

בצלם

**B'TSELEM**

The Israeli Information Center for Human  
Rights in the Occupied Territories

# **BUILDERS OF ZION**

**Human Rights Violations  
of Palestinians  
from the Occupied Territories  
Working in Israel  
and the Settlements**

Jerusalem, September 1999



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**מרכז המידע הישראלי לזכויות האדם בשטחים [ע.ר.]**

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## Introduction

Job-related emigration occurs worldwide: people move from poor countries with high unemployment to developed countries, seeking work and greater income. Much of the labor force in West Europe, North America, and Australia is composed of immigrants from Africa, Asia, and East Europe. According to estimates of the International Labor Organization, West Europe alone currently has some nine million foreign workers, employed mostly in construction, agriculture, and services, in addition to some thirteen million dependents who accompanied them. Their inferior political, economic, and social status makes them constantly subject to discrimination and exploitation.<sup>1</sup>

Although the term "foreign workers" in Israel is used to refer to temporary immigrants who began to arrive in the 1990s (primarily from East Europe and East Asia), the phenomenon actually dates back to the start of the occupation, when Palestinians from the Occupied Territories came to work in Israel. These workers were motivated by the same factors that motivated, for example, Turkish workers to move to Germany, or Mexicans to the United States. So, too, are the exploitation and distress they have suffered similar.

However, two characteristics distinguish Palestinians from the Occupied Territories working in Israel from foreign workers in Europe or North America, and even from the other foreign workers in Israel. First, most of the workers from the Occupied Territories return at the end of the workday to their homes in the Occupied Territories. This is significant. The personal tragedy resulting from emigration under difficult conditions faced by many families of foreign workers is not a feature in the case of Palestinians from the Occupied Territories. Also, Palestinian workers have not contributed to the creation of enclaves of poverty, with all that entails, in Israel's major cities.

Second, the phenomenon of Palestinian workers in Israel resulted from a prolonged and continuing occupation, and has as its background a

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1. ILO. *Protecting the Most Vulnerable of Today's Workers*, Tripartite Meeting of Experts in the Field of Migration, Geneva, 1997.

lengthy ethnic-nationalistic struggle, whose last major manifestation was the *intifada*. This battle has been characterized, in part, by extensive and intense oppression of the Palestinians by Israel, and by Palestinian terrorist attacks against Israeli citizens, even after the *intifada* ended. This history has led to a worse and more complex situation for Palestinian workers in Israel than for other foreign workers. In other words, the dynamic of the Israeli-Palestinian conflict, and Israel's occupation in particular, rapidly affected the situation of workers from the Occupied Territories. This change has occurred in addition to the other economic and political variables affecting the development of Israeli and Palestinian societies and the situation of foreign workers.

The Israeli-Palestinian peace process, as expressed in the Oslo Accords, has led in several areas to a significant decrease in Israeli violations of Palestinian human rights in the Occupied Territories.<sup>2</sup> The principal reason for this improvement is the reduction in daily contact between the Israel Defense Forces (IDF) and the Palestinian population following the IDF's withdrawal from Palestinian population centers. However, Israeli policy did not change.

The situation of Palestinian workers from the Occupied Territories employed in Israel and the settlements is one area in which there has not been significant improvement since the peace process began. Most violations that occurred prior to the Oslo Accords in the area of social rights and terms of employment, and violations committed by the security forces also continued afterwards. In some aspects, the situation even worsened.

This report is neither a historical survey of Palestinian workers in Israel and the settlements, nor a historical survey of the violation of the rights of Palestinian workers since the occupation began. The objective of the report is to describe the current status, as far as possible, of the nature and scope of the principal human rights violations of workers from the Occupied Territories. Although the report is comprehensive, it does not claim to cover all problems and violations. Subjects such as safety at the work-site and relation of the Palestinian unions to Israeli employers and the Histadrut labor union are not discussed.

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2. See B'Tselem, *Oslo: Before and After, The Status of Human Rights in the Occupied Territories* (Information Sheet, May 1999).

## **Structure of the Report**

The first chapter provides a background for the discussion of the situation of workers from the Occupied Territories in Israel (hereafter - Palestinian workers). The chapter provides a short historic survey of the entry of Palestinian workers into Israel over the years, their place in the Israeli economy, and restrictions on their entry. Chapter Two deals with violence by Israeli security forces against Palestinian workers, principally at entry checkpoints. The third chapter discusses violence by Israeli civilians against Palestinian workers. The fourth chapter deals with the General Security Service's (GSS) use of work permits as a means to pressure certain Palestinian workers to collaborate with the GSS. Chapter Five deals with social rights and terms of employment of Palestinian workers: the false reports filed by employers, the effect of closures, national insurance rights, employment in the settlements, and problems in the labor courts. The report ends with conclusions and recommendations.

Each chapter is based on a combination of several information sources: testimonies of workers, reports of human rights organizations and conversations with their directors, correspondence with the relevant governmental authorities, and media reports. Where human rights violations are involved, the report describes the violation, then presents the victims' testimonies, and finally offers a critical analysis, usually from a legal perspective.

## Chapter One: **Background Data on Palestinian Workers in Israel**

The economic integration between the economies of Israel and the Occupied Territories began immediately following the occupation, in 1967. The most conspicuous element of this integration, which solidified over time, was the employment in Israel of Palestinians from the Occupied Territories. Most Palestinians worked at jobs requiring a low level of expertise and received low compensation in Israeli terms. The integration took its shape, in part, as a result of Israel's economic policy, the objective of which was to prevent the development of an independent economy in the Occupied Territories.<sup>3</sup>

As regards the labor market, the process of integration reached its peak in 1992, when more than one-third of all employed persons living in the Occupied Territories worked in Israel (a total of some 116,000 persons), a relationship in many ways unparalleled worldwide. In that year, the income of the Palestinian workers in Israel comprised approximately forty-two percent of the Gross Domestic Product of the Occupied Territories. This figure indicates the significance of the integration to the Palestinian economy as well as to individual Palestinian employees.

Immediately after the 1967 war ended, the Israeli government debated the policy it should adopt in order to address daily problems in the Occupied Territories, primarily during the short term. The dominant theory, identified with Minister of Defense Moshe Dayan, favored allowing controlled entry of Palestinian workers into Israel, and other measures to

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3. The principal features of this policy have included the limited granting of permits for industrial projects and creation of a "hostage market" for Israeli merchandise by blocking trade and expropriating land and water. See A. Arnon et al., *The Palestinian Economy*, (New York: Brill, 1997); Jerusalem Media and Communication Centre, *Israeli Obstacles to Economic Development in the Occupied Territories* (Jerusalem, 1992); G. Abed, *The Palestinian Economy - Studies in Development under Prolonged Occupation* (London: Routledge, 1988); S. Roy, *The Gaza Strip: The Political Economy of De-Development* (Washington: Institute of Palestine Studies, 1995).

improve the standard of living in the Occupied Territories.<sup>4</sup> The measures taken were intended to reward (or punish) the population according to their attitude toward the occupation authorities. The decision to enable Palestinian workers to enter Israel was officially passed on 7 July 1968 by the Ministerial Committee for Economic Matters. The decision provided that the number of permits would be set by the Ministry of Labor in consultation with the Histadrut labor union and the occupation authorities, and that the workers would receive equal pay for equal work.<sup>5</sup>

This chapter will briefly describe three aspects of the phenomenon of Palestinian workers entering Israel to work: the fluctuations in the number of Palestinian workers allowed into Israel, the distribution of Palestinian workers within the Israel economy, and the restrictions Israel places on their entry.

## A. Fluctuations in Entry of Palestinian Workers

The flow of Palestinian workers into Israel since the decision of 7 July 1968, mentioned above, changed periodically in response to economic developments on both sides of the Green Line and to the political-administrative decisions made by Israel. The data on the workforce in the Occupied Territories are taken from two sources: Israel's Central Bureau of Statistics for the years 1968-1993 (inclusive), and the Palestinian Central Bureau of Statistics for 1995-1998. There are no reliable statistics for 1994. Also, it should be noted that careful

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4. The policy of reward and punishment, created by Dayan, was referred to by Shlomo Gazit, Israel's first Coordinator of Government Operations in the Territories, as the "carrot and stick policy." The prime opponent was the Minister of Finance, Pinhas Sapir, who was concerned that it would aggravate unemployment in Israel, which had only started to decline after the deep recession of 1966. See S. Gazit, *The Stick and the Carrot: Israel's Policy in Judea and Samaria, 1967-1968* (Tel-Aviv: Zemora Beitan, 1985).

