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مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة-بتسيلم

B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

**WITHOUT LIMITS:
HUMAN RIGHTS VIOLATIONS UNDER CLOSURE**

Information Sheet, April 1996

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Introduction

Within a nine-day period at the end of February and beginning of March, 1996, Palestinian suicide-bombers killed 58 and wounded some 200 persons in Israel.¹ The first bombing, which occurred in Jerusalem on 25 February, killed 25 and injured dozens of persons. On the same day, an attack in Ashkelon killed a soldier and injured 36. Nineteen persons were killed and seven were severely injured in a bus-bombing in Jerusalem on 3 March, and the following day, thirteen persons were killed and more than 100 injured in an attack in Tel-Aviv.²

Following the attacks, Israel imposed a total closure on the Occupied Territories and began to implement several measures, including demolition of the homes of the perpetrators' families, arrest of male members of their families, imposition of curfew and closure on their home villages, a separate closure of all West Bank villages and towns, closure of educational and welfare institutions, and large-scale detentions, some administrative. In addition, a decision was made, in principle, to deport Islamic activists and family members of the suicide-bombers.

Israel has the right, and even the duty, to take measures to prevent additional attacks and protect its citizens. However, in doing so, Israel must comply with human rights standards, international law, and the various conventions to which Israel is a party. Many of the measures taken by Israeli authorities in the Occupied Territories following the attacks blatantly violate these obligations.

This report examines the violations of human rights of Palestinians in the Occupied Territories by Israel since the bombing attacks started. The report, which relates to the period 25 February 1996 to 1 April 1996, will describe restrictions on movement of Palestinians and their consequences on health, economics, and education; the consequences of the severance of East Jerusalem from the rest of the West Bank; demolition of houses; administrative detention; and closure of educational and welfare institutions.

The closure imposed in early March on towns and villages in the West Bank restricted the movement of **B'Tselem's** fieldworkers, making it difficult to obtain first-hand information. For this reason, **B'Tselem** was assisted more than usual by information supplied by human rights organizations, Israeli and Palestinian, operating in the Occupied Territories.

Demolition of Houses

The IDF is empowered to seal and demolish houses pursuant to Regulation 119(1) of the Emergency Defense Regulations. Prior to demolition, the family living in the house is

¹ The number of persons killed does not include the four suicide-bombers.

² The suicide-bombing attacks killed 31 Israeli citizens, 13 members of the Israeli security forces, 3 Palestinians, and 11 foreign nationals. On 26 February 1996, a car driven by a Palestinian injured a group of persons standing by a pick-up station near French Hill in East Jerusalem. One woman was killed and 23 were injured in the incident. Three settlers standing at the site shot and killed the driver. Since the police investigation has not been completed, it is unclear whether the driver intended to strike the persons, or hit them by accident. This incident is not referred to in the report.

entitled to file an objection with the IDF commander in the area, and if its objection is rejected, the family may petition the High Court of Justice.³

Demolition of houses of Palestinians, including children, whose only crime is that of being related to persons suspected of having perpetrating attacks, grossly violates human rights, constitutes extra-judicial and collective punishment, and contravenes international law. Article 33 of the Fourth Geneva Convention of 1949 stipulates that "No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."

According to Article 53 of the same convention, Israel has the right to blow up houses and expropriate property only under military necessity: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State... is prohibited, except where such destruction is rendered absolutely necessary by military operations."

At a meeting on 3 March, which took place after the second bus-bombing in Jerusalem, the government decided, *inter alia*, to seal the homes of the perpetrators of terrorist attacks, and to subsequently demolish them. On 6 March, the media reported the statement of the military government's legal advisor for Judea and Samaria, Col. Shlomo Politis, that a decision had been made to allow demolition of houses also in East Jerusalem, where the authorities had previously confined themselves to house-sealing.⁴

OC Central Command, General Ilan Biran, declared that "the house of each family of a suicide-attacker, or one who intends to commit suicide, will be destroyed, and the surrounding area will be severely punished. That will be the case in every village and town. We shall act mercilessly."⁵

In March, security forces sealed nine houses of Palestinian families. Some of the families received notices that their home would be sealed within 48 hours, but the authorities sealed their home in less than half that time. Eight homes were demolished either by explosives or by bulldozers, and the ninth was cemented to prevent permanently its use as a residential dwelling. As a consequence of the explosion of one of the homes, another house was totally destroyed. These demolitions left dozens of persons, including many children, homeless.

1. Home of the Sharnubey family, Burqa village, Nablus District.

The authorities attribute to Ra'ed 'Abd Al-Karim Sharnubey, aged 20, the bombing of the number 18 bus in Jerusalem, on 3 March.

On 5 March, the home of 'Abd Al-Karim and Lamah Sharnubey, Ra'ed Sharnubey's parents, was sealed. In addition to his parents, Ra'ed Sharnubey had been living in the house with his eight brothers and sisters: Muhammad, 28; Amani, 26; Wa'il, 25; Fidah, 24; Nidah, 19; Kefah, 18; Ali, 17; and Ahmad, 8. The family had left the house before it was sealed;

³ For background on sealing and demolition of houses, see **B'Tselem**, *Demolition and Sealing of Houses in the West Bank and Gaza Strip as a Punitive Measure during the Intifada* (Jerusalem: September, 1989).

⁴ *Ha'aretz*, 7 March 1996.

⁵ *Davar Rishon*, 6 March 1996.

consequently, they did not receive a copy of the demolition order, and did not object to it. Hind Mustafa Sief, a resident of Burqa, told Civil Administration personnel who came to the village on 8 March that the house was owned by Rajab 'Abdallah Odeh, who had rented it to the Sharnubey family. The Civil Administration official responded that since no objection to the order for demolition had been filed, the house would be demolished.⁶ Security forces demolished the house the same day.

2. Home of the 'Ayash family, Rafat village, Nablus District.

Israel attributes to Yihyeh 'Ayash the planning of a series of bombing attacks in Israel that killed and injured many persons. 'Ayash was killed in the Gaza Strip on 6 January 1996. It is widely believed that Israel was responsible for his death; the Israeli government has neither confirmed nor denied responsibility.

The two-story 'Ayash home was located on a plot belonging to his father. Yihyeh 'Ayash's widow, Hiam 'Ayash, lived on the second floor with her two children - Bara, aged 3 1/2, and Yihyeh, six months old. The first floor was vacant. On 5 March, the authorities sealed the house and issued a demolition order.

On 14 March in the afternoon, the IDF demolished the 'Ayash house. 'Ayash's widow and two children then went to live in Yihyeh 'Ayash's parents' home.

3. Home of the Sbeh family, Dahariya village, Hebron District.

To Suf'yan Salam 'Abd-Rabu Sbeh is attributed the bombing of the number 26 bus in Jerusalem, in August, 1995. The attack killed four persons and wounded 130.

The three-room house is owned by Suf'yan Sbeh's father, Salam 'Abd-Rabu Sbeh. Suf'yan's parents, two sisters, and three brothers, one of whom is paralyzed on his left side, lived in the house. The IDF had notified the family on 19 December 1995 that it intended to demolish the house. Several days later, attorney Leah Tsemel filed an objection on behalf of Suf'yan's brother, 'Adal Salem Sbeh. On 4 March 1996, the IDF advised Ms. Tsemel that the objection had been rejected, and that the house would be demolished.

On 5 March, the house was sealed and a demolition order issued. On 21 March, the IDF demolished the house with a bulldozer after the High Court of Justice denied attorney Tsemel's petition.⁷

4. Home of the 'Azam family, Karyut village, Nablus District.

The authorities attribute to Labib 'Azam the bombing of the number 20 bus in Ramat Gan in July, 1995. The attack killed six persons and injured thirty-two.

⁶ From the testimony of Hind Mustafa 'Abdallah Sief to **B'Tselem** fieldworker Fuad Abu-Hamed on 15 March 1996.

⁷ HCJ 1730/96, 'Adal Salem 'Abd Rabu Sbeh vs. IDF Commander for the West Bank.

The house, which contains several residential units, is owned by Labib 'Azam's grandmother and grandfather. Labib 'Azam had lived in one of those units with his two brothers, Khaldun 'Azam, aged 24, and 'Abd A-Rahman 'Azam, aged 20.

On 2 October 1995, the IDF issued notification of its intention to demolish the house, and the next day, attorney Tsemel filed an objection on behalf of Labib's brother, 'Abdallah, and grandmother, Naifa Saqer. On 19 December 1995, attorney Tsemel was notified that the IDF would only demolish the separate living quarters in which 'Azam, Khaldun and Rahman had lived.

On 4 March 1996, the authorities notified attorney Tsemel that the demolition would take place within 48 hours. Security forces sealed the apartment the next day. On 21 March, the IDF demolished the apartment with a bulldozer after the High Court of Justice denied attorney Tsemel's petition on behalf of 'Abdallah 'Azam and Naifa Saqer.⁸

5. Home of the A-Sharif family, Beit Hanina, Jerusalem.

Mohi A-Din A-Sharif is suspected of being involved in the bombing attack on the number 26 bus in Jerusalem, in August, 1995, and of having planned other attacks.

The house is composed of a number of dwelling units. In one of them, a three-room apartment, Mohi A-Din A-Sharif lived with his parents, Rabhi and Zahura A-Sharif, and his 6 brothers and sisters. The kitchen and conveniences are shared with those living in the adjoining apartment - his brother, Ibrahim, and Ibrahim's family, seven persons in all. Another brother, Ishaq, lives in a separate room.

On 5 March, security forces sealed the house, and an order for demolition was issued the next day. In his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed, Ishaq A-Sharif stated that after service of the sealing order, a large number of Border Patrol police came to the house, where they threw books and broke objects.⁹

The house was demolished on 20 March after the High Court of Justice denied the family's petition, filed by attorney Tsemel, opposing the demolition order.¹⁰

6. Home of the Sidr family, Abu-Dis.

Ayman 'Abd Al-Majid Sidr, imprisoned by the IDF until completion of legal proceedings against him, is accused of having participated in bombing attacks in Jerusalem, one in Nahalat Hashiva, in August, 1994, which killed 2 persons and injured 13, and the other at Binyaney Ha'ooma, in December of 1994, which injured 13 soldiers.

The two-story family home contains four residential units. Ayman Sidr, his wife, Suheir Al-Halawi Sidr, and their two year-old son, Muhammad, lived on the ground floor. Ayman Sidr's parents and brothers lived in the other units.

⁸ HCJ 1731/96, 'Abdallah Anwar Faras 'Azam et al vs. IDF Commander for the West Bank.

⁹ Ishaq A-Sharif gave his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed on 6 March 1996.

¹⁰ HCJ 1740/96, Rabhi Sa'id A-Sharif et al vs. OC Home Guard.

On 4 March 1996, the Israeli authorities sealed the unit in which Ayman Sidr and his family lived, and issued an order to demolish it. The petition filed with the High Court of Justice by attorney Jawad Boulos on behalf of Sidr was denied.¹¹ Security forces determined that demolition of the apartment would damage adjoining apartments, so on 20 March, they cemented Ayman Sidr's apartment. The media reported that the security forces would subsequently demolish a section of the house whose demolition would not cause the entire building to collapse.¹²

7. Home of the A-Sarahneh family, Al-Fawar refugee camp, Hebron District.

The Israeli security forces attribute to Ibrahim Ahmad Hassan A-Sarahneh the suicide-bombing in Ashkelon on 25 February 1996.

The two-story house contains four residential units. Ibrahim A-Sarahneh lived on the top floor in one of the units, and his mother, Maryam A-Sarahneh, and his brothers, Suliman and Hassan, lived in the other units. Maryam A-Sarahneh is a widow, and suffers from high blood pressure and heart disease. Suliman A-Sarahneh, aged 23, also has heart problems, and Hassan A-Sarahneh, 18, is emotionally disturbed.

On 5 March, the IDF sealed the entire house. On 20 March, following denial of the family's petition to the HCJ, filed by attorney Badira Khouri of **HaMoked: Center for the Defense of the Individual**, the security forces blew up the house.¹³

8. Residence of the Dudin family, Hirbat Al-Bireh, Hebron District.

'Abd Al-Majid 'Ali Dudin is suspected of having been involved in the bombing of the number 26 bus in Jerusalem in August of 1995. He was tried by the Palestinian Authority that same month and sentenced to a 12-year prison term for "harming the interest of the Palestinian people and the Palestinian Authority" and for "activities harming general security and the security of residents of the Palestinian Authority." He is serving his sentence in Jericho.

