. *Subhi 'Anabtawi et al v. Minister Defense et. al.*

88. **B'Tselem** submitted many requests to the authorities for the complete list, but to no avail. Only after some two months did **B'Tselem**, through the assistance of Knesset Members, obtain the list.

TESTIMONY

Testimony of Kamal Ahmad Hassan Subeihat, age 40, resident of the village of Rumana, Jenin District, father of 9 children, taken by B'Tselem fieldworker Bassem 'Eid at the deportees' camp on January 31, 1993:

On December 15, 1992, around 9:00 p.m., I was arrested at my home and taken to the Far'ah Detention Center, where they took my personal items as a deposit, including an identification card, a small amount of money, a belt and shoelaces. I was put into a tent. The next day they called out a long list of names and mine was among them. They put us on buses, blindfolded me, tied my hands behind my back with a plastic cord, and sat me on a single seat. My two legs were tied to the seat. The bus travelled for a long time. I thought the whole time that in the end I would reach Ketziot detention center. The buses stopped and I continued sitting on the bus for close to 36 hours. Afterwards the buses resumed travelling. After some time they stopped. They took us off the buses, removed our blindfolds, untied our hands, and put us on trucks. On the truck in which I travelled I saw some plastic bags containing the deposits of the detainees who were deported. In one of the plastic bags were five identification cards – one mine and another four of Jenin residents. I didn't find my deposit.

Bassem 'Eid adds: Some of the deportees from the Jenin region said that 100 deportees were taken from the Far'ah Detention Center, and only 30 of them had their deposits returned. The others do not know the whereabouts of their deposits.

The deposits included money, wedding rings, belts, shoelaces, personal papers and telephone books.

Testimony of 'Adnan Maswadeh, age 48, married and father of 10, physician, employed part-time in the Amira 'Alia government hospital in Hebron, and part-time at the "Friends of the Sick" Organization, which belongs to the Moslem Charity Committees (zakat). The testimony was taken by B'Tselem fieldworker Bassem 'Eid at the deportees' camp on January 31, 1993:

On December 15, 1992, I was at the government hospital, where I work. I received a telephone call from the military government office in Hebron summoning me to the office for a few minutes. When I arrived I was received by the deputy governor. A GSS agent by the name of Abu Saqar arrived and took me to a hut. I was neither interrogated nor questioned. At 9:00 p.m., on the same day, they

blindfolded me, tied my hands behind my back, and put me on a bus. That's how I arrived in South Lebanon. I have never been convicted. Three years ago I was detained for 40 days, but was released without bail after being interrogated.

In the deportees' camp I work as a doctor. I have simple equipment which I received from the Red Cross for performing examinations, but the medicine ran out since the Red Cross no longer visits the camp.

Bassem Suyuri was deported as a minor, at age 16 and 10 months. After his deportation was recognized by the authorities as a "mistake," he was returned home. Following are selections from the protocol of the visit of Attorney Badra Khouri to Suyuri's home in Hebron, several days after his return:

Prior to his arrest, Bassem was employed in a shoe factory, resided with his parents and siblings, and aided in the economic upkeep of the home. On December 14, 1992, at 10:30 p.m., soldiers arrived at the home of Bassem's brother Hazem, and asked him who lived with him in the house. He answered them, "My wife and child." The soldiers asked him: "Who lives on the second floor?" He answered, "My father and brother." The soldiers entered Bassem's house. Bassem was sleeping at the time. They asked his father, "What is the name of the young man sleeping here?" He answered them, "His name is Bassem." The soldiers woke him up and said, "We are looking for Bassem." The soldiers asked him if he had an identification card and he replied that he had one and gave it to the soldiers. The soldiers asked him to accompany them. Bassem's father asked the soldiers, "Why are you arresting my son?" and they answered him that Bassem was being taken to an investigation for a few minutes and that they would return him soon. Bassem was taken from the house without taking anything with him. He sat in the soldiers' jeep while they patrolled Hebron and arrested more young men. Bassem does not know the other detainees and does not know if these detainees were also deported.

At approximately 1:00 a.m., Bassem was brought by the soldiers to 'Amara (the Civil Administration building in Hebron), where he was held for about 11/2 hours. They did not ask his name, interrogate him or explain the reason for his arrest. Afterwards Bassem was brought by the soldiers to the detention center in Dhahriyah, where he was held with a group of detainees of varying ages. He remained there about two days, until December 17, 1992, the day on which he was deported to Lebanon.

Bassem relates that he received the number 178, and that during those two days he was neither interrogated nor questioned about himself or

about the others. During the two days he was in Dhahriyah he did not eat, and no soldier spoke with him until the day he was taken out of the prison and put into a truck. Before he got into the truck, a soldier handcuffed him behind his back and blindfolded him. Later the handcuffs were replaced with a metal wire, which left scars on Bassem's hand.

The deportation journey began during the late night hours. Bassem did not know what was going on and did not understand to where he was being taken. He was frightened, but still hoped he would soon be returned to his family. The trip lasted for hours. Bassem does not know how many. When the trucks arrived at Rosh Hanikra they were transferred to another bus which carried all the deportees north of the security zone. Once during the trip Bassem received food (for the first time since his arrest). At the Zumriyah Pass the soldiers told them to get off the bus and to walk.

When they arrived at the area close to a stronghold of the Lebanese Army, Lebanese soldiers shot at them. When they tried to return to the border with Israel, they were warned not to approach and therefore decided to remain in the in-between area.

The deportees arrived at approximately 6:00 a.m. They remained without shelter, until Red Cross and United Nations personnel arrived. The Red Cross personnel brought 28 tents. After three days, another 51 tents were brought. During the first days, personnel from the Red Cross and UNRWA were allowed to bring food to the deportees. Later, the Lebanese authorities prevented them from approaching. Only the press could get to them. People from the surrounding villages brought them food in the beginning, but later the Lebanese army forbade the passage of food from the villages to the deportees.

Bassem was the youngest of the deportees. He suffered from severe pains in his hands from where the handcuffs and metal wires had been clasped. He did not understand what was happening to him and was in shock. He suffered from severe pains in his stomach and was not able to help the deportees in work such as the gathering of kindling and other objects used for heating in the cold weather.

Bassem told of how they would remove the snow from the tents almost every day. They would melt the snow for drinking and laundering water. The conditions were extremely difficult. Many of the deportees fell ill and suffered from chronic problems. One of them, who was transferred by Red Cross personnel to the hospital, cannot speak or move.

Bassem heard his name on the radio and realized he had been deported by mistake. He cannot say what he felt at that moment. He wanted to return to his parents, but worried about the rest of the deportees. He said that during the time he was in Lebanon, he did not lose hope. He

said that the dominant feeling among the deportees was that everyone would be returning soon.

On the day of his return, Red Cross personnel arrived at the camp and remained several hours in the tents while the doctor treated the ill. Bassem was put on a helicopter with them. At Rosh Hanikra they transferred him to a vehicle that transported him to Hebron. On the way they took him to the Civil Administration, and afterwards he was returned home.

The testimony of Talal Sader, resident of Hebron, age 40, married and father of 9, taken by B'Tselem fieldworker Bassem 'Eid at the deportees' camp on January 31, 1993:

I was arrested on December 14, 1992, two days before the deportation, at the Amira 'Alia Hospital in Hebron, where my wife and I escorted my brother's wife, who was about to give birth. Soldiers had been at my house and had not found me. My children told them I was at the hospital. They arrived at the hospital and arrested me there. They did not even give me a minute to notify my wife that they were taking me. From the hospital I was taken to the Dhahriyah Detention Center, where I remained for 48 hours. Afterwards they tied our hands and blindfolded us. We were put on a bus. The bus travelled for many hours.

I have never been arrested for belonging to any organization. I have been the director of the Islamic Shabab Organization in Hebron since 1985. This is an organization allowed by the Civil Administration and Jordan, and I operate only under its auspices. I have never organized any activity for the organization without an official license from the authorities.

Journalist Taher Shreitah, a Gaza resident marked for deportation, was put on and later taken off of the deportees' bus. Shreitah wrote the following about his experience:

On Monday, December 14, 1992, at approximately 10:40 p.m., during the curfew on the Gaza Strip, Border Police forces and two GSS officers arrived at my home. The Border Police personnel conducted searches in my and my brothers' home. The two GSS officers conducted a quick search in my office and did not take anything.

A GSS officer called "Abu 'Ali" told me to come with them and did not tell me where we were going. I changed my clothes and went outside with them. Outside they tied my hands behind my back with plastic cords, blindfolded me, and put me on a military jeep. They took me to the Gaza Central Prison. When we entered the prison they told me to

remove my clothes and wristwatch, and I removed everything and remained in my underwear. They gave me prison clothes to wear – a brown shirt and pants. Afterwards they untied the cords, put a sack on my head, and put me into cell number one. In the cell there were already some detainees who had been arrested that same night. Later, more detainees were brought into the cell, and in the end we were nine people in the cell. The cell contained plastic containers for relieving oneself and a blanket for each detainee.

The next day, December 15, 1992, they moved us all to another cell, the *ma'abar* (lockup). There were already six other detainees there, and together we were fifteen. We were held in the cell until Wednesday at 8:00 p.m., at which time the wardens told us to change from the prison clothes back into our own. They tied our hands behind our backs with three plastic cords. Afterwards they tied our legs with three plastic cords, blindfolded us, and put us on an Egged bus – me and another 14 detainees who had been with me in the lockup. The bus departed. I did not know where we were going. They forbade us to speak among ourselves. There were six or seven soldiers on the bus with us. They would not tell us where they were taking us and beat us with their hands the moment we tried to talk. After approximately four hours an officer who was on the bus called out "Taher Shreitah." I said "Yes." The bus stopped. They took me off the bus. Soldiers tied my hands behind my back with metal handcuffs, and tied my legs together, in addition to the plastic cords which were already on me. They put a sack on my head and threw me into a large military jeep. They told me to lie on my stomach and trod on me with their legs. Each time I tried to move they beat me on all parts of my body. I stayed in this position for about 4-5 consecutive hours. I had pains throughout my hands.

I arrived at the Gaza Central Prison at approximately 4:30 a.m. and began shouting and beating my head on the walls, and asking that they free my hands, which had begun to swell. After 10 minutes they freed my hands. I fell to the floor. I was hysterical, but my condition did not deter one soldier from kicking me. After 10 minutes I stood on my feet. I did not succeed in moving my hands due to the pain. The wardens took me to a solitary cell and I remained there several hours. On Thursday they gave me a prison uniform and plastic shoes.

Afterwards, they took me to an interrogation at a place called *al-Maslah*, which belongs to the GSS. They put me in solitary confinement in a cell 140 cm x 180 cm, without windows or a toilet. In the cell there was no mattress, only three thin blankets. Water dripped from the ceiling and the floor of the cell was completely wet.

At approximately 14:00, "Abu Karim," a GSS officer, came to me and asked me about the political situation and about my personal opinion on

the subject. He asked me if I was identified with or a supporter of any Palestinian organization. Another officer, "Abu Wadi," asked me about a telephone call which I had received. After one half hour of interrogation, "Abu Karim" promised that they would release me within a short period of time. He did not say when and how.

They shut me up in the cell again, for a whole day. Throughout my entire stay in the cell I held a hunger strike, drinking only water, and I remained 45 hours without food. Since they did not let me go out to the bathroom, I urinated inside the cell. The next day, Friday, I began to knock on the door of my cell so that they would free me. Around me I heard the shouts and cries of the other detainees. One young man moaned in pain. He sat by the door of my cell, hands tied behind his back by metal handcuffs, hooded in a cloth sack. He was not wearing warm clothing.

On that same day, at approximately 1:00 p.m., a GSS officer by the name of Eitan ordered my release. The entire story took place over a period of four days.

Testimony of 'Abd al-'Aziz al-Qader 'Abd al-'Aziz al-Kujuq, age 55, resident of the Rimal neighborhood in Gaza, married and father of 10, taken by B'Tselem fieldworker Bassem 'Eid at the deportees' camp on January 31, 1993:

I was arrested at the Shifa Hospital in Gaza, where I awaited an ulcer operation and treatment of a stomach infection. I do not recall on which day the soldiers arrived at the hospital. They took me with the infusion in hand to the Ansar 2 Detention Center. My family was unaware of my whereabouts, due to the curfew imposed on Gaza. The entire time they thought I was at the hospital, and only 2 weeks after my deportation was I informed, through the Red Cross, that my family knew of my deportation. I am well known in the Gaza Strip. I arrange "sulhot" (reconciliations of personal disputes). At my home I have a big place where people come to me for "sulhot." The authorities know about this and have summoned me several times. They always questioned me about my work arranging "sulhot," and told me it was a good thing.

Is it possible for a man to be involved simultaneously in "sulhot" and terror? A person who arranges "sulhot" cannot be engaged in terrorist activity. I work principally in "sulhot" for cases of blood revenge. Ask MK 'Abd al-Wahab Dawarsheh, MK Talab a-San'a, and Taraq 'Abd al-Hai, the mayor of Taibeh, about me. These people know me well and know about my work in "sulhot." I would rush to solve every problem that came up in the Strip.

I have been ill for a long time now with a blood disease (a problem related to the destruction of red blood cells). I have a medical file (no. 19) at the Shifa Hospital. When I arrived at the deportees' camp in South Lebanon, they placed me in a hospital in Lebanon for bleeding in my stomach, but later the Lebanese army came and removed me from the hospital. I left there with the infusion in my hand, just as I had left the Shifa Hospital, and now I suffer very much. The Red Cross told me they would transfer me to Marj 'Ayun Hospital, but apparently the Israelis refused and I was not taken there.

I have three sons and seven daughters. Nasser, my eldest son, was killed by soldiers on December 5, 1989. I do not understand why I was deported. I have never been arrested and I have never committed any crime. All of my life I have arranged "sulhot," and it is my task to halt the bloodshed among people.

Testimony of Munir 'Aqqad, merchant, age 41, Nablus resident, married and father of 6, taken by B'Tselem fieldworker Bassem 'Eid at the deportees' camp on January 31, 1993:

I was arrested on the night of December 15, 1992 at 11:30 p.m. They took me to the "X" ward (the ward of security detainees) at Nablus Prison. I was neither interrogated nor asked about anything. The next day they called everyone by name. I was very happy as I thought they were releasing us. When we left the "X" ward, they tied our hands behind our backs and blindfolded us. Afterwards, they pushed us into a bus like sheep. They treated us harshly. As I got onto the bus one soldier asked me "Are you from the Hamas? Are you from the Hamas?" I asked him in panic, "What is Hamas?" I then received a blow which made me dizzy. I do not know what he used - his hand, foot, or the butt of his rifle. This is the first blow that I have ever received. When I got on the bus I received another strong slap. I thought that we were travelling to Far'ah or the Ketziot detention center. I never thought I would be arrested. Prior to my arrest, I submitted my nomination to be the head of the Nablus Chamber of Commerce and Industry, on the religious ticket, but was not elected. There are other people here with me who submitted their nomination through the religious movement and were also deported.

HIGH COURT OF JUSTICE RULING

Appendix F of this report contains extensive excerpts from the HCJ ruling regarding the legality of the mass deportation of December 1992. The Court ruled that the "general order" for deportation was illegal and thus void, yet maintained that the "personal orders" remained in effect, as they were grounded in Regulation 112 of the Defence (Emergency) Regulations. The Court ruled that the deportation was in effect based on a collection of individual orders. In addition, the Court stipulated that denying the right to a hearing did not invalidate the deportation, but added that the right to a hearing must be realized retroactively, before an advisory panel, and that "the applicant should be allowed to appear personally before the committee" (Section 15 of the Ruling). The Court did not discuss the legal challenges to the validity of the "personal orders," and determined that they should be pleaded before the advisory panel.

Following is an article by legal expert Moshe Negbi on the ruling's significance and implications.

The Legal Breach - Moshe Negbi

In theory, the legality of the mass deportation (or alternatively, the mass of individual deportations) carried out by the Israeli government on December 17, 1992, has not been finally settled, more than two months after the fact. The specific legal questions - does the deportation accord with the prohibitions of international law, is there clear, unequivocal and sufficiently convincing evidence of the security threat posed by the presence of the deportees in the Territories - may yet be discussed by the military appeals committees, and perhaps in a second hearing before the HCJ. But whatever the answers to these questions, they will not suffice to dispel the impact of the breach of values which already occurred within the "holy of holies" of the Israeli justice system on the day of deportation. This breach is manifested in the fact that the senior Justices of the Court did not prevent the authorities from handing down and executing cruel punishment on an anonymous group of persons, even though not even a shred of evidence tying any of these persons to prohibited and dangerous activity had been brought before them.

Is it proper, is it not frightening, that in Israel in the 1990s the government can take hundreds of people and deport them (albeit temporarily) without first having to produce even minimal evidence of a threat resulting from these people's activities, without first affording even a minimal opportunity for these people or their attorneys to respond to the charges against them, and without even submitting to any judicial body authoritative information regarding their identity?

Until December 17, 1992, the court's answer to these questions was unequivocal. "This is an attempt which is impossible in a democratic state," said Justice Dr. Moshe Etzioni in March 1976, when the army deported Muhammad Natsheh, mayoral candidate of Hebron, without first allowing him to appear before the HCJ to respond to the claims made against him. Etzioni demanded and received a detailed apology from the Attorney General. Four years later, the HCJ was no longer content with reprimands and apologies: in May 1980 when, following the murder of six Jews, the mayors of Hebron and Halhul, Fahed Qawasmeh and Muhammad Milhem, were deported in the middle of the night, the court effectively forced their return and insisted on a judicial probe of the charges against them, both in the military appeals committee and in the HCJ itself, with the deportees present and actively participating. How can a real hearing, rather than a caricature of a judicial procedure, take place, when those concerned are in enemy territory, without proper and reasonable communications between them and attorneys and judges?

In any case, the High Court ruled that the obligation to examine the accusations against the deportees, and especially, the obligation to allow them to respond before the deportation was carried out – although not spelled out in law – was implicit in the principles of natural justice which prevail in any State governed by the rule of law, and that these principles must be upheld, even in case of emergency. "We have always placed our trust [on the fact] that here," emphasized the President of the Supreme Court, Dr. Moshe Landau, "the voice of the law is not silenced, even by the tumult of the hostilities surrounding us." (HCJ 320/80)

It should be emphasized that in a long list of precedents since the 1950s, the HCJ has ruled that "according to a principle of law accepted over hundreds of years, an administrative body will not be permitted to injure a citizen's body, property, status, and so on, unless fair occasion has been given for the citizen to voice his defense against the said future injury. Because of its injustice, no one in power is authorized to injure someone without hearing him beforehand." (HCJ 3/58). The HCJ remarked that the origin of this principle is in the first deportation

in the history of humankind – the expulsion of Adam and Eve from the Garden of Eden. Even omniscient God did not pass judgment upon them or carry out their expulsion without prior hearing of their claims (Genesis 3, 9-11). In other words, the HCJ has allowed the IDF authorities what God did not allow Himself.

Indeed, on a rhetorical level, the HCJ praised and upheld the right to prior pleading and hearing this time as well, but what is such rhetoric worth when on a practical level the HCJ has let stand an act of deportation carried out by trampling upon this very right? On a rhetorical level, the HCJ stated that it is possible to deny this right, and to make do with a "postponed hearing," only under extremely exceptional circumstances. But, once again, what is such rhetoric worth, when on a practical level the army is permitted to determine when such exceptional circumstances exist, and this determination is not questioned?

Some seven years ago the HCJ ruled that "the Court should examine not only the principle, but also the action, not only the rhetoric but also the practice. Otherwise, all that has been determined on a normative level will be useless in everyday life." (HCJ 399/85). It is difficult to avoid the conclusion that as regards defense of the principles of natural justice, the seven HCJ justices who approved the deportation fell into the dangerous abyss separating rhetoric and practice.

The HCJ's uncompromising stand prior to December 17 – that every deportation must be delayed until judicial review of the threat posed by the deportee – was an obstacle to massive, arbitrary deportation. Giving the green light to deportation without such a review removes this obstacle. From this point of view, there are grounds for concern that unwittingly, certainly without deliberate intent, the judicial foundation for the execution of a mass transfer has been laid.

Another perturbing thought is that the HCJ has accepted, and perhaps even surrendered to the claim that in a case such as this, there is a conflict between remaining within the limits imposed by law and preserving security, and that in this case, the law must recede in the face of security concerns. The Chief of Staff's statements before the Court hinted that even if the deportation procedure was flawed, it should not be invalidated, because of the severe repercussions which would be brought about by returning the buses. A similar argument was used in the *Qawasmeh* affair, when the State Attorney's Office stated that returning the deportees to the Territories would cause a "catastrophe." But in that case the judges did not hesitate, and replied that on the contrary, there would be "danger of unrest in the

Territories, if the population finds that an action by the authorities carried out illegally is upheld uncorrected."

When the motions to stop the deportations were submitted on the night of December 17, they evoked harsh criticism from the Prime Minister and Minister of Defense, who referred to the petitioners, the Association for Civil Rights, as "The Association for ' Hamas' Rights." Mr. Rabin said that ' Hamas' victims received no right to a hearing before being murdered.

Even under the assumption – as yet unproven – that the deportees were involved in acts of murder, the Prime Minister's remark, which obviously reflects widely held public sentiment, raises an important question of principle: does the fact that enemies of the State deny innocent victims basic human rights justify our treating them (or those suspected of assisting them) in the same way? In the *Qawasmeah* affair, Justice Haim Cohen answered this question firmly in the negative: 'How does combat by the State differ from combat by its enemies? In that one is waged while adhering to the law, and one is waged while breaking the law. The moral strength and practical justification of combat waged by the authorities is completely dependent upon their upholding the law of the State. By relinquishing this strength and this justification, the authorities further the causes of the enemy. It is best that whoever should know take notice, that the rule of law will never give in to its enemies.

If we adopt the formulation of Justice Cohen in the deportation affair, the rule of law in Israel surrendered to its enemies, since the HCJ in effect accepted the fact that the murderous acts of Hamas justify stripping those suspected of being its operatives of an elementary right reserved even for the lowest of criminals.

There is no dispute that the High Court ruled under difficult circumstances, yet precisely under the pressure of security considerations it is doubly important that the Court stand as a dyke, staving off the stormy passions and examining, in a rational manner, whether the crisis does indeed justify trampling upon the basic rights of a State governed by the rule of law. As American Supreme Court Justice William Brennan warned, in a lecture in Jerusalem in December 1987, history proves that during security crises, "human rights are infringed upon not on the basis of rationally established decisions, but as a result of panic and paranoia." It is hard to avoid the feeling that these words are perfectly appropriate for the decision regarding the December 17 deportation. It is a pity that the High Court of Justice did not withstand the storm, neither in advance nor retroactively.

CONCLUSION

In justifying the mass deportation, the Chief of Staff explained to the High Court that the action was being taken in order to put a stop to the attacks on the security forces and ensure that they did not spread to the civilian population.⁸⁹ Similar explanations were put forward by the Prime Minister, cabinet members and other official spokespersons.

In the four months following the deportation (December 17, 1992 - April 17, 1993) 7 members of the security forces and 13 Israeli civilians were killed by Palestinian residents of the Territories, in the Territories and inside the Green Line. This compared with 9 security force personnel and civilians killed by Palestinians in the four-month period preceding the mass deportation.