5. *Ibid.*, 350-354.

comparison of the data from the two sources is not possible because their definitions of the work force differ slightly.<sup>6</sup>

In retrospect, five distinct periods may be discerned.<sup>7</sup> *The first period*, which continued until 1973, was characterized by a sharp increase in the number of Palestinians entering Israel to work, and a gradual decrease in the number of Palestinians employed in the Occupied Territories. In 1968, 5,000 Palestinians worked in Israel. By 1973, that number had risen to 61,500, an average annual increase of forty-three percent.

*In the second period*, 1974 to 1980, the flow had a small, stable annual increase averaging 1.5 percent. One of the reasons for the stabilization was the significant emigration of Palestinians to the Gulf States following the increase in the price of oil. This stage also saw a relative decline in the number of Palestinian workers from the West Bank, while the number of workers from the Gaza Strip increased.

*In the third period*, 1981-1987, emigration to the Gulf States declined sharply, and the number of Palestinian workers entering Israel increased rapidly, reaching an average of more than six percent a year. On the eve of the *intifada*, approximately 109,000 Palestinians were working in Israel, comprising forty percent of the Palestinian work force.

*The fourth period*, 1988-1992, was unstable because of the *intifada* and the Gulf War. These events led to a drop in the number of annual work hours, though the overall number of workers did not decline. The number of workers from the Gaza Strip fell, while the number of workers from the West Bank increased.

At the beginning of *the last period*, 1993-1998, the number of Palestinian workers declined significantly, both in relative and absolute terms. Paradoxically, this was also the beginning of the peace process, which

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6. Israel's Central Bureau of Statistics does not include Palestinians residing in East Jerusalem, while the Palestinian CBS does. Also, the Israeli CBS does not include Palestinians working in the settlements and industrial zones in the Occupied Territories, while the Palestinian CBS does.

7. This division is based on two research projects: Arnon et al., *The Palestinian Economy*, pp. 72-77; L. Farsakh, *Palestinian Employment in Israel: 1967-1997, a Review* (Ramallah: MAS, 1998), pp. 15-16.

recognized the principle of the free flow of labor and merchandise between Israel and the Occupied Territories.<sup>8</sup> The main reason for this decline was the increased application of the policy of closing the border between Israel and the Occupied Territories following terrorist attacks (see below). From a peak of 116,000 in 1992, the number of Palestinian workers in Israel and the settlements dropped to some 65,000 in 1995. The decline was greater among workers from Gaza than from the West Bank, falling from an average of 43,000 in 1992 to an average of 4,000 in 1995. Simultaneously, the number of foreign workers from overseas increased, and in 1997, fluctuated, according to various estimates, between 150,000 and 250,000.<sup>9</sup> Since the total closure of September 1997, there has been an increase in the number of Palestinian workers in Israel and the settlements, following the decrease in terrorist attacks and more flexible criteria for obtaining work permits (see below). During 1998, approximately 107,000 Palestinians worked in Israel. Whereas the average number of Palestinians working in Israel and the settlements in 1996-1997 amounted to sixteen to eighteen percent of the work force in the Occupied Territories, that number increased to twenty-two percent in 1998.

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8. Agreement on the Gaza Strip and the Jericho Area, signed in Cairo on 4 May 1994. Annex 4, art. 7(1).

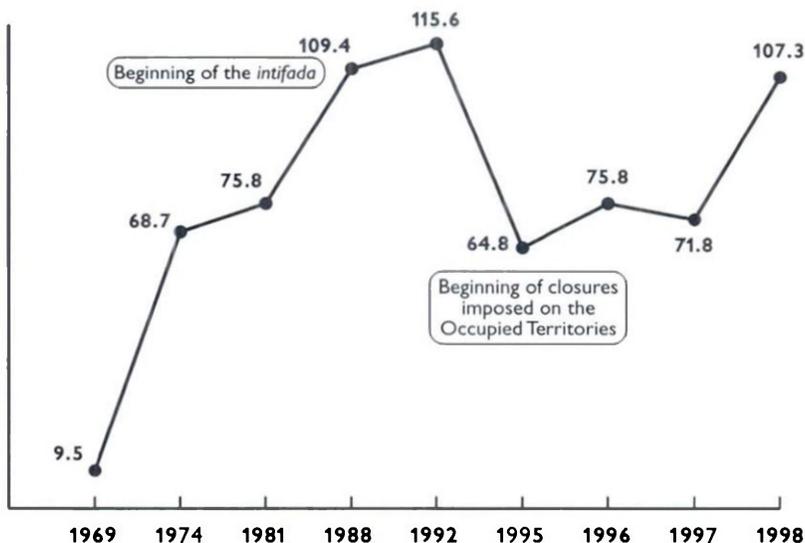
9. Kav La'Oved [Worker's Hotline], *Information Sheet*, March 1997.

**Number of Palestinian Workers Employed in Israel and the Settlements, in Selected Years (in thousands)**

Year	From the West Bank	From the Gaza Strip	Total from the Occupied Territories
1969	8.4	1.1	9.5
1974	42.4	26.3	68.7
1981	39.9	35.9	75.8
1988	64.0	45.4	109.4
1992	72.5	43.11	115.6
1995	59.8	4.16	64.8
1996	59.9	15.9	75.8
1997	63.2	8.6	71.8
1998	85.5	21.8	107.3

Source: For 1969 to 1992 (inclusive), Israel's CBS. The figures for those years do not include East Jerusalem Palestinians employed in Israel. For 1995-1998, the source is the Palestinian CBS, and the figures include East Jerusalem Palestinians.

**Number of Palestinian Workers Employed in Israel and the Settlements, in Selected Years (in thousands)**



## B. Distribution of Palestinian Workers in the Israeli Economy

Palestinian workers comprise a relatively small percentage of the Israeli workforce, a multi-year average of seven percent.<sup>10</sup> However, their presence in certain sectors is much more significant. Over the years, the construction industry has absorbed more than fifty percent of Palestinian workers employed in Israel. In the 1980s, Palestinian workers comprised forty percent of all construction workers in Israel. With the entry of foreign workers in the 1990s, this number fell to twenty percent.

Second in significance is agriculture. In the 1970s, one-quarter of all Palestinian workers employed in Israel worked in agriculture. The number fell in the 1980s to fifteen percent and fell even more in the 1990s. Here, too, the cause of the decline was the entry of foreign workers (mostly from Thailand).

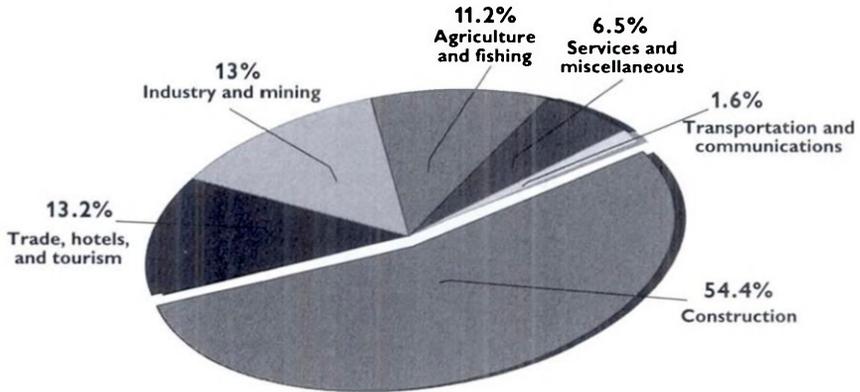
Prior to the outbreak of the *intifada*, Israel's industrial sector, primarily in labor-intensive fields like textiles and clothing, employed fifteen percent of Palestinian workers employed in Israel. This number has dropped significantly, in part because Israeli companies transferred some production processes to subcontractors in the Occupied Territories. One study has shown that a significant percentage of the employees in factories in the Occupied Territories doing subcontracting work for Israeli factories had previously been employed in Israel.<sup>11</sup>

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10. Arnon *et al.*, *The Palestinian Economy*, p. 83.

11. A. Mansour and B. Destremau, *Palestine and Israel: Subcontracting Relations in the Garment Industry* (Ramallah: MAS, 1997).

## Distribution of Palestinian Workers in the Israeli Economy by Sectors, in 1998



Source: UNSCO Report on Economic and Social Conditions, Spring 1999, Gaza, Table 12.

### C. Recruitment of Workers and Restriction of Entry

One of the major distinctions among Palestinian workers employed in Israel is between "registered workers" and "unregistered workers." The former are recruited through official channels, which include state agencies such as the Ministry of Labor and Social Welfare, the Civil Administration, the Coordination and Liaison Offices, and the General Security Service. These workers receive pay slips, pay the required deductions, and receive certain social benefits. Also, they are relatively better protected than unregistered workers from arbitrary detention, fines, and violence by security forces.