'Abd Al-Majid 'Ali Dudin lived in the rented house with his wife, Meyser Muhammad Dudin, and their children - four-year-old Hamam, five-year-old Umama, and a two-year-old infant, Kataib. The house belongs to Muhammad Ali 'Abdallah Dudin, the brother of 'Abd Al-Majid 'Ali Dudin.

On 6 March 1996, the security forces sealed the house, and a demolition order was issued. On 20 March, the house was blown up after the family's petition to the HCJ opposing the demolition, filed by attorney Badira Khouri, of **HaMoked**, was denied.¹⁴

9. Home of the Abu-Wardah family, Al-Fawar refugee camp, Hebron District.

¹¹ HCJ 1821/96, *Ayman 'Abd Al-Majid Sidr vs. IDF Command for Judea and Samaria*.

¹² *Ha'aretz*, 11 March 1996.

¹³ HCJ 1824/96, *Maryam Muhammad Ahmad Sarahneh and HaMoked: Center for the Defense of the Individual vs. General Ilan Biran*.

¹⁴ HCJ 1825/96, *Muhammad 'Ali 'Abdallah Dudin vs. General Ilan Biran*.

To Majdi Muhammad Abu-Wardah is attributed the bombing of the bus in Jerusalem on 25 February 1996.

Abu-Wardah lived in the four-room family home with Intisar Shahadeh Abu-Wardah, his mother, Muhammad Abu-Wardah, his father, and his seven brothers and sisters.

On 5 March, the house was sealed and a demolition order issued. On 23 March, the security forces blew up the house after the HCJ denied the family's petition opposing the demolition, filed by attorney Leah Tsemel.¹⁵

Damage to adjacent houses

Neighbors' homes were also damaged during some of the demolitions. The explosion of the Sharnubey family home, in Burqa village, on 8 March, totally destroyed a nearby house, in which Jamal Tawfiq Haji and his wife, Buqia Talal Haji, lived with their seven children: Amal, 23; Tawfiq, 21; Muhammad, 20; Manal, 14; Raham, 10; Mahmud, 8; and Batul, 6. The house belongs to Buqia Haji's uncle, Muhammad Odeh Khafras, who lives in Jordan. In his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed, Jamal Haji stated: "When we left the house, we were told not to take anything, that nothing would be damaged, and not to worry. So we didn't remove anything.... When I returned, I saw that everything had been destroyed, that the roof and walls had collapsed, and that many objects had been lost. The bedroom, and the living room, which had lots of arm-chairs and all the clothes...had been destroyed." A Civil Administration official told Mr. Haji that he would receive NIS 5,000 to rent a home temporarily, and that he would receive full compensation for his loss after they calculate the damage. Other homeowners whose homes were damaged received compensation ranging from NIS 450 to NIS 2,500 from the Civil Administration.¹⁶ According to security officials, 22 nearby houses were damaged in the blast.

The media reported that the security forces blew up the 'Ayash home on 14 March in stages to prevent damage to nearby houses.¹⁷ Dr. Fathallah 'Ayash, who lives in Rafat close to where the demolished house stood, stated in his testimony to **B'Tselem** that the blast cracked walls of nearby homes and broke light bulbs. He claimed that Civil Administration personnel did not come to the area to calculate the damage and compensate the residents whose homes had been damaged.¹⁸

The explosion of the Abu-Wardah family home, in Al-Fawar, on 22 March, damaged several nearby homes. The IDF stated that it would compensate the owners.

¹⁵ HCJ 1828/96, *Intisar Shahadeh 'Abd Al-Mohsen Abu-Wardah vs. IDF Commander for the West Bank*.

¹⁶ From the testimony of Jamal Tawfiq Muhammad Haji, given to **B'Tselem** fieldworker Fuad Abu-Hamed on 15 March 1996.

¹⁷ *Ha'aretz*, 15 March 1996.

¹⁸ Testimony of Dr. Fathallah Mahmud Sati 'Ayash, given to **B'Tselem** fieldworker Fuad Abu-Hamed on 2 May 1996.

On 19 March 1996, the High Court of Justice held a hearing on the seven petitions filed by families who had received orders of demolition - Sbeh, 'Azam, A-Sharif, Sidr, Sarahneh, Dudin, and Abu-Wardah.

The petitions argued, *inter alia*, that demolition of the houses constitutes collective punishment harming innocent persons, and that it consequently contravenes international and Israeli law. They also argue that demolition of houses is not an effective means of preventing attacks, and is not necessary for military operations.

Justices Gabriel Bach, Dalia Dorner, and Mishael Cheshin denied the petitions. In a minority opinion, Justice Dorner held that the petitions of the Sbeh and 'Azam families should be granted since "house demolitions should only be allowed after an attack executed by one who lived in the house." In those cases, the demolition was to be implemented more than six months after one of the residents of the house had committed the attack, and in direct response to attacks performed by others in February-March of 1996. The justices gave the families 24 hours to remove their personal possessions. The IDF began to implement the demolition orders the following day, and completed the demolitions within three days.¹⁹

The court emphasized that the purpose of demolition is not to punish the families, but is intended to deter potential criminals.²⁰ Even if the effectiveness of this measure were assumed, this would not justify it since demolition of houses in which whole families, including the elderly and children, live is a blatant example of collective punishment. The authorities' claim that the measure is taken for deterrence and not as punishment is, therefore, irrelevant.

In any case, the relationship between the use of this sanction and a decrease in violence has never been proven. Judge Amnon Strashnov, formerly Chief Military Prosecutor, recognizing this fact, questioned the assumption that the sanction of house demolitions is effective and acts as a deterrent: "This assumption has not been proved with certainty by any empirical research. Terrorist acts continued, as we know, notwithstanding the house demolitions."²¹ Brigadier General Ariyeh Shalev, who was in charge of several house demolitions as Commander of the Judea and Samaria Region in 1974-1976, in his research on the intifada, wrote that the demolition of houses did not contribute to the curbing of violence, and possibly aggravated it.²² According to **B'Tselem's** figures, since the beginning of the intifada, more than 400 Palestinian homes have been demolished pursuant to Regulation 119 of the Emergency Defense Regulations. However, the attacks continue.

The justices wanted to restrict the authority granted by Regulation 119 of the Emergency Defense Regulations, which grants the IDF authority to destroy areas of property as large as whole towns. Justice Dorner argued that "it is inconceivable that this court would approve the destruction of whole towns following the acts of a few, even though such a measure is ostensibly incorporated in the language of Regulation 119, and it cannot be said that it has no

¹⁹ As mentioned earlier, the Sidr family home in Abu Dis was cemented rather than demolished.

²⁰ From the opinion of Justice Gabriel Bach. However, Justice Dorner recognized that defining the means as a deterrent does not negate its punishment aspect: "House demolition is not a means of punishment in the full meaning of the word..."

²¹ Amnon Strashnov, *Justice under Fire* (in Hebrew) (Tel-Aviv: Yediot Aharonot Books, 1994), p. 92.

²² Ariyeh Shalev, *The Intifada* (in Hebrew), (Tel-Aviv: Jaffee Strategic Research Center, Tel-Aviv Univ., 1990).

deterrent value. Only demolition of the house of the person who committed the attack and his family is allowed." Justice Cheshin added that "if the military commander thinks that demolition of the house of an attacker may - may, even slightly - deter another from being a terrorist-murderer... how can the court tell him what to do or not to do?"

The court did not base its position on the fundamental precept that a person shall only be punished for his or her own acts, but allowed innocent persons to be harmed in the name of deterrence. The justices' determination allowing harm "only" to the immediate family of the attackers seems arbitrary, and raises the concern that the court will also approve more extensive harm to innocent persons in cases where the IDF argues it is necessary for deterrence.

The position of Justice Cheshin is particularly hard to understand. In an earlier, minority, opinion, Justice Cheshin held that the court must revoke an order to demolish the house of Salah 'Abd A-Rahim Nazal, who perpetrated the attack on the number 5 bus in Tel-Aviv, in October of 1994.²³ Cheshin based his decision on the necessity to safeguard incessantly the fundamental principle of individual responsibility, even in acts of war, where it is difficult to impose legal criteria.

In the present case also, Justice Cheshin noted that the principle "each person shall bear his own guilt" is a basic principle "from which I shall swerve neither left nor right." In spite of this, Cheshin concluded that the High Court of Justice should not intervene in the considerations weighed by the military commander in this case, and denied the petitions. Cheshin did not explain why he was not guided by the principle he had emphasized, and only repeated his position that the act of house demolitions "is by nature an act of war, and acts of war are not acts that courts are required to handle in daily life."

However, acceptance of the argument that demolition of houses is an act of war does not justify non-compliance with the norms established in the Geneva Convention, which are intended to comprise the rules of conduct allowed in war. As mentioned above, the Geneva Convention does not allow demolition of houses except where an absolute military necessity exists, and it prohibits collective punishment.

In its opinion, the Supreme Court placed a mantle of legitimacy on demolition of houses, and ruled as it had in dozens of previous cases over the years, denying Palestinian petitions against demolition of houses. In deciding to allow the demolitions, the court acts as a rubber stamp for governmental actions in the Occupied Territories, and not as a defender of human rights and the rule of law.

²³ H CJ 6024/94, *'Abd A-Rahim Hassan Nazal et al vs. IDF commander for Judea and Samaria*. The judgment was given on 17 November 1994.

Arrests and Interrogations

Since the attacks, Israeli security forces have arrested some 1,000 Palestinians in the West Bank and East Jerusalem. Most of them are suspected of belonging to Hamas, the Islamic Jihad, and a small number to the Popular Front for the Liberation of Palestine.

As of 23 March, more than 580 West Bank Palestinians had been arrested in the West Bank. According to **HaMoked: Center for the Defense of the Individual**, most of these arrests occurred in the Hebron area.

On 28 March, the IDF conducted massive arrests in the Bir Zeit and Ramallah areas. The following day, media reports indicated that security forces had raided student dormitories at Bir Zeit University and homes in the city, and in the Abu Qish and Abu Sheheidim villages in the Ramallah District. That night, security forces arrested 376 Palestinians in the area; according to media reports, most of those arrested are students at Bir Zeit University.²⁴

Jamyan Odeh and Akram Jamil Abu-Hashash, students at Bir Zeit University, told **B'Tselem** that as the arrests were being made, the Border Police beat, cursed, and threatened to deport the detainees.²⁵

The Palestinian organization '**Al-Haq** reported that the soldiers raiding the dorms broke doors, shattered windows, destroyed students' property, and arrested everyone in the building, including visitors.

Administrative detention

In Israel, authority for ordering administrative detention is based on Regulation 111 of the Emergency Defense Regulations, 1945.

Administrative detention is extra-judicial, the military commander in the area being empowered to order it.²⁶ Under international law, administrative detention is not an alternative to punishment, and is allowed only to prevent the detainee from causing future danger. The military order regarding administrative detention allows the military commander to order administrative detention for a period not exceeding 12 months, which may be extended.²⁷ The order does not limit the number of orders, consecutive or not, that may be issued against an individual.

The authorities administratively detained many of those arrested in recent weeks, but have not stated the precise number officially. According to figures provided by the IDF Spokesperson on 27 March, 324 Palestinians were administratively detained at that time. On

²⁴ *Ha'aretz*, 29 March 1996.

²⁵ The testimonies were given to **B'Tselem** fieldworker Fuad Abu-Hamed on 2 April 1996.

²⁶ See also **B'Tselem**, *Detained Without Trial: Administrative Detention in the Occupied Territories since the Beginning of the Intifada* (Jerusalem: October, 1992).

²⁷ Order no. 1424, of 5 February 1995, which is an amendment to the Order regarding Administrative Detention (Provisional Order) (Judea and Samaria) (No. 1229), 1988. The amendment extended the maximum length of administrative detention, which had been six months since 1991. Concerning a detainee held for 12 months, the order requires the military commander to review his or her decision after six months, and provides for judicial review in the event the military commander decides to extend the detention for an additional period.