During the same post-deportation period, 71 Palestinians from the Territories were killed by the security forces and 5 by Israeli civilians in the Territories and inside the Green Line, compared with 46 Palestinians killed by soldiers and none by civilians in the four months before the deportation.

Not only did the mutual killing not decrease as a result of the deportation, it increased sharply. The major argument for the mass deportation, which "shunted aside all constraints in the face of the security need," as the State told the HCJ, was in retrospect found to be erroneous. Clearly, the government and the security forces sustained a total and far-reaching failure in their use of deportation as a security measure.

In any case, deportation is wholly unacceptable no matter how effective it might be. **B'Tselem's** position is that respect for the basic rights of people living under Israeli rule is itself a "constraint," or duty, which cannot be abandoned even in a state of emergency. The Fourth Geneva Convention prohibits deportations of any kind, "regardless of their motive," even in the most extreme emergency - a situation of war.

Deportation is also unacceptable because it constitutes punishment without trial. The hundreds of Palestinian deportees were innocent in the eyes of the law because they were never charged, tried, or convicted of any offense. The security authorities did not even claim

89. See, for example, **Al Hamishmar**, December 18, 1992.

that any of the deportees were responsible for or involved in the deadly attacks on IDF soldiers which were the reason for the deportation.

The deportation decision of December 1992 was a grave benchmark on the government's already poor human rights record in the Territories. The decision was taken rashly and included a quantitative dictate (deportation of a "large number" of Palestinians) to the executive branch. The regional commanding officers who decided which Palestinians would be deported, acted with equal haste, and while the decision was already being implemented, under pressures of quantity and time which ruled out the possibility to exercise discretion. Everything was done according to a vague criterion of organizational affiliation and by the hurried, sometimes haphazard, rounding up of Palestinians from detention facilities or from their homes. The mass deportation thus became a hastily applied measure of collective punishment.

Unfortunately, the High Court of Justice again opted to ignore the illegality of the deportation, by relying on the outdated Defence Regulations long since censured by the Knesset. The Court took no notice of the arbitrariness, haste and negligence which characterized the deportation, accepting instead the government's position that "security needs" – the existence of which the Court did not demand be proved or grounded – take precedence over all else. By permitting a mass deportation without the deportees being given the right to a prior hearing, the Court accorded the government and the security forces far-reaching and dangerous powers, while limiting the possibility of overseeing and restraining the government's actions in the future as well.

The deportation of individuals from their homeland is an infringement of human rights and a unilateral disavowal by Israel of its obligation toward those under its rule. It is a violation which cannot be justified by the acts of violence by Palestinians during December 1992.

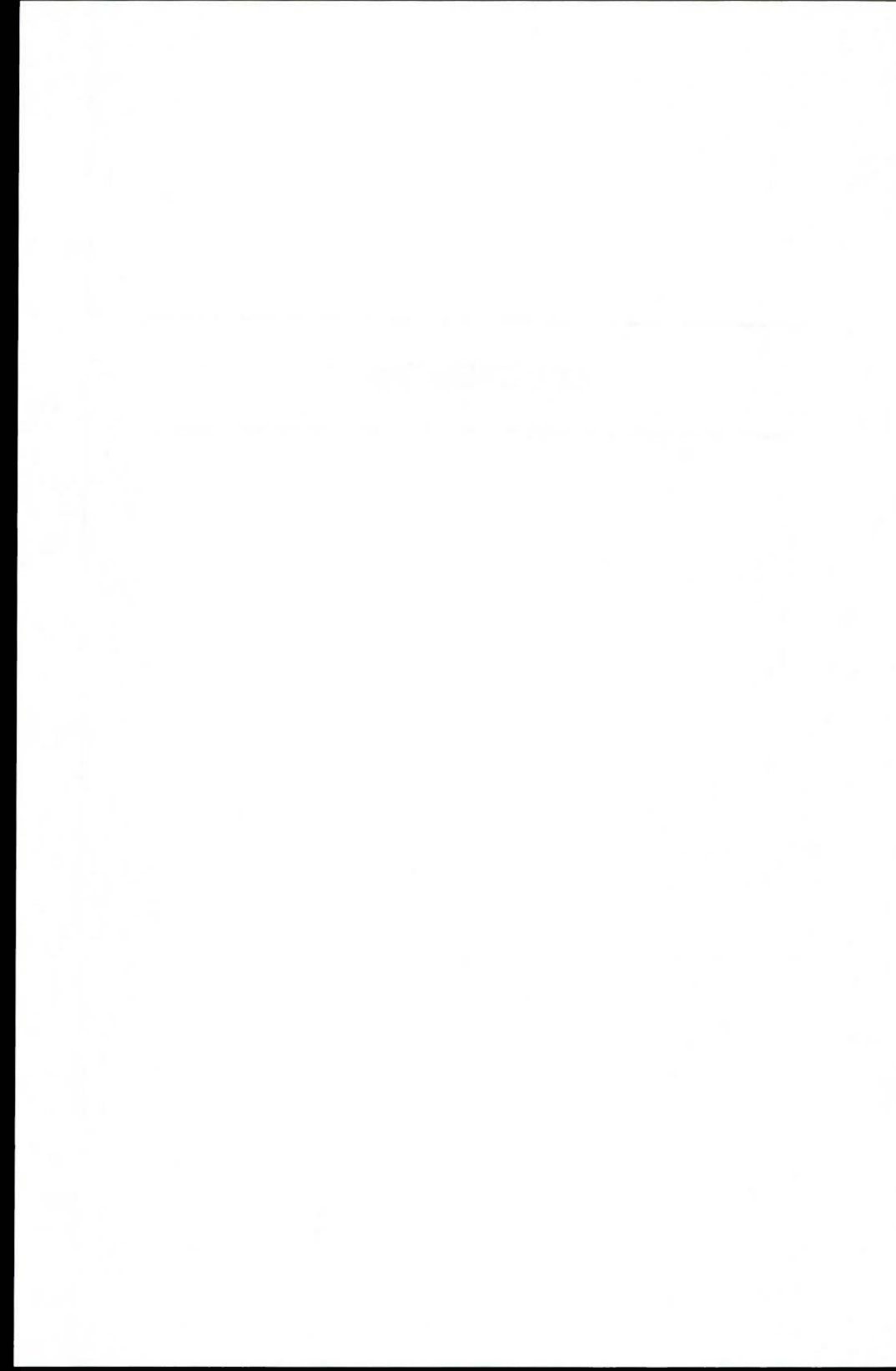
The duty to uphold international law and to respect human rights was not forced on Israel by external duress. Israel, recognizing that being a signatory to international human rights conventions was an important Israeli interest, voluntarily ratified several such documents including the Fourth Geneva Convention, notwithstanding the fact that it does not recognize the Convention's applicability in the Occupied Territories. International agreement on basic standards of behavior between States, and *vis-a-vis* civilians who are under the control of States, is essential in order to maintain normal relations between nations and to regulate

minimal "rules of the game" between nations whose relations are not cordial. The benefits accrue to the entire international community, as well as to each of its members.

It is precisely in a perceived "state of emergency" that a State's commitment to human rights is put to test. Unfortunately, the State of Israel failed that test in December 1992. Disregarding its international obligations, Israel chose to resort to the extreme punishment of mass deportation, a punishment which had long since been erased from its own law books. Punitive deportation has been annulled in most countries, including all democracies; it is in use only in dark corners and in States to whom Israel should bear no likeness.

It is the duty of the government of Israel to uphold international law and respect the will of the international community, as expressed in U.N. resolutions pertaining to deportations, and to permit the immediate return of the deportees.

APPENDICES



THE GOVERNMENT RESOLUTION

456. Security Matters in the Forum of the
 Ministers' Committee for National Security
 Authorization for Enacting Emergency Regulations
 To Issue Immediate Deportation Orders
 To Remove Agitators of Acts of Terror

B e i t R e s o l v e d (by a majority, one abstention)

A. In light of the state of emergency and in order to maintain the security of the public – to empower the Prime Minister and Minister of Defense to instruct and authorize the Military Commanders of the areas of Judea, Samaria and Gaza to issue orders, according to the requisite and immediate security needs, concerning temporary deportation and without prior notice, to remove agitators, those inhabitants of the areas who in their activities endanger human life, or who agitate to such activities, and this for a period to be determined by the Military Commanders and not to exceed two years.

B. Whoever is deported as stipulated above will be permitted, within 60 days, to appeal his deportation before a special committee through his family or attorney, according to the regulations to be determined in the orders.

APPENDIX B

**ORDER CONCERNING TEMPORARY
DEPORTATION (EMERGENCY
PROVISION)**

ISRAELI DEFENCE FORCES

ORDER NO. 1381

ORDER CONCERNING TEMPORARY DEPORTATION
(EMERGENCY PROVISION)

By power of my authority as Commander of the IDF in the area and having been convinced that, due to the special circumstances existing in the area today, absolute security needs warrant it, I hereby order, as a temporary order, that:

Definitions: 1. In this order: "Regulations" - Defense (Emergency) Regulations, 1945. "Temporary Deportation Order" - An order issued under Regulation 112(1) of the Regulations, whose validity is limited to a period not exceeding two years.

Execution of a Temporary Deportation Order:

2. A Temporary Deportation Order may be carried out immediately after issue.

Appeals

Committee: 3. (a) Regulation 122(8) of the Regulations notwithstanding, for the purpose of this order Appeals Committees shall be established, the members of which shall be appointed by myself or by those authorized by me.

- (b) A military court jurist-judge will serve as chairman of the appeals committee.
- (c) The appeals committee will be authorized to adjudicate an appeal presented to it and will be authorized to confirm the Temporary Deportation Order, cancel it, or shorten the duration of time specified therein.

- Appeals: 4. (a) An appeal regarding a Temporary Deportation Order may be submitted to the appeals committee only within 60 days of the issuance of the Temporary Deportation Order.
- (b) The hearings of the appeals committee will be held *in camera*.
- (c) If a Temporary Deportation Order has been executed, the appeals committee shall adjudicate the appeal without the presence of the deportee.
- (d) The deportee may be represented at the appeals committee by a representative on his behalf – an attorney or family member.
- Validity: 5. (a) This order is valid from its date of issue.
- (b) This order shall be in effect until I have instructed otherwise.
- Name: 6. This order shall be called: Order Concerning Temporary Deportation (Emergency Provision) (Judea and Samaria) (No. 1381) 1992-5753.

Signed: Dani Yatom, Major General
Commander of IDF Forces,
Judea and Samaria Area

B'Tselem Notes:

A parallel order (no. 1086) regarding deportees residing in the Gaza Strip was issued by Maj. Gen. Matan Vilnai, the Commander of IDF forces in the Gaza Strip.

Nearly one month following the issuing of these orders, an amendment (order no. 1384 in the West Bank and order no. 1089 in the Gaza Strip) was issued. The amendment granted the appeals committee authority to determine if its proceedings would be held *in camera*. In addition, it cancelled Section 4(a) of the orders.

EXCERPTS FROM THE WRITTEN ARGUMENTS SUBMITTED BY THE ASSOCIATION FOR CIVIL RIGHTS IN ISRAEL

1. Validity of the General Order (sections 3-7)

"The Orders Concerning Temporary Deportation... are invalid due to their content and to the manner in which they were enacted." [The order] constituted a change in existing law, and a "negation of the rights and protection afforded by the Defence Regulations." The Petitioner argues that "in order for this legislation to be legal, it must pass a dual test: the test of Israeli administrative law and the test of international law... legislation which does not meet either of these two tests is invalid on the grounds of *ultra vires*, and every order issued or action taken pursuant to it is void."

2. Rules of Administrative Law: Principles of Natural Justice (sections 8-19)

"Respondents 2 and 3 operate in the military government's areas as Israeli public authorities, and are required to act in accordance with 'the norms binding Israeli civil servants.' What is required of them extends beyond the obligations of the laws of war. They must act 'even in the area under military government in accordance with rules of proper and fair administrative procedure.' They are thus required, for example, to uphold the right to be heard 'in cases in which this right should be granted according to the norms of our administrative law... .' It has already been ruled that this right must be upheld in the administered territory, even when local law does not grant such a right at all. The Respondents are thus required, for example, to grant the right to be heard by the Military Commander, as well as to allow time for an additional appeal to this Court, prior to effecting a demolition order in accordance with Regulation 119 to the Defence (Emergency) Regulations. How much more, then, does this principle apply to our

case. If the principles of Israeli law fill the void when this right is not granted by local law, this is all the more true when local law does grant the right to be heard. The Military Commander, bound by the guiding principles of natural justice in Israeli law, cannot deny or limit this right."

The Petitioner also argues that "local law grants the right to be heard for those issued deportation orders under Regulation 112 of the Defence (Emergency) Regulations... meaning a right to petition to the committee prior to implementation of the deportation... . This rule applies to every deportation order pursuant to Regulation 112, and for this matter no distinction is to be made between a time-limited order and an order of unlimited duration." This right also derives from the principles of natural justice which apply to every action of a public authority, and "the issue of a directive by an administrative authority which abrogates the right to be heard does not override the principles of natural justice." As for the Respondents' claim that the timing of the right to be heard is irrelevant, and that it may be delayed until after implementation of the deportation, the Petitioner argues that "this claim was rejected outright by this court in the *Qawasmeh* case, by a unanimous decision. In this case, the Petitioner argues, the *post factum* hearing is worthless for a number of reasons: first, "the order offers no guarantee that the deportee will be able to appoint an attorney. In the present case, the deportees have no effective opportunity to appoint legal representatives for an appeal." Second, "even if a deportee were able to appoint his representative, his own absence at the proceedings irreparably restricts any real possibility of presenting his case." Third, the damage incurred [by denying] the right to appear is multiplied "by the lack of continuous contact between the deportee and his representative... . In any event, deportation to enemy territory does not ensure such contact, and particularly not when the country to which the deportees were sent refuses to grant them freedom of movement." Fourth, as for the claim that granting a family member the right to submit an appeal is a substitute to the deportee's right to hearing, "this option has been rejected by this Court in the past."

3. The Danger in Denying the Right to be Heard (sections 20-22)

The right to be heard, in addition to being a part of a State's obligation to act fairly *vis-a-vis* each citizen or resident, "is intended to prevent rash, arbitrary and erroneous decisions, which are almost inevitable when there are no reins to restrain a person in a position of power,

and to obligate him to fully consider his actions. The present case clearly illustrates the dangers, many of which were realized." The order, argues the Petitioner, is "a loaded gun that may be set off at any time, without any real supervision," and "invites the Military Commander... to substitute anger for reason."

The Petitioner states that "horrible murders, which shock us all, may create an atmosphere of urgency and pressure to operate under the influence of such shock, due to pressures which are not always material. Removing the mechanism which the legislator of the Defence Regulations installed in order to partially restrict the almost absolute power of the authorities sets the stage for grave errors."

4. Limiting the Right to Testify and Circumventing the High Court of Justice (sections 23-24)

The Petitioner argues that "the purpose of this order (to a large extent, at least) is to prevent a hearing on the deportations prior to their implementation, before this Court... . This issue, clear to Court President Landau in the *Qawasmeh* case, where he called it 'an attempt to 'outwit' the Court by circumventing its authority, seems to be apparent in this case as well." As regards the claim that judicial proceedings damage security, "the court did not accept this argument and stipulated that the rules of due process – even at the expense of expediency – are an important part of establishing the rule of law and of the war against terror."

5. The Rules of Administrative Law: Independence of Discretion (sections 25-27)

"The Orders Concerning Temporary Deportation were issued by Respondents 2 and 3... . They, and no one else, are empowered by international law, under the conditions set by it, to modify the law in the areas... . In effect, the decision to amend the law was made by the government, at a meeting in which Respondents 2 and 3, and even the Chief of Staff or the Chief Military Prosecutor, who are empowered by law to enforce the rule of law in the area, did not participate... . The government's decision (especially in light of the short timetable) did not

leave Respondents 2 and 3 any practical choice but to amend the legislation in accordance with the guidelines they received. In the situation which was created, it is doubtful whether they had an opportunity to consider the matter, to consult with their legal advisors... and to formulate an independent position... ."

"Placing Respondents 2 and 3 before a *fait accompli* contradicts the precedents set by this Court with respect to the obligation of an authority to independently consider the question of exercising its power."

6. Rules of Administrative Law: Defects in the Decision-Making Procedure (sections 32-38)

"Israeli administrative law has developed rules stipulating how those legally empowered to make decisions may do so. The decision-making process must be pertinent, methodical and fair. The authorized person must gather and summarize data, including contradictory expert opinions, if any exist, check the implications of the data, examine benefits and drawbacks of alternative theses, and reach a reasoned decision... . There is no doubt that this procedure was not followed by Respondents 2 and 3, who were not present at the government meeting at which the matter was decided, and who had no opportunity, after receiving the instruction to sign the orders, to conduct a proper decision-making procedure... . The question considered by the government was legislative: amendment of local law in the Territories, drastic changes in the method of judicial review of deportation orders, and an attempt to enable deviation from the rules established in this matter by the Supreme Court... .

"In the response there is no explanation as to why the senior legal authorities, the Attorney General, the State Attorney, the Chief Military Prosecutor and the Minister of Justice were not included in the consultations which preceded the Government's decision... . It is difficult to avoid the impression that a deliberate attempt was made to present the judiciary with a *fait accompli*, and to prevent it from advising and playing its role in the decision-making process... .

"It appears that not only were the legal aspects of the resolution not properly weighed and examined, but that the security aspects as well were not fully considered."

7. Rules of Administrative Procedure: Failure to Publicize (sections 34-37)

"The Order Concerning Temporary Deportation was not published before the deportation orders were issued... . In fact, an active attempt was made, through use of the Censor, to prevent publication of the Order and of the government's resolution to issue it, until completion of the deportation. The legal ramifications of the failure to publicize are that when the individual orders were issued, the order was void, and therefore the orders were issued illegally, and the deportation carried out under their authority is not legal... ."

ISSUE OF DEPORTATION ORDERS AND IMPLEMENTATION OF THE DEPORTATION

8. Lack of Jurisdiction (sections 39-41)

"Deportation of any person from Israel is illegal unless it is based on the authority to deport under Israeli law. The deportation of any person whose presence in the State is illegal requires issue of a deportation order in accordance with the Entry into Israel Law, pursuant to the rules listed in the law and its regulations. Regulation 112 of the Defence (Emergency) Regulations does not apply in Israel... . A military order... does not grant the authorities power to deport a person located in Israel... . All the deportees who were deported from Israel were deported illegally."

9. Breach of the al-Carbutli Precedent (sections 42-45)

"Issue of the deportation orders by Respondents 2 and 3 was in absolute contradiction to the ruling of this court in the *al-Carbutli* case. At the time that the deportation orders were issued, appeals boards had not been established in accordance with the temporary deportation orders... . The *al-Carbutli* precedent thus applies directly to the present case. There it was determined that arrest pursuant to

Regulation 111 of the Defence Regulations is illegal if at the time of the arrest an appeals board had not been established in accordance with Regulation 111(4). The fact that such a board was established prior to the hearing at the High Court of Justice did not rectify this flaw."

10. Lack of Sufficient Factual Review (sections 46-53)

"[W]hen deportation orders were issued against such a large number of people in such a short time period, there was not nor could there have been a factual review necessitated by the essence of the matter and by precedents set by this honorable court.

"The deportation of a person from his country of residence is an extremely grave sanction which impinges on the basic freedom of every citizen and resident... . It is imperative that reliable and weighty evidence be presented before the relevant authorities... . The person issuing the order must be convinced, by overwhelming and reliable evidence that leaves no room for doubt, that the deportation candidate poses a threat to security in the area. He must be convinced beyond doubt that deportation of this specific individual is imperative for preserving the peace in the area. He must also consider the question of whether, for each deportation candidate, there is an alternative to deportation, such as trial or administrative detention... .

"In the very short time between the signing of the Order Concerning Temporary Deportation and the issue of the deportation orders, there was no possibility whatsoever for a human military commander to act according to the instructions of this Court.

"Indications that Respondents 2 and 3 did not properly consider the matter of each and every deportee are abundant:

- a. A number of cases were discovered in which people, including a 16-year-old boy, were deported to Lebanon by mistake.
- b. [T]hirty-five of the deportation candidates were taken off the buses at the time the deportation was delayed pursuant to the interim injunction, and returned to their houses or to prison. They were replaced by a similar number of people... .
- c. Most of the deportees were free in their homes until days before the deportation, even though the Respondents already had information regarding them... .

d. The day before the decision on the deportations was made, a representative of Respondent 3 and a representative of the General Security Services agreed to a significant reduction of the period of administrative detention for at least three of the deportees... .

"These facts suggest that the deportation orders were issued for immaterial reasons and purposes, or at least that immaterial suspicions were also involved in the deportation decision... . The dominant consideration may have been [to send] a deterrent message to the Hamas Movement, and it is possible that this stemmed from a desire to respond to the Israeli public which justifiably felt threatened by the murders which preceded the deportation... . Considerations which do not relate to actual danger posed by a certain person if he is not deported are irrelevant considerations which deviate from the considerations established in the rulings of this Court for justifying the issuance of a deportation order. It is sufficient that such a consideration had actual influence on the decision to deport to render the decision invalid."

11. Military Necessity (sections 54-65)

"[The Respondents] deviated not only from a practice established over ten years, but also from the directives and precedents of this Court developed over that period... .

"By only presenting estimates, the Respondents do not relieve themselves of the heavy burden of justifying the infringement of such a basic right as the right to be heard. It is also insufficient to present information of a broad scope regarding the character of the Hamas Movement and the Islamic Jihad, a matter which is not in dispute in this petition. No attempt is made in the Response to explain why the procedure of review pursuant to Article 112 would endanger the security of the State and the area, and on the basis of which data this may be inferred. In the affidavit there is no convincing explanation or factual basis for the claim that holding the deportation candidates in detention... until the conclusion of deportation proceedings will undermine the purpose of damaging the organizational and financial infrastructure of the Hamas and the Islamic Jihad. 'Estimates of the security authorities'... is not a magical formula which relieves the Respondents of their duty to base their claims of 'immediate needs.'"

12. International Law (section 66-84)

"This Court has ruled on several occasions that deportation pursuant to Regulation 112, as implemented in the past, is not prohibited by international law, and the majority opinion of the Court is that deportation of this type is not in contravention to Article 49 of the Fourth Geneva Convention. The Petitioner argues that this case is different for numerous reasons:

1. The number of deportees is very large... .
2. The purpose of the deportation was related to the cumulative effect of the deportation of a large number of people, and personal considerations regarding each deportee were, at best, secondary.
3. [T]here was no country that would agree to accept the deportees on its territory, and there was no basis to think that there would be such a country.

"This Court differentiated between the deportation of individuals due to actual danger posed by each of them, and mass and arbitrary deportations. The Court interpreted Article 49 [of the Fourth Geneva Convention] as relating only to the latter type of deportation, a prohibition introduced with the mass deportations during the period of World War II in mind... . Even if 'individual' is defined to relate only to deportations of individuals joined together in a mass deportation, it appears that in the implementation of the deportation in the present circumstances, the emphasis was on the group, the mass, and not on the individual.