Unregistered workers are recruited directly by Israeli employers. Most come from the West Bank, whose borders with Israel are easier to penetrate than borders between the Gaza Strip and Israel, and many ways

exist to bypass IDF checkpoints along roads in the West Bank. On the one hand, unregistered workers usually receive a higher net wage than registered workers, because their employers take out no deductions. However, unregistered workers generally do not receive any social rights. In most instances, they stay at a job for only a short time before moving on to another employer. They are more exposed than registered employees to violence, degradation, detention, and fines.

During the 1970s and 1980s, the percentage of registered employees ranged from forty to sixty percent of all Palestinian workers employed in Israel. In 1991, following several measures that will be described below, the percentage rose slightly, reaching, on the average, seventy percent.<sup>12</sup> In recent years, the number of registered workers has dropped relatively, and fluctuates, according to various estimates, between fifty to sixty percent of Palestinian workers employed in Israel. Following the government's decision in 1968 allowing Palestinians to work in Israel, the employment service of the Ministry of Labor and Social Welfare and the employment service of the Civil Administration developed a system to deal with the workers. Their task was to connect job seekers from the Occupied Territories with Israeli employers and regulate the flow of Palestinian workers into Israel.

From the end of the 1980s, Israel implemented several measures directed toward restricting and monitoring the entry of Palestinian workers into Israel. The reasons for the measures were both to increase security and to collectively punish the Palestinian population. Most remained in effect after the Oslo Accords, and created a major obstacle to the free flow (i.e., based on supply and demand) of Palestinian workers from the Occupied Territories into Israel. The measures taken by Israel were the following:

1. *Green Identity Cards* In 1988, Israel began to issue special green identity cards to released detainees and prisoners from the West Bank, and at times to Palestinians "without security records" as well. Holders of these cards were not allowed to enter Israel. Since the general closure of 1993, pursuant to which every Palestinian resident

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12. Farsakh, *Palestinian Employment in Israel*, p. 21.

of the Occupied Territories must obtain a permit to enter Israel or East Jerusalem, Israel has ceased use of the green identity cards.<sup>13</sup>

2. *Magnetic Cards* In May 1989, Israel decided to require workers from the Gaza Strip entering Israel to have a magnetic card containing coded information about their security background. The directive was later imposed also in the West Bank, and became a condition for obtaining a work permit. The magnetic card must be renewed annually. Since the Oslo Accords, Palestinians have submitted their requests to the Palestinian Coordination and Liaison Office, which passes the requests on to the Israeli authorities. Workers from the Gaza Strip must pass their cards through a device at Erez Checkpoint each morning. A beep of the device indicates that the holder is prevented entry for security reasons.
3. *Work Permits* The Civil Administration's employment offices have been responsible since 1968 for issuing work permits to Palestinians employed in Israel. The first condition for obtaining a permit is submission of a request by an Israeli employer registered at the Ministry of Labor's employment service. In practice, until the end of the 1980s, work permits were granted automatically, and were used for monitoring and taxation purposes only. Since then, permits have been issued according to "security considerations" in a completely non-transparent procedure. With the imposition of the general closure, in May 1993, and the increase in terrorist attacks, a quota of permits was determined by sector (agriculture, construction, and the like), and restrictions based on age and family status were set. In 1998, the quotas were canceled, but the "security considerations" (i.e., the

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13. The change actually occurred in 1991, during the Gulf War, with the cancellation of the general permit to exit the Occupied Territories that had been in effect since 1972. Restrictions on free movement peaked in March 1993, when Israel imposed a general closure on the Occupied Territories following the killing of nine Israeli civilians. That closure remains in effect. Furthermore, the Palestinian Authority began to change its identity cards to green.

magnetic-card requirement) and the age and family status restrictions remained.<sup>14</sup> Each permit is valid for three months, but automatically expires if a total closure is imposed on the Occupied Territories.

4. *Total Closure* Since 1990, and to a greater degree since the beginning of the wave of suicide attacks in 1994, Israel has periodically imposed total closures on the West Bank and Gaza Strip. The closure almost completely prevents entry of Palestinians into Israel to work and has caused prolonged and serious damage to the economy of the Occupied Territories.<sup>15</sup> According to the Coordinator of Government Operations in the Territories, the number of total closure days imposed since 1993 is as follows:

<b>Year</b>	<b>Total Closure Days</b>
1993	11
1994	43
1995	64
1996	104
1997	87
1998	15

In addition to the total closure, Israel periodically imposes an internal closure on certain Palestinian villages, which prevents local residents from getting to their jobs in Israel.

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14. Currently, Palestinians are allowed to obtain work permits if they fall into one of the following groups: married, aged twenty-five or above, without children; married, aged twenty-one or above, with at least one child; single men aged forty or above; and single women aged thirty or above. This information was provided by Shlomo Dror, spokesperson of the Coordinator of Government Operations in the Territories, in a letter of 28 August 1999.

15. The World Bank and MAS, *The Palestinian Economy in Transition*, Nablus and Gaza, 1997; S. Roy, "The Palestinian Economy after Oslo," *Current History* (January 1998), pp. 19-25.

## Chapter Two: **Beatings and Shootings at Checkpoints**

Palestinians from the Occupied Territories employed within Israel come in contact with Israeli security forces daily when crossing the checkpoints along the Green Line (the border separating Israel from the Occupied Territories) and when exiting the Gaza Strip. There is also contact at the work sites themselves, when the Police and officials of the Ministry of Labor conduct surprise visits to catch "illegal" workers. It should be noted that a significant percentage of Palestinian workers do not meet the criteria for obtaining a work permit and magnetic card, and have no other option than to enter Israel illegally.

Testimonies obtained in preparation of this report, reports of human rights organizations, and press reports indicate that the security forces systematically use violence and degradation when dealing with Palestinian workers. In most instances, the security forces give them a "small dose" of abuse, such as a slap, a kick, an insult, or making them wait without reason under the blazing sun. At times, the violence is greater, ranging from beatings that cause severe injury to shootings that kill workers. Most of the "light" abuse remains unreported, either because of the workers' (most of whom are unregistered) fear of filing a complaint with the relevant authority against the person who assaulted them, or because of the trouble filing a complaint entails. For this reason, it is impossible to document and monitor the phenomenon carefully and systematically. Only estimates of its scope are possible.

### **A. Beatings at Checkpoints**

At the end of 1996, Israeli television's Channel One broadcast a home-video recording of abuse of Palestinian workers. The broadcast was widely commented upon in the Israeli and international media. When the Interior Committee of the Knesset discussed the incident, the commander of the Border Police, Major General Israel Sadan, stated that such incidents were common:

The incident in which Border Police beat Palestinians is not unusual. This is not an isolated case in this company [military unit]. There are not only two rotten apples in this crate of fresh apples.

Two months prior to the incident and several months afterward, B'Tselem published reports documenting the phenomenon of ill-treatment of Palestinians by the Border Police and other members of the Israel Police Force. Most of those who gave testimonies were workers on their way between work in Israel and their homes in the Occupied Territories.<sup>16</sup> Most did not have valid work permits, as a result of the total closures that had been imposed during that period.

Of those who gave testimonies for this report, most agreed that the level of violence and the number of violent incidents increase sharply during total closures. Violence is a part of the security forces' efforts to enforce the closures and prevent Palestinian workers from getting to their work sites. Since the total closure of August-September 1997, Israel has not imposed a prolonged total closure. This has led, apparently, to a significant reduction in the frequency of severe acts of violence by the security forces.

However, despite the apparent decrease in the number of injuries, Palestinian workers continue to be victims of violence and degradation, mostly by the Border Police.

Monitoring conducted by the Border Police itself revealed that, during 1998, 196 cases of illegal use of force by the Border Police were registered. In that year, the Border Police "returned" to the Israel Defense Forces forty recruits who had been charged with criminal offenses by the Department for the Investigation of Police, of the Ministry of Justice.<sup>17</sup>

A chief inspector in the Border Police, who wished to remain anonymous, provided a testimony to B'Tselem about the Border Police's use of violence against Palestinians:

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16. B'Tselem, *Sheer Brutality - the Beatings Continue: Beatings and Maltreatment of Palestinians by Border Police and Police Officers during May-August 1997* (Information Sheet, August 1997); B'Tselem, *Beatings, Maltreatment and Degradation of Palestinians by Israeli Authorities during June-July 1996* (Information Sheet, September 1996).

17. *Ha'aretz*, 25 March 1999.

In 1992, I was recruited into a combat unit in the IDF. I finished my three-year compulsory service with the rank of lieutenant, and then received an offer from the Border Police, made to IDF officers, to serve ten months as a joint-patrol officer. The salary was high (NIS 5,000 a month), so I accepted.

After a one-month course, I was assigned to the Lenin Company [military unit]. I was the commander of the patrol that patrolled together with a Palestinian jeep in joint patrols in Area A. The company also conducted two patrols in Areas B and C. After about twelve months, I was transferred to the Ramallah Company, where I was stationed for three years, until I resigned and was released.