22 February, before the bombings, the IDF Spokesperson fixed the number of administrative detainees at 208.

According to figures **B'Tselem** received from the Palestinian organization, **Addameer: Prisoners Support Association**, on 26 March 1996, 165 of the some 600 persons arrested in March were administratively detained. The organization bases its figures on contacts with the detainees' families. They contend that the number of Palestinians in administrative detention on that day stood at 379.

A sample check by **HaMoked** concerning 181 Palestinians arrested in the first two weeks of March showed that 82 had been administratively detained for periods ranging from two to twelve months.

Arrest of relatives

The Israeli government authorized the Staff to Combat Suicide-Terror to arrest males from the families of the suicide-bombers.²⁸ The government had established the Staff on 4 March 1996 following the suicide-bombing in Tel-Aviv, and it is headed by the GSS director, Ami Ayalon.

On 5 March, OC Central Command, General Ilan Biran, announced that he would arrest all male first-degree relatives of the suicide-bombers. The Nablus Brigade commander, Col. Nitzan, added that "we arrested all the males, up to the degree of cousins, in the suicide-bombers families."²⁹

The decision to conduct sweeping arrests based on the sole criterion of family relation, making absolutely no attempt to prove some involvement in acts of violence, clearly constitutes collective and extra-judicial punishment.

Torture during interrogations

At the end of March, the media reported GSS director Ami Ayalon's statement that "following the spiraling suicide-attacks, hundreds of Hamas members had been interrogated in GSS facilities this past month."³⁰ Testimonies given to human rights organizations and attorneys by Palestinians detained during the past month indicate that interrogators have tortured and abused detainees in numerous instances.³¹

²⁸ *Ha'aretz*, 5 March 1996.

²⁹ *Yediot Aharonot*, 6 March 1996.

³⁰ According to the report in *Yediot Aharonot* on 31 March 1996, the GSS head made, on 28 March 1996, his comments to the Ministerial Committee for GSS Investigations.

³¹ **B'Tselem's** investigations since the beginning of the intifada have shown that GSS interrogators of Palestinians systematically use methods of interrogation that constitute torture and cruel, inhuman, or degrading treatment. For additional details on GSS interrogations, see **B'Tselem**, *The Interrogation of Palestinians during the Intifada: Ill-Treatment, "Moderate Physical Pressure" or Torture?* (Jerusalem: March, 1991); **B'Tselem**, *Torture during Interrogations: Testimony of Palestinian Detainees, Testimonies of Interrogators* (Jerusalem: November, 1994).

Several detainees recently petitioned the High Court of Justice, contending they are being tortured during interrogations at GSS facilities. In each of the cases, which were filed by **HaMoked** through its attorney, Andre Rosenthal, the HCJ issued an interim order prohibiting, until the petition is heard, the GSS from using force when interrogating the petitioner, and directed the GSS to show cause why it uses the methods mentioned in the petition.³²

'**Adnan Abu Tabaneh**, from Hebron, was arrested on 3 March and has been held since 10 March in the GSS Interrogations Wing at Shikma Prison, in Ashkelon. In the petition attorney Rosenthal filed for **HaMoked** to the HCJ, dated 14 March, Abu Tabaneh claimed that his interrogators shake him, deprive him of sleep, cover his head, and tie him up in painful positions.³³ He also alleges that the interrogators use psychological pressure by threatening that he will end up like 'Abd A-Samed Harizat, who died in April, 1995 as a result of being tortured during interrogation. In response, the State Attorney notified the court that the interrogation had ended, and that the petition was, therefore, no longer relevant. Attorney Rosenthal is demanding that the court hear the case.

Ahmad Al-Kawasmeh was arrested on 12 March. Since then, he has been interrogated in the GSS Interrogations Wing at the detention facility in the Russian Compound, in Jerusalem. Attorney Rosenthal petitioned, for **HaMoked**, the HCJ on Al-Kawasmeh's behalf.³⁴ The petition requests the court to forbid the GSS to chain him in a painful manner and deprive him of sleep by playing loud music 24 hours-a-day. Al-Kawasmeh added that the GSS utilizes these measures although he told them that he suffers from a kidney ailment.

Ziad Mustafa A-Zaghel, from East Jerusalem, who was arrested on 14 March, claims in his petition, filed 22 March by attorney Rosenthal, that during his interrogation in the Russian Compound, the GSS shakes him, deprives him of sleep, and forces him to remain in painful kneeling positions.³⁵ In a hearing held on 27 March, attorney Shai Nitzan, of the State Attorney's Office, denied that these measures constitute torture. He stated that most of the methods are not even interrogation methods, except for kneeling, which is indeed a "method of pressure used in interrogations."³⁶

Torture is prohibited under international law. In the U.N. Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, torture is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information, or a confession..." [Article 1 (1)]. The Convention notes that no exceptional circumstance whatsoever, such as a state of war or any public emergency, may be used as a justification of torture. In allowing the use of torture during interrogations, Israel breaches this Convention, which it ratified in 1991. In addition, it makes a mockery of section 277 of the Israeli Penal

³² These petitions and other petitions and complaints filed by **HaMoked** described below are part of its Prisoners' Rights Project.

³³ HCJ 1998/96, *'Adnan Yunis 'Abd Al-Majid Abu Tabaneh and HaMoked: Center for the Defense of the Individual vs. The General Security Service.*

³⁴ HCJ 2104/96, *Ahmad Khalil 'Abd A-'Aziz Al-Kawasmeh and HaMoked: Center for the Defense of the Individual vs. The General Security Service.*

³⁵ HCJ 2210/96, *Ziad Mustafa A-Zaghel vs. The General Security Service.*

³⁶ *Ha'aretz*, 28 March 1996.

Code, which prohibits the use of force or violence by a public official for the purpose of obtaining information.

Additional violations of detainees' rights

Failure to provide information about detention and location of detainees

In many cases of arrest, no notice was given to the detainee's family that he had been detained or as to where he was being held. Between 25 February and 29 March, 349 Palestinian families contacted **HaMoked** for help in locating relatives who had been detained. In comparison, it received 111 requests for such assistance in a similar length of time before the bombings, 20 January - 24 February 1996. The authorities customarily disregard their obligation to notify families of Palestinians in detention, although a military regulation requires that where a person is detained, "notice will be sent, without delay, informing a family member of the detainee's detention and his whereabouts."³⁷

This failure now also constitutes a breach of an agreement, approved by the High Court of Justice on 21 February 1996, that requires the authorities to inform the family where their relative is being held "upon arrest" and "without delay."³⁸

Denial of right to legal counsel

Security legislation in the Occupied Territories allows GSS interrogators to prevent, by order and for a period of up to 30 days, a detainee from meeting with his or her attorney. The GSS has made widescale use of this power during the recent wave of arrests.³⁹

Since 25 February, **HaMoked**, through attorney Andre Rosenthal, has filed seven petitions to the HCJ on behalf of fourteen detainees to compel the GSS to allow them to meet with their attorneys. In addition, attorney Rosenthal, on behalf of **HaMoked**, complained to the State Attorney's Office about eight other detainees in a similar situation.

Following filing of the petitions, the state shortened the order not allowing the detainee to meet with his attorney of five of the petitioners, and the two petitions drawn on their behalf were withdrawn. In the other cases, the court refrained from intervening in GSS considerations, and denied the petitions.

Another denial of the right to legal counsel resulted from the closure: Israeli attorneys had difficulty entering the West Bank to meet with their clients. Soldiers at checkpoints did not allow attorney Badira Khouri, of **HaMoked**, to enter the West Bank. When she asked to see an order forbidding entry in the area, the soldiers produced no such order. Palestinian

³⁷ Order regarding Security Directives (Judea and Samaria) (No. 38), 1970, sec. 78a.

³⁸ H CJ 6757/95, *Balal Harbawi, HaMoke : Center for the Defense of the Individual, and the Association for Civil Rights in Israel vs. IDF Commander for Judea and Samaria* (not published). The arrangement, reached by the parties and given the force of a judgment, provides that it will be implemented no later than 1 March 1996.

³⁹ Order regarding Security Directives (Judea and Samaria) (No. 38), 1970, sec. 78c.

attorneys living in the Occupied Territories have been subject to similar difficulties, and have been unable to meet with their clients being held in Israel.

The right to representation of counsel is set forth in Article 114 (3) of the International Covenant on Civil and Political Rights, to which Israel is a signatory. The refusal to grant this right prevents detainees from understanding their legal status and the range of actions available to them, leaving them helpless to combat harsh conditions of detention and illegal methods of interrogation.

Detention inside Israel

According to figures provided by **HaMoked**, the vast majority of persons detained since March, 1996 are being held in detention facilities inside Israel. Transfer of prisoners from occupied territory to detention in the territory of the occupying country is prohibited under international law, as stipulated in Article 76 of the Fourth Geneva Convention.⁴⁰

Holding prisoners from the Occupied Territories in Israel during a hermetic closure prevents visits from their relatives living in the Occupied Territories. It also prevents them from meeting with their attorneys who live in the Occupied Territories, and makes it difficult for their families to retain Israeli lawyers.⁴¹

Detention of minors

On 25 March 1996, attorneys Tamar Peleg-Sryck and Andre Rosenthal, on behalf of **Defense of Children International**, wrote to the head of the HCJ department of the State Attorney's Office, attorney Uzi Fogelman. The letter described the harsh prison conditions in which several minors are being held in the GSS Interrogations Wing at Shikma Prison, in Ashkelon.⁴² The conditions, as described in the affidavits of petitioners given to attorney Rosenthal on the same day, include overcrowding, reaching 12 detainees in a windowless cell measuring 2.5 X 4 meters and containing 7 mattresses, which take up the cell's entire floor space.

Following attorney Rosenthal's petition to the HCJ in 1989 concerning the detention of Palestinian minors in overcrowded cells, the court ruled: "... it is unacceptable that one mattress be right next to another. There are minimum conditions that must be met quickly.... We cannot accept the existing situation."⁴³ The affidavits mentioned above show that in spite of the court's ruling, the situation has not improved.

⁴⁰ This article stipulates: "Protected persons accused of offenses shall be detained in the occupied country, and if convicted they shall serve their sentences therein..."

⁴¹ Concerning these difficulties, see the previous section.

⁴² The ages of the individuals involved range between 16 and 17 1/2. Under Israeli and international law, these prisoners are defined as minors. The military regulations applying in the Occupied Territories define minors as persons under the age of 16.

⁴³ HCJ 930/89. The judgment was given on 27 November 1989.

The detainees also complained about insufficient food and the failure to provide medical care. The attorneys demanded that the head of the department act to improve immediately the conditions "to the minimum required for holding a person," or to release them immediately.⁴⁴

Violence during detention

Several Palestinian detainees being held in the Russian Compound, in Jerusalem, were violently beaten by police after the bus-bombing in Jerusalem on 3 March and the bombing in Tel-Aviv the following day. The police also damaged the personal possessions of the detainees. One detainee, Ayman Hijazi, through his attorney Andre Rosenthal, complained to the Ministry of Justice's Department for the Investigation of Police. According to Hijazi, on 3 March, police came into the cell and began to beat the detainees. Three of them used their sticks to beat him on his testicles, back, shoulders, chest, and arms. They also damaged his personal items in the cell. Hijazi stated that on the following day, the same police officers came into his cell and beat him and his cellmates. According to him, he was the only one taken to a medic for examination, even though the others also required medical treatment.

On 21 March 1996, the Department for the Investigation of Police indicated that the investigation had ended, and that the file had been closed "since it was impossible to investigate the incident completely."⁴⁵

⁴⁴ The detainees are Rami Abu Sada (aged 17 1/2), Nawaf Abu Sita (17), 'Abd A-Rahman Bashir (16), and Muhammad A-Shakra (17 1/2).

⁴⁵ Letter from attorney Eran Shender, director of the Department for the Investigation of Police, to attorney Andre Rosenthal, 21 March 1996.

Closure Of Educational And Welfare Institutions

At its meeting on 3 March, the government decided "to break up the Hamas centers." Pursuant to this decision and the power granted them by section 91 of the Order regarding Security Directives (Judea and Samaria) (No. 378), 1970, the security forces closed educational and charitable institutions which, they contend, serve as Hamas centers.

In the raids, security forces conducted searches, seized documents, and sealed the buildings in which the institutions were located. According to statements given to **B'Tselem** and other human rights organizations, the security forces destroyed property during some of the raids.