"As stated, the Court interpreted Article 49 in the context of the horrific acts committed during World War II. However, with all due respect, the drafting of the Convention Relative to the Protection of Civilian Persons in Time of War commenced prior to World War II. The Geneva Conventions of 1929 did not refer to protection of civilians located in occupied territory. The assembly which adopted these Conventions delegated the International Red Cross to prepare a draft for a Convention which would deal with this issue. The International Red Cross established a committee to draft the Convention. The draft, prepared by the committee, was submitted to the 15th International Assembly of the Red Cross, which convened in Tokyo in 1934... . Article 19(B) to the Tokyo draft deals with deportation, and stipulates that:

Deportations outside the territory of the occupied State are forbidden unless they are evacuations intended, on account of

the extension of military operations, to ensure the security of the inhabitants.

"Article 49 of the Geneva Convention was based on this paragraph (ibid. p. 278).

"The committee of experts on behalf of the governments which prepared the first drafts of the Geneva Convention after World War II relied extensively on the Tokyo draft. The new version of said section 19(B) was redrafted as follows:

Individual or collective deportations or transfers, carried out under physical or moral constraint, to places outside occupied territories, and for whatever motives, are prohibited.

"This version constituted the basis for Article 49 in the final version of the Fourth Geneva Convention... .

"In light of the additional information regarding the background to the drafting of the Geneva Convention, the Petitioners, with all due respect, suggest a new review of the earlier precedents... .

"Deportation whose purpose is to exile a large number of people, and which is not a result of military necessity to remove a certain person..., contravenes the provisions of the Convention."

In addition the Petitioner argues that "the deportees were deported to a country which did not agree to accept them, which was not obligated to accept them, nor was there any reason to believe that it would be prepared to accept them. According to customary international law, a state is forbidden to deport a person, even a foreigner (how much more so a resident) except to his State or to a State willing to accept him... ."

"The deportees were deported to a State where, as far as is known, not even one of them holds citizenship. Lebanon announced that it is not prepared to accept them. Their movement was limited to the tent camp and they do not have the opportunity to travel within the State or to exit therefrom. It makes no difference what Lebanon's motives are, because there is no doubt that this country is not required to accept them pursuant to international law... .

"In the past the Court has not delved deeply into the matter of how deportation was implemented. It has acted under the presumption that the State would not act in a manner which would threaten the well-being or health of the deportee... . Here the situation is completely different. Hundreds of people were transferred to the territory of Lebanon, a State whose government is conducting political negotiations with the State of Israel, without the Respondents verifying that the

Government of Lebanon would permit, implicitly or expressly, [the deportees'] entry. This reality not only obligates Israel, according to international law, to cancel the deportation of people to a State which is not willing to accept them, but also obviates reliance on the words of the scholar Stone, who, regarding the legality of the use of deportation, deemed deportation less grave than detention, on the basis of a reality that no longer exists.

"The Israeli Government declared that it would respect the humanitarian provisions of the Geneva Convention... . The provision which prohibits deportations, especially when viewed in the context of the deportation of hundreds of people to a State which refuses to accept them, is certainly a humanitarian provision... . The Geneva Convention also applies to Respondents 2 and 3 pursuant to General Staff Ordinance 33.0133, which requires IDF soldiers to act in accordance with the provisions included in the four Geneva Conventions... . Deviation from these invalidates their actions."

13. Conclusion (sections 85-88)

"The horrible murder of Nissim Toledano shocked all of us. It was preceded by a week drenched in the blood of IDF soldiers murdered by terrorist organizations against which strong action must be taken. The deep shock led to the taking of a drastic and unprecedented step, in a rushed and mistake-ridden procedure. The Respondents are requesting that this Court decide that the action taken was legal. In order to do so, the Court must determine that the right to be heard and the principles of the *Qawasmeh* judgment may be altered (secretly) by a stroke of the Military Commander's pen, that it is possible to waive the decision-making procedure established in this Court's judgments with respect to the criteria for the deportation and the evidence required, that a person may be deported from Israel under a law which applies to administered territory, and that the *al-Carbutli* precedent was once timely, but is no longer. All this for 'the need and necessity of the hour... .

"This is one of the most serious clashes that we have known between the actions of the executive branch which are based on security grounds, and the principles deeply rooted in the quintessential rule of law... .

"The court must deal with many questions, and these are among the most important regarding the rule of law in the State. The importance

of this case reaches far beyond the actions taken on the 16th and 17th of December, 1992. It is correct that in the eyes of the public, and perhaps even the government, only one question stands: Will the deportees be returned or not? On this subject Justice Landau stated:

There is still a great fear that the Court will appear to have abandoned its proper place and descended to the arena of the public dispute, and that its decision will be applauded by part of the public and completely and passionately rejected by the other part. In this respect I consider myself obligated to rule in accordance with the law on every matter brought lawfully before the Court, as a duty imposed on me, knowing full well *ab initio* that the public at large will not pay heed to the legal reasoning but rather only to the final conclusion, and that the status of which the Court, as an institution, is deserving, above the disputes dividing the public, may be harmed. But what can be done, as this is our task and obligation as judges. [High Court of Justice 390/79, Deweikat v. Government of Israel. Piskei Din (Hebrew) 34(1) 1, p. 4]"

APPENDIX D

**EXCERPTS FROM THE WRITTEN
ARGUMENTS SUBMITTED BY
ATTORNEYS AVIGDOR FELDMAN,
LEAH TSEMEL AND ANDRE
ROSENTHAL**

"The petition contests the normative orders and the operative orders, each on its own grounds. The Petitioners are not in the least convinced that there is any real distinction between the normative and operative orders. In fact the normative and operative orders both descended from the Olympus of security considerations, bound inextricably to one another. (section 5)

"[W]e note that we have never seen an act performed by any governmental authority that is so negligent, distracted and confused as this deportation. What did the government decide?" (section 6) "[I]n fact as the resolution's title states, the Government decided to execute the deportation by issuing emergency regulations (pursuant to section 9 of the Law and Administration Ordinance 5708-1948)... . The government formulated its decision according to the wording of section 9(a) of the Law and Administration Ordinance, which also uses the (somewhat archaic) language 'to empower the Prime Minister.' (section 7)

"In other words, the government decided to exercise its authority under section 9 of the Law and Administration Ordinance and to authorize the Prime Minister to issue emergency regulations, which are subject to the restriction stated in section 9(c) of the Law and Administration Ordinance. According to this restriction, the validity of the regulation expires three months after enactment unless it is grounded in legislation by the Knesset. (section 12)

"In fact, the Prime Minister did not issue emergency regulations, but rather authorized the Military Commanders to issue deportation orders as described in the Response. The Respondents are not basing their action on the special powers of the Emergency Regulations, but rather on the authority of the Military Commanders. This implies that either the government's intent was disrupted or that the Prime Minister never intended to issue emergency regulations, and the matter was presented

in such a way to the government in order to facilitate its resolution in this matter... . The Prime Minister therefore did not exercise the authority ostensibly granted to him to issue emergency regulations... . Everything done thereafter is invalid *ab initio*. (section 13)

"[T]he deportation orders alter existing law in the Administered Territories, as well as the law of the State of Israel. Not only do they modify Regulation 112 of the Defence (Emergency) Regulations which apply to the Territories, but also, and perhaps even more forcefully, they annul the precedent set in this honored Court in the *Qawasmeh* case... . In the words of the Honorable Court President Landau:

My opinion is that granting an option to appeal to the advisory panel prior to execution of the deportation is mandatory and is incumbent upon the person who issued the deportation order. It is not simply a matter of custom or legal procedure. (section 14)

"In the *Qawasmeh* case, the High Court established a clear and unequivocal norm to the executive branch, instructing that anyone against whom a deportation order is issued pursuant to Regulation 112 of the Defence Regulations must be brought before the advisory panel prior to execution of the deportation. The court emphasized that this is the correct and only interpretation of the law. (section 19)

"A proposal to amend this norm was brought before the government, but it is self-evident that such an amendment may be made only through legislation, whether by ordinary parliamentary legislation or by the unique, abbreviated legislation of the Emergency Regulations, implemented under the Law and Administration Ordinance which grants the authority to 'change any law, temporarily suspend its validity or establish conditions therein.' (section 20)

"The *Qawasmeh* decision includes an unequivocally clear instruction in the opinion of the Honorable Justice H. Cohen... regarding the manner in which it is possible to achieve the goal, which the security branch considers desirable, of deportation without the right to be heard: (section 21)

If those responsible for security believe that there are or may be reasons which require executing deportation orders without granting deportees the opportunity to first appeal to the committee, let them go to the legislator to attempt to convince him that the law needs amending, as long as the law requires that a deportee has the right to be heard by the panel prior to deportation. The authorities are not empowered to execute a deportation order while ignoring this right. In a state where rule of law prevails, no consideration – security, political, ideological or other – can justify violation of the law

by the government. In a state of law no ruling authority may deny any person their legal rights unless explicitly authorized by law. (section 22)

"Therefore we ascribe great relevance to the question as to whether granting the right to be heard in the circumstances described in the Response would endanger State security. The fact is that Regulation 112 of the Defence (Emergency) Regulations, as this honorable Court has interpreted unequivocally, prohibits denial of the right to be heard. (section 24)

"[T]he security argument was presented forcefully before this honorable Court in the *Qawasmeh* case. (section 25) [W]e view this decision as unequivocally stipulating that no grounds of State security whatsoever allow the executive branch to openly break the law, not because the Court is ready to sacrifice State security for sanctification of the letter of the law, not because of a fetishing of the law, and not because Justice Landau is unaware that a democracy must defend itself (and it is Justice Landau who coined this phrase). Rather in a democratic regime based upon separation of powers, the law, including decisions of this honorable court, may be amended solely by the legislature, or in a limited and critical manner and at the instruction of the legislature, by issuing emergency regulations. (section 26)

"Why did the Prime Minister refrain from issuing emergency regulations after the government authorized him to do so? The answer is clear. Emergency regulations, which grant extreme powers..., are valid for only three months, and therefore cannot be used for an action enduring over three months, unless the regulation has been approved by the Knesset (otherwise there is a problem in logic similar to that of Baron Munchausen lifting himself by the hair on his head). (section 32)

"The normative order is actually a bill of attainder and is therefore not law but rather an arbitrary act in the guise of law... . [The normative order] was created specifically for this deportation, and its drafters did not intend to establish a general norm. Moreover, the normative and operative orders came into being intertwined and there was apparently never a moment during which the normative order existed independently. (section 34)

"The Response does not conceal the fact that the normative order was explicitly and specifically designed to provide a normative umbrella for this particular deportation (see section 26 of the Response). Even if the normative order contained elements of a general norm presented to the public and was not a bill of attainder, it would still not be useful to the Respondents. It is not possible to carry out an act through an order of the military commander which may not be performed by virtue of the act itself. (section 36)

"The Respondents' central argument that limitation of the deportation to two years and the disturbing and severe security situation warrant... abrogation of the right to be heard prior to deportation, is groundless. (section 40)

"The Military Commanders do not presume to establish a normative basis for themselves external to the Defence (Emergency) Regulations... . The temporary deportation order is defined as an order pursuant to section 112(1) of the Defence (Emergency) Regulations. (section 41)

"The fact that the military commander chose to limit the deportation to a two-year period in no way alters the character of the act of deportation and does not relieve those who deport of the obligation to allow the deportee an opportunity to present his claims before an appeals committee or an advisory panel. (section 42)

"A legislative amendment which undermines the right to be heard does not resemble any other legislative amendment in the law of the area. The right to be heard essentially puts the Military Commander's discretion to the test in a legal or quasi-legal forum which is independent of the military commander. Limiting the right to be heard is a blatant act in a situation of conflicting interests. The Military Commander has a self-interest that his actions will not be reviewed by any other authority. Any attack upon the right to be heard is extremely suspect as an action which would advance the Military Commander's self-interest. (section 45)

"The attempt to present judicial review and military efficiency as conflicting values has not been accepted by this honorable Court. (section 46) [R]egarding the right to be heard, the High Court of Justice in HCJ 358/88... responded to the claim that the judicial process undermines the efficacy of the administrative measure of demolishing houses. Court President Shamgar wrote:

The legitimate and proper balance between the need to act effectively and swiftly and the granting of an option to bring an objection to a commander or a petition to this court can and must find expression in the right of preemption, which the court may grant in urgent matters, as it has done more than once in different and diverse areas, if an interested party submits a request. (section 47)

"There can be no doubt that the normative deportation orders were intended to limit this honorable Court's judicial review of deportation... . The action is completed, and the deportee is removed from the State's territory without any judicial review. Judicial review takes place without any actual contact between the attorney and the deportee, who is in an enemy country. The contact guaranteed by the

State, through letters delivered by the Red Cross, is not at all certain. Experience has shown that deportation proceedings are in many cases based upon classified information which is not disclosed to the deportee and his attorney. This makes it extremely difficult for the deportee to defend himself. Adding to this the absence of the deportee and the insecure pipeline for swift and constant communication between them makes the hearing a parody devoid of substance. (section 48)

"As a rule this court has objected to the elimination of judicial review, even when enacted by the legislature and not by the executive branch, which is the authority acting in this case, as we have explained, in a critical situation of conflict of interests. (section 53)

"Elimination of judicial review means elimination of the rule of law. The task of implementation of the rule of law was conferred upon the Court, particularly as pertains to the relations between the various authorities as well as between the authorities and the High Court of Justice. (section 54)

"Only the Supreme Court protects the residents of the Territories from the arbitrariness and despotism of the authorities. Denying the residents of the Territories reasonable access to judicial review exposes them to arbitrary rule that knows no limits or restraints. (section 59)

"This petition portrays an acute constitutional crisis... taking place on the dividing line between two authorities, where the executive branch is seeking to attain legitimate goals within its jurisdiction... via means that rest under the authority and supervision of other branches – the legislative or judicial. (section 67)

"The executive branch significantly reduced the judicial or institutional supervision of its activities... in a situation of conflicting interests. The Prime Minister and the Military Commanders acting under him violated a clear and unequivocal norm... . The action had an extremely harsh effect on a large group of people. The government risked all of its prestige in this process, and conveyed to the Court that it would be unable to ensure public security were the petition accepted. The action which is the subject of this petition was directed in large measure against this honorable Court in that it evaded HCJ review of the legality of the deportation... . The Court is operating in a situation of factual uncertainty, where the Respondents' claims regarding State security are almost entirely inaccessible to common-sense assessment and evaluation. (section 68)

"In H CJ 418/86, *Barzilai v. The State of Israel et al. Piskei Din* 40(3) 505, the honorable President stated (p. 555): A government cannot be deemed proper if it is not vigilant in upholding the rule of law, for it is this which builds the protective wall against anarchy and ensures the existence of the governing order. This order forms the

basis for the existence of a political and a social framework protecting human rights, which cannot exist in an environment bereft of laws. National security as well depends upon the rule of law. (section 72)

"The Petitioners will examine the interpretive school ascribed to by this honored Court with regard to Article 49 of the Geneva Convention. This school was primarily expressed in the judgment of Court President Shamgar in the 'Afu affair..., in which Article 49 of the Geneva Convention was interpreted as applicable only to mass deportations modeled after the Nazis' cruel deportations to forced slave labor. (section 73)

"This interpretation contradicts the plain language of Article 49 and is based upon a recreation of the historical consciousness of the intention of the drafters of the Geneva Convention... . (section 74)

"An interpretive school of historical analysis of the legislator's intent and historicization of the significance of the words and principles is highly irregular in Israeli common law... . Historical analysis of law obtains a result opposite to that stated in the 'Afu decision, namely that law is not interpreted in accordance with the legislator's intent but rather in accordance with the reader's present intention. (section 75)

"Israeli interpretation takes a position diametrically opposed to that expressed in the Court's decision in the 'Afu case... . Israeli interpretive theory of the historicization of legal norms views the written norm as a living entity with a normative evolution, enabling it to span governments and historical periods and to be renewed by current social and political standards. (section 81)

"A striking example of this is the Schnitzer case... . Justice Barak wrote:

Mandatory laws are not to be interpreted in accordance with the rules of interpretation of the Mandate period. They are to be interpreted in accordance with the rules of interpretation used in the State of Israel... the judicial method. Mandatory legislation must be not interpreted in the context of basic principles of the judiciary method of the Mandate period. Mandatory legislation must be interpreted in the context of basic principles of the Israeli legal system. (section 82)

"Even the historical research conducted in the 'Afu case is incomplete and not exhaustive. It lacks a significant element, namely that the wording of Article 49 of the Geneva Convention was not created after World War II, but rather appeared in a draft presented to the Tokyo Convention in 1934, where Section 19(b) stated that 'deportations outside the territory of the occupied state are forbidden.' (section 84)

"[I]f we examine the results of deportation – unilateral exemption from all obligations under the Geneva Convention... and there is no

argument that some of these obligations, such as protecting the lives of protected persons, are undoubtedly customary law... , it becomes clear that the radical results of the deportation transform it into an act prohibited by customary international law. (section 87)

"A distressing picture emerges from the Response... . The security authorities were assigned to search high and low for people to fill a more or less previously-determined quota. (section 88)

"From the outset a quota had been established to be filled by individuals who were not necessarily front-line activists, but also those who performed a variety of other unclear functions such as leaflet distribution, involvement in the economic and organizational infrastructure, and other vaguely-defined functions. (section 90)

"Such administrative thinking is completely invalid. It contradicts the deportation procedure developed in the Supreme Court in which the thought process is precisely opposite. The deportee is viewed by the security forces as one who is extremely dangerous, and against whom all alternative measures have been exhausted, leaving no choice other than imposing the painful and drastic measure of deportation. (section 91)

"We have no doubt that when the Prime Minister contemplated his rash idea to deport a large number of activists, he did not have before him names, faces or functions. He thought of a number. The Security Services were requested to fill the number with faces and people... . From that point on, the consideration was not individual and focused, but an aspiration to fill an already established quota. (section 93)

"The methods of the deportation and in particular its timetable illustrate the accuracy of the image of the security forces' rounding up anyone available who had any connection with the Hamas organization. (section 94)

"At most, seven hours passed between the government's resolution and the loading of the people onto the buses. During this time the OC Central Command ordered the deportation of 284 people and the IDF Southern Command ordered the deportation of 202 people. (section 95) [O]C Central Command Major General Dani Yatom deported one person per minute. The OC Southern Command, who was slower, deported one person every minute and 10 seconds. (section 96)

"The Response relates that 16 people were deported by mistake. In view of the procedure and timetable we described, there is no doubt that the number of people erroneously deported is much larger and we have doubts and fears that perhaps the honorable Commanding Officers' claims that they personally examined the matter of each candidate, is not accurate, unless they were blessed with brilliant skills

which enabled them to review the entire life of a deportee in the blink of an eye in order to decide whether he should be deported. (section 98)

"It is astounding that 78 people against whom deportation orders were issued were ultimately not deported, due to 'organizational difficulties.' If the deportations were so urgent and necessary for security how could 78 of them be allowed to remain in the area? (section 101) [A]ll this demonstrates that a quota was used and not specific individual considerations. (section 102)

"The question of whether the area in which the deportees are located is under Lebanese sovereignty... or if it is territory effectively under Lebanese control, is irrelevant. [T]he central question is whether Lebanon admitted the people to its territory. International law attempts to prevent situations in which a person might lack protection by any State whatsoever, hence the existence of the principle of continuity of protection in international law. (section 111)

"Continuity of protection is achieved by placing an obligation on States to protect individuals within their borders. The extent of protection required of the State varies according to the degree of the State's responsibility towards the specific individual... . (section 112)

"The international concept of continuity of protection requires that a State obligated to protect individuals may not be released unilaterally from this obligation without another State being willing or obligated to accept such a person within its territory and to absorb him into its system of protection. (section 113)

"The principle of continuity of protection is central and must be upheld, particularly in the protection of foreign citizens located within the jurisdiction of a State as a result of war, such as the residents of the Administered Territories... . (section 115)

APPENDIX E

EXCERPTS FROM THE WRITTEN RESPONSE SUBMITTED BY THE RESPONDENTS

The Response opens with a description of the events leading to the deportation. Section 9 of the Response contains a list of 39 attacks and attempted attacks carried out by members of the Hamas and the Islamic Jihad from January 1988 to December 1992. Section 11 of the Response states that "the sequence of incidents described, their frequency, the momentum they had gained, their deadly consequences, the activities of the organization within the State of Israel as well, the deterioration in internal security and in the public's sense of security, the harm of these organizations to the residents of the areas themselves and the undermining of their security, their increased power as a result of their operational success, and the danger that others would follow them – all these led the security forces and the political echelon to decide to take a drastic and immediate measure against the Hamas and the Islamic Jihad to prevent serious deterioration of the situation."

The chapter *The Need for Action* states that "the chain of deadly attacks, which are the practical and tragic manifestation of the Hamas' and Islamic Jihad's aims, combined with the general image of these organizations and the potential security threat they pose owing to the very objectives they have set themselves, have created, as mentioned above, a perception that inflicting a blow on Hamas and on the Islamic Jihad is a necessity. Otherwise, the overall security situation, personal security and public order may deteriorate to a state of unprecedented gravity." (Section 16 of the Response). The Respondents explain that the chain of attacks was liable to continue or even escalate, "due to the audacity which success has instilled in the attackers' hearts." (Section 17(b)). In addition, "the large number of attacks and their seriousness undermine security in the areas as well as in Israel, the strengthening of which is the Respondents' responsibility. A side-effect produced by this development might have been riots and acts of vengeance on the part of extremists in the areas and in Israel, the first signs of which have already been evident." (Section 17(h)).

In the chapter dealing with the deportation decision, it is stated that "the security authorities indicated to the political echelon the need to enact swift and effective measures against the Hamas and the Islamic Jihad." (Section 18). In the weeks preceding the decision, hundreds of

activists from these organizations were taken into custody, and when the kidnapping of Sgt. Major Nissim Toledano became known, more than 1,500 activists from these organizations were arrested.

Sections 20-36 of the Response relate how the decision to deport evolved:

20. Concurrently, consultations began between the political and security echelons concerning additional effective measures to be taken against the Hamas and the Islamic Jihad. On December 15, 1993, after Nissim Toledano's murder had become known, in a meeting held by the Prime Minister and Defense Minister with the participation of senior security authorities, these authorities expressed their opinion that swift and drastic measures should be taken against Hamas and the Islamic Jihad.

21. In the government meeting of December 16, 1993, and in the ministers' consultation preceding it, it was clear to the participants that the gravity of the state of emergency developing before their very eyes necessitated, in contrast to previous occasions, the rejection of all constraints obstructing security needs.

22. It should be noted that prior to the meeting, following the aforementioned ministers' consultation, the Prime Minister spoke with the Chief of Staff twice on the phone, and also with the head of the General Security Service, and informed them of his intention to recommend that the government approve deportation, for a predetermined period, of a large number of Hamas and Islamic Jihad activists, against whom, according to security authorities, this measure should be taken.

23. Following all the above, on December 16, 1992, the government convened as the Ministers' Committee for National Security and issued resolution no. 456, attached to this Response as appendix MS/3, and constituting an integral part of this Response.

24. Section A of the resolution states: "Be it resolved... in light of the state of emergency and in order to maintain the security of the public - to empower the Prime Minister and Minister of Defense to instruct and authorize the Military Commanders of the areas of Judea, Samaria and Gaza to issue orders, according to the requisite and immediate security needs, concerning temporary deportation and without prior

notice, to remove agitators, those inhabitants of the areas who in their activities endanger human life, or who agitate to such activities, and this for a period to be determined by the Military Commanders and not to exceed two years."