When I started service in the Border Police, I was startled by the racism in the corps. There are groups: Druse, Ethiopians, Moroccans, and each community was closed within itself. There was no mixing socially, not even in the sleeping quarters. I was also surprised by the lack of respect given to officers. An officer like me only has to do his work (eight-hour patrols) and has no status or authority.

All the soldiers whom I asked why they had joined the Border Police claimed that it was to beat up Palestinians. One time, I heard about a soldier who was in basic training, and, when [Minister of Public Security] Kahalani visited, told him that he had joined in order to beat up Palestinians. Kahalani ordered that he be thrown out of the Border Police, but he is serving in Ramallah Company.

Here are some of the things that Border Police do to Palestinians:

- The jeeps often go into the fields and farmland of Palestinians, driving back and forth and ruining the field.
- The patrols do what they want. Officers are concerned about advancement, so they harm Palestinians much less.
- In Ramallah Company, there is a directive to remove the "name tag," because Palestinians filed false complaints against Border Police.

- Many patrols bend and conceal the jeep's license plate.
- Every complaint or problem is resolved within the company. The company commander wants no problems. Throughout my period with the company, no soldier was tried for harming an Arab, even though there were many complaints, including ones I made. The greatest threat is not being granted leave or being transferred to another company. The latter is particularly harsh, because it is customary in the Border Police to start and finish in the same company. The soldier "establishes" a "luxurious" room for himself on the base.
- The primary weapon is to delay the Palestinians. For example, when a checkpoint is set up, procedures are not followed, and a vehicle is stopped so that it blocks traffic. When someone honks or complains, he is forced to wait a long time. In some cases, the Border Police wait for the Palestinian to exit the vehicle and then beat him - slaps on the back and kicks - while conducting a body search.
- I heard about one patrol that stopped a taxi that was transporting ten to twelve workers who had finished work for the day, around 4:00 P.M. - 5:00 P.M. The Border Police ordered them out of the taxi and had them stand in lines of three and shout "I am a maniac" and made them run.
- When firing rubber bullets, it is as if there is no prohibition or limitation on shooting at children. At the same time, the minimum firing distance of forty meters is stressed at briefings. What they do is take apart the "Galil" ("rubber bullet" fired through a ROMA attachment) into three parts, and one side is filed to sharpen it and make it more lethal.
- In the events of September 1996 (clashes following the opening of Old City tunnel), Border Police fired live ammunition when the ROMA was attached to their weapons, so that no one could tell that they were firing "live."<sup>18</sup>

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18. The testimony was given to Tomer Feffer on 22 July 1999 at B'Tselem's offices.

The incidents described in the two following testimonies are graver than usual, so they are not "representative." However, they indicate the attitude and atmosphere created when Border Police come into contact with Palestinian workers. This attitude and atmosphere - saturated with violence and contempt for the dignity and lives of Palestinians - generally leads to results that, while less serious than those described below, are reason for concern and outrage.

*Testimony of Ziad 'Ali Mustafa Ta'amri, born in 1977, single,  
resident of al-Khad, Bethlehem District*

*On Saturday, 22 May 1999, I wanted to go with my friend 'Ala Shahin Martas to East Jerusalem to do construction work at my brother's home, in Silwan. Neither of us have permits to enter Israel. We went around the checkpoint at the tunnel, and the driver who was to take us arrived just before the beginning of the southern tunnel [near the checkpoint]. Just as he arrived, a Border Police jeep pulled up. One of the Border Police officers in the jeep called out on the loudspeaker for our driver to stop. The Border Police checked the identity cards of my friend, the driver, and me. They let the driver go and told him to go back where he had come from. They told my friend and me to run to the checkpoint.*

*When we got there, they separated us. They took me to an area surrounded by concrete walls, put me up against the wall, and spread my arms and legs. One of the police officers kicked me in the testicles. They beat me with a stick and their hands, and kicked me. They also had me lie down on thorns and then tread across my body. This lasted for around twenty to twenty-five minutes. One of them cocked his weapon and put it to my forehead. He ordered me to beg for my life. I refused. They beat me with their hands, so as not to leave any marks.*

*An officer who sat in the booth at the checkpoint yelled at them to stop the beating. One of them said to me: "I am going to count to three, and you are going to put all of your belongings in your pocket. If you don't do it in time, you are going to get beat up some more." He started to count, and I began to collect my things. When he finished counting, he told me that I had more beatings coming to me, and he beat me again. Then he told me to leave the walled area and go to the checkpoint. I crawled out and fainted on the way.*

My friend 'Ala poured water on me. I woke up, but everything was a blur. My friend picked me up and supported me as we left. My brother came to the checkpoint to get us. He took us to the joint DCO [District Coordination Office] in Beit Jala. We reported jointly to the Israeli and Palestinian officials about what had happened. I showed them the bruises over my entire body and gave them a detailed statement. The Israelis asked if I could identify the Border Police officers, and I said that I could, but they did not bring them. I signed the statement that they had written in Hebrew, though I do not read the language. Then I was taken to al-Hussein Hospital in Beit Jala.<sup>19</sup>

**Testimony of Saber Sabri Ismail Abu a-Rus, born in 1977, resident of Qalandiya Refugee Camp, Ramallah District**

On Thursday, 10 December 1998, I left my house at 6:40 A.M. to go to work. I work as a carpenter at the 'Atarot industrial zone. When I got to the Ramallah-Jerusalem road, at 6:45, I stopped a Palestinian taxi and got in. Before it could move, an Israeli Border Police jeep pulled up and blocked our way. An officer, who was sitting next to the driver, got out. He asked me: "Are you the one from Qalandiya?" He ordered me and four other young men to get out of the taxi. As far as I recall, only the driver and one female passenger remained in the taxi. Then the taxi left.

The officer had us stand in the rain, took our identity cards, and made us remove the dirt that remained in the road from demonstrations that had taken place the day before, objects from garbage containers, stones, scorched tires, and other things. We cleaned the road and stood there another five minutes or so. We had already been held up for fifteen minutes, and it was already 7:00 A.M., the time I was supposed to be at the carpentry shop. I went over to the jeep, knocked on the window, and told the officer that we had cleaned the road as he ordered, and that I wanted to get to work. I asked for my identity card so that I could go.

The officer opened the jeep's door with force, such that it struck the palm of my left hand. Another policeman, who was sitting in the jeep, cursed my

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19. The testimony was given to Najib Abu-Rokaya on 23 May 1999. The Department for the Investigation of Police investigated the incident. B'Tselem's request to obtain the results of the investigation has not yet been answered.

mother and ordered me to go back to where I was standing with the others. The officer got out of the jeep and asked, "Who is Saber?" I said that I was. He held on to my identity card and gave the other passengers their identity cards and told them to go. They hailed taxis passing by and left.

Then the policeman who had earlier cursed at me got out and said something to me in Hebrew. I think he swore at residents of Qalandiya. He grabbed me by the neck and squeezed my throat. I tried to get his hands off me and push him away. I fought with him, and then the three other police jumped on me and beat me. The fourth one beat me. They tried to get me into their jeep. They dragged me along the ground, tore my clothes, and degraded me in front of everybody who passed by. Some of the passersby yelled at them, but nobody really got involved. Finally I was able to free myself, and I got about ten to fifteen meters away. The officer called to me, "Come here, don't be afraid. Come and get your identity card." He spoke with a soft tone of voice, and I believed him. I approached him, and he put his hand across my shoulders, like a friend, and led me toward the jeep. When we were alongside the rear door of the jeep, they jumped on me and forced me to the jeep. My upper body was totally naked and muddy. One woman passerby managed to throw me my shirt that was torn when the police had dragged me along the ground. The jeep drove to the a-Ram checkpoint. They placed me on the floor of the jeep, between them, and punched me as we were driving along, beat me with their hands and feet and helmets, and they also pulled my hair. One of them hit me with the antenna of the radio transmitter.

The jeep stopped by the a-Ram checkpoint. Border Police at the checkpoint asked the police in the jeep who I was, and after they received an answer, began to beat me. One of them, who was apparently upset following an argument with another policeman, sat in the jeep and punched and kicked me. Then he ordered me to open the window, and after I did, slammed it shut on my fingers.

Ten minutes later, the jeep began to move again. They took me to the Police station in Neve Ya'akov, and they beat me along the way. We got to Neve Ya'akov at 7:45. When the Border Policemen took me out of the jeep, they were shocked at my appearance, and the officer ordered me to straighten myself up. I said, "What happened? Are you worried all of a sudden? You did all this and now ask why am I a mess?"