A list of the institutions that have been closed follows.

On 5 March, IDF forces closed the following institutions in Hebron pursuant to the order of OC Central Command, General Ilan Biran:

1. **Hebron University**, which has 1,700 students.⁴⁶
2. **The Hebron Polytechnic**, which has 900 students.
3. **The Islamic Charitable Society**.
4. **The Muslim Youth Association**, which is involved with sports and social activities.

In Abu Dis, the following institutions were closed on 6 March for six months, also pursuant to orders of General Biran:

5. **The College for Islamic Da'wa and Religious Affairs**, which has 520 students, was closed for six months. The administrative director, Muhammad Muhsan, told **B'Tselem** that the institution is a governmental institution belonging to the office of the Jordanian Waqf. He added that during the raid, the soldiers acted violently, and broke the jaw of one student, Bassem Da'is.⁴⁷
6. **The Abu Dis College of Science and Technology**, which has 1,050 students.

In Beit Hanina, the police closed the following two institutions:

7. **The Congress of Islamic Sciences and Education**. The charitable organization's offices and research institute were closed on 7 March for 14 days pursuant to an order of the Inspector General of the Israel Police Force. An order attaching its monies was also issued. During the search, the police seized computers, books, and documents. The spokesperson for the Police Force's Jerusalem District informed **B'Tselem** that the Police is considering applying to court to extend the closure order for an additional 12 months.

⁴⁶ In a letter dated 11 March 1996, Dr. Nabil A-Jabari, chairperson of the university's Board of Governors, informed **B'Tselem** that the order to close the university was issued before security forces conducted the search.

⁴⁷ Mr. Muhsan gave his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed on 6 March 1996.

8. **The Holy Land Assistance and Salvation Fund** was closed, on 17 March, for 14 days by the Police Force's Jerusalem District, pursuant to an order issued by the OC Home Guard. The order notes that the OC Home Guard is considering issuing a closure order against the site for a period of 12 months. The police seized documents during its raid of the premises.

Closing educational and welfare institutions because they ostensibly identify with Islamic movements, without a judicial finding that the institution has acted illegally, is collective punishment and violates the right of freedom of association and the right to education.

Deportations

Deportation has not been one of the measures used by the government since the beginning of the recent wave of bombing attacks. However, discussions have been held by the government and in governmental legal circles about ordering deportations in the near future. According to reports, a decision has been made, in principle, to order deportations.

According to a newspaper report, on 19 March 1996, the Staff to Combat Suicide-Terror, headed by GSS Director Ami Ayalon, recommended to the Prime Minister the deportation of Palestinians belonging to any of the following groups: Hamas and Islamic Jihad activists in detention; members of the political wing of Hamas; and relatives of those who perpetrated suicide attacks, primarily first-degree family members. The IDF and GSS have already prepared a list of dozens of candidates for deportation. The list includes leaders of the Hamas political wing and other Hamas activists, and also relatives of the suicide-bombers.⁴⁸

At the conclusion of consultations between the security and legal branches, it was determined not to deport women and children, or relatives of suicide-attackers solely because of their family relationship, but only if they were activists themselves. It was also determined that a person could be deported only on the basis of information that his activity endangers state security, and that measures taken against him in the past have already been exhausted. It was also decided that the deportation orders would extend indefinitely.⁴⁹

International law explicitly prohibits deportation of residents from occupied territory. Article 49 of the Fourth Geneva Convention of 1949 stipulates: "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." Israel argues that it may deport Palestinians from the Occupied Territories pursuant to Regulation 112 of the Emergency Defense Regulations, 1945.⁵⁰

⁴⁸ *Ha'aretz*, 20 March 1996.

⁴⁹ See, for example, *Yediot Aharonot*, 21 March 1996.

⁵⁰ See also **B'Tselem**, *Deportation of Palestinians from the Occupied Territories and the Mass Deportation of December 1992* (Jerusalem: June, 1993), p. 30.

Restrictions on Movement

1. Closure

Since 1991, the IDF has imposed, pursuant to governmental decision, curfews on the Occupied Territories in response to acts of violence perpetrated by Palestinians from there.⁵¹ Immediately following the attacks in Jerusalem and Ashkelon on 25 February, the government imposed a total closure on the Occupied Territories. According to media reports, Prime Minister Peres indicated that the closure is intended to pressure Palestinians not to aid terrorism.⁵²

Since Israel perceives East Jerusalem as part of Israel's sovereign territory, the government prohibits movement of Palestinians between East Jerusalem and the Occupied Territories during closures. As regards the separation plan adopted by the government, Foreign Minister Ehud Barak stated, after imposition of the current closure, that the government "placed special emphasis on Jerusalem and on the means to isolate it from Judea and Samaria."⁵³ Beginning on 4 March, security forces placed numerous checkpoints around the city's borders and increased patrols along the city's borders to prevent the entry of West Bank Palestinians into East Jerusalem.

The current closure, hermetic and harsher than previous closures, remains in force. The government has eased the closure in certain ways, which will be described below.

On 4 March, after the second bombing in Jerusalem and the bombing in Tel-Aviv, the government decided to impose additional restrictions on movement of Palestinians in the Occupied Territories. On 5 March, the IDF imposed an internal closure on all 465 cities, towns, and villages of the West Bank. The seven cities controlled by the Palestinian Authority were declared Closed Military Areas.⁵⁴ The 1.2 million residents of the West Bank were prohibited from leaving their communities. 'Al-Haq reported that residents found outside the borders of their towns and villages had been arrested. This unprecedented internal closure continued for 10 days, until 15 March. During this period, the closure was lifted only three times, each time for 12 hours, in order to enable the residents to obtain necessities.

B'Tselem recognizes Israel's right to determine who will enter its territory. However, under international law, Israel is obligated to enable the residents of the Occupied Territories to lead normal lives. This duty includes, *inter alia*, ensuring their right to make a living, to study, to pray, and to obtain necessary medical care.

⁵¹ Israel also customarily imposes closures on Israeli religious and national holidays. For additional information about closures, see **B'Tselem**, *The Closure of the West Bank and Gaza Strip: Human Rights Violations against Residents of the Occupied Territories* (Jerusalem: April, 1993).

⁵² *Ha'aretz*, 18 March 1996.

⁵³ *Yediot Aharonot*, 4 March 1996.

⁵⁴ The internal closure was imposed pursuant to the following military orders, which were issued by OC Central Command, General Ilan Biran: Proclamation in the matter of closure of area (Area C) (Judea and Samaria), 1996; Proclamation in the matter of closure of area (Settled areas in Area C) (Judea and Samaria), 1996.

The prolonged closure on the Occupied Territories and the internal closure imposed on West Bank communities grossly violate the rights of Palestinians in the Occupied Territories and constitute collective punishment of some two million persons. Although closures have frequently been imposed in the past, causing similar problems each time, Israeli authorities have failed to develop fixed procedures to ensure that Palestinians will not be harmed in critical areas like health, economics, and education during closures.

B'Tselem agrees with the international community that East Jerusalem is occupied territory, whose status is identical to the rest of the West Bank.⁵⁵ East Jerusalem is an important center for West Bank Palestinians for health, education, economics, and religion, and many also have relatives living in East Jerusalem. For these reasons, the severance of the city from the rest of the Occupied Territories and the prohibition on Palestinians from the Territories to enter it creates numerous problems.

The closure particularly affects Palestinians from West Bank villages surrounding Jerusalem, who must travel through the city to reach other parts of the West Bank. During a closure, these Palestinians are forbidden to enter the city, and consequently have no alternative but to remain in their communities.

The closure also prevents Palestinians from moving between the Gaza Strip and the West Bank. Prior to the current closure, passage between the areas was very difficult and entailed protracted bureaucratic procedures. Now it is impossible, in stark violation of the interim agreements, which provide that the Gaza Strip and West Bank comprise one territorial entity, and guarantee safe passage between the two areas also during closures.⁵⁶

In addition to preventing Palestinians from moving from one area to another in the Occupied Territories and from entering Israel, the closure also restricts them from going abroad by air since they are unable to reach Ben Gurion airport. Also, residents of Gaza are unable to go to Jordan via the bridges, and West Bank residents cannot go to Egypt via Rafah Crossing.

Israel justifies imposition of the closure on the grounds that it is necessary to ensure the security of its citizens. However, this contention cannot justify the severe distress the closure causes to the entire Palestinian population in critical areas of daily life. The closure also clearly discriminates on the basis of nationality. Even after Baruch Goldstein's massacre of Palestinians at the Cave of the Patriarchs, Israel imposed a closure on the Palestinians, and refrained from restricting the movement of the general population of settlers in the Occupied Territories. The current restrictions on movement also do not apply to Jewish settlers in the West Bank and the Gaza Strip, and they are able to travel freely and enter Israel.

Unlike earlier closures, this time restrictions on movement were also placed on foreign workers of international non-governmental organizations, making it difficult for them to

⁵⁵ See **B'Tselem**, *A Policy of Discrimination: Land Expropriation, Building and Planning in East Jerusalem* (Jerusalem: May, 1995).

⁵⁶ Annex 1, Article IX 1(d) of the Israeli-Palestinian Interim Agreement, "Oslo 2," 28 September 1995.

provide vital medical and welfare services. This was the first time that foreigners were included within a closure imposed by Israel on the Territories.

The authorities also restricted movement of Israeli organizations. **B'Tselem's** fieldworkers, Fuad Abu-Hamed and Bassem 'Eid, had difficulty reaching various locations in the West Bank during the internal closure. For example, Abu-Hamed waited some 90 minutes at the checkpoint into Qalqilya; even though the IDF Spokesperson had informed him that he may pass, the soldiers at the checkpoint refused him entry.

On 17 March, **Physicians for Human Rights** requested permits for its employees to enter Gaza to view the medical situation in the Gaza Strip and to hear first-hand about the immediate needs of the PA's Ministry of Health and the hospitals. Israel rejected the request.

A. *Effects of the closure on health*

Article 56 of the Fourth Geneva Convention, to which Israel is a party, stipulates:

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining... the medical and hospital establishments and services, public health and hygiene in the occupied territory.... Medical personnel of all categories shall be allowed to carry out their duties.⁵⁷

By imposing severe restrictions on the movement of medical personnel and patients residing in the Occupied Territories, Israel violates its obligations under the Geneva Convention.

Difficulty in obtaining medical treatment

Since only basic health services are available in the Gaza Strip, its residents must utilize hospitals in Israel or the West Bank for more advanced treatments. Under normal circumstances, West Bank Palestinians requiring medical treatment or hospitalization go to hospitals located in West Bank cities, in East Jerusalem, or within Israel.

The total closure on the Gaza Strip and the West Bank has made it extremely difficult for ill persons in the Occupied Territories to obtain medical treatment in West Bank cities or in Israel. The authorities allow few patients from the Occupied Territories to leave their towns and villages to receive treatments in Israel or in East Jerusalem. Consequently, all the treatments, examinations, and surgical operations Palestinians had been scheduled to receive in Israel and East Jerusalem were cancelled.

Some 60 cancer patients from the Gaza Strip and West Bank who receive regular chemotherapy treatments in Israel are unable to receive these treatments because of the

⁵⁷ Article 20 of the Convention also relates to medical personnel, and obligates the contracting parties to respect and protect them.

closure. The case is the same for children with kidney problems who had been receiving regular dialysis treatments in Israel because the necessary equipment was not available in hospitals in the Occupied Territories.

On 17 March 1996, Dr. 'Omar Trawiye, Director General of the Palestinian Authority's Ministry of Health, informed **Physicians for Human Rights** that Israel conditioned issuance of entry permits to cancer patients from Gaza on their being hospitalized as a group for two weeks at an Israeli hospital. This condition prevents treatment of the patients who can pay NIS 120 for each radiation treatment but are unable to pay the daily hospitalization rate of NIS 1,470 for the two week period.

Physicians for Human Rights reported that it had received numerous requests for assistance in obtaining entry permits into Israel for seriously ill patients after their applications had been rejected by the Israeli side of the Coordination and Liaison Office (Liaison Office) in Gaza. In other instances, Israel rejected the requests of Gaza Palestinians to go to Jordan for medical treatment. Some of them received permits following the intensive and prolonged efforts of **Physicians for Human Rights**, but most are still prevented from receiving appropriate medical treatment. In the first three weeks of the closure, 98 sick Gaza residents wanting to receive treatment in West Bank or Israeli hospitals, among them heart patients, cancer patients, and children, submitted applications for entry permits. Only eight applications were approved.⁵⁸ In some of these cases, the applicants received entry permits only after **Physicians for Human Rights** intervened following initial denial of the application.