25. The main points of the resolution are as follows:

(a) The orders are to be temporary, for a duration not exceeding two years;

(b) The act of deportation (the issuing and execution of the orders) must be immediate and without prior notice;

(c) (According to Section B of the government's resolution) each deportee will have the right to appeal the deportation before an appeals committee within 60 days [this time limitation has since been cancelled, as will be explained];

(d) The appeal may be submitted by the deportee's family or attorney.

26. It should be emphasized that although the Ministerial Committee's resolution did not explicitly state that the deportees were to be members of the Hamas and the Islamic Jihad, the hearing preceding the decision was concerned only with these organizations and the measures to be taken in dealing with them.

27. The Respondents will attempt to demonstrate that the assertion, in both the government resolution and in the Order Concerning Temporary Deportation which was legislated as a result, as will be detailed here, regarding the possibility of immediate implementation of the deportation (i.e., without allowing an appeal process or the right to be heard prior to deportation), is based on the fact that, in the unique and severe security situation in the areas, as outlined above, carrying out the deportation according to the procedure as was previously customary (including the possibility for a hearing prior to implementation) would not lead to effective utilization of this measure or the requisite security result of an immediate and urgent response to the security threats generated in the areas and in Israel as a result of the activities of the Hamas and the Islamic Jihad.

28. The Respondents' view is that the effectiveness of the deportation as a preventive measure is based on three

separate but intertwined components, namely:

- (a) The "quality" of the deportees⁹⁰ – the status of the deportees in the area and within the organizations in which they are active;
- (b) The extent of implementation – the quantity of deportees;⁹¹
- (c) The swiftness of implementation – measured from the date the orders were issued.

29. In the unique situation prevailing in the areas today and especially as we are dealing with a temporary deportation order whose effect is relatively less severe than that of a deportation order of unlimited duration, the Respondents believed that only deportation of people significantly and continuously active in the infrastructure of the Hamas and Islamic Jihad organizations, in large numbers and immediately, would constitute an effective and appropriate response to the security threats posed by these terrorist organizations and the processes endangering the public security and order both in the areas and in Israel.

30. The respondents believe that any concession with respect to any of the above-mentioned components would have lead to a danger of dissolution and decreased effectiveness of the deportation, primarily as a preventive measure against the continued activities of the members of these organizations against the security of the areas, and would have damaged the deterrent effect on the continuation of this and other such dangerous activities.

31. Moreover, the security officials' assessment was and remains that any attempt to deport hundreds of people under the previous procedure (rather than in the form of an immediate deportation) while those intended for deportation remain within the areas, might have provoked an even more severe wave of unrest and violence aimed at creating pressure (both domestic and international) upon the State of Israel to cancel the intended deportation.

32. In this framework it is possible to figure, based on past experience, that such a wave of unrest might have spread from the Palestinian populace into the prison facilities and jails in Israel, Judea and Samaria, and the Gaza Area.

90. Later the Respondents replaced the word "quality" with "identity."

91. Later the Respondents replaced the word "quantity" with "number."

33. These considerations have led the Respondents to the conclusion that the proper balance between immediate and decisive security needs, on the one hand, and existing legal procedures on the other hand, mandates changes in the latter, in a way which will fulfill the security need for immediate implementation of the deportations, in order to seriously damage the infrastructure of agitation, logistics and operations of the terrorist organizations we are dealing with, while not allowing them or other terrorist organizations the opportunity to prepare to sabotage or foil these measures.

34. There was also concern that attempting to physically locate the candidates for deportation immediately after making public the intention to deport, would have led to attempts, on the part of some of them, to disappear and pass out of sight, and in other cases to cause resistance which would make locating them quickly an extremely difficult endeavor. Early publicity of the deportations might have brought about resistance and attempts by hostile elements within Lebanon to disrupt this measure.

35. Thus, soon after the government's resolution, the Prime Minister and Minister of Defense informed the Chief of Staff and the Head of the General Security Service of the resolution, emphasizing that the security officials were to carry out the government resolution.

36. It was also made clear that in this case, in contrast to the past, and for the reasons presented above, the political echelon authorized deportations sufficiently extensive to bring about significant damage to the operating infrastructure of the Hamas and Islamic Jihad organizations, and that action against a limited pool of operatives of the highest ranks only would not suffice.

The next chapter of the Response deals with the Order Concerning Temporary Deportation (Emergency Provision).

37. Thus on that very day legislation was passed in Judea and Samaria and the Gaza Area, in the form of the Order Concerning Temporary Deportation (Emergency Provision).

38. The Order was intended to implement the above resolution and to incorporate it in the security legislation of the area in two major ways:

First - the explicit determination that a temporary deportation order may be carried out immediately following its issue;

Second – the establishment of appeals committees for purposes of the Order, and of appeals procedure for the committees.

39. It should be noted that due to an administrative error, the orders in these two areas are not identical. Nonetheless, the differences are primarily in phrasing and have no impact on their normative meaning. Both orders were issued simultaneously, with a view toward *de facto* implementation of the government's decision and to enable security needs to be met in both of these areas.

40. What difference is being alluded to here? The first version of the draft of the Order Concerning Temporary Deportation (the one signed in Judea and Samaria due to an administrative error) states in section (a) that: "Regulation 122(8) of the Regulations notwithstanding, for the purpose of this order Appeals Committees shall be established, the members of which shall be appointed by myself or by those authorized by me."

41. In the final draft of the Order Concerning Temporary Deportation (signed in the Gaza Strip), different formulation was chosen... whereby the first part of Section (a), as presented above, was replaced with the explicit assertion in Section (d) that: "Regulation 112(8) of the Regulations shall not apply to a temporary deportation order."

42. The object of these sections was to assure, along with Section 2 of the Order according to which "a temporary deportation order may be carried out immediately after issue," that there would be no need to hold a hearing before an advisory panel *prior* to the execution of the deportation (as in the ruling of the Supreme Court in HCJ 320/80 *Qawasmeh*) but it would instead be possible to carry out the hearing after the deportation, in accordance with the government's decision.

43. The Respondents emphasize that in terms of their objective and their legal-normative implications, the sections quoted above are identical, and therefore there is no reason to draw any legal conclusions based on the difference in phrasing.

The Respondents explain that due to the difference in phrasing in the two drafts, there was also a difference between the two versions with regard to the issue of whether the hearings would take place behind closed doors. However, this situation was remedied so that both

versions determine that the appeals committee may decide to hold its hearings behind closed doors for security reasons. On January 10, 1993 the time limit for submitting an appeal, originally set by the government's resolution at 60 days, was cancelled.

In sections 47-63 of the Response, the Respondents explain how the deportation orders were issued and carried out:

47. Following what was described above, the security forces in the areas of Judea, Samaria and Gaza began an immediate process of locating intended deportees, and examining existing security information pertaining to each and every one of them.

48. In view of the government's resolution, while examining potential deportees, the security forces were instructed to locate people with respect to whom reliable and well-based information had been gathered regarding their involvement in activity within the organizational framework of Hamas and the Islamic Jihad.

49. Some of these people have taken part in organizing or supporting violent activity, or in directing, inciting or preaching to such activity. Others assisted in the activity of the above organizations, in the spheres of economic and organizational infrastructure, recruiting, fundraising, appropriating funds, as well as in writing and distributing leaflets.

50. Following the review process described, the relevant information pertaining to each and every one of the potential deportees was presented to the IDF Commanders of the areas.

51. During this time, the IDF Commander of Judea and Samaria and the Commander of Gaza personally examined the matter of each candidate, exercising their discretion either to confirm or reject the deportation in each particular case, taking into consideration constant legal counsel which they received from the legal advisors of the areas as well as consultations with representatives of the security forces.

52. The task of confirming candidates for deportation was completed only after many hours, and for this reason the temporary deportation orders were signed only late on the night of December 16, 1992 (in Judea and Samaria) and in the early morning hours of December 17, 1992 (in the Gaza area).

53. Assessing the severity of each particular case and weighing the amount of information and its gravity, the IDF Commanders of the areas decided that the temporary deportation orders would be valid for a period of 18 months with regard to some of the deportees and for a period of 24 months for the rest. The individual temporary deportation orders issued in Judea and Samaria and in the Gaza area are attached as appendices MS/6 and MS/ and constitute an integral part of this Response.

54. After completion of the examination process, temporary deportation orders in Judea and Samaria were issued for 284 people, 39 of them for a period of 18 months, and an additional 102 for a period of 24 months.

55. In the Gaza area temporary deportation orders were issued for 202 people, 100 of them for a period of 18 months and an additional 102 for a period of 24 months.

56. At this juncture, the Respondents would like to inform the honorable Court that despite the great efforts expended by all parties concerned to assure that the process of locating candidates for deportation and execution of the deportations run smoothly, in the first few days following the deportation it became clear that ten people had been deported erroneously (six from the Gaza area and four from Judea and Samaria). Among these, the names of three were erroneously included in the temporary deportation order, and seven others were deported without there being a valid deportation order in their name.

57. When this error became evident, and after the matter was reported to the political echelon, a formal statement by the government of Israel was issued on December 31, 1992 to the International Red Cross, saying that these ten people would be permitted to return to the areas immediately.

58. This statement was widely publicized in the media. As a consequence, one of the deportees has in the meantime returned to his home in Hebron, and as far as concerns the government of Israel, organizational preparations for arranging the return of the other nine deportees, through the Red Cross and UNIFIL, have been completed.

59. Following the above, the security forces decided to conduct an additional examination. It was thus discovered that regarding six others who had been deported according to valid

deportation orders, it became clear in hindsight that they had been convicted by the court and were supposed to serve prison sentences. All these cases were presented to the IDF Commanders of the areas for reconsideration, and it was decided to cancel their deportation orders.

60. The Respondents would like to make clear that there are still 78 people in Judea and Samaria and in the Gaza area against whom temporary deportation orders have been issued, but not executed (43 in Gaza and 35 in Judea and Samaria).

61. These people were ultimately not deported. This was in accordance with the instructions of the high commanding ranks in the IDF, following the issue of interim injunctions by the High Court on the night between December 16 and December 17, 1992 (which were cancelled later that day) and due to organizational difficulties with respect to their deportation, after the said injunctions were cancelled.

62. IDF commanders of both areas intend to cancel the deportation orders issued against the 78 people mentioned, after examining the appropriate procedure which should be followed in the matter of each and every one of them, after the cancellation of the deportation order.

63. In the final analysis, 415 people were actually deported from Judea and Samaria and the Gaza area, 250 from Judea and Samaria and 165 from the Gaza area. Among these, a valid deportation order was in effect for only 408.

In the chapter *Exercising the Right to Appeal*, the Respondents state that the Judge Advocate General's office had prepared to hear the appeals of the deportees by appointing numerous appeals committees, preparing hearing halls and allocating administrative personnel and a secretariat. As the deportees are in Lebanon, and "recognizing that the deportees for whom an appeal has been or will be submitted may require contact with their representatives, the IDF will take any action possible under the circumstances to transfer mail to and from the deportees, through the Red Cross or in any other acceptable way." (section 66)

The Respondents argue (in the chapter *Return of the Deportees - Security Ramifications*) that "once the deportation orders have been carried out, returning them to the areas may greatly damage security in the areas and in the State of Israel and the public order therein." The Respondents explain that bringing back the deportees would mean the return of hundreds of Hamas and Islamic Jihad operatives to the

Territories, where they may be reincorporated in these organizations; such an act would appear to the public and to the organizations as a "moral and practical triumph of the organizations over the State;" the status of extreme elements within the population of the areas may be strengthened, as opposed to the status of moderates; and the extremists may be encouraged to intensify the struggle and the violence.

The Respondents also claim that IDF commanders have assessed that the deportation has had a wide influence, manifested in the decrease in the activity level of Hamas and the Islamic Jihad, in the disruption and damage of these organizations' organizational and economic structures, and in deterring other organizations. (Sections 75-77 of the Response).

The remainder of the Response outlines the Respondents' legal arguments, which will be summarized as follows:

Firstly, they base themselves on Regulation 43 of the Regulations appended to the 1907 Hague Convention, which determine the obligation and authority of the IDF commander of the areas to take measures necessary to maintain security and order in the region. The Respondents argue that:

[T]he High Court has recognized that despite the balance required in a democratic State between the individual's basic rights and State security, if the collision between these values is "frontal," making it impossible to maintain one while maintaining the other, then the value of State security takes precedence. The reason for this is twofold: First, because the value of State security is the real purpose founded in the Defence Regulations, and an interpreting judge must, first and foremost, realize this goal; Second, because a democracy must be maintained for it to realize itself. – (Justice Barak in HCJ 680/88, *Schnitzer et al v. the Military Censor General et al*, *Piskei Din* (Hebrew) 42 (4) 617, 630.)

The Respondents argue that "no flaw can be found in the balance created under the circumstances... between the above-mentioned security reasons and the right of those involved to be heard."

After citing Regulation 112 of the Emergency Regulations and Regulation 108 of those Regulations, which specifies the conditions in which orders may be issued pursuant to the regulations, the Respondents explain that:

When issuing the deportation orders, the IDF Commanders of the area were convinced on basis of clear, unequivocal and persuasive evidence that the conditions of Regulation 108 of the Defence Regulations had been met, and that the

deportation orders were necessary to achieve the security aim, i.e. prevention of severe danger which could be expected in the area because of the deportees (section 96).

The Respondents argue that:

Temporary deportation is in its nature less severe than open-ended deportation. The criteria required for applying Regulation 108 must thus be more lenient than those required for issuing unlimited deportations, just as the criteria for the latter do not apply to administrative detention or restricting or supervisory orders. The IDF Commander of the area is authorized to adapt the administrative measure to the degree of danger forecasted in the area.

The Respondents describe the content of the Order Concerning Temporary Deportation (Emergency Provision), 5753-1993 as follows:

A temporary deportation order, i.e. a deportation order according to Regulation 112(1) of the Defence Regulations, whose validity is limited to period not to exceed two years, may be executed immediately after being issued. Therefore there is no obligation to hold a process of prior hearing. The amending order states that instead of the procedure of applying to the advisory panel (which makes recommendations only to the Regional Commander), there is a right to submit an objection to the temporary deportation order before an appeals committee which is authorized to cancel it or to shorten its duration. The decision of the appeals committee is binding, not merely a recommendation. The appeals committee will convene without the deportee being present.

Later the Response states:

The IDF Commander of the area is authorized, by principles of international law, to issue legislation applying to the area under his command and which has the power to amend and even cancel previous legislation which was in effect in the area... . The Supreme Court will not intervene in the legislative acts of IDF commanders of the areas and will not replace [the Commanders'] discretion with its own, unless the legislation is proven extremely unreasonable.

In addition it is stated:

Exercise of the right to be heard only after the execution of a security sanction is not unprecedented... . Regarding deportation, it has been ruled, in HCJ 320/80 *Qawasmeh*, that the right to apply to the advisory panel is to be granted

prior to execution of the deportation. However, the logic of this ruling lies in the fact that it refers to the severe and drastic measure of deportation for an unlimited period of time. Experience shows that such deportations can last for years or for unlimited duration. Even in cases of reversible action, as a rule, an individual should be permitted to be heard prior to execution of the deportation. Temporary deportation, limited to a period not to exceed two years, is a sanction of lesser severity than an unlimited deportation. In the framework of balancing interests and in light of the urgent security needs, as described above, there is no fault with providing the right to be heard at a later date.

In addition:

The deportee's delayed right to hearing before the appeals committee constitutes granting of a proper right to be heard... . These committees, which first review the matter (as a review *de novo*), are authorized to cancel the deportation orders in the framework of a judicial decision based on the provisions of the law and objective reasoning. As stated above, the decisions of these committees are binding and final.

According to the Respondents, there is no defect in the determination that the appeal will be brought before the appeals committees by a family member or an attorney, with the deportee not being able to appear in person. As a basis for this statement the Respondents cite the following excerpt from HCJ 161/84 Windmill Hotel Inc. v. The Minister of Interior et al:

There are many and varied means of being heard depending on the circumstances. Sometimes the hearing is written and other times oral. Sometimes it is done in one sitting in the presence of all involved parties and other times in stages where each party is given his turn.

Thus, "the fact that the deportees are outside of the area and the State of Israel does not alter the unavoidable conclusion. Residents of the areas who are outside the areas and the State of Israel often appeal to the High Court of Justice... without being entitled to appear before the Court. Such is the case regarding applications and appeals to the High Court by people deported in the past, who are seeking to return to the area. This is the case in the present issue as well. Moreover, the deportees' right to be represented by a family member or an attorney, a right not generally granted, is explicitly stipulated in legislation."

The Respondents argue that "it is an established precedent that a citizen's right to be heard prior to infliction of harm upon him is not an absolute right... . In the present case, the severe security situation and the escalation in terrorist attacks, particularly by the Hamas and the Islamic Jihad, necessitated immediate deportation. Bringing each and every one of the deportees before the advisory panel prior to execution of the order so that they could present their arguments would have undoubtedly foiled the execution of the deportation, as it would have entailed an extended delay."

In the chapter *Notification of Validity*, the Respondents argue that the temporary deportation order did not cancel or significantly alter the sanction of deportation pursuant to the Defence Regulations. "Rather, in regard to temporary deportation it has been determined that the right to be heard may be delayed until after execution of the deportation (before the appeals committee whose decision is binding)." In addition, they claim that "the determination by which there is a right to apply to the advisory panel prior to execution of the deportation is not rooted in the Defence Regulations themselves but rather emanates from a Supreme Court ruling derived from principles of natural justice. Thus the new order does not formally amend or alter existing law." The Respondents claim that the precedents set by the Court regarding urgency and necessity of the moment "do not require specific legislation, and according to them it could have been determined that the right to be heard would be granted only after the deportation, even without any basis in the legislation."

In the following chapter, *Results of Infringing On the Right to be Heard*, it is claimed that even if a delayed hearing unlawfully infringes on the deportees' rights, "this does not nullify the deportation orders issued against them. It is an established precedent that violation of the principles of natural justice and failure to grant the right to be heard do not render the authority's acts void." According to the Respondents, "even if there were a defect in denying the deportees the right to apply to the advisory panel prior to the deportation, the maximum remedy that would have been granted them, according to the *Qawasmeh* ruling, is the right to appeal to the panel. In any case the Order Concerning Temporary Deportation (Emergency Provision) granted the deportees the right to apply to the appeals committee."

As for the Petitioners' argument that the deportation must be cancelled due to Lebanon's objection to receive the deportees, the Respondents argue that the Court ruled on December 22, 1992 in HCJ Special Motion 6030/92 and 6047/92 that the deportees are in Lebanese

territory and that the deportation has therefore been completed. "There is no provision in law or in precedent obliging the State to provide for a deportee's sustenance. In any case, no danger is posed to the deportees' lives. Their survival needs continue to be provided for at their present location."

In summary it was stated:

Even if under the circumstances of this case the deportation orders were so severely flawed as to necessitate their cancellation or the deportees' physical presence before the appeals committees, the position of the Respondents is that there is no cause to do so. The deportees' return to the areas or to the State of Israel today would pose an extreme danger to public order in the areas and could lead to a collapse of the security situation (as detailed above). Under these circumstances, even if the deportation procedure was defective, since it has been completed the deportees must not be returned, as the security interest served by their non-return must take precedence.

SELECTIONS FROM THE HIGH COURT OF JUSTICE RULING REGARDING THE LEGALITY OF THE EXPULSION

(Note: The following is an official translation of the Foreign Ministry, hence differences in spelling and terminology from other parts of the text, which were translated by B'Tselem)

The Legal Conclusions

7. The following are the matters requiring examination:
 - a) The validity of Regulation 112 of the said Regulations as part of domestic law.
 - b) When Regulation 112 may be implemented.
 - c) The right of hearing pursuant to the Regulation.
 - d) The exceptions to the right of hearing and the validity of the temporary provisions.
 - e) The validity of the expulsion orders.
 - f) The realisation of the right of hearing.
8. Regulation 112 of the Defence (Emergency Provisions) Regulations, 1945, which deals with expulsion, is a provision of law valid in Judea and Samaria and in the Gaza Strip, since it is part of the law applicable in the territory ("the laws in force in the country", in the words of Regulation 43 of the Hague Regulations, 1907). The continued force of the Regulation, made during the British Mandate, originally derived from the provisions of Jordanian law, and since the entry of the IDF Forces it has derived from the Manifesto on the Procedures of Law and Government (No. 2) of Judea and Samaria and of the Gaza Strip (see also HCJ 1361/91, *ibid.*, at p. 455). The implementation of Regulation 112 as domestic law is, since the entry of the IDF Forces, within the power and authority of the territory commander.

The orders made in the case herein were based on detailed information in respect of each deportee, namely on individual considerations which, according to the Respondents, indicated the existence of a basis in respect of each single one of the deportees. Namely, a collective order

was not involved, but a collection of personal orders, each of which stands on its own, and meets the requirements of Regulation 108 of the said Regulations, which is discussed below.

9. The arguments made to us did not justify a departure from the legal conclusion that the discretion standing behind the implementation of Regulation 112 was based on considerations contained in Regulation 108 of the said Defence Regulations (as stated therein, "if necessary or desirable to grant the order for the security of the public, the defence of the State of Israel, the maintenance of public order or the suppression of uprising, rebellion or riots"), provided that the individual data relating to a deportation candidate, as adduced to the Commander of the IDF Forces before making the order, give foundation for such an act. The evidence relating to each expulsion candidate should be clear, unequivocal and persuasive (HCJ 513/85, *ibid.* (the Nazal case), p. 655).

10. (a) Regulation 112(8) lays down as aforesaid that a consultative committee,* appointed under Regulation 111(4) for the purposes of hearing appeals against an administrative detention order, is empowered to examine and make recommendations in connection with an expulsion order if so requested by a person in respect of whom an expulsion order has been made.

The said Regulation does not specify whether the appeal hearing should be held before or after the expulsion's implementation. The British Mandatory powers which made the Regulations believed, as emerges from the way in which the Regulation was implemented, that there is no duty to hear an appeal before the expulsion order is implemented, and the consultative committee heard appeals (then too, in the absence of the deportee) only after the expulsion order had been implemented. The committee under Regulation 112(8) was the same committee which acted under Regulation 111(4) and, just as it heard appeals after detention rather than pending it, so it also heard appeals against expulsion after, rather than before, its implementation.

As can be seen and inferred from the case law of the early years of the State, then too it was not the practice to grant the right of hearing, in the scope of an appeal, prior to the implementation of the expulsion order (this is for example implied from HCJ 25/52, *Jelil v. The Minister of the Interior*, PD 6 110; HCJ 240/51, *Taha Abed Elrahman v. The Minister of the Interior*, PD 6 365; HCJ 174/52, *Abu-Dahud v. The Superintendent of Acre Prison*, PD 6 902; HCJ 8/52, *Mustafa Sa'ad Badar v. The Minister of the Interior*, PD 7 366).

* ["Advisory Panel" in **B'Tselem's** report.]