We went into the Police station. They kept me there until the investigator

came. I asked if I could call the work site. I had to beg them. I told my employer where I was.

The Police handcuffed me. The investigator arrived around 9:00. He was in a blue Police uniform. The Border Police officer removed my handcuffs and then spoke with the investigator. Then the officer brought me a Hebrew document that stated I had not been beaten and that everything was all right. I refused to sign it. The Police investigator told the Border Police officer to leave me alone.

A few minutes later, the Border Police officer called me and took me into the room where the investigator was. After that, I did not see the Border Policemen who had beaten me.

The investigator told me that he had taken the statements of the Border Police, and that they had accused me of assaulting and striking the four of them. I said, "Look at me. I look like someone who beat or could strike four Border Policemen? Look at my clothes and how I look, with the mud all over me. I was the one who got beaten. My clothes are torn, not theirs." The investigator got upset and said, "How are you talking to me?" He got up and slapped me. Then he closed the door and punched me. Then I gave him my statement. In the meantime, my employer, Iyub a-Nabulsi, arrived. He signed a guaranty for me in the amount of NIS 2,000. I signed the statement that I had given to the investigator, even though he wrote it in Hebrew and I couldn't see exactly what was written.<sup>20</sup>

## **B. Shootings**

Cases of Israeli security forces unjustifiably firing their weapons at Palestinian workers have been relatively rare. Their occurrence, however, illustrates the danger faced by Palestinians on their way to work in Israel. The killing of three Palestinian workers and the wounding of two others by

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20. The testimony was given to Najib Abu-Rokaya on 14 December 1998 in a-Ram. B'Tselem requested the Department for the Investigation of Police to investigate the incident, but has not yet received an answer.

IDF soldiers at the Tarqumiya checkpoint, near Hebron, on 10 March 1998, is the best known case in recent years.<sup>21</sup>

The incident caused much turbulence in the Occupied Territories and received extensive media coverage. Although the IDF's investigation found that the soldiers had acted in accordance with the regulations and the IDF decided to close the file, some officials questioned the findings regarding both the soldiers' conduct and the Open-Fire Regulations. Thus, it is likely that cases of "a quick trigger finger" will recur.<sup>22</sup>

Several instances of shootings have occurred since the incident at Tarqumiya. These did not receive the same media attention, although they also resulted in death and serious injury to Palestinian workers. Three examples follow.

***Testimony of Khalid Shauqat Muhammad a-Samareh,  
born in 1967, married with six children, resident of  
a-Dahariyeh, Hebron District***

*I work laying floors at a site in Dimona, and the late 'Ala Yusuf Mahmud Naji Abu Sharkh assisted me for four days. I have a permit to enter Israel and a magnetic card. I think that he did not have an entry permit.*

*On Thursday, 3 June 1999, he and I went in my car from a-Dahariyeh to the IDF checkpoint near a-Samu'a, on our way to Dimona. I have a gray, 1988 Subaru with Palestinian plates.*

*We reached the checkpoint area around 6:30 A.M. There is a dirt road bypassing the checkpoint known to local residents and the Israeli soldiers.*

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21. The three who were killed - Ialeb Rajoub, 'Adnan Abu Zaneid, and Muhammad Sharonch - were from Dura Village, near Hebron. They were returning in a van with other workers from their work site in Givatayim (a suburb of Tel-Aviv). The soldiers thought that the vehicle was about to run them over, and they opened fire. The IDF investigation revealed that the vehicle did not stop because of a brake defect.

22. See A. Hass, "The Regulations, not the Soldiers," *Ha'aretz*, 18 August 1998; I. Torfstein, "Neither Law nor Justice," *Jerusalem*, 20 March 1998; The Center for Democracy and Human Rights, press release, 19 October 1998.

The soldiers generally allow everyone traveling on this road to continue on their way, and jeeps are rarely stationed there to prevent workers and Palestinian vehicles from passing. I intended to go that way.

After going about 200 meters on the bypass route, I was 500 meters from the checkpoint. 'Ala, who sat alongside me, said, "Be careful, a settler is about to shoot us." I looked at where he was pointing and saw a person in uniform, not a settler like he thought. I drove onto the shoulder, slowed down, and then the fellow in the uniform - I don't know if he was a soldier or a Border Policeman - fired several shots at us.

We decided to flee. As we did, 'Ala told me that he had been wounded. He fell in my direction and I saw he had been shot in the back and was losing blood. I drove fast to another Israeli military checkpoint, which was south of a-Dahariyeh. It took about ten minutes to get there. I asked the soldiers to take care of 'Ala. They gave him first aid. While they did that, I called my brother, who summoned an ambulance. The ambulance arrived ten minutes later and took 'Ala to Soroka Hospital, in Beersheva, where he died.

That same day, I reconstructed the incident for the Israeli Police and soldiers, and gave a statement to Israeli police officers at the scene and at the Kiryat Arba police station.<sup>23</sup>

**Testimony of Raid 'Awad Daramneh, born in 1963, married with six children, resident of Jamaleh, Ramallah District**

At 7:30 A.M. on Monday, 1 March 1999, I got into a white Ford van. The driver, Jum'ah, was from Beit Laqiyah, and all the passengers were from Jamaleh. One of the passengers was a cousin of mine, Khalid Daramneh.

The van entered Israel from a dirt road south of the Latrun checkpoint. Many workers who do not have entry permits use this road regularly. The soldiers at the checkpoint see all the vehicles bringing workers from the Occupied Territories enter Israel in the morning and return the same way in the afternoon, and do nothing to prevent it.

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23. The testimony was given to Najib Abu-Rokaya on 6 June 1999 at a-Samareh's home. B'Tselem referred the testimony to the Office of the Military Advocate General, who responded that the case was being investigated.

*When work ended, the driver, who also worked for our employer, picked us up and we drove toward our village. We went along the same dirt road that bypasses the checkpoint and entered the West Bank. About 100-150 meters after we crossed into the West Bank, soldiers who had been hiding surprised us and called out to the driver to stop. The driver, who was driving workers without permits into Israel on a closure day, was afraid of the punishment he would receive and possibly also the imprisonment of the workers. He changed direction. We drove about one hundred meters, when other soldiers suddenly appeared and called out to him to stop. The driver changed direction again, and again soldiers came out of hiding and told him to stop. For the fourth time, he changed direction and tried to evade the soldiers. This time, the soldiers fired at the auto without calling out to the driver to stop. One bullet hit Khalid. When they fired, the soldiers were about 150 meters from the van. I was sitting next to the driver and pulled up the "hand brake." The driver began to brake, and the van stopped. After it stopped, a soldier fired another shot into the air.*

*After the shooting, the passengers got out of the vehicle. Two soldiers came to us and told us to lie down on the ground, which we did. Khalid cried out in pain. After three to four minutes, another five or six soldiers who had also been in the ambush joined them. The officer asked the soldiers, "Who fired?" One soldier responded, "I did." The officer told him, "Take care of him." The soldier looked at Khalid and said to the other soldiers, "He is seriously injured." The soldiers summoned a military ambulance, which arrived thirty minutes later. The ambulance staff gave Khalid first aid and evacuated him. That was around forty minutes after the shooting. Lots of soldiers and police arrived at the scene. The police questioned us and at 12:30 at night we were released by Modi'in Police and allowed to go home.<sup>24</sup>*

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24. The testimony was given to Najib Abu-Rokaya on 4 March 1999 at Asaf HaRofeh Hospital. B'Tselem forwarded the testimony to the Office of the Military Advocate General immediately upon obtaining it. The Office responded that the matter was being handled. In August 1999, B'Tselem requested the findings of the investigation, but has not yet received a response.