To obtain permits to leave the autonomous areas for Israel, patients must apply to the Palestinian side of the Liaison Office, which forwards the application to the Israeli side and receives its response. According to **Physicians for Human Rights**, the procedure is defective and problematic since no clear or binding definitions exist for emergency cases; the response is only given verbally and consequently, the physician who makes the decision for the Israelis does not sign it and bears no responsibility for the decision; and no appeal to another entity is available.

On the other hand, this past month, Israeli security officials have complained that the Palestinian Authority exacerbates the health situation by not taking the necessary technical measures to enable sick persons to exit the Gaza Strip, and for medications to enter from Israel. **B'Tselem** maintains that even assuming the truth of this contention, Israel remains responsible for the problems it is creating.

Following the internal closure of the West Bank for 10 days, it was difficult for patients to reach hospitals and clinics located outside their communities. For example, dialysis patients, who normally were treated at a hospital in Nablus, Ramallah, Gaza, or Khan Yunis, were unable to receive their treatments unless they lived in those cities. Human rights

⁵⁸ The data were provided to Physicians for Human Rights by Dr. Munthir A-Sharif, the PA's Deputy Minister of Health, on 14 March 1996.

organizations have reported that kidney patients and many other patients were stopped at checkpoints while on their way to receive treatment.⁵⁹

Dr. Fathallah Mahmud 'Ayash, the sole physician in Rafat village, stated in his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed that soldiers forced patients he had referred to the hospital to return, and that the closure led to a shortage of medications in the village. Dr. 'Ayash noted that this situation was life threatening for the patients.⁶⁰

Dr. Rabah Muhana, chairperson of the **Union of Palestinian Medical Relief Committees**, added that ambulances and emergency vehicles had difficulties transporting patients from one area to another in the West Bank.

Restriction on movement of patients to East Jerusalem

Makassed Hospital, in East Jerusalem, is the largest and most advanced medical center in the Occupied Territories, and provides medical services that are unavailable in any other medical facility in the Occupied Territories. It serves thousands of Palestinians from throughout the Occupied Territories each month, two-thirds of whom do not reside in Jerusalem. Other hospitals in East Jerusalem, among them Augusta Victoria Hospital and St. John's Ophthalmic Hospital, provide unique medical services for Palestinian residents of the Occupied Territories.

The closure prevents residents of the West Bank and Gaza from obtaining access to vital medical services in East Jerusalem. The spokesperson of Makassed Hospital stated in early March that 220 of the hospital's 264 beds were empty since sick Palestinians from the Occupied Territories had not been allowed to enter Jerusalem.

Cases of death

Khadijah Muhammad 'Idwan, aged 54, from Beit Hanun in the Gaza Strip, a cancer patient, died on 27 February 1996 shortly after arriving at Asaf Harofe Hospital in Israel following a delay of hours at Erez Checkpoint. She had been forced to wait two days to obtain the approval of the Israeli authorities.⁶¹

Muhammad 'Awad 'Ali Khawalda, a two-year-old infant from Khan Yunis who suffered liver disease, died on 29 February at Nasser Hospital, in Khan Yunis, after a request to transfer him urgently to Makassed Hospital, in East Jerusalem, was not approved.⁶²

⁵⁹ See, for example, the press release of **'Al-Haq** of 14 March 1996.

⁶⁰ Dr. Fathallah 'Ayash gave his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed on 2 May 1996.

⁶¹ **Physicians for Human Rights**, which was involved in the case, provided details of the incident to **B'Tselem**.

⁶² **Physicians for Human Rights**, which was involved in the case, provided details of the incident to **B'Tselem**.

Ahmad Muhammad Hasan Za'nun, aged 32, from Rafah, who suffered from heart problems, died on 3 March at Nasser Hospital, in Khan Yunis, after requests to transfer him to an Israeli hospital for emergency treatment were not approved.⁶³

Shaker Bassem Yusuf Sha'awneh, a 3-week-old infant from Qalqilya, died on 10 March at the hospital in Tulkarem following prolonged delay in reaching the hospital from Qalqilya. Following an IDF investigation, it was recommended that disciplinary charges, for failure to hasten the procedure of allowing the infant to move between towns, be brought against the deputy commander of the Israeli Liaison Office.⁶⁴

Salma 'Alayan, aged 80, from the Sheikh Sa'ad neighborhood, Bethlehem District, died on 10 March, a few days after her request to enter Jerusalem to obtain vital medical treatment recommended by her physician was refused.⁶⁵

Newborn twins of **Hanan Khalil Zayid**, aged 24, from Nahalin village, died shortly after birth on the morning of 11 March 1996. Hanan Zayid gave birth while waiting more than an hour at the IDF checkpoint, where the soldiers refused to allow her to go to the hospital in Bethlehem.

Mustafa 'Abd Al-Wahed Thabet, aged 54, from Shukba village, west of Ramallah, suffered a heart attack while standing at an IDF checkpoint, and died while waiting 45 minutes for an ambulance the soldiers had summoned. While waiting, the soldiers refused to allow 'Ali Thabet, Mustafa Thabat's son, to take his father to the hospital in his, 'Ali's, car.⁶⁶

The newborn child of **Jamila Al-Khadur**, aged 43, from Bani Na'im village, Hebron District, died on 15 March, several hours after birth. Jamila Al-Khadur gave birth at home after the soldiers at the checkpoint leading into Hebron refused to let her pass to go to the hospital.⁶⁷

⁶³ **Physicians for Human Rights**, which was involved in the case, provided details of the incident to **B'Tselem**.

⁶⁴ *Ha'aretz*, 13 March 1996.

⁶⁵ Khalil 'Abdallah 'Ali, Salma 'Alayan's daughter, provided details concerning her mother's death to **B'Tselem** fieldworker Fuad Abu-Hamed on 17 March 1996.

⁶⁶ For a detailed description of the last two incidents, see below at page ??.

⁶⁷ Jamila Al-Khadur, the mother, and the newborn's father, Yusuf Dahar Al-Khadur, gave their testimonies to **B'Tselem** fieldworker Fuad Abu-Hamed on 8 May 1996.

***Circumstances of the death of the newborn
twins of Hanan Zayid, on 11 March 1996***

On the morning of 11 March 1996, Hanan Khalil Zayid was on her way to the Holy Family Hospital in Bethlehem, where she intended to give birth. She went with her husband, 'Omar Zayid, and his parents in the car of her brother-in-law, Bassem Zayid. The Israeli authorities had declared that the internal closure would be lifted on that day for 12 hours, starting at 6:00 a.m.

The car reached the IDF checkpoint at the entrance to Husan village at 6:05 a.m., and they were requested to wait for a permit to cross. At 6:10 a.m., Hanan gave birth to the first child, and in spite of the pleas of her husband and father-in-law, the soldiers prohibited them from crossing. They also refused to call for an ambulance, or to allow her to switch to a car with Israeli license plates, which had arrived at the checkpoint, nor did they allow the family to return to the village so they could go via an alternative route.

In her testimony to **B'Tselem**, Hanan Zayid stated: "From time to time the soldiers approached the car, looked at me, and laughed. My husband told them that I am pregnant with twins, and that another newborn was due. But they refused and made us wait on and on." Around 6:45 a.m., the second child was born. Hanan Zayid stated in her testimony: "The delivery was very difficult. I gave birth on the car seat, with little room.... Everyone was in the car because the soldiers did not let them get out." She stated that both children were born alive.

At 7:15 a.m., the soldiers still adamant in their refusal, the brother-in-law decided to cross the checkpoint without permission. When Hanan reached the hospital at 7:30, the physician who examined her newborn infants pronounced them dead. The physician added that if she had arrived much later, her own life would have been endangered because she was bleeding profusely. Her husband noted that the periodic tests Hanan had undergone during her pregnancy showed that her pregnancy had been normal.⁶⁸

When notified of the incident, senior officers of IDF Central Command ordered a comprehensive investigation. The media reported that the IDF's initial review indicated that one of the infants had died at home, and only afterwards did the pregnant woman arrive at the checkpoint. The media also reported that soldiers at checkpoints had been directed to be sensitive when handling similar cases in the future.⁶⁹

⁶⁸ The testimony of Hanan Zayid was given to **B'Tselem** fieldworker Fuad Abu-Hamed on 7 May 1996. Details of the incident were also taken from the testimonies of 'Omar Muhammad Salem Zayid, Hana Zayid's husband, and Bassem Muhammad Salem Zayid, her brother-in-law, which were given to **B'Tselem** fieldworker Fuad Abu-Hamed on 17 March 1996.

⁶⁹ *Ha'aretz*, 13 March 1996.

Circumstances of the death of Mustafa Thabet, on 13 March 1996

The son of Mustafa Thabet, 'Ali Mustafa Thabet, stated the circumstances of his father's death to **B'Tselem's** fieldworker Fuad Abu-Hamed. According to the son, he had traveled with his father that morning to the intersection near Rantis village, where they were to meet a Jewish contractor for whom they had brought goods. A policeman in a passing vehicle asked them to follow the police car to the Rantis checkpoint, where the soldiers took their identity cards and searched their vehicle thoroughly.

"My father began to get nervous and took a pill to control his blood pressure. I repeated my request that they return his passport and release him because he did not feel well. They refused, and 15 minutes later my father collapsed alongside the car and lost consciousness. I requested the soldiers to call for an ambulance. One of the soldiers summoned an ambulance via the army's transmitter, and I heard the officer on the other end ask whether the person was a Jew or an Arab. The soldier answered "Arab"... A half-an-hour later I asked where the ambulance was. There is an ambulance in the Jewish settlement of Beit Ariyeh, about 3 kilometers away. I asked if I could take my father by car to the hospital, but they did not let me, saying the ambulance would arrive. But it took the ambulance 45 minutes to get there from the settlement... The ambulance staff treated my father for ten minutes, but it was too late and they couldn't save him. They pronounced him dead..."⁷⁰

Difficulties in visiting hospitalized relatives

Israeli authorities have also made it difficult for residents to obtain entry permits to Israel and East Jerusalem to visit their sick relatives hospitalized there, even those who are critically ill. For example, the Coordinator of Government Activities in the Territories refused to allow William Terazi, a resident of Gaza, to visit his wife, Georgia Terazi, a resident of East Jerusalem, and their newborn son born on 5 March 1996 by Caesarean section at Makassed Hospital, in East Jerusalem, although the child was in critical condition.⁷¹

Nine year-old Iman Yusuf Karaje, from Safa village, Ramallah District, has been hospitalized at Allyn Hospital, in Jerusalem, since November, 1995 for brain damage. She recently contracted pneumonia, and her condition was deteriorating so rapidly that her physicians believed she was close to death. When Iman's father requested permission to visit her, the IDF refused to issue him a permit to enter Israel. After the **Association for Civil Rights in Israel** intervened, the authorities approved the request.

Restriction on movement of medical personnel

West Bank

⁷⁰ 'Ali Mustafa 'Abd Al-Wahed Thabet gave his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed on 15 March 1996.

⁷¹ **Physicians for Human Rights**, which handled the case, provided details of the incident to **B'Tselem**.

The closure imposed on the Gaza Strip and West Bank prevents medical personnel from moving between the two areas, and during internal closure, movement between communities in the West Bank is also prohibited. These restrictions cause a severe shortage of physicians, nurses, and other personnel in hospitals and clinics throughout the West Bank. According to Dr. Ri'ad Za'nun, PA Minister of Health, during the internal closure, 318 physicians and 705 nurses, technicians, and administrative employees, constituting 60% of the employees of the Palestinian health system in the West Bank, were absent from their jobs. Their absence severely affected various West Bank medical facilities.⁷²

On 14 March, 'Al-Haq reported a shortage of medical personnel at various West Bank locations: most intensive care units in hospitals in Nablus were understaffed; 'Alia Hospital, in Hebron, requested authorization from the Israeli authorities for 100 medical personnel to accompany ambulances, but only five were approved; surgeons and nurses could not get to the hospital in Bethlehem; the PA's Health Department in Hebron reported a severe shortage of medical personnel in village clinics near the city and at the department's head office in Hebron.