(b) However, the developments which have occurred in constitutional and administrative law in recent decades have afforded the right of hearing as a rule – including an appeal to the consultative committee which operates under Regulation 112(8) – which exists to advance the status of a basic principle and essential means for the prior examination of the justification for the Commander's making an expulsion order. The courts have viewed the prior hearing in the field of administrative law as one of the rules of natural justice (HCJ 3/58, *Berman v. The Minister of the Interior*, PD 12 1493, 1503; HCJ 290/65, *Elghar v. The Mayor of Ramat Gan*, PD 20 (1) 29, 33; HCJ 654/38, *Gingold v. The National Labour Tribunal*, PD 35 (2) 649, 654; Crim.App. 768/80, *Schapira v. The State of Israel*, PD 36 (3) 337, 363); and as regards the right of prior hearing, it was stated in HCJ 4112/90, *The Association for Civil Rights in Israel v. The Commander of the Southern Command*, PD 44 (4) 626, at pp. 637-638, that –

The right of hearing:

Its source and foundation is in the Jewish heritage from days of yore, and the wise men of Israel saw it as civilisation's most ancient right. (Genesis, Chapter 3, Verses 11-12; Chapter 4, Verses 9-10; 18, 21; Deuteronomy, Chapter 1, Verse 16); and even if it is clear to the judge that the defendant will be condemned, his case should first be heard in any event. (The Rama's Responsa, Article 500).

As regards the case herein, it was stated in HCJ 497/88 (*Shakahir v. The Commander of the IDF Forces in the West Bank*, PD 43 (1) 529, 537 –

In cognisance of the grave far-reaching damage occasioned to the person affected by reason of an order expelling him from his place of residence, the legislature laid down a special procedure, which is not known in criminal law, through Regulations 111(4) and 112(8) of the Defence Regulations, according to which a consultative committee, headed by a lawyer, was established, amongst its powers being to examine all the information existing against the expulsion candidate, including all the open and privileged evidence held by the Defence authorities. This committee gives the expulsion candidate an opportunity to adduce to it his testimony and arguments and it must also allow the person to call other witnesses on his behalf, if those witnesses might affect the results of the hearing. After examining the evidence and hearing the arguments of the parties or their attorney, the consultative committee makes its recommendation to the

Military Commander as regards the outcome of the relevant order... . If the Commander decides, after obtaining the opinion from the consultative committee, not to cancel the expulsion order and to insist upon its implementation, it is open to the expulsion candidate to file a petition to the High Court of Justice.

(c) The legal interpretation according to which Regulation 112(8) grants a right of appeal before implementation of the expulsion was considered at length in HCJ 320/80 (Kawasame & Others v. The Minister of Defence, PD 35 (3) 113).

The Kawasame case involved the expulsion of the mayors of Hevron and Halhoul and of the Imam of the El Ibrahim Mosque, Rajahb El-Tamimi, following the murder in Hevron of six Jews who, on 2nd May 1980, were returning from prayers at the Cave of Machpela. Immediately upon the expulsion order being made by Brigadier-General Benjamin Ben Eliezer, the three were taken from their homes, supposedly for the purpose of talks with the Territory Commander. They were then told that they were going to meet the Minister of Defence and instead they were flown by helicopter to the Lebanese border and there expelled over the border. Their spouses petitioned this Court against the validity of the expulsion order.

An order nisi was issued pursuant whereto the authorities were required to show cause "why the expulsion orders should not be set aside... . since they (the deportees) had not been given a fair opportunity to state their objections to the expulsion orders for consideration by the committee mentioned in Regulation 112(8)... and were not allowed to appear before that committee prior to the implementation of the expulsions. In the Kawasame case, the State Attorney explained in his arguments that those responsible for the expulsion knew what the law prescribed with regard to Regulation 112(8), although they had decided, without consultation with legal entities, to implement the deportation forthwith without service of an order or notice of its contents, because "a situation had arisen which obliged the immediate expulsion of the said three leaders in order to prevent a dangerous escalation in the security situation in the territory." The State also stated in court, after the expulsion had been implemented, that it would be willing to hold a hearing before an appeal committee.

President Landau held that, according to the rules of natural justice and in view of the wording of Regulation 112(8), the reasonable meaning of the Regulation was that there is a duty to grant an opportunity of applying to the committee immediately after the expulsion order is

made and before it is implemented. After the expulsion has been implemented a new situation arises, when the deportee is already over the border and he is thereby deprived of his ability to object to the order and put his case to the committee.

Thus the Regulation was also understood – as emerged from the Minister of Defence's reply in the said case – in another case, being that of the expulsion order of Bassam Shakha, the mayor of Nablus. In the words of President Landau, "even if it had been most desirable in the eyes of the respondents, for pressing reasons of security, that the expulsion be implemented without any delay, that did not justify their disregard... it is essential to observe the law" (ibid., p.119).

Nevertheless, President Landau did not see fit to set aside the expulsion order. The consultative committee was already in existence at the time of the expulsion and it was therefore not appropriate to conclude that the order was void on the ground that this Court applied in the case of Karbotell (ibid., HCJ 7/48), in which a detention order was revoked because a committee under Regulation 111(4) did not exist at the time the detention was implemented.

In President Landau's opinion, the main point is that the denial of the right first to apply to the committee does not oblige the retroactive cancellation of the order, but the correct remedy for the wrong is reinstatement, namely placing the petitioners in the situation in which they would have been had they not been deprived of the right to apply to the committee. In view of the evidence of open incitement against the State by the Imam El Tamimi, the court did not find it appropriate to lend relief to that deportee, whereas in respect of the other two (Kawasame and Melachem), a majority of the judges (the President and Judge Isaac Cohen) decided, as President Landau said, after much soul-searching, that a recommendation should be made to allow those two to appear before the committee after the event. Judge Isaac Cohen, as mentioned, agreed with the conclusion that President Landau reached, but added that although Regulation 112(8) does not contain express provision that an application should be allowed to the committee before expulsion, in his opinion the law is that generally a person should be allowed to apply to the consultative committee before the order is implemented. This law is not founded on statute, but on principles laid down by the courts which oblige every authority to act fairly. The denial of the right to apply to the committee is similar to denying a person's right to a fair hearing. However, according to him, there could be emergency situations in which the right of hearing must bow to a contrary vital interest, which should be given priority. We shall discuss this below.

Judge Haim Cohen, dissenting, believed that the order should be made absolute, since the expulsion orders should be viewed as void because of the manner in which the expulsion had been dealt with.

The court therefore, by a majority, decided to set aside the order nisi, namely to dismiss the petition, making the following recommendation:

(that) if the committee (namely the consultative committee appointed under Regulation 111(4) of the 1945 Regulations) finds that the content of the first and second petitioners' application to it, if made, is substantive *prima facie* and that it contains a clear stance by the petitioners that they intend to observe the laws of the administration in their activities as public personalities and it also contains unequivocal reference to the statements of incitement published in their name in the media – then in the next stage the petitioners should be allowed to appear personally before the committee to enable the committee to obtain an impression of their oral explanations, in the manner which should have been adopted initially (ibid., pp. 124-125).

The two deported mayors indeed applied to the committee through the Red Cross in affidavits which met the requirements. Following this, they were returned for the hearing through the Allenby Bridge and were arrested on the spot. The consultative committee held its hearing by the Bridge. The petitioners' counsel appeared before it, their arguments were heard, and information was submitted on behalf of the Army about their activities. The committee heard the appeal and dismissed it, and the expulsion order was upheld. The petitioners applied to this Court with a new petition which too was dismissed. The expulsion order was then again implemented.

11. (a) In the present case, the Respondents have sought to modify the legal infrastructure by enacting the orders regarding the temporary provisions which expressly permitted immediate expulsion, by allowing the possibility of applying to the consultative committee after expulsion.

(b) We have explained in the past on more than one occasion that this Court will review the legality of an act of the military administration and the validity thereof in accordance with the principles of Israeli administrative law, in order to decide whether the norms binding an Israeli public officer have been observed (HCJ 69/81, 493, ibid., (Abu Ita. PD 37 (1) 197, 231).

It was stated there:

So far as this Court is concerned, the officer does not generally perform his duty if he has only performed that

obliged by the norms of international law, because more is required of him, as an Israeli authority, and he should also act in the sphere of military administration in accordance with the rules which delineate fair and proper administrative procedures. For example, the laws of war do not disclose any principle, whether solid or at least formulated, according to which there is a duty to observe the right of hearing, but an Israeli authority will not fulfill its duty... if it does not respect that duty in circumstances where the right should be granted in accordance with our norms of administrative law.

Israeli administrative law obliges, as aforesaid, the grant of a right of hearing, and we have already stated the more serious and irrevocable the results of the Government decision, so the more serious and irrevocable the results of the Government decision, so the more vital that the person affected can state his objections and put his answer to the allegations against him in order to try and rebut them (see HCJ 358/88, The Association for Civil Rights v. The Commander of the Central Command, PD 43 (2) 529, 540).

(c) Moreover, stating a case through an intermediary rather than the person concerned is *a fortiori* deficient in value and practicality. Statements made by counsel lose some of their force when the person making the statements on behalf of another cannot first meet with the person concerned in order to obtain from him information, guidance and instructions, and continue consulting with him routinely in respect of the factual allegations raised against him which are the basis of the hearing and in respect of which the party concerned's reply is sought, as only he knows what the real version is. The personal appearance before the committee of the person in respect of whom the expulsion order is made is fundamental to the right of hearing.

The cases of mistaken identity and of the choice of the deportees which have been discovered in the case before us after the event have of course made more acute the conclusion as regards the importance of giving an opportunity to state a case directly before the committee. There is a possibility – if only theoretical – that there are other cases in which it could become apparent that there was a mistake in or non-justification for the expulsion if the person concerned appeared before the committee and stated his case.

12. (a) The respondents have put forward the argument that, according to the principles of administrative law, there are circumstances in which the vital interest of State security prevails over the duty to hold a prior hearing, before the expulsion order's implementation. In other words, in the balance between these competing interests, namely the right of

hearing versus the security need, and when the security circumstances are of special weight, the right to a prior hearing should not be maintained, except after exercise of the power, and the immediacy of the power's exercise then constitutes an incontestable constraint.

In order to lay the foundation for his argument of the existence, sometimes, of a right to depart from the major principle of granting the right of prior hearing, the Attorney-General *inter alia* referred to HCJ 531/79 (The Likud Party in Petach Tikva Municipality v. The Petach Tikva Municipal Council, PD 34 (2) 568, 578), where it is stated:

"Principles of necessity or constraints of time can deny the application of the rules of natural justice."

(c) In 320/80 as aforesaid, President Landau observed that if Regulation 112(8) could not be implemented in accordance with its abovementioned existing interpretation, the respondents there could propose the revocation or modification of the Regulation by legislation. Obviously, those observations with regard to the possibility of legislation relate to circumstances in which it is sought to set aside the right of hearing for the purposes of defined exceptional cases, rather than legislation which cancels the right outright.

Judge I. Cohen, on the other hand, explained that "he who forbade may also permit," namely whoever designed the right of hearing as one to be observed *ab initio*, is also the one who can – by way of precedent rather than legislation – determine in what circumstances exceptions to the rule can be recognised.

(d) The Respondents have this time sought to turn in advance to the legislative course and made the orders which are, as they are headed, "Temporary Provisions" of legislation, which permit temporary expulsion immediately after the issue of the order, the right of appeal only being achievable after the Order's implementation.

In our opinion, these Temporary Provisions in the present case neither add nor subtract anything, whichever way one looks at it. If there is an exception to the right of a prior hearing, action can be taken in accordance with that exception and there is no need for a temporary provision; and if there is no exception to the right of hearing, the Temporary Provision is in any event invalid. As regards the question whether exceptions exist to the rules relating to the right of hearing in expulsion proceedings, as we have already stated, case law is that such exceptions do exist, and that they are the result of the balance between the needs of security and the right of hearing.

We have not seen fit here to take a view on the question of whether an exception to the right of hearing existed in the circumstances herein,

since we accept – according to the rule in *Kawasame* (Judges Landau and I. Cohen) – that if there was no prior hearing, a subsequent hearing should be held, serving the object of giving an opportunity to the person concerned to present his case in detail, and the absence of a prior hearing does not *per se* disqualify the individual expulsion orders.

13. Is amending legislation in the present form valid, namely can the security legislation of a military commander prescribe that there was no legal duty to observe the right of hearing before the expulsion order was implemented?

In view of the stated in paragraph 12 above, the question of the validity of the Temporary Provisions Order becomes devoid of practical legal meaning: the power to find that there is an exception in a specific concrete case, in which the compulsion of reality obliges immediate action before granting the right of hearing, is in any event inherent in the authority exercising the power in respect whereof the right of hearing is sought.

However, for the sake of completing the picture, we shall also answer the question of the validity of general legislation, such as the Temporary Provisions:

If the Order purported to determine a new normative arrangement, without connection to or dependence on special concrete circumstances, and the existence whereof must be examined in advance in any event, then it was thereby *ultra vires* the powers vested in the Military Commander. Security legislation cannot bring about the modification of general established norms of administrative law, which our legal system views as the fundamentals of natural justice. If the Temporary Provision sought to determine, as a rule that henceforth any expulsion order can be implemented for a limited period without granting the right to a prior hearing, then that does not grant legality to the said new arrangement. Only concrete exceptional circumstances can create a different balance between the conflicting rights and values, and such circumstances were not detailed in the wording of the Temporary Provisions. The Order laid down a general arrangement which will remain in force for so long as the Temporary Provision is in force. In other words, the Order laid down a limitation of force as regards the duration of the expulsion, although it prescribed nothing in connection with defining the exceptional concrete circumstances in which the right of hearing can be restricted. It thereby sweepingly and in an overall way cancelled the right of hearing and such power is not vested in the Military Commander.

To conclude this point, since the Temporary Provisions sought to convert a valid general norm into another, without restriction or

delineation for defined exceptional cases, the Temporary Provisions Order cannot be viewed as valid.

As already explained, that is of no significance as regards the power to make expulsion orders. The expulsion orders were expressly made on the basis of the provisions of Regulation 112(1) and in reliance on the powers vested pursuant thereto. The said Order relating to the Temporary Provisions did not create the power to make an expulsion order but referred to Regulation 112. For the purpose of the case herein, it merely sought to determine arrangements with regard to the right of hearing; that and nothing more. We have found that the Temporary Provision is neither here nor there. The power to depart from the grant of a right to a prior hearing is ancillary to the provisions of Regulation 112 in accordance with that explained in paragraph 12 above, without specific empowering legislation. We are therefore *per se* returned to the provisions of Regulation 112 in all its parts, including sub-regulation 112(8) thereof. This means that the power to make an expulsion order exists and the hearing, by way of an appeal against the expulsion order – which will be after the expulsion order's implementation – should be conducted in accordance with Regulation 112(8), as interpreted in precedents of this Court.

14. The Petitioners have argued before us that the individual expulsion orders are void by reason of defects in obtaining them, apart from the lack of a right of hearing. The Respondents have disputed this.

We believe that in the present case the place for such arguments is before the consultative committee, to which the deportee may address his appeal. So long as the consultative committee has not otherwise decided, each individual order remains in force.

15. The Respondents should now make practical arrangements for the realisation of the right of appearance before a consultative committee operating under Regulation 112(8) of the said Regulations in respect of anyone who so requests; that is to say that if a written application is made by a deportee through the International Red Cross or otherwise, according to which the committee is asked to hear his appeal, then the applicant should be allowed to appear personally before the committee to enable it to obtain an impression of his oral explanations and to examine his case and the justification for performing the expulsion order in respect of him. Pending the appearance before the committee, he should also be allowed a personal meeting with counsel who applies to represent the deportee before the committee.

The committee may hold its hearings wherever the IDF Forces can guarantee the propriety of its hearings.

17. In summary, we have unanimously reached the following conclusions:

(1) We find that as regards the personal expulsion orders, the absence of the right of prior hearing does not invalidate them. We order that the right of hearing should now be given as detailed above.

(2) The Temporary Expulsion (Temporary Provision) Order is void on the ground mentioned in paragraphs 12(d) and 13 above. This conclusion does not invalidate the individual orders.

(3) The arguments against the validity of the personal expulsion orders, which were issued by virtue of Regulation 112 of the Defence (Emergency Provisions) Regulations, 1945 should, as aforesaid, be made to the consultative committee.

Subject as aforesaid, we dismiss the petitions and set aside the orders nisi. Given this 6th day of Shevat 5753 (28th of January, 1993).

LIST OF DEPORTEES

A. Residents of the West Bank Deported Under Temporary Deportation Order for 24 Months, Signed by OC Central Command Dani Yatom on December 16, 1992

1. ***Maher Ribhi Nimer 'Abid***, res. a-Ram, Ramallah Dist. age 35, married +5 children, teacher, has a security record.
2. ***Wa'el Muhammad 'Abd al-Fattah al-Husseini***, res. a-Ram, Ramallah Dist., age 30, married + 3, school principal, has a security record.
3. ***Husam Jamil Husseini Ja'bari, res. Hebron***, age 26, bachelor, computer science student, no security record.
4. ***Husam Hilmi Tawfiq Jamjum***, res. Hebron, age 21, bachelor, carpenter, has a security record.
5. ***Suleiman Khalil 'Abd al-'Aziz Qawasmeh***, res. Hebron, age 21, bachelor, farmer, has a security record.
6. ***'Abd al-Fattah Muhammad 'Abdallah al-'Aweisi***, res. Hebron, age 38, married +8, lecturer at the Islamic University, no security record.
7. ***'Abdallah 'Abd al-Qader 'Abdallah Qawasmeh***, res. Hebron, age 33, married +3, construction worker, no security record. Arrested October 17, 1992, and detained in Hebron prison until deportation.
8. ***'Aziz Salem Murtada a-Duweiq***, res. Hebron, age 42, married +4, lecturer at the Islamic University, no security record.
9. ***'Aziz Salah Ya'qub al-Muhtaseb***, res. Hebron, age 30, married +5, jeweler, no security record.
10. ***Rustum Muhammad Hussein al-Kiswani***, res. Hebron, age 28, married +3, day laborer, has a security record.
11. ***Talal Muhammad 'Abd a-Razeq Sader***, res. Hebron, age 40, married +9, merchant, has a security record.
12. ***'Azzam 'Abd a-Rahim Abd a-Rahman Shuweiki***, res. Hebron, age 30, married +3, merchant, has a security record.

13. **'Omar 'Abd al-Qader 'Abdallah Qawasmeh**, res. Hebron, age 29, married +1, teacher, has a security record. Arrested October 17, 1992 and pending legal proceedings at the time of deportation.
14. **Akram Hamed Salim Hijazi**, res. Hebron, age 26, married, clerk at the Hebron Chamber of Commerce, has a security record. Arrested August 3, 1992 and detained until deportation.
15. **Ashraf Hamdi Rajeb Abu Sarah**, res. Hebron, age 23, bachelor, merchant, has a security record.
16. **Taher 'Abd al-'Aziz Nimer Dandis**, res. Hebron, age 35, married +5, owner of a printing press, no security record.
17. **Nizar 'Abd al-'Aziz 'Abd al-Hamid Ramadan**, res. Hebron, age 32, married +4, journalist, no security record.
18. **Ibrahim Ahmad Qawasmeh**, res. Hebron, age 23, bachelor, shoemaker, has a security record.
19. **Malek 'Abd a-Salam Masbah Nasr a-Din**, res. Hebron, age 30, married, clerk for the municipality, has a security record.
20. **Mustafa Kamel Khalil Shawur**, res. Hebron, age 35, married +3, lecturer at the Islamic University in Hebron, no security record. Arrested November 23, 1992 and detained until deportation.
21. **'Adel Nu'man Salim al-Juneidi**, res. Hebron, age 24, bachelor, student, has a security record. Arrested October 26, 1992 and detained until deportation.
22. **Tahsin 'Abd a-Rahim Naji Shawur**, res. Hebron, age 36, married +5, day laborer, has a security record.
23. **Hussein Shaker 'Eid Taha**, res. Hebron, age 37, married +4, owner of a shoe factory in Hebron, has a security record.
24. **'Abd al-Khaleq Hassan Shadhli a-Natsheh**, res. Hebron, age 38, married, clerk, has a security record.
25. **Shaher Isma'il Muhammad 'Abeidu**, res. Hebron, age 33, married, owner of a fitness gym, has a security record.
26. **Jawad Mahmud Ahmad Baher**, res. Hebron, age 34, married +3, teacher, has a security record. Arrested November 9, 1992, and detained until deportation.
27. **Husam Rushdi Rashid a-Ju'beh**, res. Hebron, age 21, bachelor, barber, has a security record.
28. **'Amer Mansur Ya'qub Nasr a-Din**, res. Hebron, age 29, married +1, barber, has a security record.
29. **Hamed Ibrahim 'Adel al-Fakhuri**, res. Hebron, age 22, bachelor, student at the Islamic University, has a security record.

30. **Majed Muhammad Yunes a-Ju'beh**, res. Hebron, age 23, married, works in a shoe factory, has a security record.
31. **Maher Yusef Muhammad Badr**, res. Hebron, age 36, married +6, day laborer, has a security record.
32. **Kamal a-Din Muhammad Mahmud a-Tamimi**, res. Hebron, age 37, married +5, day laborer, has a security record.
33. **Nidal 'Umran 'Abd al-Karim Qawasmeh**, res. Hebron, age 25, bachelor, works in a print shop, has a security record.
34. **'Azzam Nu'man 'Abd a-Rahman Salhab**, res. Hebron, age 37, married +5, lecturer at the Islamic University in Hebron, has a security record. Arrested October 25, 1992 and held in administrative detention until deportation.
35. **Mussa Mahmud 'Abd a-Latif Qannam**, res. al-'Arrub R.C., Hebron Dist., age 30, married +4, clerk at UNRWA, has a security record. Arrested December 9, 1992 and held until deportation.
36. **Zu'di Sha'ban Ibrahim Shalaldeh**, res. Sa'ir, Hebron Dist., age 30, married +2, director of Koran study centers, no security record. Arrested October 20, 1992, and held in administrative detention until deportation.
37. **Ibrahim Ahmad Hassan Farjallah**, res. Idna, Hebron Dist., age 27, married +3, day laborer, has a security record, arrested November 21 and detained until deportation.
38. **Muhammad Mutlkeq 'Abd al-Hadi Abu Juheisheh**, res. Idna, Hebron Dist., age 38, married +8, teacher, has a security record.
39. **Yusef Mahmud Muhammad al-Husni**, res. al-Fawwar R.C., Hebron Dist. age 26, bachelor, unemployed, no security record, arrested November 17, 1992, and detained until deportation.
40. **Muhammad 'Abd al-Fattah Ahmad al-Haruf**, res. al-Fawwar R.C., Hebron Dist., age 28, married, lab technician, no security record.
41. **Anwar 'Abd a-Rahim Hussein Harb**, res. Beit Ula, Hebron Dist., age 32, married +2, merchant, has a security record.
42. **Jamil Mahmud Muhammad 'Alqam**, res. Beit Omar, Hebron Dist., age 48, married +8, teacher, has a security record. Detained +4 months. Scheduled for trial December 20, 1992, but deported before trial date.
43. **Hazem Muhammad Yusri al-Heimuni**, res. Beit Kahel, Hebron Dist., age 28, married +2, minimarket owner in Hebron, no security record.
44. **Muhammad Mahmud Isma'il Baryush**, res. Beit Kahel, Hebron Dist., age 28, married +6, student, has a security record.