Unregistered workers enter Jerusalem from Bethlehem [Photo: Chen Yanai]

***Testimony of Muhammad Khalil al-Masari, born in 1965, married with one child, resident of Sari Village, Hebron District***

*On Sunday, 18 October 1998, I left my home around 5:00 A.M. to go to my job in Beersheva. I had a valid permit in my possession. My cousin Muhammad, 26, a resident of al-Fawr Village, Hebron District, was with me. We work at David Shoshen's metalwork shop in Beersheva.*

*We finished work that day at 4:45 P.M. After changing out of our work clothes, we walked ten minutes to a place where vans were standing. They take workers from Beersheva to villages in the West Bank. We got into a van at 5:10 P.M. It was a gray GMC with yellow license plates [Israeli]. I did not know the driver, and I do not know his name, but I had traveled with him once or twice. The vehicle was a type of service vehicle. When it fills up with passengers, it starts on its journey. We started to drive just after I got in. We were a total of ten passengers, and the only one I knew was Nabil.*

*Around 5:40 P.M., we reached the Green Line. We crossed into the West Bank by a dirt road and not via the checkpoint because some of the passengers did not have permits to enter Israel. After reaching the West Bank, we got onto the Beersheva - al-Dahariyeh road. It was close to six o'clock, and it was already dark.*

*Suddenly I felt as if the vehicle had been hit and heard a loud sound of something striking the van. I felt another hit and then a stabbing sensation in my legs. I said, "Oh, my legs," and someone else shouted, "My hand." Other passengers also cried out. We thought that a settler had shot at us, because we were close to the settlement Tana. The driver continued forward, to distance us from the entrance of the settlement.*

*The shooting continued, and struck one of the wheels. The driver came to a full stop about twenty meters past the entrance to the settlement, and then a Border Police jeep hit us from behind. The jeep stopped in front of us, and inside were three Border Policemen. They got out. Then one of them broke the window of the right-hand door of the van and ordered us all to get out.*

*I saw one of the Border Policemen punch and kick the worker who had been sitting next to the driver. The shooting wounded four workers. I was hit in the legs, Nabil in his left arm, and another worker was struck in the leg. I do not know where the fourth wounded worker was hit.*

*The policemen stood us in a line along the road and asked us who had a permit to enter Israel. I told one of the policemen that I had a permit, and he said that I could go home. I told him that I had been hit in both of my legs. One of the policemen stood me in the light of the jeep's headlights, looked at my wounds, and said, "Get out of here."*

*Another one of the workers, who had not been wounded, and I got into a Palestinian vehicle that passed by. At our request, the driver took us to the Palestinian Police station in a-Dahariyeh. The policemen there summoned a Palestinian ambulance from Hebron. The ambulance took me and two of the other wounded persons, who had arrived at the station in the meantime, to 'Aliyah Hospital, in Hebron. At the hospital, I was X-rayed and the wounds in my legs were treated. I stayed in the hospital for four days.*

*Now I am lying at home with a bullet in my left ankle and bullet fragments above my right ankle. On 25 October 1998, I gave a statement to the Palestinian Police and to the Israeli DCO and to the police in Hebron.<sup>25</sup>*

### **C. III-Treatment of Detained Workers**

As noted above, economic hardship has compelled a significant percentage of Palestinian workers to enter Israel illegally to work. Those caught at their workplace inside Israel are subject to Police action and prosecution under the civilian judicial system. Those arrested, usually by the Border Police, while attempting to evade the checkpoints in order to enter Israel are taken to detention facilities in the Occupied Territories and tried in military courts.

In March 1999, an IDF soldier who wished to remain anonymous gave a testimony to the Association for Civil Rights in Israel about the severe abuse of Palestinian detainees, which he witnessed during his service in the detention facilities at Erez checkpoint, on the Gaza border. Most of the detainees there were Palestinians living in the Gaza Strip who had been

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25. The testimony was given to Najib Abu-Rokaya on 26 October 1998 at al-Masari's home. The Department for the Investigation of Police forwarded the file to the District Attorney for the Jerusalem District. B'Tselem's request to receive the findings of the investigation has not yet received a response.

caught while trying to enter Israel without a permit, hoping to find work or get to their jobs. The testimony described the soldiers' physical assaults, the arbitrary punishment, and the flagrant violation of the detainees' human rights, such as their right to medical treatment, basic detention conditions, and humane treatment. Some excerpts from his testimony follow:

- On the afternoon of 14 March 1999, duty officer Corporal R broke the hand of detainee S and wounded his head while placing the detainee in solitary confinement. The corporal grabbed S by the hand and threw him forcefully toward the cell. The corporal kept him in the cell from Sunday to Tuesday. After beating him, the corporal told the soldier giving the testimony that he beat the detainee because S had cursed his mother.
- On 18 March 1999, fifteen detainees were tried for illegally staying in Israel, and were to serve their sentence in the Beersheva prison. They were placed in one cell, which usually contained four to six detainees. Corporal M decided to punish them because "they smiled at him," and he closed the only window in the tiny cell for half an hour, leaving them with no air.
- Just before the morning of 15 March 1999, a Border Policeman serving in the facility beat a Palestinian detainee who claimed he was fourteen years old. The detainee was released two days later.
- The duty officer corporal regularly offers cigarettes to detainees in exchange for the detainees returning to their cells before their recess ends.
- On those weekends that the soldier giving the testimony was present in the facility, the detainees were not allowed to take their morning walk. Therefore, they remained in their cells continuously for forty-eight hours, from Friday to Sunday.
- The detention facilities were extremely poor: for a toilet, each cell contained a receptacle that was emptied only once a day; the detainees were given tea only once a week (on Wednesdays) and the rest of the week only water; they did not receive a change of

clothing; and some of the detainees had no mattress and had to sleep on blankets.<sup>26</sup>

Military sources informed *Ha'aretz* that most of the soldier's complaints were substantiated.<sup>27</sup> The complaint of the Association for Civil Rights in Israel led to one of the corporals being removed from the facility. However, as far as we know, no investigation was initiated against the other suspects, and no action was taken to improve the conditions in the facility.<sup>28</sup>

### Criticism

Israeli law, like international law, allows security forces to use reasonable force - including firing of weapons - in self-defense and for duty-related purposes, such as dispersing rioters, arresting suspects resisting arrest, and preventing a detainee from fleeing. On the other hand, the law does not allow firing of weapons, beatings, or ill-treatment of persons who do not endanger the lives of others, who are not rioting, and who are not resisting arrest or fleeing. Also, the requirement that reasonable force be used in those instances where force is allowed demands that the measures taken be limited in severity to those necessary to prevent commission of the offense. For example, firing at a motor vehicle suspected of carrying "illegal" workers that does not endanger human life, even assuming that the driver of the vehicle does not stop when ordered, must be aimed at the tires and definitely not at the body of the vehicle.<sup>29</sup>

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26. These are excerpts from a letter sent by attorney Netta Amar, of the Association for Civil Rights in Israel, to the Military Advocate General for the Southern District, Ya'akov Hasidim, and to the OC Southern Command, Major General Yom-Tov Samiah, on 23 March 1999. The letter presents the testimony of the soldier at length and demands an immediate investigation.

27. *Ha'aretz*, 27 April 1999.

28. The Association for Civil Rights in Israel requested the OC Southern Command, Major General Yom-Tov Samiah, to provide information on the handling of the complaint, but the request has not yet received a response.

29. B'Tselem, *Firing at Vehicles by Security Forces in the Occupied Territories* (Information Sheet, February 1994), p. 6.

Information gathered for this report demonstrates that Israeli security forces routinely use unnecessary and unjustified force against unarmed, non-violent, and helpless Palestinians. In doing so, they consistently violate the law, taking advantage of their status as law enforcement agents.

The current commander of the Border Police, Major General Yitzhak Dadon, placed the responsibility for most of the violence in the corps on the IDF, which sends unsuitable compulsory service recruits to the Border Police. Dadon also observed that the request of the Inspector General of the Israel Police Force, Commissioner Yehudah Wilk, to the IDF to raise the quality of the soldiers referred to the Border Police "received a negative response without any explanation."<sup>30</sup> In Dadon's opinion:

The Border Police now lies at the bottom of Israel's order of priorities as to the quality of its units. When placing recruits, there are six potential candidates for every position allocated to the Border Police, but the army prefers to recruit into our services personnel with low motivation.<sup>31</sup>

It should be made clear that, both morally and legally, no claim of "quality of personnel" reduces or exempts any soldier or police officer from acting properly, or exempts the commanding officers from responsibility for the acts of those under their command.

Furthermore, recent incidents indicate that, even where extreme violence has been exposed, military officials do not hasten to investigate and try those responsible. For example, despite a military court's explicit directive, the military authorities only investigated the case of Eran Nakash, who sexually and physically abused three minors, after *Ha'aretz* complained to the IDF Spokesperson.<sup>32</sup> In the case of the ill-treatment of detainees in the Erez checkpoint detention facilities, described above, the soldier's complaint to the facilities' commander was ignored. As a result, the soldier sought the assistance of the Association for Civil Rights in Israel. Only then was some action, albeit superficial, taken.

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30. *Ha'aretz*, 23 March 1999.

31. *Ibid.*

32. *Ha'aretz*, 9 June 1999.

The complaint of the soldier who served at the Erez checkpoint detention facilities exposes the dismal conditions in which Palestinians who try to enter Israel without a permit are detained. The conditions breach the Fourth Geneva Convention, which states the obligations of the occupying state toward the civilian population in the occupied territory.<sup>33</sup> The conditions also violate the provisions of the International Covenant on Civil and Political Rights, to which Israel is party. The Covenant states, in article 10:

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

The use of violence by security forces against Palestinians (primarily Palestinian workers) is not, as noted, new or unknown. In most cases, security forces' commanders, like the political echelon, decry the phenomenon and express their readiness to take action to eliminate it. However, this report's findings show that the efforts to improve the situation are few and insufficient, and that the "readiness to improve the situation" is nothing but lip service.<sup>34</sup>

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33. Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, arts. 37 and 76.