Clinics in other areas of the West Bank were closed because of the internal closure. According to Dr. Za'nun, 245 of the clinics in the West Bank did not operate during the internal closure because of the absence of 367 nurses and 56 pharmacists, technicians and laboratory personnel.

East Jerusalem

Every time Israel imposes a closure on the Occupied Territories, medical personnel from the Occupied Territories with jobs at hospitals in East Jerusalem have difficulty reaching work. Five years ago, the High Court of Justice recommended that "the Civil Administration issue comprehensive and specific directives, which will be publicized, concerning movement of physicians and sick persons during curfew" and that "the said procedure serve as a standing order for soldiers stationed at checkpoints..."⁷³

No such procedure has yet been published. In the past, the Israeli authorities provided, following intervention of human rights organizations, entry permits to East Jerusalem for medical personnel several days after imposition of the closure. In the current closure, the authorities did not allow medical personnel to enter East Jerusalem for weeks. As opposed to the situation elsewhere in the West Bank, the problem in East Jerusalem continues even after Israel lifted the internal closure on West Bank Palestinians.

Some 400 medical personnel of Makassed Hospital who live in the West Bank outside of Jerusalem could not get to work. This number constitutes 65% of the hospital's medical staff, and includes department heads and senior physicians, whose absence paralyzes hospital medical services. The hospital had to operate for weeks without a cardiologist, an internist, or a surgeon. The premature births department and the pediatrics department operated with one-half of the necessary medical and nursing

⁷² See, for example, *Davar Rishon*, 14 March 1996.

⁷³ HCJ 477/91, *Israeli-Palestinian Physicians for Human Rights vs. Minister of Defense*, Piskei Din 45(2), 837. The judgment was given on 24 April 1991.

staffs.⁷⁴ Medical personnel from the West Bank also have difficulty in reaching other hospitals in East Jerusalem. Hospital directors contend that hospital activity has declined by 75% since imposition of the closure.⁷⁵ The lack of staff forced Augusta Victoria Hospital to close the pediatrics department and the premature births department.

Under these circumstances, the hospitals in Jerusalem have been unable to provide proper treatment, endangering patients' health. For example, Na'im Basa, a heart patient, has been hospitalized in the cardiology department of Makassed Hospital since the beginning of the closure. It was crucial that he receive a pacemaker immediately, but because no cardiologist was available, he waited 16 days until a volunteer cardiologist from Bikur Cholim hospital, in West Jerusalem, performed the operation.

Physicians for Human Rights contacted the Israeli authorities to obtain entry permits into Jerusalem for at least some medical personnel. In response to their requests, the assistant to the Coordinator of Government Activities in the Occupied Territories, Lt. Colonel Shmuel Ozenboi, stated, in his letter to the organization on 12 March, that entry of Palestinian physicians to Israel and to East Jerusalem was prohibited. Even after the hospital submitted a shortened list of medical personnel for whom it requested entry permits, the Civil Administration refused to grant entry to any of those on the list.

On 18 March, Makassed Hospital, together with **Physicians for Human Rights** and the **Association for Civil Rights in Israel**, petitioned the High Court of Justice to overrule the prohibition imposed on its medical personnel who live in the West Bank or the Gaza Strip from reaching their place of work.⁷⁶

On 20 March, following the petition, 250 physicians and nurses were allowed entry to hospitals in East Jerusalem for one month. It was agreed that if the quota is not increased, the petitioners may petition the High Court of Justice.

During the hearing on this case, the HCJ issued an order *nisi* directing the state to prepare, within 45 days, a permanent procedure that would allow freedom of movement during a closure to medical personnel residing in the Occupied Territories, and enable them to enter East Jerusalem to work at hospitals there.

The office of the IDF Spokesperson notified **B'Tselem** in early April that on 29 March, permits to enter East Jerusalem had been issued to 181 medical personnel of three East Jerusalem hospitals. The permits are valid for one month, and may be renewed following a check. According to **Physicians for Human Rights**, these

⁷⁴ Dr. Salem Abu Ramilah, deputy director of Makassed Hospital, described the hospital's situation in the affidavit he gave to attorney Eliahu Abram, of the **Association for Civil Rights in Israel**, on 12 March 1996.

⁷⁵ The figure was stated in a letter sent, on 27 March 1996, to Prime Minister Shimon Peres by the directors of Makassed, Augusta Victoria, St. John, and St. Joseph hospitals, and the Red Crescent Mother's Hospital.

⁷⁶ HCJ 2054/96, *The Islamic Charitable Association Makassed et al vs. Commander of IDF Forces in Judea and Samaria and the Gaza Strip*.

permits will not significantly rectify the severe personnel shortage in hospitals in East Jerusalem, or reduce the ensuing problems in operating these hospitals.

Shortage of medical equipment, medications, and food products

Article 55 of the Fourth Geneva Convention, to which Israel is a contracting party, stipulates:

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

In hampering shipments of food and medications to the Occupied Territories, Israel violates its obligations under the above article.

Shortage of medical equipment and medications

Upon imposition of the closure, Israel forbade the movement of medical equipment and medications from Israel to the Gaza Strip and West Bank. Within days, hospitals, clinics and pharmacies in the Occupied Territories felt the shortage of medical equipment and medications routinely brought from, or through, Israel. Human rights organizations reported that several clinics were forced to close because of the lack of medications.⁷⁷

On 12 March, Dr. Za'nun, PA Minister of Health, informed Physicians for Human Rights that there was a shortage of Ventolin, medications to control blood pressure, and certain antibiotics. Her deputy, Dr. Munthir Sharif, told **Physicians for Human Rights** on 14 March that Palestinian drug companies have difficulty manufacturing the normal amount of drugs because their employees have problems getting to work. In addition, the companies had difficulties distributing the drugs because of the internal closure in the West Bank.

At hospitals in Gaza and the West Bank, oxygen balloons and sterile water for operating rooms were in insufficient supply. Only on 7 March, 10 days after request was made, did the Israeli authorities allow shipment of these items from Israel to the Occupied Territories. An entry permit for a truck containing surgical thread for Gaza Strip hospitals was given on 13 March, four days after the request of the PA's Ministry of Health. In the above two instances, the Israeli authorities allowed entry of the shipments only following the intervention of **Physicians for Human Rights** and MK Yael Dayan. Officials at the Liaison Office informed **Physicians for Human Rights** that medical equipment manufactured in the West Bank could be brought to Gaza only in Israeli vehicles driven by Israelis.

Israel prevented the PA from bringing a million doses of anti-polio vaccine, which the PA Ministry of Health had purchased from Israel, into the Gaza Strip and West Bank.

⁷⁷ As stated, for example, in the press release of **Land and Water Establishment**, 13 March 1996.

This prohibition interrupted the vaccination program that had begun in cooperation with Israel and for which children in villages throughout the Occupied Territories had waited for weeks. Only at the end of March was approval received to bring the vaccine into the West Bank and the Gaza Strip.

On 12 March, after three weeks of total closure, Israel developed procedures to enable, upon the request of the PA, movement of medications from Israel through Erez Checkpoint. The procedures were set forth in a directive of General Oren Shahor, Coordinator of Government Activities in the Occupied Territories. In spite of this, human rights organizations operating in the Gaza Strip report that Israel continues to delay movement of vital medical supplies to hospitals: **The Palestinian Center for Human Rights** reported, on 18 March, the shortage of antibiotics, ventolin, and foodstuffs for children in Gaza Strip hospitals; 'Issa Al-Qara', UNRWA spokesperson in the Gaza Strip, told **B'Tselem**, in a telephone conversation on 20 March, that medications to lower blood pressure continue to be in short supply.

Impeding movement of foodstuffs to the Occupied Territories

On 25 February, following the attacks in Jerusalem and Ashkelon, Israel hermetically closed Karni Crossing, through which goods move to and from the Gaza Strip. The authorities opened the crossing on 29 February, but closed it again on 5 March after learning that the perpetrator of the attack in Tel-Aviv had crossed through it into Israel.

In normal circumstances, most fresh food products reach the Gaza Strip through Karni Crossing, and goods leaving the Gaza Strip, mostly agricultural produce, also pass through this crossing. Some 8,000 tons of flour are brought into the Gaza Strip each month. Several days after the crossing's closing, human rights organizations in Gaza began to report a shortage of basic foodstuffs like flour, sugar, cooking oil, and dairy products, and a drastic increase in the price of food caused by decreased supply.

On 8 March, Israel imposed a sea closure of one week on the Gaza Strip, prohibiting thousands of fishermen from going out to sea to fish. Severe restrictions remain on fishing along the Gaza Strip's coast.⁷⁸ The sea closure and restrictions that followed created a drastic fall in the supply of fish, an important part of the local residents' diet.

Palestinian human rights organizations reported that in the West Bank, too, there was a shortage of basic foodstuffs and fuel during the internal closure. The shortage resulted from difficulties in transporting goods from one town to another. Palestinian farmers in the Jordan Valley, for example, were forbidden to market their produce in West Bank cities during the internal closure, and had to destroy their crops. Dr. Fathallah Mahmud 'Ayash, from Rafat village, stated in his testimony to **B'Tselem** fieldworker Fuad Abu-Hamed that the closure on the village created a major food shortage, primarily of fruits, vegetables, and dairy products.

⁷⁸ Article XIV 1a(2) of Annex I to the "Oslo 2" interim agreement, dated 28 September 1995, restricts fishing in the Gaza Strip to a distance of 20 miles from the shoreline. Since 14 March 1996, the fishermen have been allowed to go only 6 miles from the shoreline, and those who violate the prohibition are subject to arrest.

The closure affects the Gaza Strip more than the West Bank since economic conditions are worse in the Gaza Strip to begin with. On 10 March, General Oren Shahor, Coordinator of Government Activities in the Occupied Territories, stated that "the condition of residents of the Gaza Strip has worsened, and they are on the brink of starvation."⁷⁹

Following reports on the shortage of food products in the Gaza Strip, Israel began, on 12 March, to relax the closure as regards entry of goods. That same day, Israel allowed 30 trucks carrying foodstuffs from Egypt to enter via Rafah Crossing. On 13 March, Israel opened Karni Crossing for several hours to allow entry of food into the Gaza Strip, during which time 17 trucks brought basic foodstuffs and grain for animals. A similar amount was allowed the following day. Since 17 March, when some 20 trucks loaded with basic foodstuffs crossed, Israel has allowed a limited amount of goods to pass from Israel to the Gaza Strip.

On 18 March, the Israeli authorities allowed Palestinian trucks, when accompanied by an IDF vehicle, to exit the Gaza Strip to transport to Ashdod goods intended for export, and to bring in goods imported from abroad that have been lying at the port for some two weeks. Since 19 March, through coordination between Israeli merchants, Palestinians, and the Liaison Office, raw materials and goods from Israel have been allowed to enter the Gaza Strip via Erez and Karni Crossings. Israel has not yet approved the entry of commodities previously purchased by Palestinians, including foodstuffs, beverages, and medications, which are waiting in warehouses at Erez Crossing.

At a press conference on 28 March in Gaza, senior PA officials claimed that in spite of statements about an easing of the closure, supplies of basic commodities into the Gaza Strip have been insufficient.⁸⁰

B. *Effect of the closure on sources of income*

Following many years in which Israel prevented the development of an independent economy in the Occupied Territories, the economy there is almost totally dependent on relations with Israel. The underlying principle of the Oslo Accords in economic matters is that the area is viewed as one economic market comprised of Israel and the Occupied Territories, with normal movement of goods and workers.⁸¹ Refusing to allow this movement during closures harshly affects the economy of the Occupied Territories and the employment of Palestinians residing there.

Tens of thousands of families in the Occupied Territories depend for their sustenance on a family member working in Israel, in the Erez industrial area in the north of the

⁷⁹ *Ha'aretz*, 11 March 1996.

⁸⁰ *Ha'aretz*, 29 March 1996.

⁸¹ These matters are mentioned in the Protocol on Economic Relations in the "Oslo 2" interim agreement, dated 28 September 1995. Article VII(1) of the Protocol obligates the sides to attempt to maintain the normality of movement of labor between the Occupied Territories and Israel; Article IX(1) guarantees free movement of industrial goods.