45. **Muhammad Mahmud Hassan al-'Asafreh**. res. Beit Kahel, Hebron Dist. age 28, married, day laborer, has a security record.
46. **Nuh Muhammad Mahmud Manasarah**. res. Bani Na'im, Hebron Dist., age 38, married, farmer, has a security record.
47. **Fa'iz Ibrahim 'Omar al-Khadur**. res. Bani Na'im, Hebron Dist., age 34, married +4, travelling merchant, has a security record. Arrested October 22, 1992 and detained until deportation.
48. **Isma'il Hassan Muhammad 'Awawdeh**. res. Dura, Hebron Dist., age 30, married +2, engineer, has a security record.
49. **Hussein Muhammad Hussein Masharqeh**. res. Dura, Hebron Dist., age 30, married +3, teacher at an UNWRA school, has a security record.
50. **Yasser 'Abd a-Nabi 'Ali Katlu**. res. Dura, Hebron Dist., age 32, married +1, engineer, has a security record.
51. **Na'if Mahmud Muhammad Rajub**. res. Dura, Hebron Dist., age 35, married +3, imam (Islamic prayer leader), has a security record.
52. **Fathi 'Abd al-'Aziz 'Abd 'Amru**. res. Dura, Hebron Dist., age 43, married +5, Waqf (Islamic endowments) employee, has a security record.
53. **Yasser Mahmud Muhammad Rajub**. res. Dura, Hebron Dist., age 35, married +1, hospital-employed nurse, has a security record.
54. **Haitham 'Abd al-Ma'ni Dib Halaleh**. res. Kharas, Hebron Dist., age 31, married +3, day laborer, no security record.
55. **Na'if 'Ali Ahmad al-Harub**. res. Kharas, Hebron Dist., age 35, married +3, day laborer, has a security record.
56. **Radwan 'Abd a-Rahman Radwan 'Atwan**. res. Kharas, Hebron Dist., age 42, married +7, contractor, no security record.
57. **Hussein Khalil Saqer 'Awawdeh**. res. Dura (Khirbet Karmeh), Hebron Dist., age 32, married +6, Islamic prayer leader (imam), has a security record.
58. **Yusef Salameh Suleiman Hanatsheh**. res. Dura, Hebron Dist., age 33, married +6, day laborer, has a security record. Arrested December 9, 1992 and detained until deportation.
59. **Khalil Mussa Khalil Ruba'i**. res. Yatta, Hebron Dist., age 34, married, public accountant, no security record.
60. **Muhammad Mahmud 'Abd Rabbu a-Shuruf**. res. Beit Nuba, Hebron Dist. age 38, married +9, building engineer, has a security record.

61. **Ahmad Muhammad 'Abd a-Salamin**, res. Samu', Hebron Dist., age 34, married +6, day laborer, has a security record.
62. **Samir Saleh Ibrahim al-Qadi**, res. Surif, Hebron Dist., age 37, married +3, physician, no security record.
63. **'Abdallah 'Abas Nasrallah al-Qadi**, res. Surif, Hebron Dist., age 38, married +5, Islamic prayer leader (imam), no security record.
64. **'Adli Naji 'Abd al-Fattah Tanineh**, res. Tarqumiya, Hebron Dist. age 33, married +6, day laborer, has a security record.
65. **Ibrahim Sa'id Abu Salem**, res. Bir Naballah, Ramallah Dist., age 43, married +8, lecturer at the Islamic College in Beit Hanina, has a security record.
66. **'Isam Muhammad Musa Rumaneh**, res. Jilazun R.C., Ramallah Dist., age 26, married +1, caller to prayer (mu'azzin), no a security record. Arrested October 22, 1992 and held in administrative detention until deportation.
67. **Hassan 'Ali Dib Sha'ban Hammad**, res. Bitin, Ramallah Dist., age 35, married +3, Islamic prayer leader (imam), has a security record.
68. **Mahdi 'Abd a-Rahim Salah 'Anabtawi**, res. al-Bireh, Ramallah Dist. age 32, married +3, clerk, no security record.
69. **Munir Muhammad Mustafa Nabulsi**, res. 'Ein Yabrud, Ramallah Dist. age 38, married +5, Islamic prayer leader (imam), no security record.
70. **Ahmad Balqawi Faleh al-Ma'kan**, res. Burqah, Ramallah Dist., age 31, married +3, clerk, no security record. Arrested October 27, 1992 and pending legal proceedings at the time of deportation.
71. **Farh 'Abd al-Qader Jaber Kahleh**, res. Ramun, Ramallah Dist., age 38, married +6, teacher, has a security record.
72. **Ashraf Muhammad 'Ali 'Awwad**, res. Turmus 'Aya, Ramallah Dist., age 26, married +3, caller to prayer (mu'azzin), has a security record.
73. **Ahmad Mustafa Shahadeh Zeid**, res. Jilazun R.C., Ramallah Dist., age 26, married +1, clerk at Ramallah Islamic charitable society (zakah), has a security record.
74. **Bajes Khalil Mustafa Sabah**, res. Jilazun R.C., Ramallah Dist., age 29, married +3, Islamic prayer leader (imam), has a security record. Arrested October 22, 1992, and held in administrative detention (4-month order) until deportation.
75. **Khaled Ahmad Muhammad Abu Samrah**, res. Jilazun R.C., Ramallah Dist., age 35, married +5, clerk, has a security record. Arrested from October 19, 1992, and detained until deportation.

76. **Khalil Suleiman Mussa Rumaneh**, res. Jilazun R.C., Ramallah Dist. age 24, married, clerk, no security record.
77. **Ramadan Muhammad Shahadeh Hamidat**, res. Jilazun R.C., Ramallah Dist., age 40, married +4, clerk, no security record. Arrested October 22, 1992 and held in administrative detention until deportation.
78. **Muhammad 'Abd al-'Aziz Muhammad Hamdan**, res. Beit Sira, Ramallah Dist., age 30, married +3, teacher, no security record. Arrested November 6, 1992 and pending legal proceedings at the time of deportation.
79. **'Aziz Mustafa 'Abd al-Qader Abu Ra's**, res. Bir Naballah, Ramallah Dist., age 39, married +7, clerk at the Beit Hanina Islami College, no security record.
80. **Bassam Nihad Ibrahim Jarrar**, res. al-Bireh, Ramallah Dist. age 44, married +4, teacher, has a security record.
81. **Majed Muhammad Hashem Saqer**, res. al-Bireh, Ramallah Dist., age 26, bachelor, caller to prayer (mu'azzin), no security record. Arrested in July 1992 and pending legal proceedings at the time of deportation.
82. **Muhammad Jodeh Muhammad Abu Shalbaq**, res. al-Bireh, Ramallah Dist. age 28, married +2, mechanical engineer, has a security record.
83. **Mustafa Muhammad Suleiman 'Atari**, res. al-Bireh, Ramallah Dist. age 30, married +3, day laborer, has a security record. Arrested October 24, 1992 and detained until deportation.
84. **'Ala' Anwar 'Aqel 'Abd al-Wahhab**, res. al-Bireh, Ramallah Dist. age 26, married +3, travel agent office clerk, no security record.
85. **Fadel Muhammad Salah Hamdan**, res. al-Bireh, Ramallah Dist., age 40, married +6, Islamic prayer leader (imam), no security record. Arrested August 12, 1992, and held in administrative detention at Ketziot until deportation.
86. **Hassan Yusef Da'ud Khalil**, res. of Bitunia, Ramallah Dist., age 38, married +8, teacher, has a security record. Arrested on October 19, 1992 and held in administrative detention (3-month order) at the time of deportation.
87. **Ahmad Muhammad Ahmad Abu Nasr**, res. Na'ameh, Ramallah Dist., age 29, married +3, unemployed, has a security record. Arrested October 17, 1992 and pending legal proceedings at the time of deportation.
88. **Maher Muhammad 'Omar Abu Quweiq**, res. al-Am'ari R.C., Ramallah Dist., age 30, married +3, Islamic prayer leader (imam), no security record. Arrested August 3, 1992 and held in administrative detention (4-month order) until deportation.

89. **Majed Isma'il Muhammad Abu Hadijeh**, res. Kadurah R.C., Ramallah Dist., age 37, married +5, store owner, no security record.
90. **Isma'il Muhammad Hussein Habazi**, res. Na'alín, Ramallah Dist., age 30, married +2, school teacher, no security record. Held at Ketziot in administrative detention under a 4-month order, scheduled for release January 31, 1993.
91. **Idris Hussein Saleh Yusef Qataneh**, res. Qibiah, Ramallah Dist., age 25, married +1, carpenter, no security record.
92. **Mussa Hassan Ahmad 'Amru**, res. Ramallah, age 26, bachelor, clerk, no security record.
93. **Amjad Amin 'Ali Seif**, res. Ramallah, age 26, bachelor, student, no security record.
94. **Muhammad Amin 'Ali Seif**, res. Ramallah, age 28, bachelor, building engineer, has a security record. Arrested on October 22, 1992 and held at Ketziot in administrative detention at the time of deportation.
95. **Muhammad Hassan Ahmad 'Amru**, res. Ramallah, age 29, married, Islamic prayer leader (imam), has a security record. Arrested October 22, 1992 and held at Ketziot in administrative detention until deportation.
96. **Rakez Taleb Mahmud 'Arrar**, res. Qarawat Bani Zeid, Ramallah Dist. age 22, married, construction worker, no security record.
97. **Shaker Yusef 'Abd al-Hadi Salim**, res. Rantis, Ramallah Dist., age 32, married +4, Islamic prayer leader (imam), has a security record.
98. **Adam Mahmud Muhammad Shalsh**, res. Shoqbeh, Ramallah Dist., age 37, married +7, school principal, no security record.
99. **Rayiq Saqeb Ibrahim 'Omar**, res. Ra'fat, Ramallah Dist., age 33, married +2, bank clerk, has a security record. Detained in Dhahriyyah Prison from November 24, 1992 until the time of deportation.
100. **Jibrin Ahmad Muhammad Shame'**, res. Jericho, age 29, married, driver, no security record.
101. **Yusef 'Abd a-Rahman 'Ali Hajajleh**, res. Jericho, age 27, married +2, construction worker, has a security record.
102. **Muhammad Ihab Hilmi Sa'id Abu Zeineh**, res. Jericho, age 29, married +2, merchant, has a security record.
103. **Samir 'Abd al-Hai 'Ata 'Asileh**, res. Jericho, age 22, bachelor, merchant, has a security record.

104. **Shaker Hassan Mustafa 'Amarah**, res. 'Aqbat Jaber R.C., Jericho Dist., age 31, married +4. Waqf (Islamic endowments) employee, has a security record.
105. **Muhammad 'Abdallah Khalil al-'Afifi**, res. Beit Jallah, Bethlehem Dist., age 34, married +3, clothing factory worker, has a security record.
106. **Khaled Ibrahim Tafesh Duweib**, res. Za'tarah, Bethlehem Dist., age 29, married +3, Islamic prayer leader (imam), has a security record.
107. **Muhammad 'Ali Hussein 'Awad**, res. 'Atarah, Ramallah Dist., age 44, married +7, teacher, no security record.
108. **Khaled Sabri Muhammad Jadu**, res. Bethlehem, age 35, married +7, bookshop owner, has a security record.
109. **Muhammad Mahmud Amin al-Muhtaseb**, res. Bethlehem, age 34, married, sign-maker, has a security record.
110. **Muhammad 'Isa Mussa Qasem**, res. Handazeh, Bethlehem Dist., age 30, married +2, painter, has a security record.
111. **Muhammad Shahadeh 'Abd a-T'amri**, res. Bethlehem, age 29, married +4, clerk, has a security record.
112. **Naji Ishaq 'Atallah Khalif**, res. Bethlehem, age 30, married +4, driver, has a security record.
113. **'Araf Hassan Mahmud Kamel**, res. Bethlehem, age 26, married+2, building contractor, has a security record.
114. **'Omar Ibrahim Hassan Hamid**, res. Bethlehem, age 22, bachelor, student, has a security record.
115. **Ghassan 'Isa Muhammad Harmas**, res. Bethlehem, age 37, married +3, teacher, has a security record.
116. **Fawwaz Salim Shehadah Khalif**, res. Bethlehem, age 33, married +4, contractor, has a security record.
117. **Fathi Muhammad Ahmad a-Ramlawi**, res. Bethlehem, age 29, married, merchant, has a security record. Arrested August 13, 1992 and held in administrative detention (5-month order) until deportation.
118. **Khaled Khalil Mahmud Duweib**, res. Za'tarah, Bethlehem Dist., age 28, student, has a security record.
119. **Khaled Jamil Mustafa Da'du'**, res. al-Khader, Bethlehem Dist., age 27, married, student, has a security record. Arrested September 26, 1992, and pending legal proceedings at the time of deportation.

120. **Mahmud Muhammad Hassan 'Abd al-Hadi**, res. Hussan, Bethlehem Dist. age 35, married +7, Islamic prayer leader (imam), no security record. Detained from October 20, 1992 at the time of his detention.
121. **Suleiman Jamil Mustafa Da'du'**, res. Khader, Bethlehem Dist., age 30, married +3, Islamic prayer leader (imam), no security record, arrested October 20, 1992 and detained until deportation.
122. **Jamal Jaber Taha Hamamreh**, res. Hussan, Bethlehem Dist., age 26, bachelor, student, has a security record.
123. **Nasser Jaber Taha Hamamreh**, res. Hussan, Bethlehem Dist., age 28, bachelor, clerk, has a security record.
124. **Muhammad Suleiman Hassan a-Zir**, res. Ta'amreh, Bethlehem Dist. age 25, bachelor, student, has a security record.
125. **Nader Ibrahim Salameh Jawarshi**, res. 'Aidah R.C., Bethlehem Dist. age 23, married, plumber. no security record.
126. **'Adel Mahmud 'Abd a-Rahman Badawneh**, res. 'Aidah R.C., Bethlehem Dist., age 25, bachelor, student, has a security record.
127. **Ibrahim Ahmad 'Odeh Hamamreh**, res. Hussan, Bethlehem Dist., age 45, married +4, steel worker, has a security record.
128. **Kamal 'Abd a-Latif Muhammad Abu 'Ishah**, res. Balatah R.C., Nablus Dist., age 37, married +4, mosque clerk, has a security record.
129. **Ahmad al-Haj 'Ali Ahmad Ahmad**, res. 'Ein Bet al-Ma' R.C., Nablus Dist., age 54, married +5, school principal, has a security record. Arrested November 1, 1992 and held at Ketziot in administrative detention (6-month order) until deportation.
130. **Jamal Salim Ibrahim Ahmad**, res. 'Ein Beit al-Ma' R.C., Nablus Dist., age 35, married +5, teacher, has a security record.
131. **Yusef Khaled Yusef a-Sarqaji**, res. Nablus, age 33, married +4, Waqf (Islamic endowments) employee, has a security record.
132. **Jamal 'Abd a-Rahman Muhammad Mansur**, res. Balatah R.C., Nablus Dist., age 33, married +3, journalist, has a security record.
133. **Zuhdi Nadim Shukri Tabileh**, res. Nablus, age 22, bachelor, student, has a security record.
134. **Hamed Suleiman Jaber al-Bitawi**, res. Nablus, age 48, married +7, preacher at the al-Aqsa mosque, and an Islamic judge in Tulkarm, has a security record.
135. **'Adli Rif'at Saleh Ya'ish**, res. Nablus, age 40, married +4, engineer, no security record.

136. **Da'ud Kamal Da'ud Abu Seir**, res. Nablus, age 38, married + 6, soap factory worker, no security record.
137. **'Abd a-Nasser Wasef Hassan Qadeh**, res. Nablus, age 30, bachelor, accountant, has a security record.
138. **Salah a-Din Nur a-Din Ridah Dirwaza**, res. Nablus, age 28, married +3, tailor, has a security record.
139. **Mu'in Subhi Rashid Tabanjeh**, res. Nablus, age 35, married +3, tailor, has a security record.
140. **Muhammad Jamil Mahmud Harsh**, res. Nablus, age 20, bachelor, student, has a security record, detained 14 months in Meggido prison and pending legal proceedings at the time of deportation.
141. **Nabil Fa'iz 'Abd a-Salam Bishtawi**, res. Nablus, age 57, married +7, teacher, has a security record.
142. **Mussa Tawfiq Khader al-Aqtam**, res. Nablus, age 42, married +5, university lecturer, no security record.
143. **Maher Taher Rida al-Kharraz**, res. Nablus, age 42, married +7, Islamic prayer leader (imam), no security record. Detained from November 2, 1992 until deportation.
144. **Hamzah Muhammad Hussein Jaber**, res. Nablus, age 36, married +4, jeweler, has a security record.
145. **Muhammad Jamal Taisir Amin Katut**, res. Nablus, age 29, married +1, welder, has a security record, detained 3 months in Meggido prison until deportation.
146. **Munir Hilmi Sabe' 'Aqqad**, res. Nablus, age 41, married +6, merchant, no security record.
147. **Salah a-Din Muhammad Ibrahim Musleh**, res. Nablus, age 29, bachelor, merchant, has a security record.
148. **Haider Rajeh Fa'iz 'Abushi**, res. Jenin, age 29, bachelor, journalist, has a security record.
149. **Bassam Ragheb 'Abd a-Rahman Sa'adi**, res. Jenin R.C., age 25, bachelor, day laborer, has a security record.
150. **Muhammad 'Abd a-Latif Sadeq Abu-Seif**, res. Jenin R.C., age 26, married +1, day laborer, has a security record.
151. **Ahmad Nimer Shahadeh Abu 'Arah**, res. Maithalun, Jenin Dist., age 26, married +3, clerk for Islamic charitable society (zekat), has a security record.
152. **Jihad Mustafa Muhammad Rabi'ah**, res. Maithalun, Jenin Dist., age 30, married +4, clerk, has a security record.

153. **Ziyad Sadeq 'Abd al-Ghani Hubeibeh**, res. Sanur, Jenin Dist., age 32, married +1. physician, no security record. Arrested August 4, 1992 and held at Ketziot in administrative detention (4-month order) at the time of deportation.
154. **Shehadah Muhammad Amin Hubeibeh**, res. Sanur, Jenin Dist., age 28. bachelor, day laborer, has a security record.
155. **Hani Shafiq 'Abd a-Rahim Hindi**, res. Silat al-Harthiya, Jenin Dist., age 25, bachelor, day laborer, has a security record.
156. **Saber Fares Bashir Jaradat**, res. Silat al-Harthiya, Jenin Dist. age 28, married +2, day laborer, has a security record.
157. **'Adli Shafe' Mahmud Yasin**, res. 'Anin, Jenin Dist., age 32, married +4, day laborer, has a security record. Arrested September 14, 1992 in Jenin Prison and pending legal proceedings at the time of deportation.
158. **Muhammad Fu'ad 'Abd a-Rahman Abu Zeid**, res. Qabatia, Jenin Dist. age 58. married +8. head of Waqf (Islamic endowments) in Jenin, has a security record.
159. **'Imad Salem Muhammad Jaber**, res. Katabeh, Tulkarm Dist., age 25, bachelor, student, has a security record.
160. **'Omar Da'ud 'Abd al-Rahaman Jaber**, res. Katabeh, Tulkarm Dist. age 26, married +4, merchant, no security record.
161. **Anwar Ahmad Da'ud 'Amir**, res. Bala, Tulkarm Dist., age 30, married +2, teacher, no security record.
162. **Muhammad-Fawzi Amin Nimer Suweis**, res. Tulkarm, age 33, married, librarian, has a security record.
163. **'Abd a-Nasser Amin Nimer Suweis**, res. Tulkarm, age 27, married +1, day laborer, has a security record. On September 17, 1992 received a 3-month administrative detention order. Deported on the day prior to expiration of the order.
164. **'Omar Mustafa Hussein Badir**, res. Tulkarm, age 39, married +7, mosque supervisor, no security record.
165. **Jihad 'Abd al-Ghani Anis 'Abd al-Hassan**, res. Tulkarm R.C., age 21, bachelor, university student, no security record. Arrested October 1, 1992 and pending legal proceedings at time of deportation.
166. **Munir Yasser Mahmud Abu 'Abed**, res. Tulkarm R.C., age 28, bachelor, university student, no security record.
167. **Shukri Ahmad Dib 'Oqasheh**, res. Tulkarm R.C., age 24, married, unemployed, no security record.
168. **Ragheb Rateb Fa'iz Badr**, res. Taluzah, Nablus Dist., age 27, bachelor, student, no security record.

169. **Khaled Rafiq Muhammad 'Assaf**, res. Laqef, Qalqiliyah Dist., age 33, married +4, supervisor of mosques for Waqf (Islamic endowments), has a security record.
170. **Yihye Saleh Ibrahim 'Assaf**, res. Laqef, Qalqiliyah Dist., age 23, married, merchant, no security record.
171. **Saleh Rashid 'Awad Jaber**, res. Laqef, Qalqiliyah Dist., age 30, married +6, day laborer, no security record.
172. **Hassem Yusef Muhammad a-Sha'er**, res. Hableh, Qalqiliyah Dist., age 26, married, student, has a security record.
173. **'Awwad Mustafa 'Afen 'Odeh**, res. Khirbet Salman, Qalqiliyah Dist. age 35, married +11, Islamic prayer leader (imam), no security record.
174. **Saleh 'Ali Hamed 'Ali Ahmad**, res. a-Dik, Tulkarm Dist., age 29, married +2, caller to prayer (mu'azzin), no security record. Arrested November 18, 1992 and detained at Meggido prison until deportation.
175. **Wajih 'Abd a-Rahim 'Abdallah Nazzal**, res. Qalqiliyah, age 27, married +1, student, no security record.
176. **Muhammad Amin 'Abdallah Nazzal**, res. Qalqiliyah, age 30, married +2, merchant, has a security record.
177. **'Abd a-Rahman Muhammad Sa'id 'Abd a-Rahman Hammad**, res. Qalqiliyah, Qalqiliyah Dist., age 25, bachelor, butcher, has a security record.
178. **Zahi Ahmad As'ad Hanani**, res. Beit Furiq, Nablus Dist., age 27, married +2, student, has a security record.
179. **Nur a-Din Ahmad 'Abd al-Jabbar Ashtiyeh**, res. Salem, Nablus Dist. age 30, married, clerk, has a security record.
180. **Mahmud 'Abd al-Fattah 'Isa Abdallah**, res. Sarah, Nablus Dist., age 27, married +2, student, no security record.
181. **'Amer 'Abd a-Latif Mustafa Ashtiyeh**, res. Tal, Nablus Dist., age 28, married +2, day laborer, has a security record.
182. **Jihad Saleh Hamed Natasheh**, res. Qabalan, Nablus Dist., age 23, bachelor, driver, no security record.
183. **Yasser 'Inad Mutleq Aqra'**, res. Qabalan, Nablus Dist., age 29, married +1, driver, has a security record.
184. **'Azzam Husni Mahmud Aqra'**, res. Qabalan, Nablus Dist., age 23, bachelor, carpenter, has a security record.
185. **Salah Ahmad Muhammad Abu Salah**, res. Qabalan, Nablus Dist., age 26, married +2, driver, no security record.
186. **Bishar Muhammad Khader Suleiman**, res. 'Aqrabeh, Nablus Dist., age 28, married +2, floor layer, has a security record.