34. One of the plans to combat the violence is system-wide, operated by the psychology department of the Border Police. The plan's objective is to ferret out, at the basic training stage, soldiers who are potentially violent, and to transfer them to other corps. See *Ha'aretz*, 1 March 1999.

## **Punishment that Reeks of Discrimination**

At least forty percent of the Palestinians who enter Israel daily to work are not registered at Israel's employment services because they do not meet the requisite criteria. The economic hardship and high unemployment in the Occupied Territories motivate them, despite the inherent risks, to seek work in Israel. Thus, they violate the Entry into Israel Law by "staying illegally" in the country. Workers without work permits who are caught by the Police, are, like their employers, subject to prosecution.

In October 1998, the Police arrested 'Ali Ben 'Odeh 'Awataleh, a Palestinian from Jericho who worked in Tel-Aviv without a work permit. He was not suspected of having committed security offenses and cooperated with the investigators. He was charged and sentenced by the Tel-Aviv Magistrate's Court to seven days' imprisonment and eleven months' probation. The State appealed to the District Court, contending the sentence was too light. The Court increased the sentence to ten months' imprisonment, some forty times greater than the sentence imposed by the Magistrate's Court.<sup>35</sup> Attorneys Sapir and Aroeti, of the Public Defenders Office, who represented 'Awataleh, appealed the sentence to the Supreme Court, arguing, in part:

Section 12 of the Entry into Israel Law provides a maximum sentence of one years' imprisonment for staying illegally in Israel. On the other hand, section 12A of the law provides a maximum sentence of two years' imprisonment for illegally employing residents of "the Region." Although the legislature attributes greater severity to the offense of illegally employing than to illegal staying, in practice, employers receive lighter punishments than the workers.

The significant difference in punishment is expressed by the general predilection not to impose prison sentences on the employers, and often the prosecution does not even request imprisonment. Where the court imposes a prison sentence, it is for very short periods, and the court often allows the defendant to serve it in public service.

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35. The Magistrate's Court's judgment was given by Judge Pinchuk-Alt in Crim. File 8193/98. The judges who gave the judgment in the District Court, Crim. App. 4392/98, were Berliner, Hammer, and Beiser.

The courts have spoken out on the matter of discrimination as described by the Public Defenders. For example, Judge Zelochuber argued:

Stronger measures should be taken against them [the employers] than against the residents of the Occupied Territories who enter Israel illegally, almost compelled by the poor economic conditions and by the desire to provide a living for large families that barely have enough to eat. It is unacceptable that employers, who gain an economic benefit from the offense and whose situation is generally very different than barely having enough to eat, do not receive the same or a harsher sentence than that given the person employed contrary to law.

The defense attorneys withdrew their appeal before the Supreme Court heard it, because 'Awataleh's sentence was reduced by one-third, and he was released.

## Chapter Three: **Violence in Labor Relations**

In addition to the violence Palestinian workers suffer at the hands of the security forces, there are also instances in which Israeli employers treat them violently. The frequency of such violence is difficult to estimate, and it is hard to establish how much they deviate from the violent behavior characterizing broad sectors of Israeli society.

However, the violence is not an isolated phenomenon, but an extreme expression of the unequal relations between Israeli employers and Palestinian workers, characterized by an inherent and significant imbalance of power. This inequality, resulting from the lack of citizenship of the Palestinian workers, their lack of organization and proper representation, their fear of the Israeli authorities, and the high unemployment in the Occupied Territories, leads to systematic violation of their rights, even their right to bodily integrity.

The following two testimonies illustrate the use of physical abuse as a demonstration of contempt toward Palestinian workers and their rights as workers and human beings.

### ***Testimony of 'Abed a-Nasser Muhammad 'Awad Salah, born in 1967, single, resident of Burqa Village, Nablus District***

*For four years I worked at various places in Israel without a work permit. I worked in Caesarea selling construction materials and in Haifa as a molding assistant at a construction site. I lugged goods at the wholesaler's market in Tel-Aviv, and for three weeks worked at a delicatessen in Netanya as an assistant cook. I had many other jobs as well. Throughout those four years that I worked without a permit, I never received a pay slip. I always was paid in cash. Only once did I get a check. Obviously, during these years, I never received severance pay or social benefits.*

*When I worked in Caesarea selling construction materials, I was injured at work. I injured my left thumb - the skin and nail were peeled off. I was treated off the record at the health fund in Jeyser a-Zarqa Village and then taken home. I continued medical treatment in Tulkarem at my expense and received no compensation for the injury.*

*My employers on that job owed me NIS 700 for wages. They denied it and refused to pay me. Because of my thumb injury, I couldn't work for a month, and received no compensation for that. When I worked at the delicatessen in Netanya, the owner's sister regularly insulted me and the other three Palestinians working there. She would say things to us like: you stink, you are disgusting, you're an ass, and dumb Arab. I went to her brother, the owner, and told him that I wanted to quit. He demanded that I find him another worker. I brought in someone from Gaza and left.*

*Four days later, on 15 December 1998, I went back to ask for the wages they owed me, NIS 500. I said to the owner, "Hello, Mr. Haim." He said, "Hello, what do you want?" I told him that I wanted my money. He said that I had nothing coming to me. I said, "You are a good man, don't ignore a person's rights." He said, "Get out, you bastard!" I swore at him in return, and then he and his two Jewish employees, Yossi and Yigal, and the fellow from the pastry shop next door assaulted and beat me. Some passersby joined in and they all beat me up for five minutes. About ten Palestinian workers saw it, but didn't dare get involved. City inspectors passed by and did nothing. Ultimately, I succeeded in getting away. I was bleeding all over. I fled to the Police station 200-300 meters away.*

*The police officer there told me, "First go to Leniado Hospital for treatment and then come back with a medical certificate and we'll take your complaint." I went to the hospital, where they found I had a broken nose. I paid NIS 300 and returned the same day to the Police station. The investigator took my detailed statement, and I gave him the names of those involved: Haim Bukovza, the owner; Yossi and Yigal, who still work there; and Yossi, the neighbor from the pastry shop.*

*I do not know what happened with the Police investigation. The attorney of the Palestinian labor unions is handling my file. In Nablus, doctors operated on my broken nose.*

*When I got better, I started to work at another place in Netanya. That was in the beginning of 1999. I worked there for three months, and the owner didn't treat me any better. He insulted and harassed me. He called me names: Arab, ass, Palestinian, idiot, and the like, in front of customers, just like it was at the delicatessen.*

Bukovza, against whom I complained, made it clear to me, in messages passed to me by city inspectors, that if I did not withdraw my complaint, he would make sure I was beaten again. I finally decided to leave my job. Bukovza sent me a message via a Palestinian worker that he would give me NIS 1,000 if I withdrew my complaint to the Police, but I refused.<sup>36</sup>

**Testimony of Mahmud Hassan Ahmad Ahmad, born in 1961, married with eight children, resident of Khan Yunis Refugee Camp, Gaza Strip**

I began to work in Israel in 1972. My last employer was Ovadia Kaduri, a steel and fencing contractor. I began to work for him on 15 July 1991, shortly after the Gulf War. I worked on the books and received a pay slip. Of course, I had a magnetic card and permit to enter Israel. In the meantime, Ovadia got my permit revoked.

I mostly worked in a metalwork shop in Holon. We were three workers from the Gaza Strip working for that contractor. We made NIS 150 a day. Part of it was paid in cash and part by check. It was the same every month - he did not list all the workdays on my pay slip. He would record only fifteen to eighteen days, although I had worked twenty-two or twenty-three days, and even overtime for two hours a day. He recorded my wages at only NIS 120 a day.

In July 1998, Ovadia asked me to work on a piecework basis. He wanted me to work harder for more hours, increasing output. He paid me an additional NIS 20 a day. I worked that way in July and August. In August, he reneged on the additional NIS 20 a day and complained about my performance. I said, "Let's go back to the way it was, eight hours a day at the previous salary." He agreed. Two days later, he again demanded that I work on a piecework basis, and I refused.

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36. The testimony was given to Najib Abu-Rokaya on 16 June 1999 at Salah's home. B'Tselem requested Netanya Police to investigate the case, but has not yet received a response. B'Tselem also requested the Netanya Municipality to investigate the involvement of city inspectors in the case. The Municipality's director general responded that the matter was being investigated, and that if its findings support the contentions made in the complainant's testimony, disciplinary action would be taken against those involved.