Gaza Strip, or in Jewish settlements.⁸² Because of the closure, Palestinian workers cannot reach their place of work in Israel or in Erez. On 5 March, an order was issued prohibiting Palestinians from entering Jewish settlements on the West Bank.⁸³

Many Palestinians who do not receive permits to enter Israel and have difficulty finding employment in the Occupied Territories enter Israel illegally to earn a living and support their families.⁸⁴ After the closure was imposed, the police conducted a widescale operation to locate Palestinian workers staying in Israel without permits. According to the Inspector General of the Israel Police Force, as of 6 March, 510 workers from the Occupied Territories had been arrested for being in Israel without a permit.⁸⁵ Many of them were tried and sentenced to prison for two to nine months, and were fined between NIS 500 - NIS 15,000, an extremely high sum considering average earnings in the Occupied Territories.

Many Palestinians who work in the Occupied Territories in industry or construction are without work because of the shortage of raw materials, whose entry from Israel is prohibited. Palestinian human rights organizations estimate there are tens of thousands of Palestinians from the Gaza Strip and the West Bank in this category.

With the imposition of the sea closure on the Gaza Strip on 8 March, thousands of fishermen in the Gaza Strip lost their source of income. Even following partial lifting of the sea closure on 14 March, severe restrictions on fishing that damage the livelihood of fishermen remain.⁸⁶

The closure also harms workers in other sectors of the economy. Prior to the closure, daily exports from the Gaza Strip to Israel totaled thousands of tons of fruits and vegetables, and millions of flowers. These goods were intended in part for the Israeli market, some for markets in the West Bank, and some for exports abroad. The closing of Karni Crossing prevents Gaza Strip farmers from marketing their produce, causes fruits, vegetables, and flowers to rot in crates and warehouses, and leads to enormous financial loss for Palestinian farmers, exporters, and retail merchants.

The internal closure in the West Bank also increased unemployment there: many workers could not get to their jobs, thousands of farmers were prevented from getting to their fields, and thousands of truck and cab drivers found themselves without work. Many shopkeepers could not reach their shops. The head of the Jenin Chamber of Commerce reported in early March that some 90% of the stores in the city were closed because their owners were unable to reach the city.⁸⁷

The inability of Palestinians to work caused a drastic increase in the rate of unemployment in the Occupied Territories. According to media reports, on 22 March,

⁸² According to the figures of **Worker's Hotline**, an organization dealing with the rights of workers, on the eve of the closure, Israel had granted some 58,000 permits for Palestinians to work in Israel.

⁸³ Proclamation on the Closing of Areas (Israeli Settlements) (Judea and Samaria), 1996.

⁸⁴ Worker's Hotline estimates some 40,000 Palestinians are working in Israel without a permit.

⁸⁵ *Ha'aretz*, 7 March 1996.

⁸⁶ See above at pages 31.-32.

⁸⁷ Reported in '**Al-Haq**'s press release, 7 March 1996.

the PA's Minister of Labor, Dr. Samir Ghosheh, stated at a meeting of the Palestinian Cabinet that unemployment among Palestinians in the Occupied Territories had reached 78% of the work force.⁸⁸ Estimates of other authorities and human rights organizations were similar.⁸⁹

The high rate of unemployment has led to a substantial loss of income for many families. Human rights organizations operating in the Gaza Strip report an increase in the number of families who do not have enough money to buy food, and it is feared that numerous families who lost their livelihood have been forced to adopt an unbalanced diet, based primarily on bread. The major concern is for the infants suffering malnutrition as a result of the lack of variety in their diet.⁹⁰

Beginning on 17 March, the closure was eased, allowing a certain number of Palestinians to return to their jobs. On that day, Israel allowed some 2,000 Palestinians from the Gaza Strip to go to their jobs at industrial sites in the Erez Strip and in Jewish settlements in the West Bank, and in the agricultural areas of Area B in the West Bank.

On 19 March, Palestinians aged 30 and over working for Israeli employers were allowed to enter the Erez industrial area. Only 400 persons met this criterion, some 20% of all the workers who had worked there prior to the closure. The day after a meeting of IDF officers with the entrepreneur's committee of the Erez industrial area, the IDF allowed an additional 90 workers aged 30 and above, and also allowed the factories to work on shifts. On 24 March, the government decided to allow Palestinians holding work permits from the Civil Administration to work in Jewish settlements in the West Bank. The number of permits issued was not mentioned.

The recent easing of restrictions on the exit of goods from the Gaza Strip, and the entry of raw materials into it, have assisted Palestinians working in agriculture, commerce, and manufacture. Since 18 March, Israel has permitted, subject to the ability of IDF soldiers to inspect them, Palestinian trucks to leave the Gaza Strip to transport commodities to Ashdod port for export. Israel has also allowed flowers intended for export, and textile goods intended for Israeli merchants, to leave the Gaza Strip. Since 19 March, the authorities have allowed raw materials and goods from Israel to enter the Strip through Erez and Karni crossings upon prior coordination with the Israeli merchants, the Palestinians, and the Liaison Office.

At a press conference held in Gaza on 28 March, senior PA officials claimed that despite declarations on easing the closure, Israel allows insufficient amounts of raw materials for the textile industry to cross, and workers in this sector remain without work. Mahmud Abu Samra, Director General of the PA's Ministry of Agriculture, noted that the situation is comparable in agriculture; permits to export from Gaza have

⁸⁸ *Yediot Aharonot*, 25 March 1996.

⁸⁹ According to the 11 March 1996 estimate of **Land and Water Establishment**, unemployment fluctuated between 70%-85%. On 12 March, the Coordinating Committee for International NGO's reported a similar estimate of the rate of unemployment.

⁹⁰ Research of the French organization **Land of People**, which operates in the Occupied Territories to improve children's health and the diet of children and mothers, shows that some 15% of children under 5 in the Gaza Strip suffer from malnutrition. The research findings were published in *Ha'aretz* on 19 February 1996.

only been granted for some 10% of the agricultural produce that had been exported prior to the closure.⁹¹

As a result of the closure, numerous Palestinian workers, who support hundreds of thousands of persons, continue to be denied sources of income without being offered alternative sources. This denial violates Israel's obligation to respect the right of every person to work, and to ensure the livelihood of Palestinians residing in the Occupied Territories, which the government thwarts by not allowing them to reach their workplace. Article 39 of the Fourth Geneva Convention of 1949 stipulates:

Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.

In addition, under the provisions of Article 6(1) of the International Covenant on Economic, Social and Cultural Rights, Israel is obligated to respect the right of every person to work.

In spite of these obligations as a party to these conventions, Israel has refused to compensate directly Palestinians for their loss of income due to the closure. Israel's Minister of Finance, Avraham Shochat, stated that the international community, and not Israel, must provide the monies to Palestinians who suffer because of the closure.⁹² At the meeting of the government on 17 March, Prime Minister Shimon Peres indicated that an international fund of \$150 million would be raised to create alternative jobs for 20,000 Palestinians from the Gaza Strip who worked in Israel prior to the closure. Peres added that Israel would contribute to the fund.

B'Tselem maintains that under international law, Israel is obligated to supply immediately alternative sources of income for Palestinians who lost income as a result of the closure. Israel is also obligated to provide unemployment benefits to many Palestinian workers who paid into Israel's National Insurance Institute. Palestinian workers are currently not entitled to unemployment compensation since the NII Law grants social benefits rights only to Israeli residents.

C. *Effects of the closure on education*

The external and internal closures disrupted studies at many schools in East Jerusalem and Ramallah because many of the teachers live elsewhere in the West Bank, and the closures prevented them from coming to work.⁹³ Consequently, schools have to combine classes, harming the routine and quality of education.

According to media reports, Walid Zagher, Director General of the PA's Ministry of Education, stated that more than 50% of the teachers in the Occupied Territories did

⁹¹ *Ha'aretz*, 29 March 1996.

⁹² *Ha'aretz*, 28 February 1996.

⁹³ Sami Imsha'sha', UNRWA spokesperson, provided the information to **B'Tselem** by telephone on 13 March 1996.

not come to work because of the internal closure, and that 71,000 students could not reach their schools.⁹⁴

At the elementary school in Sur Baher, which lies within the municipal borders of Jerusalem, for example, only 6 of its 22 teachers arrive each day. The students' studies are sharply curtailed, and many school activities have been cancelled.⁹⁵

Lifting of the internal closure in the middle of March reduced the problems faced by the educational system in the West Bank. In Jerusalem, unlike the rest of the West Bank, severe problems in education remained after Israel lifted the internal closure.

The harsh restrictions on movement also affected higher education in the Occupied Territories, and resulted in the suspension of studies of tens of thousands of students in the West Bank. Bethlehem University, A-Najah University, in Nablus, and Bir Zeit University, north of Ramallah, closed during the internal closure because many students and teachers were absent. In addition, Hebron University and several colleges in the West Bank closed their doors pursuant to military orders.⁹⁶

OC Central Command, General Ilan Biran, issued an order on 11 March directing all students from the Gaza Strip studying at universities and colleges in the West Bank to return to their homes. The order stipulates that the students must appear at the District Liaison Offices to be transported to the Gaza Strip, and that it is illegal for them to remain in the West Bank. More than 700 students are involved. An additional 500 students from Gaza who study in the West Bank did not get to their universities and colleges because they had been in Gaza for the Muslim holiday Eid Al-Fitr, and the Israeli authorities did not allow them to leave Gaza once the closure had begun.

At dawn on 28 March 1996, the IDF raided the town of Bir Zeit and adjoining villages, and arrested 376 Palestinians. The **Palestinian Center for Human Rights** reported that 280 of those detained were students at Bir Zeit University. University authorities stated that the IDF arrested some 10% of the student-body in this raid.⁹⁷

The measures Israel took, which severely affected student studies in the Occupied Territories, violates the right to education, which Israel must protect under international law. Article 13(1) of the International Covenant for Economic, Social and Cultural Rights, to which Israel is a party, stipulates the right of everyone to an education.

2. CURFEWS ON TOWNS AND VILLAGES

On 3 March, the government decided to take measures against communities of perpetrators of attacks and those who sent them on their missions. The next day, the authorities placed a curfew on Al-Fawar refugee camp, where Majdi Abu-Wardah and

⁹⁴ *Jerusalem Times*, 15 March 1996.

⁹⁵ The details were provided by Fatmah Mahmud Amira, principal of the Sur Baher school, to **B'Tselem** fieldworker Fuad Abu-Hamed on 12 March 1996.

⁹⁶ See above, at page 17.

⁹⁷ See above at page 12.

Ibrahim A-Sarahneh, to whom the security forces attribute the attacks in Jerusalem and Ashkelon on 25 February, had lived. The camp's residents were not allowed to leave their homes. According to media reports, the commander of the area where the refugee camp is located stated that "very harsh sanctions to be seen and feared will be taken against residents of the village. Sanctions will be taken both in the civil and military sectors, and in restrictions on movement."⁹⁸

On 5 March, the authorities placed a curfew on Burqa village, Nablus District, where Ra'ed Sharnubey, whom the security forces attribute the attack in Jerusalem two days earlier, had lived.

When imposing the curfews on each of the villages, the IDF ordered all the males aged 15-70 to assemble in the central square, where security forces checked their documents and questioned them. At the same time, security forces searched homes. The IDF detained scores of young men in each village during the first days of the curfew. The media quoted OC Central Command, General Biran: "We have detained for questioning all the men in Al-Fawar and Burqa villages. The men were assembled and sorted out... We will do this, mercilessly, in each town and village where we suspect terrorists are located."⁹⁹

The curfew on the two villages lasted 10 days, excluding several hours in which it was suspended to enable the residents to obtain food. On 15 March, Israel lifted the curfew, but the villages continue to be under closure; their residents are forbidden to leave their villages, and large numbers of soldiers are deployed among them.

Because of the prolonged isolation of the villages, food has become increasingly scarce. During a visit to Burqa by **B'Tselem** fieldworker Fuad Abu-Hamed during the curfew, Jamal Tawfiq Haji, a village resident, told him that because of the curfew, some food products are in short supply, and when the curfew was temporarily lifted, it became clear that the stock of food supplies in the shops was running out.¹⁰⁰

⁹⁸ *Ha'aretz*, 5 March 1996.