187. **'Isam Kamal 'Izzat Abu Shihab**. res. Aqrabah, Nablus Dist., age 20, bachelor, student, has a security record.
188. **Dirar Ahmad Muhammad Hamadneh**, res. 'Asireh a-Shimaliyyah, Nablus Dist., age 32, married +4, Islamic prayer leader (imam), no security record.
189. **Wa'il Muhammad Hassan Birawi**, res. 'Asireh a-Shimaliyyah, Nablus Dist., age 29, married +2, clerk for Waqf, no security record.
190. **Husni Muhammad Ahmad Burini**. res. 'Asireh a-Shimaliyyah, Nablus Dist., age 37, married +7, UNWRA clerk, has a security record.
191. **Tareq Ahmad Muhammad Hamdaneh**. res. 'Asireh a-Shimaliyyah, Nablus Dist., age 26, bachelor, taxi driver, no security record.
192. **Mahmud Muhammad Ahmad Shuli**. res. 'Asireh a-Shimaliyyah, Nablus Dist., age 26, bachelor, day laborer, has a security record.
193. **'Omar Muhammad Sa'id Daghlas**. res. 'Asireh a-Shimaliyyah, Nablus Dist., age 25, bachelor, student, has a security record.
194. **Iyad 'Izz a-Din 'Abd a-Salam Abu 'Omar**. res. Burqa, Nablus Dist. age 31, married +2, infirmary clerk at Burqa Islamic charitable society (zekat), has a security record.
195. **Mujir Sheikh Ibrahim 'Ali Hawari**. res. Sebastiyah, Nablus Dist. age 32, married +3, factory director for Jenin Islamic charitable society (zekat), has a security record.
196. **'Abd al-Karim Muhammad As'ad 'Azem**. res. Sebastiyah, Nablus Dist. age 32, married +6, welder, has a security record.
197. **Farj 'Abd al-Ghani Mahmud a-Sha'er**, res. Sebastiyah, Nablus Dist. age 22, bachelor, farmer, has a security record.
198. **Bashir Sa'id Muhammad Samarah**, res. Beit Imrin, Nablus Dist., age 35, married +3, farmer, has a security record.
199. **Jum'ah Abdallah Mas'ud Mas'ud**. res. Jiftliq, Jericho Dist., age 38, married +5, farmer, has a security record.
200. **Nuaf Ha'il Rabah Dababseh**, res. Taluzah, Nablus Dist., age 28, married +1, teacher, no security record.
201. **'Ali Muhammad 'Ali Didu**. res. Tulkarm, age 36, married +4, merchant, has a security record.
202. **Fathi Muhammad 'Ali Kar'awi**, res. Nur a-Shams R.C., Tulkarm Dist. age 34, married +5, Islamic prayer leader (imam), no security record.
203. **Suleiman 'Isa Suleiman 'Ajjaj**, res. Beit Sahur, Bethlehem Dist, security history unknown.

B. Residents of the West Bank Deported Under Temporary Deportation Order for 18 Months, Signed by OC Central Command Dani Yatom on December 16, 1992

204. **'Izz a-Din Ahmad Mahmud Jamus**, res. Abu Dis, Bethlehem Dist., age 36, married +4, teacher, has a security record.
205. **Zakariya 'Ali 'Urabi Ja'bari**, res. Hebron, age 42, married + 5, teacher, has a security record.
206. **Hatem Rabah Rashid Qafisheh**, res. Hebron, age 36, married +4, teacher, has a security record.
207. **'Adnan 'Abd al-Hafez Misbah Maswadeh**, res. Hebron, age 48, married +6, physician, no security record.
208. **Bilal 'Abd a-Salam Misbah Nasr a-Din**, res. Hebron, age 30, bachelor, merchant, has a security record.
209. **Nabil Na'im Ishaq a-Natsheh**, res. Hebron, age 35, married +5, merchant, no security record.
210. **'Abd al-Jalil Fu'ad 'Abd a-Sami' Abu Khalef**, res. Hebron, age 25, bachelor, merchant, has a security record.
211. **Muhammad Jamal Nu'man 'Ala' a-Din**, res. Hebron, age 35, married +3, teacher, has a security record.
212. **Iyyad Muhammad Rifa'i Salah**, res. Hebron, age 18, bachelor, carpenter, has a security record.
213. **Khaled Muhammad Rif'ai Salah**, res. Hebron, age 22, bachelor, printing press technician, has a security record.
214. **Kamal 'Amer 'Abdallah a-Titi**, res. al-Fawwar R.C., Hebron Dist. age 28, married +2, teacher, has a security record.
215. **Hammad Hassan 'Abbas al-'Amleh**, res. Beit Ula, Hebron Dist., age 35, married +5, clerk, no security record.
216. **Munir Farh Mahmud Manasreh**, res. Bani Na'im, Hebron Dist., married, bulldozer operator, has a security record.
217. **Na'if Khalil Sari Jarab'ah**, res. Bitin, Ramallah Dist., age 25, bachelor, student, has a security record.
218. **Riad Hassan Khader Abu Safiyeh**, res. Beit Sira, Ramallah Dist. age 33, married +4, unemployed, no security record. Arrested November 6, 1992 and detained until deportation.
219. **Jamal Farh 'Awadallah a-Tawil**, res. al-Bireh, Ramallah Dist., age 30, married +2, Islamic prayer leader (imam), has a security record.

220. **Shaher Subhi 'Abd al-Qader Ahmad**, res. al-Bireh, Ramallah Dist. age 31, married +3, teacher, has a security record.
221. **Khaled Fawzi 'Abd al-'Aziz a-Ra'i**, res. Jericho, age 23, married, agricultural equipment mechanic, has a security record.
222. **Khaled Muhammad Salman 'Alimi**, res. Jericho, age 20, bachelor, day laborer, has a security record.
223. **'Ali Taiyeh Muhammad 'Ubeidat**, res. Bethlehem, age 41, married +6, physician, no security record.
224. **Muhammad Mahmud Nassar Za'ul**, res. Hussan, Bethlehem Dist., age 28, married +4, day laborer, has a security record.
225. **Muhammad 'Abd al-'Aziz Salah Mubarak**, res. Jilazun R.C., Ramallah Dist., age 30, married +2, clerk for Ramallah Islamic court, no security record.
226. **'Isa Yusef 'Isa Abu al-'Izz**, res. 'Ein Beit al-Ma' R.C., Nablus Dist., age 28, married, laboratory technician at a-Najah University, has a security record.
227. **Ziad 'Abd al-Ghani Yusef 'Aiseh**, res. Jenin, Jenin Dist., age 30, married +2, physician has a security record.
228. **Hassan Sa'id Hassan Dahleh**, res. Jenin, Jenin Dist., age 44, married +8, owns a photography studio, has a security record.
229. **Muhammad Ibrahim 'Aref Zeid**, res. Ya'bad, Jenin Dist., age 36, married +5, day laborer, has a security record.
230. **Isma'il Ahmad Muhammad Raja**, res. Romaneh, Jenin Dist., age 36, married +4, day laborer, no security record.
231. **Kamal Ahmad Hassan Subeihat**, res. Rumaneh, Jenin Dist., age 42, married +4, day laborer, no security record.
232. **Bishar Na'im Salim al-Karami**, res. Tulkarm, age 18, bachelor, student, has a security record. Arrested November 12, 1992, and detained until deportation.
233. **Yassar Ahmad Hassan Ashtiyeh**, res. Salfit, Tulkarm Dist., age 26, married +1, day laborer, has a security record.
234. **Fathi 'Ali Mussa Jibrin**, res. Salfit, Tulkarm Dist., age 26, married +1, taxi driver, no security record.
235. **Mahmud 'Othman Muhammad 'Asi**, res. Qarawat Bani Hassan, Nablus Dist., age 33, married +5, day laborer, has a security record.
236. **'Azzam Muhammad Amin Mussa 'Asi**, res. Qarawat Bani Hassan, Nablus Dist., age 30, married +1, unemployed, has a security record.

237. **Hussam 'Abd 'Abdallah Hanani**, res. Beit Furiq, Nablus Dist., age 33, married +6. Islamic prayer leader (imam), has a security record.

238. **Hussni Hussein Muhammad Jabarah**. res. Salem, Nablus Dist., age 35, married +4. teacher, has a security record.

C. Residents of the Gaza Strip Deported Under Temporary Deportation Order for 18 Months, Signed by OC Southern Command Matan Vilnai on December 17, 1992

239. **Ahmad Fu'ad Khalil a-Dahshan**, res. Zeitun neighborhood, Gaza City, age 29, married +3, merchant, has a security record.

240. **Ahmad Rabi' Muhammad Hamdiyeh**, res. Jabalya (Village), age 35, married +9, electrician, has a security record.

241. **Ayyub Mahmud 'Arafat Shuweiki**, res. a-Daraj neighborhood, Gaza City, age 38, married +7, intern in natural medicine, no security record.

242. **Akram 'Abd a-Rahman Hassan Salameh**, res. Khan Yunis (City), age 21, bachelor, student, no security record. Arrested October 20, 1992, and held in Gaza Central Prison until deportation.

243. **Akram Salah Salameh 'Atallah**, res. a-Daraj neighborhood, Gaza City, age 28, married +2, merchant, has a security record. Sentenced on October 14, 1992, to 15 months imprisonment, and in prison at time of deportation.

244. **Amin Rabi' Ramadan Khader**, res. Jabalya (Village), age 42, married +14, building contractor, has a security record.

245. **Anwar Ahmad Husni Abu Shawish**, res. Maghazi R.C., age 18, bachelor, student, has a security record. Arrested on October 14, 1992, and held under a 6-month administrative detention order at the time of deportation.

246. **Isma'il Muhammad Sa'id Sha'ban**, res. Jabalya (Village), age 26, married +3, farmer, has a security record.

247. **Fatih Muhammad 'Ali Khalfallah**, res. Khan Yunis R.C., age 29, married +1, unemployed, has a security record.

248. **Jadallah Hassan Jadallah Salem**, res. Sheikh Radwan neighborhood, Gaza City, age 52, married +12, agronomist, no security record.

249. **Ghalab Hassan Ahmad Nasrallah**, res. Rafah R.C., age 35, married +4, teacher, has a security record.
250. **Jamal 'Abd a-Razaq 'Abdallah al-Baba**, res. Rafah R.C., age 34, married +7, tailor, has a security record.
251. **Diya' Nu'man 'Abd al-Jawwad a-Sarsi**, res. Rimal neighborhood, Gaza City, age 32, married +2, university clerk, has a security record.
252. **Wahid Muhammad 'Abd al-Qader Mussa**, res. al-Maghazi R.C., age 34, married +2, day laborer, has a security record.
253. **Zuheir Hassan Hussein a-Lahwani**, res. Rafah R.C., age 22, bachelor, student at a teacher's college, has a security record.
254. **Khaled Ahmad Yusef Namruti**, res. Khan Yunis, age 19, bachelor, student, has a security record. Arrested October 20, 1992 and detained at Ketziot until deportation.
255. **Hussein Da'ud Muhammad al-Masri**, res. a-Daraj neighborhood, Gaza City, age 40 married +11, welder and engraver, no security record.
256. **Hamzeh Hussein Muhammad Kanfush**, res. Shati R.C., Gaza City, age 45, married +7, clerk at the Islamic University, has a security record.
257. **Hassan Ahmad Mahmud Zuhad**, res. Nusseirat R.C., age 32, married, laborer at a university, has a security record.
258. **Hassan Mahmud Hassan Rafati**, res. Maghazi R.C., age 58, married +4, imam (caller to prayer), has a security record.
259. **Yusef Muhammad Hussein Sarsur**, res. Khan Yunis, age 34, married +3, clerk at the Islamic University, has a security record.
260. **Maher Muhammad al-'Ijleh**, res. Shuja'iyah neighborhood, Gaza City, age 23, bachelor, student, has a security record.
261. **Muhammad Khalil Tawfiq al-Halimi**, res. Gaza City, age 26, bachelor, student, has a security record.
262. **Muhammad Taleb Muhammad Saleh**, res. Gaza City, age 26, married +2, day laborer, has a security record.
263. **Nasr Kamel Ibrahim Siyam**, res. Tufah neighborhood, Gaza City, age 25, bachelor, student, has a security record. Arrested on June 29, 1992, and held under a 5-month administrative detention order at the time of his deportation.
264. **Salem Ahmad 'Abd al-Hadi Salameh**, res. al-Maghazi R.C., age 58, married +13, teacher, has a security record.
265. **Salman Muhammad Salman al-Masri**, res. Beit Lahiya, age 22, bachelor, day laborer, has a security record.
266. **Sa'id Ahmad Muhammad Sha'ban**, res. Jabalya (Village), age 33, married +5, building contractor, has a security record.

267. **Sa'id Muhammad 'Abd a-Rahman Hamdan**, res. Khan Yunis R.C., age 23, married, student at the Islamic University, no security record. Arrested April 7, 1992, and pending legal proceedings at the time of deportation.
268. **'Abd a-Salam Mahmud al-'Abd al-Ha'iq**, res. Tufah neighborhood, Gaza City, married +1, student, has a security record.
269. **'Atef Ahmad Muhammad Dabba'**, res. Rafah, age 26, married +2, day laborer, has a security record.
270. **'Atef Kamel Sa'id Yasin**, res. Gaza City, age 24, married, day laborer, has a security record.
271. **'Imad Muhammad 'Amer 'Isa**, res. al-Bureij R.C., age 25, bachelor, student, no security record. Arrested November 16, 1992, and pending legal proceedings at the time of deportation.
272. **'Ata Mussa Ahmad Hail**, res. Gaza City, age 18, bachelor, student, has a security record.
273. **'Ali Hassan 'Abd al-Hadi Huweilah**, res. Jabalya R.C., age 30, married +3, construction worker, has a security record.
274. **'Ali Mahmud Ghanem al-Asmar**, res. Nusseirat R.C., age 32, married +9, merchant, has a security record.
275. **'Imad Amin Sa'id al-Hadidi**, res. Shati R.C., Gaza City, age 27, married +1, and wife pregnant at time of deportation, day laborer, has a security record.
276. **Fares Mahmud Muhammad Abu Mu'ammam**, res. Khan Yunis R.C., age 35, married +6, head of the Trade Department at the Islamic University, was never detained previously.
277. **Fallah Taleb Muhammad Saleh**, res. Gaza City, age 20, bachelor, student, has a security record.
278. **Fathi Hussein 'Abd al-Karim Muhsen**, res. Rafah (City), age 32, married +2, unemployed, has a security record.
279. **Ra'ed Musbah Muhammad Zakut**, res. Shati R.C., Gaza City, age 24, married +1, driver, has a security record.
280. **Ramzi Muhammad Suleiman al-Wadih**, res. Shuja'iyah neighborhood, Gaza City, age 25, married +6, student, has a security record.
281. **Akram Khalef 'Alayan Karet**, res. Zeitun neighborhood, Gaza City, age 27, married +1, carpenter, has a security record. Arrested on August 26, 1992, and held in administrative detention until deportation.
282. **Muhsen Muhammad Khalil Ma'sub**, res. Gaza City, age 23, bachelor, student, has a security record.
283. **Munir Muhammad Khalil Ma'sub**, res. Gaza City. B'Tselem has no further information.

284. **Jamal Taleb Muhammad Saleh**. res. Gaza City, age 23, bachelor, student, has a security record.
285. **Salem Ibrahim Nasrallah Abu Mustafa**. res. Khan Yunis R.C., age 23, married +3, day laborer, no security record. Arrested November 29, 1992, and held under a 3-month administrative detention order until deportation.
286. **Muhammad Jawad 'Abd al-Khaleq Hashem al-Fara**. res. Khan Yunis, age 28, married +2, pharmaceutical company sales agent, has a security record.
287. **Ma'mun 'Amer Khamis Abu 'Amer**. res. Khan Yunis, age 30, married +2, tailor, has a security record.
288. **'Izz a-Din Subhi a-Sheikh Khalil**. res. Shuja'iyah neighborhood, Gaza City, age 30, married, day laborer, has a security record. Arrested November 11, 1992, and held at Ketziot under a 4-month administrative detention order until deportation.
289. **Walid Radi Ibrahim Hamdiyah**, res. Shuja'iyah neighborhood, Gaza City, age 29, married +1, salesman, has a security record.
290. **Khaled Salem Abu 'Aser**. res. Shuja'iyah neighborhood, Gaza City, age 28, married +1, merchant, no security record.
291. **Wa'el Shukri Yunis a-Nahhal**. res. Shati R.C., Gaza City, age 25, married, vegetable dealer, has a security record.
292. **Majed 'Abd a-Rahman Hassan Salameh**, res. Khan Yunis, age 24, married student, no security record.
293. **Jawad 'Alawi Muhammad Abu Halimah**. res. Shuja'iyah neighborhood, Gaza City, age 24, married, student, has a security record.
294. **Mahmud Khaled Abu Hin**. res. Shuja'iyah neighborhood, Gaza City, age 26, married +2, student, has a security record.
295. **'Arafat Ahmad Ibrahim Abu Mahdi**. res. Khan Yunis R.C., age 21, bachelor, unemployed, no security record.
296. **'Atef Ibrahim Muhammad 'Adwan**. res. Beit Hanun, age 41, married +7, teacher, has a security record.
297. **Saber Yunis Muhammad 'Ashur**. res. Rafah R.C., age 26, married +2, clerk, has a security record.
298. **Ashraf Mansi Muhammad Nassar**. res. Gaza City, age 20, bachelor, student, has a security record.
299. **Kamal Taleb Muhammad Saleh**. res. Gaza City, age 22, student, has a security record.
300. **Munzir Hassan Ahmad al-Ghazali**. res. Zeitun neighborhood, Gaza City, age 21, bachelor, student, has a security record.

301. **Majdi Salem Hashem Hamadeh**, res. a-Tufah neighborhood, Gaza City, age 29, married, unemployed, has a security record.
302. **'Ali Hassan Sa'id Bilbisi**, res. Rafah R.C., age 25, bachelor, student, has a security record. Arrested October 13, 1992, and pending legal proceedings at the time of his deportation.
303. **Ibrahim Ahmad Hassan Abu Shafiqah**, res. Rafah, age 20, bachelor, student, has a security record. Arrested August 11, 1992, and held in Ketziot pending legal proceedings until deportation.
304. **Aiman Muhammad Mansur Abu Maghaiseh**, res. Dir al-Balah, age 22, married +1, student, has a security record. Arrested December 3, 1992 until deportation.
305. **Aiman Khaled Abu Hin**, res. Shuja'iyahh neighborhood, Gaza City, age 18, bachelor, student, has a security record.
306. **Mustafa Rajeb Mustafa 'Ali**, res. Jabalya (Village), age 38, married +6, trading company agent, no security record.
307. **Nasser Muhammad 'Isa Diban**, res. Rafah R.C., age 29, bachelor, tailor, has a security record.
308. **'Abd 'Ali Muhammad Mussa Haj 'Ali**, res. Jabalya (Village), age 37, married +7, trading company agent, has a security record.
309. **'Amer Muhammad 'Amer 'Isa**, res. al-Bureij R.C., age 25, bachelor, married +2, teacher, no security record. Held in administrative detention from October 16, 1992, until deportation.
310. **Farouq Hamadeh a-Najjar**, res. Rimal neighborhood, Gaza City, age 46, married +6, merchant, no security record.
311. **Salameh Khaled Muhammad Hammad**, res. Beit Lahiya, Gaza City, age 21, married +1, carpenter, has a security record. Detained at Beach Camp Prison at the time of deportation.

D. Residents of the Gaza Strip Deported Under Temporary Deportation Order for Two Years, Signed by OC Southern Command Matan Vilnai on December 17, 1992

312. **Ibrahim Hamdan Muhammad Barhum**, Rafah R.C., age 22, bachelor, student, has a security record. Arrested January 27, 1992 and pending legal proceedings at the time of deportation.
313. **Ahmad Muhammad 'Atiyya Baher**, res. Sheikh Radwan neighborhood, Gaza City, age 44, married +20, lecturer at the Islamic University, has a security record.

314. **Ahmad Muhammad Sa'id Naqleh**. res. Dir al-Balah R.C., age 30, married +3, clerk at the Islamic University, no security record.
315. **Ahmad Salem Dahshan a-Sawarkeh**. Jabalya R.C., age 36, married to 2 women +8, clerk, has a security record.
316. **Ahmad Muhammad Nimer Hamdan**, res. Khan Yunis, age 53, married +14, clerk at UNWRA, has a security record. Arrested October 16, 1992, and held in Ketziot under a 6-month administrative detention order at the time of deportation.
317. **Ahmad Sabrah Hassan a-Nuweiri**, Nusseirat R.C., age 35, married +1, lawyer, has a security record.
318. **Ihsan 'Abd 'Ali 'Ali**. res. Beit Lahiya, age 31, married +2, builder contractor, has a security record. Arrested October 16, 1992, and held in Ketziot under a 6-month administrative detention order at the time of deportation.
319. **Aiman Muhammad Saleh Taha**. res. al-Bureij R.C., age 23, bachelor, student, has a security record.
320. **Bassam Yusef 'Abd al-Hadi Seifi**, res. Zeitun neighborhood, Gaza City, age 34, married +1, student, has a security record. Arrested July 1992, and held in administrative detention in Ketziot until deportation.
321. **Jamal Sa'id Muhammad Saqallah**. res. Rimal neighborhood, Gaza City, age 37, married +4, merchant, no security record.
322. **Ghassan Ahmad Salem Jaber**, res. Jabalya (Village), age 26, married +5, clerk, has a security record.
323. **Wafiq Saleh Ahmad 'Adluni**. res. Khan Yunis, age 24, bachelor, student, no security record. Arrested September 9, 1992 and held in Gaza Central Prison pending legal proceedings at the time of deportation.
324. **Zaher Muhammad Saleh Abu Hussein**. res. Gaza City, age 36, married +5, day laborer, has a security record.
325. **Khader 'Atiyya Khader Mihjez**. Jabalya R.C., age 41, married +7, electrician, has a security record. Received a deportation order issued August 24, 1992, and replaced by an administrative detention order, to have expired on February 23, 1993.
326. **Husni Muhammad Hussein a-Shami**, res. Shuja'iyah neighborhood, Gaza City, age 41 married +10, day laborer, no security record.
327. **Khalil 'Abd al-Qader Abu Leilah**. res. Khan Yunis, age 40, married +11, pharmacist, has a security record.