⁹⁹ *Ha'aretz*, 6 March 1996.

¹⁰⁰ From the testimony of Jamal Tawfiq Muhammad Haji to **B'Tselem** fieldworker Fuad Abu-Hamed on 15 March 1996.

CONCLUSIONS AND RECOMMENDATIONS

Following the wave of attacks in Israel in February and March, 1996, over the past month Israel has taken several measures that grossly violate basic human rights of the Palestinian population in the Occupied Territories. These measures include severe restrictions on freedom of movement, demolition of the homes of families of those who perpetrated the attacks and arrest of family members, closure of educational institutions, and widescale administrative detentions.

The prolonged and total closure on the Occupied Territories has caused severe hardship to Palestinians living there. Although the government has imposed numerous closures in the Occupied Territories since 1991, no procedures have been established to prevent harm to the Palestinian population. Particularly lacking are procedures for health matters, whose absence are liable to cause serious harm to persons requiring medical treatment. Nine Palestinians who were ill have died after being denied access to medical treatment, and dozens of sick persons urgently requiring treatment in Israel continue to wait for entry permits. In addition, many Palestinians lost their source of income and are in financial distress. The stringent restrictions on movement separate husband from wife and parents from their children.

Under international law, the status of East Jerusalem is the same as the rest of the West Bank. The severance of the city from other areas in the West Bank by means of the closure and prohibition on Palestinians from the Occupied Territories to enter the city creates problems for them in many areas of activity because East Jerusalem is a cultural, medical, educational, economic, and religious center for Palestinians in the Occupied Territories.

Security forces have sealed and demolished nine homes of Palestinian families, and another house was totally destroyed during one of the demolitions. As a result, dozens of persons, including small children, have been left homeless. Large numbers of Palestinians have been placed in administrative detention, and it is feared that methods constituting torture and ill-treatment are being used against many detainees. Nine educational and charitable institutions have been closed in the West Bank and Jerusalem.

Israel contends that all these measures are necessary to ensure the security of its citizens and to prevent further attacks. **B'Tselem** recognizes the right of Israel to determine who is allowed to enter its country; however, security considerations cannot justify the harsh punitive measures currently employed, such as arrests of relatives of perpetrators of attacks, demolition of houses, imposition of curfews and closure on towns and villages, and closing of educational institutions. These measures clearly constitute collective punishment and breach the basic tenet of individual responsibility. Other measures, such as torture and mass arrests, also severely violate basic human rights and undermine the foundations of the rule of law.

Even if we accept the statement of Prime Minister Shimon Peres that Israel is at war against terrorism, Israel must safeguard fundamental principles of human rights. International humanitarian conventions to which Israel is a signatory are intended to encompass the rules of conduct allowed in a state of war and occupation, and its drafters took into account the ramifications of precisely these extraordinary

conditions. A contention of "special situation," cannot, therefore, justify deviations from the conventions' provisions.

The measures taken by Israel also reflect a policy that discriminates against Palestinians. For example, when Israelis carry out violent acts against Palestinians, such as the massacre at the Cave of the Patriarchs, the government honored the principle that each individual is responsible for his or her own acts, and refrained from collective punishment against the perpetrators' families.

Furthermore, Israeli authorities have not presented a shred of evidence to substantiate their claim that these measures will deter potential future attackers. Measures like imposing a widescale closure on the West Bank and the Gaza Strip, imposition of curfews on whole villages, and demolition of houses of families of Palestinians suspected of killing Israelis, leaving entire families homeless, are liable to backfire and increase acts of violence.

B'Tselem urges the Israeli government to cease immediately the violations of human rights of Palestinians living in the Occupied Territories. Israel must, *inter alia*,

- refrain from collectively punishing innocent persons, including relatives, neighbors, and communities of perpetrators of attacks or of persons suspected of being involved in these attacks;
- ensure a reasonable level of subsistence for Palestinians in the Occupied Territories, and ensure sources of income for Palestinian workers who have been deprived of their livelihood as a result of the closure;
- enable Palestinians to move freely within the Occupied Territories, including East Jerusalem;
- permit medical personnel and ill persons access to medical facilities;
- respect the basic rights of detainees held in detention facilities: immediately upon detention, details of the individual's detention must be forwarded forthwith to the family, and detainees must not be interrogated by methods that cause suffering and constitute torture;
- restrict, as much as possible, the use of administrative detention; in the event sufficient evidence to convict the detainee is lacking, the detainee should be released, and must not be held for prolonged periods without being indicted;
- refrain from deporting Palestinians from the Occupied Territories.

IDF Spokesperson's Response



IDF Spokesman's Unit
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IDF Response to B'Tselem's Information Sheet on the Closure of the Territories

**(A detailed report concerning claims made by the report on the
issues of health, food etc. will be published by the Spokesman for
the Coordinator of Government Activities in the Territories)**

Following a series of bloody terrorist attacks in the centers of large cities, which claimed the lives of dozens of innocent Israeli civilians and wounded hundreds, the Government of Israel decided to take steps to curb these murderous acts. The stated purpose of these terrorist attacks was to murder Jews, to create an atmosphere of fear in the general civilian population and to harm the peace process. Such a situation required the undertaking of effective preventive measures based on pinpoint operations to capture perpetrators and abettors, while making maximum efforts to avoid harming the general Palestinian population.

One of the main security considerations, which dictated the limitation of traffic at the beginning of the closure, was fear of the recurrence of terrorist attacks such as the one carried out on Dizengoff St. in which the perpetrator was smuggled across the Karni crossing point on 4 March, 1996 in a truck carrying merchandise along with the explosives.

Security forces are taking steps in order to ease the difficulties which have been caused to residents as a result of the closure, but it should be emphasized that the IDF is engaged in a struggle against Terrorism, and will not allow any activity which threatens security.

In light of the aforementioned, searches in the West Bank are carried out on the basis of information, indicating the presence of suspected terrorists, weapons, or incitive material. During IDF and security forces operations in the field, Hamas operatives and activists involved with the terrorist infrastructure of the Hamas organization were arrested. A great deal of incitive material was confiscated, including tracts and religious decrees

calling for the carrying out of terrorist attacks, as well as written material linking Hamas activities to donor organizations abroad.

The sealing up and demolishing of houses on the West Bank are deterrent measures that are legal, both in accordance with the laws applicable in these areas, as well as with the principles of International Law. On many occasions, the High Court of Justice upheld the use of these means. In exercising its authority, the IDF was guided by its obligation to maintain Security.

The purpose of IDF activities is to avoid further attacks carried out by terrorists traveling in the field, who use the civilian population as a shield to hide behind.

Response of Spokesperson for the the Coordinator of Government Operations in the Occupied Territories*

STATE OF ISRAEL
MINISTRY OF DEFENSE

Office of the Coordinator of Government Operations
in Judea, Samaria, and the Gaza Strip

1 April 1996

Response of the Spokesperson of the Coordinator of Government Operations in the Occupied Territories to B'Tselem's report

Exit of ill persons from Gaza

Muhammad 'Awad 'Ali Khawalda and Ahmad Shahadeh Shahin: In these cases, the Palestinian Authority (PA) submitted no request to the Coordination and Liaison Office. We recommend that B'Tselem examine why the request got stuck in the pipeline at the Palestinian Authority.

Ahmad Muhammad Hasan Za'nun: On 3 March 1996 at 2:00 p.m., the PA requested that he be allowed to exit for treatment in Israel. The request did not mention the degree of urgency. Also, no medical documents were annexed, as is required by the procedure. The Coordination and Liaison Office requested clarifications from the PA, but none were provided.

Khadijah Muhammad 'Idwan: The PA sent its request by fax on 26 February 1996 at 9:00 p.m. When the offices are closed, requests are customarily forwarded by telephone, but that did not occur in this case. Handling of the request began only the following morning, when the office opened. At 10:00 a.m., the approval was issued and forwarded to the PA and to the Erez Checkpoint. The patient arrived at the checkpoint in an ambulance that was not authorized to enter Israel, and the driver did not have an entry permit. Soldiers at the checkpoint ordered that the driver and ambulance be replaced. In the past, agreement had been reached with the PA that only authorized ambulances and drivers who had received security clearances would be allowed to enter Israel during closure. The PA provided the registration numbers of ambulances and names of drivers who had been approved. As mentioned, in this case, neither the driver nor the ambulance was authorized to enter Israel.

Contentions concerning procedures for ill persons to enter Israel

Under the agreement between Israel and the PA, Israel must provide, within 24 hours, an answer to a request to allow an ill person to enter Israel, even in emergency cases. Nevertheless, the Coordination and Liaison Office at Erez and the PA jointly developed a procedure that in an emergency, immediate approval can be arranged by telephone. All the medical documents sent to the Liaison Office are checked by a physician. The response is given in writing, and in urgent cases, the response is sent by fax.

* Translated by B'Tselem

Prohibiting ill persons to enter Israel

Following the closure, it was decided to permit entry only in urgent cases and in life-threatening situations where treatment is not available in Gaza. Three patients undergoing dialysis treatment and other terminally ill patients were allowed entry to receive treatment in Israel. As of 31 March 1996, 96 requests had been received from ill persons in Gaza, 95 of which were approved.

Security checks of ill persons entering Israel for treatment

The security forces conduct thorough security checks of each motor vehicle [and] person entering Israel; the purpose of these checks is to prevent persons from infiltrating into Israel from the Gaza Strip. It will be recalled that the suicide-bombers responsible for the Beit Lied attack penetrated into Israel disguised as blind persons.

The Liaison Office at Erez knows of attempts by various persons in Gaza to forge medical permits to enter Israel. It is unclear why those persons wanted to enter Israel, but clearly the intention was unrelated to receiving medical treatment. Their entry was timely prevented because of the alertness of Liaison Office personnel and strict compliance with security procedures.

Forged documents were received that used appointment forms stolen from hospitals in Israel. In some documents, the times of the appointments were forged, and in other documents, the names were changed.

Entry of medications and foodstuffs

Security forces allow medications ordered by the PA to enter without limitation. As regards foodstuffs, there is no shortage of food in Gaza. The PA is more interested in having trucks enter with raw and construction materials than with food.

Israel's ability to allow trucks to enter Gaza depends on the ability to conduct the stringent security checks instituted after the attacks. It would be possible to increase the number of trucks, but unfortunately, the PA has not yet taken the measures that we demanded concerning security at the Karni area. Also, Agrikattim Terminal is not operating even though we granted permission two weeks ago to operate it. If it were open, more food from Karni could enter at the expense of construction materials, which would enter via Agrikattim Terminal.

Judea and Samaria

Entry of medical personnel to East Jerusalem

The Civil Administration has approved a quota of 270 medical personnel to enter Jerusalem. The PA has so far only provided 217 names of medical personnel, 181 of whom were approved. The others were rejected for security and administrative reasons.

Entry of medications to Judea and Samaria

Every request by the PA for medications to enter Judea and Samaria was approved.

Movement of medical staff personnel during the internal closure

Movement of medical staff personnel in Judea and Samaria was only approved for those with a movement permit. It was later learned that instructions from Gaza prohibited the medical staff personnel to receive or use permits issued by us. Only the Red Crescent, in an exceptional case, decided, on 14 March 1996, to accept movement permits for its ambulances.

Movement of food to hospitals during the internal closure

A movement permit was granted to food suppliers. The PA also caused problems. Example: On 18 March, a food supplier renewed a permit at the Coordination and Liaison Office in Nablus. Afterwards, the PA confiscated the permit.

Demolition of houses

When the house of Ra'ed Sharnubey in Burqa village, Nablus District, was blown up, 23 other houses were damaged. In the course of an accelerated procedure, a claims staff officer and an assessor on behalf of the Ministry of Defense evaluated the damage and reached agreement with 19 homeowners to pay them compensation ranging from NIS 400 - NIS 1500. The homeowners received the checks within two weeks. The house of Jamal Haji was almost totally destroyed during the explosion, and in a preliminary agreement, he received NIS 5,000 to cover 6-8 months of rent. It was recently agreed with him that the damage to his house was NIS 110,000. Agreement was not reached with the homeowners of another house since they are in Jordan. The last homeowner decided to file suit, and not to settle the case outside of court.

Sincerely,

Shlomo Dror
Spokesperson for the Coordinator
of Government Operations