328. **Hamdi Yusef Sha'ban Shubeir**, res. Khan Yunis, age 29, married +3, unemployed, no security record.
329. **Hussein 'Abd a-Ra'uf Muhammad al-Mabhuh**, res. Jabalya R.C., age 39, married +9, businessman, has a security record.
330. **Hassan Ahmad Hassan Ahmad**, res. Sheikh Radwan neighborhood, Gaza City, age 31, married +1, Islamic prayer leader (imam), no security record.
331. **Taher Ahmad Mahmud Lulu**, res. Shuja'iyah neighborhood, Gaza City, age 35, married +2, physician, no security record.
332. **Yusef Khaled Abu Hin**, res. Shuja'iyah neighborhood, Gaza City, age 21, bachelor, student, has a security record.
333. **Yihya Ahmad Ziyadeh**, res. Shuja'iyah neighborhood, Gaza City, age 21, bachelor, student, has a security record. Arrested October 21, 1992, and held under a 4-month administrative detention order, reduced to 3, at the time of deportation.
334. **Maher Ahmad Mahmud Nasser**, res. Beit Lahiya, age 30, married +1, student, has a security record.
335. **Maher 'Abd a-Rahman 'Abd a-Rahim Tahraz**, res. Jabalya R.C., age 29, married +3, gas distributor, has a security record.
336. **Majdi 'Abd a-Razzaq 'Abdallah al-Baba**, res. Rafah R.C., age 29, married +3, nurse, has a security record. Arrested October 1, 1992 and detained until deportation.
337. **Muhammad Zeid a-Shurafa**, res. Tufah neighborhood, Gaza City, age 23, married +1, merchant, has a security record. Detained for 50 days in Gaza Central Prison at time of deportation.
338. **Muhammad Hassan Khalil Sham'ah**, res. Shati R.C., Gaza City, age 57, married +12, teacher has a security record.
339. **Muhammad Salman Muhammad Barud**, res. Shati R.C., Gaza City, age 43, married +12, teacher, has a security record.
340. **Muhammad 'Abd al-Wahhab Muhammad Hamed**, res. Jabalya (Village) age 40, married +1, unemployed, has a security record. Arrested August 9, 1992, and serving a 4-month prison sentence at the time of deportation.
341. **Muhammad Saleh Hassan 'Abdallah**, res. al-Bureij R.C., age 48, married +5, Islamic prayer leader (imam), has a security record.
342. **Mahmud Ibrahim Khalil Kadurah**, res. Sheikh Radwan neighborhood, Gaza City, age 25, married, construction worker, has a security record.

343. **Mahmud Khaled Zahhar Zahhar**, res. Rimal neighborhood, Gaza City, age 48, married +7, physician, has a security record.
344. **Marwan Muhammad 'Ali al-'Arbid**, res. Jabalya R.C., age 30, married, unemployed, has a security record.
345. **Na'if Sha'ban 'Abdallah Qarmut**, res. Jabalya (Village) age 32, married +10, merchant, no security record. Arrested October 17, 1992 and held in administrative detention at the time of deportation.
346. **Nafez Mahmud Murjan Subeih**, res. a-Darj neighborhood, Gaza City, age 20, married +1, tailor, has a security record. Arrested December 7, 1992 and held in Gaza Central Gaza Prison at the time of deportation.
347. **Nasr Hamdi Mussa Dibah**, res. Zeitun neighborhood, Gaza City, age 25, bachelor, student, has a security record.
348. **Salem Murshed 'Alayan al-Qadi**, res. Rafah R.C., age 28, bachelor, farmer, has a security record.
349. **Sami Ibrahim 'Atiyah Abu Namus**, res. Khan Yunis, age 21, bachelor, works in pharmacy, no security record.
350. **Suleiman Isma'il Salem Sheikh 'Eid**, res. Rafah, age 25, bachelor, student, has a security record.
351. **Sa'id 'Abd al-Qader Hassan al-Marari**, res. Rafah, age 32, married +4, teacher, has a security record.
352. **Sa'id Muhammad Sha'ban Siyam**, res. Sheikh Radwan neighborhood, Gaza City, age 34, married +6, teacher at an UNWRA school, has a security record.
353. **'Abd al-Mun'im Hussein Muhammad Labad**, res. Rimal neighborhood, Gaza City, age 37, married +4, physician, no security record.
354. **'Abd al-'Aziz Yunis al-Khalidi**, res. Nasr neighborhood, Gaza City, age 27, married, merchant, has a security record. Arrested October 29, 1992, and held under a 6-month administrative detention order at the time of deportation.
355. **'Abd al-'Aziz 'Abd al-Qader 'Abd al-'Aziz al-Kujuq**, res. Rimal neighborhood, Gaza City, age 52, married +10, custodial worker at the Islamic University, has a security record.
356. **'Abd al-'Aziz 'Ali Rantisi**, res. Khan Yunis (City), age 45, married +6, physician, has a security record.
357. **'Abd al-Fattah Hassan 'Abd a-Rahman Dukhan**, res. Nusseirat R.C. age 54, married +8, day laborer, has a security record.
358. **'Adel Hassan Ibrahim 'Aqel**, res. Jabalya R.C., age 26, married +1, day laborer. Held in administrative detention at the time of deportation.

359. **'Amer Salah Abu Ramadan**, res. Rimal neighborhood, Gaza City, age 33, married, merchant, has a security record.
360. **'Abdallah Ahmad Hussein a-Shami**, res. Shuja'iyah neighborhood, Gaza City, age 36, married +5, teacher, has a security record.
361. **'Abdallah Suleiman Muhammad Ziq**, res. Shuja'iyah neighborhood, Gaza City, age 40, married +2, clerk, has a security record.
362. **'Omar Saleh 'Omar Qarwaneh**, res. Sabrah neighborhood, Gaza City, age 38, married +5, physician, has a security record.
363. **'Isa 'Ali Khalil a-Nashshar**, res. Rafah, age 39, married +6, engineer, has a security record.
364. **'Ali Mahmud Muhammad Abu al-Qas**, res. Shuja'iyah, age 60, married +8, unemployed, has a security record. Arrested November 11, 1992, and under a 6-month administrative detention order at the time of deportation.
365. **'Ali Sa'id Abu 'Ajwah**, res. al-Bureij R.C., age 34, married +4, clerk, has a security record.
366. **'Ali Ramadan Ibrahim Nasser**, res. Dir al-Balah, age 36, married +5, day laborer, has a security record. Arrested October 14, 1992, and held in Ketziot under administrative detention at the time of his deportation.
367. **'Ali Shihtah al-Khabbaz**, res. Shuja'iyah neighborhood, Gaza City, age 35, married, engineer, has a security record.
368. **'Imad Muhammad Hashem Abu Nada**, res. Jabalya R.C., age 25, married +2, electrician, no security record. Detained for six months in Ketziot at the time of his deportation.
369. **'Arafah Muhammad 'Adel Masri**, res. Beit Lahiya, age 20, bachelor, student, has a security record.
370. **Fadallah Suleiman Mustafa Abu Tilekh**, res. Dir al-Balah, age 33, married +3, student at the Islamic University, no security record.
371. **Subhi 'Abd al-Qader Ahmad Kulab**, res. Khan Yunis, age 36, married +12, tailor, no security record. Arrested December 7, 1992, and held at Ketziot in administrative detention at the time of deportation.
372. **Salah 'Ali Saleem 'Aidi**, res. al-Maghazi R.C., age 32, married +4, unemployed, no security record. Arrested October 7, 1992, and held in Ketziot under a 4-month administrative detention order in Ketziot at the time of deportation.

373. **Radwan 'Abd al-Karim Hashem Nakhleh**, res. a-Daraj neighborhood, Gaza City, age 46, married +9, glazier, has a security record. Detained at Beach Camp Prison for 14 days at the time of deportation.
374. **Ramadan Yusef 'Abd al-Hadi Seifi**, res. Zeitun neighborhood, Gaza City, age 35, married +5, tailor, has a security record.
375. **Zakariya 'Abd Rabbu Mussa Abu Mustafa**, res. Khan Yunis R.C., age 29, married, day laborer, no security record. Arrested October 21, 1992 and detained until deportaton.
376. **Muhammad Dib Mahmud Abu al-Kheir**, res. Shuja'iyyahh neighborhood, Gaza City, age 39, married +8, guard at the university, has a security record.
377. **Fawzi Sa'id Muhammad Dibah**, res. Zeitun neighborhood, Gaza City, age 25, married +1, tailor, has a security record.
378. **Hussein Muhammad Hussien al-Ghalban**, res. Khan Yunis, age 32, married +3, unemployed, has a security record.
379. **Ahmad Rasmi 'Abd al-'Aziz Badr**, res. Khan Yunis, age 20, bachelor, student at the Islamic University, no security record.
380. **Jamal 'Amer Khamis Abu 'Amer**, res. Khan Yunis, age 35, married +4, merchant, has a security record.
381. **Iyyad Fallah Mahmud Ghanem**, res. Rafah City, age 21, bachelor, student, has a security record. Arrested October 18, 1992 and held at Ketziot under a 5-month administrative detention order at the time of deportation.
382. **Fawzi Jum'ah 'Ali Barhum**, res. Rafah R.C., age 31, married +4, nurse, no security record. Held in administrative detention from October 17, 1992 until deportation.
383. **Anwar 'Adnan Muhammad Nijem**, res. Dir al-Balah R.C., age 21, bachelor, student at the Islamic University, has a security record. Arrested November 29, 1992 and detained until deportation.
384. **Isma'il Isma'il Mahmud a-Najjar**, res. Shati R.C., Gaza City, age 27, married +1, day laborer, has a security record.
385. **Isma'il 'Abd a-Salam Ahmad Haniyah**, res. Shati R.C., Gaza City, age 30, married +7, clerk at the university, has a security record.
386. **Jawad Hassan 'Ali Abu Shamaleh**, res. Khan Yunis R.C., age 19, bachelor, student, no security record.
387. **Ziyad 'Abd al-Qader 'Abd a-Rahman Mustafa**, res. Jabalya R.C., age 25, married +2, barber, has a security record.

388. **Khaled Ahmad Yusef Hamadeh**, res. Shati R.C., Gaza City, age 22, bachelor, student, has a security record.
389. **Hussein Ahmad Mussa al-Jadili**, res. Shati R.C., Gaza City, age 27, bachelor, day laborer, has a security record.
390. **Yihya Mutawwa' Muslem Ju'eidi**, res. Rafah (City), age 30, married +2, unemployed, has a security record.
391. **Majed Khalil Muhammad Abu Darabi**, res. Beit Lehiyah, age 27, married +3, day laborer, has a security record.
392. **Majed Yunes al-Khalidi**, res. Nasr neighborhood, Gaza city, age 29, married, merchant, has a security record.
393. **Muhammad 'Abd a-Rahman Muhammad 'Asaliyyah**, res. Jabalya, age 32, married +8, building contractor, has a security record.

E. Resident of the Gaza Strip Deported Under [a Second] Temporary Deportation Order for Two Years, Signed by OC Southern Command Matan Vilnai on December 17, 1992

394. **Hammad 'Aliyan Hammad Hassanat**, res. Nusseirat R.C., age 58, married +5, clerk, has a security record.

F. Two Deportees Whose Deportation was Recognized as a "Mistake," and Who were Allowed to Return but Refused

395. **Mahmud 'Abd al-Fattah Hussein 'Aqilan**, res. Dir al-Balah R.C. Gaza Strip, age 25, bachelor, driver, no security record. Arrested February 13, 1992 and pending legal proceedings at the time of deportation.
396. **Na'im Muhammad Jum'ah al-Ghul**, res. Rafah R.C., Gaza Strip, age 27, bachelor, unemployed, has a security record. Serving a sentence at the time of his deportation.

THE 19 DEPORTEES WHO WERE RETURNED

G. 6 Deportees Deported Without an Order and Returned

397. **'Izz a-Din Nimer 'Ali Bashir**, res. Dir al-Balah, Gaza Strip. Deported without an order. Arrested January 23, 1992, and pending legal proceedings at the time of deportation. No security record.
398. **'Ali Muhammad Muhammad Tayyim**, res. Jabalya (Village), Gaza Strip. Deported without an order. Arrested June 13, 1992 and pending legal proceedings at the time of deportation. No security record.
399. **Khaled Mahmud Mustafa Salibi**, res. Dir al-Balah, Gaza Strip. Deported without an order. Arrested July 19, 1992, and pending legal proceedings at the time of deportation. No security record.
400. **Akram Ahmad Muhammad Talla'**, res. Dir al-Balah, Gaza Strip. Deported without an order. Security history unknown.
401. **Hassan 'Abd a-Ra'uf Mabhuh**, res. Jabalya (Village), Gaza Strip. Deported without an order. Arrested January 29, 1992, and sentenced to 38 months imprisonment at the time of deportation. Has a security record.
402. **Bassem Salim 'Ata Suyuri**, res. Hebron, age 16. Deported without an order. Security history unknown.

H. 5 Deportees Returned Subsequent to Hospitalization

403. **Amjad 'Alayan Sa'ed Zamel**, res. 'Ein Beit al-Ma' R.C., Nablus Dist., age 23, bachelor, tinsmith, no security record.
404. **Wa'el 'Abd a-Rahman Amin Handiyyah**, res. Nablus, security history unknown.
405. **Zuheir Rashid Hammad Lubadeh**, res. Nablus, age 32, married +3, accountant, has a security record.
406. **Zuhdi Nadim Shukri Tabileh**, Nablus, bachelor, student, has a security record.
407. **Hussein Muhammad Hussein Abu Quweiq**, res. al-Bireh, Ramallah Dist., age 37, married +4, unemployed, has a security record, held in administrative detention at the time of his deportation.

I. 8 Deportees Whose Deportation Was Recognized as a "Mistake" and Who Were Returned to Israel on January 23, 1993

408. ***Iyad Mufdi Hussein Zein a-Din***, res. Majdal Bani Fadel, Nablus Dist., age 18, bachelor, student, has a security record. Detained eight months in Megiddo Prison and pending legal proceedings at the time of deportation.

409. ***Jawad 'Isa Muhammad Zein a-Din***, res. Majdal Bani Fadel, Nablus Dist., age 18, bachelor, student, has a security record. Detained eight months in Megiddo Prison and pending legal proceedings at the time of deportation.

410. ***Mustafa Muhammad Sa'id Abu 'Ara***, res. 'Aqabeh, Jenin Dist., has a security record, Islamic prayer leader (imam). Arrested October 4, 1992 and serving a 5-month prison sentence at the time of deportation.

411. ***'Abd a-Rahman Ibrahim Yusef 'Aruri***, res. 'Arurah, Ramallah Dist. has a security record. Arrested August 6, 1992 and serving a 7-month prison sentence at the time of deportation.

412. ***Yasser Da'ud Suleiman Mansur***, res. Nablus, no security record. Arrested October 18, 1992 at the time of deportation.

413. ***Sa'id Ibrahim Muhammad 'Amer***, res. Qalil village, Nablus Dist. security history unknown.

414. ***Maher Sadeq Mustafa Karim***, res. Gaza City, security history unknown.

415. ***Muhammad Salim Nimer Abu al-Ma'azzeh***, res. Jabalya, has a security record. Arrested May 19, 1992, and serving a 7-month prison sentence at the time of deportation, due to be released on December 17, 1992.

APPENDIX H

DATA

The following data were gathered, for the most part, by **B'Tselem** fieldworker Bassem 'Eid in the deportees' camp at Marj a-Zahur on January 31, 1993. On the date of his visit (and to the day this report went to press) 396 deportees were living in the camp: of 415 deportees, 14 whose deportation was recognized as an "error" were returned (two others whose deportation was recognized as an error refused to return) and 5 were returned for medical reasons. A portion of the data is based on research by **al-Haq**.

Ages

Age	West Bank	Gaza Strip	Total
under age 20	5	11	16
age 21-30	123	77	200
age 31-40	89	47	136
over age 41	20	21	41
unknown	1	2	3
total	238	158	396

Family Status

Family Status	West Bank	Gaza Strip	Total
bachelor	47	39	86
married, no children	25	16	41
married, up to 4 children	108	56	164
married, 5 children or more	58	46	104
unknown	-	1	1
total	238	158	396

Profession

Profession	West Bank	Gaza Strip	Total
lecturers	6	2	8
teachers	28	9	37
physicians	6	7	13
attorneys	-	1	1
students	24	41	65
clergy	30	3	33
day laborers	35	21	56
self-employed	25	22	47
clerks	27	12	39
craftsmen	15	14	29
unemployed	6	12	18
farmers	5	2	7
journalists	3	-	3
engineers	6	2	8
drivers	8	2	10
unknown, other	14	8	22
total	238	158	396

Security History

Security History	West Bank	Gaza Strip	Total
has a security record	161	125	286
no security record*	76	32	108
<i>[of these never arrested for administrative detention, interrogation, or any other reason</i>	60	21	81]
unknown	1	1	2
total	238	158	396

* Includes those held in detention, including administrative detention, but never convicted for a security violation.

Deportees in Detention at the Time of Deportation

(of the 396 present in the deportees' camp)

Status	West Bank	Gaza Strip	Total
detained *	29	18**	47
held in administrative detention	16	20	36
sentenced	-	3***	3
total	45	41	86

* At least 17 were pending conclusion of legal proceedings (11 in the West Bank and 6 in the Gaza Strip).

** One of them, pending conclusion of legal proceedings, was permitted to return after his deportation was recognized as an "error," but refused.

*** One of them was permitted to return after his deportation was recognized as an "error," but refused.

CIRCULAR OF THE IRGUN JEWISH UNDERGROUND

ONLY  **THUS!!**



HEBREWS!

Two hundred and fifty-one brothers were deported from our homeland by the oppressor government and were sent to exile. This Nazi act is unprecedented in the history of the new land of Israel, even in the deeds of Iemal Pasha, the Turkish despot who wielded the whip in our land during the previous war, and attempted to oppress the Hebrew spirit of freedom, in those days exemplified by "Nili." To such depths has the government descended, the government which calls itself "cultured," and reigns in our land in the name of a nation that glorifies itself for preservation of the principle of habeas corpus, intending, as did Iemal Pasha, to spread fear throughout the Jewish settlement, to frighten its sons and propel them into a civil war.

THE REGIME OF OPPRESSION WILL FAIL

The Czars did not succeed in oppressing the Russian peoples' aspirations to freedom by exiling thousands of their fighting sons to Siberia, the Nazis did not succeed in breaking the spirit of opposition of the enslaved peoples by exiling and decimating the best among them, tyranny based on brutal force – not even the most tremendous – cannot stand before the moral force of the historical freedom movement.

The tyrannic rulers of the land will not break the spirit of the uprising owners of the land. The Hebrew youth knows its path. It knows, because this is the path of war, suffering, and torment – "but the Land of Israel is acquired only through torment." We will continue on this path until victory of the nation, and the cruel deeds will neither be forgotten nor forgiven.

The masses of the settlement, with its ranks and camps, must present themselves for the battle against this barbarism. Learn a lesson from our horrific experience in Europe. The Nazis as well began in Dachau and ended in Majdanek. The leaders of the Jewish settlement and its organizations must not fool themselves, for the wrath will pass over them if they stand watching passively as the oppressor government dares to deport other Hebrews from our country. Know and remember – such passivity will avenge itself on us in the Land of Israel, as it avenged itself on our people and on other nations in Europe.

THE YOUNG FIGHTERS, PREPARED AT ANY INSTANCE TO SACRIFICE THEIR LIVES FOR REDEMPTION OF THE NATION, WILL NOT BE DETERRED AND WILL INCREASE THEIR WAR UNTIL THE EVIL GOVERNMENT FALLS AND IS REPLACED BY A HEBREW GOVERNMENT, AND "ZION WILL PROVIDE FOR THE WELFARE OF ALL ITS PRISONERS."

ETZEL

**THE NATIONAL MILITARY ORGANIZATION
IN THE LAND OF ISRAEL**

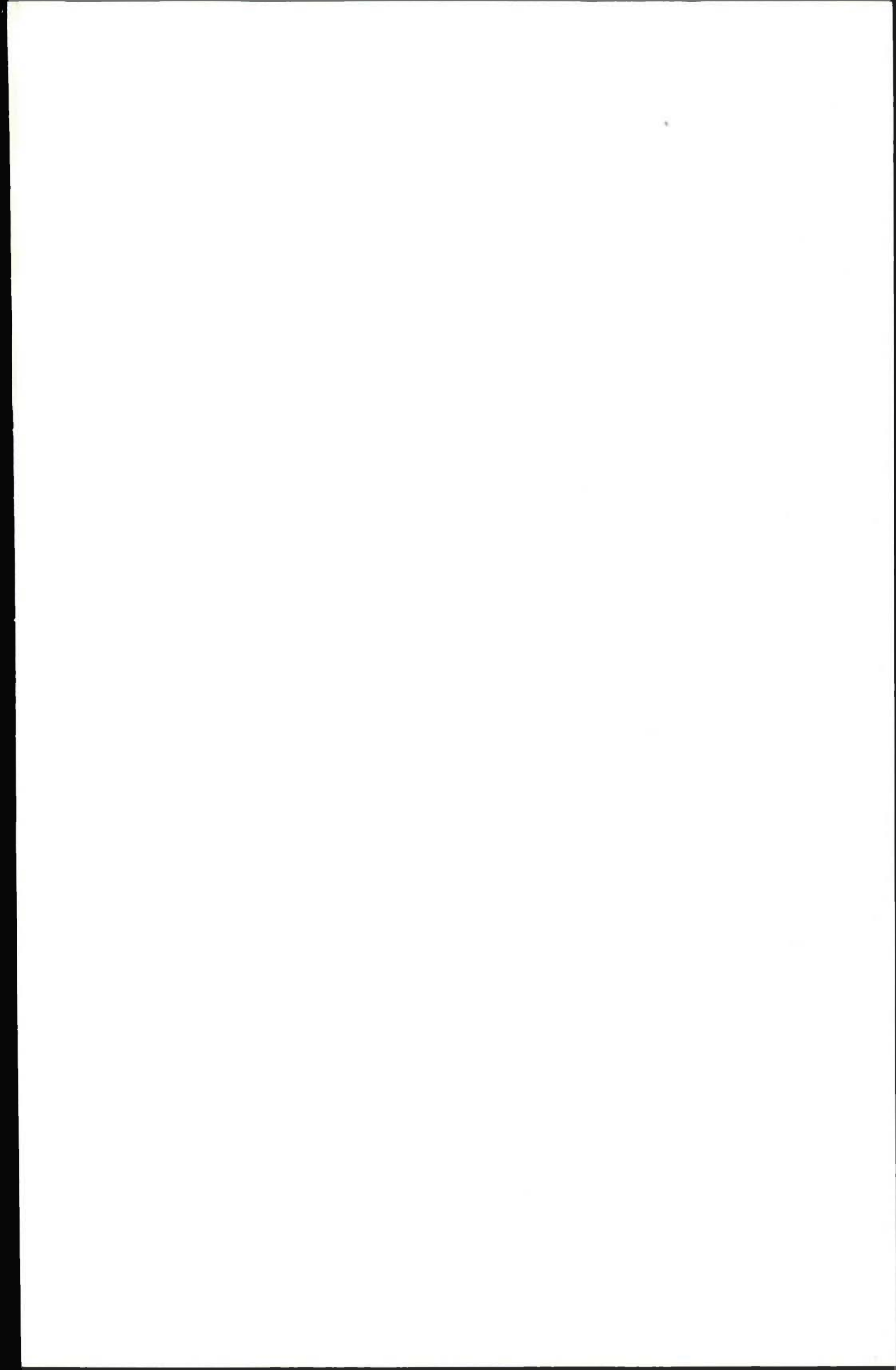
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B'TSELEM, the Israeli Information Center for Human Rights in the Occupied Territories, was established in February 1989 by a large group of lawyers, doctors, scholars, journalists, public figures, and Knesset members.

B'TSELEM has taken upon itself the goal of documenting and bringing human rights violations in the occupied territories to the attention of the general public, and policy and opinion makers, and of working against the repression and denial which have spread through Israeli society.

B'TSELEM gathers information - reliable, detailed and up to date - on human rights issues in the occupied territories, follows changes in policy, and encourages and assists intervention whenever possible. B'TSELEM makes its information available to any interested individual or organization.

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