On 17 August, we had an urgent job to get done, and he told me to do it. When I finished, he said, "Go home, I don't want you working for me." I said, "Give me my wages and severance pay, and I'll go." He responded, "You'll get your wages, but you'll have to sue me for the severance pay." I went to the storage room to change out of my work clothes. Ovadia followed me in and locked the door. Two other employees of Ovadia, two brothers from Khan Yunis, Muhammad and Mahmud al-Azuri, were also there. They saw what happened. It was around 9:30 A.M.

He left with the two workers and I remained locked inside the room. I began to shout. Neighbors heard me and came. One of them was Husam Marmela, who works in the warehouse next to the bus repair garage, and I told him that I had been locked in the storage room. I asked him to call the Police. Husam's employer forbade him to call the Police. I told Husam that there is another worker, from Ramle, Abu Ahmad, who works with him. I asked Husam to send him over. He told me that Abu Ahmad had not yet arrived at work.

Around 10:30, Shlomi arrived. He owns the building. I called out to him to call the Police. After another hour or so passed, it was 11:30, I called to Husam and asked him to call a fellow from Gaza, Salman, who works in construction. Salman arrived ten minutes later. I asked him to call the Police. He said, "What am I going to tell the Police? I don't know the name of the place or the area." Then he left. At 12:45, Abu Ahmad, who works at the garage, came, and I asked him to call the Police, but he said that his employer ordered him not to.

At 1:30, Salman came back with a foreign worker. They told me that they had called the Police to get me out. I began to lose consciousness because of the August heat, my nerves from being locked up like that, and from the odors from the materials. At 2:30, the Police arrived and broke down the door. They summoned an ambulance, which took me to the hospital in Holon. I was treated and released. The following day, I did not feel well and went to Nasser Hospital, in Khan Yunis. I was given some pills and told to rest at home for fifteen days.

At the hospital in Holon, I gave a statement to the Police. I requested the Center for Democracy and Workers' Rights, in Gaza, to file a complaint on my behalf against the employer.

*Ovadia has not contacted me since the incident. He did not pay me for ten days of work or give me severance pay. I also never received my other rights, like annual vacation, holidays, and work clothes, even though I requested them.*<sup>37</sup>

### **Stabbing in Jerusalem and Statutory Discrimination**

Since November 1997, ten Palestinians have been stabbed, under similar circumstances, in Jerusalem.<sup>38</sup> Two died from the stabbing. All were stabbed while at work or on their way to work. Most of the stabbings occurred in or near the neighborhood of Mea Shearim. The Police, who have not apprehended the person or persons responsible, surmise that a “serial stabber” is responsible, apparently an ultra-orthodox Jew.

It is not happenstance that the victims are workers. The perpetrator, or perpetrators, apparently wanted to injure Palestinians for nationalistic or racist reasons. Palestinian workers are a relatively easy target because the area where the attacks occurred is convenient and known to the perpetrator. Similar situations occurred previously following Palestinian terrorist attacks. Israeli civilians “vented their rage” on workers from the Occupied Territories who were nearby. The risk of falling victim to violence by Jews venting their frustration or as a result of their feelings related to the conflict between the two peoples is an integral part of working in Israel.

The family of one of those killed, Khiri 'Alqam, 51, a resident of East Jerusalem, requested that the National Insurance Institute recognize the deceased as being within the Persons Injured by Hostile Acts Law. The request was denied because the Law only includes, in this context, hostile acts perpetrated by an organization hostile to Israel” or persons acting on behalf of, or to advance, such organization’s interest. The family appealed the decision to the Appeals Committee of the Tel-Aviv

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37. The testimony was given to Najib-Abu Rokaya on 28 April 1999 in Rafah.

38. Most of the victims were residents of East Jerusalem. Under international law, the status of East Jerusalem is identical to that of the rest of the territories occupied in 1967. After Israel annexed East Jerusalem, most of the residents there received permanent-residency status.

District Court.<sup>39</sup> Simultaneously, attorney Shlomo Lecker, representing the family, requested that the Attorney General have the case heard by a special committee, which had previously handled a similar case. Lecker argued that, although the Law does not explicitly include terrorist acts by Jews within the definition of "hostile acts," victims of such acts should be compensated similarly to victims of acts recognized as hostile acts. Lecker has not yet received a response to his request.

The obstacles faced by the 'Alqam family in its attempt to be recognized as a victim of a hostile act, regardless of the outcome, expose the improper considerations underlying the Law. These considerations, which result in not defining attacks perpetrated by Jews as hostile acts, discriminate against Arab citizens and residents, thus preventing them from obtaining compensation. B'Tselem urges the Knesset to amend section 2 of the Law to ensure that it provides equal and fair treatment.

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39. Misc. App. 4665/98. The Appeals Committee was set up pursuant to section 11 of the Persons Injured by Hostile Acts Law.

## Chapter Four: **Work Permits as a Means of Pressure**

One of the features of decisions reached by the Israeli authorities in the Occupied Territories is the lack of transparency. The lack of transparency is generally accompanied by extensive reliance on “security considerations” to justify all decisions and policies. This phenomenon is especially conspicuous in the policy regarding the granting of various permits. The arbitrariness is apparent in the refusals that are reversed after human rights organizations or international organizations intervene. In other words, the “security interest” for which the individual was denied a permit disappears immediately upon the demand for an explanation by a third party.

Although the criteria for their issuance are known, the granting of work permits is also subject to arbitrariness and extraneous considerations. The arbitrariness may be the refusal to grant the permit to a person who meets the criteria, or even the revocation of a permit that had been used properly, as will be described below.

Our research has shown that Israel, through the General Security Service (GSS), uses its authority to revoke work permits of Palestinians from the Occupied Territories as a means to pressure them into cooperating with the GSS. The GSS uses this method primarily with Palestinians from the Gaza Strip employed in Israel. The pressure is two-fold. First, it results from the dependence of the workers and their families on the income generated in Israel as their primary source of income, because of the economic hardship and high unemployment in the Gaza Strip. In recent years, approximately forty percent of Palestinians in the Gaza Strip live in poverty.<sup>40</sup> Second, workers from the Gaza Strip have much greater difficulty than workers from the West Bank in entering Israel, because the border between the Gaza strip and Israel is harder to cross illegally.

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40. For comprehensive research on current poverty in the Occupied Territories, see National Palestinian Team, *Poverty in Palestine*, 1998, <http://www.pna.net/povertycon/xecsum.htm>.

According to the legal advisor of the Center for Democracy and Workers' Rights, attorney Ribhi Qatamesh, this pressure has always existed. However, since the IDF's withdrawal from the population centers in the Occupied Territories, the GSS sources of information have diminished, and it must recruit additional sources. Qatamesh contends that the situation today is worse in the Gaza Strip than the West Bank because it is difficult for Israelis to be in Palestinian population centers in the Gaza Strip.<sup>41</sup>

The recruitment method is more or less the same in most cases. When a worker who is a target for recruitment presents his magnetic card at Erez checkpoint, he is referred to the GSS agent stationed there. The GSS agent tells the worker that he is "refused entry into Israel" and "offers his assistance" in removing the prohibition. In exchange, the worker must provide information about a particular activity or about specific persons who live in the same neighborhood or village. If the worker refuses, the authorities take his permit and tell him to return after a certain period of time "to determine whether the situation has changed."

Although it is difficult to estimate the scope of the phenomenon, B'Tselem is aware of dozens of cases of Palestinians victimized by this method. A few of the testimonies follow.

***Testimony of Maher Salah Muhammad a-Salul, born in  
1971, married with four children, resident of Nuseirat  
Refugee Camp, Gaza Strip***

*I first worked in Israel at a carpet factory in Ashdod in 1991-1992. Then I stopped working in Israel because I was young and single and did not meet the criteria set by Israel. Now, based on my age, I meet the new criteria. In October 1998, I received an entry permit and work in Israel through the employer I worked for in 1991-1992. I went back to work at his factory, which had moved in the meantime to a settlement in the West Bank, in the area of Jenin. My permit allowed me to stay overnight, and I would return to my family once every two weeks.*

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41. Qatamesh made these comments to B'Tselem on 19 March 1999 at a meeting at the Center's offices in Ramallah.

*On Sunday, 21 February 1999, after spending the weekend with my family, I left to return to my job. At the Erez checkpoint, I gave my magnetic card to the soldier, and he ran it through the computer. My card got stuck and the computer started to make a buzzing sound. The soldier said, "You have problems with the Palestinian Authority, and until the PA finishes its search for wanted persons in your neighborhood, you can't enter."*

*I asked the PA, and the officials there said they had no problem with me. My magnetic card was valid until 8 March 1999, so I thought that, in the meantime, I would renew it. From 21 February to 8 March, I went to the place in the Erez industrial zone where they issue and renew magnetic cards. The Israelis did not let me enter.*

*I went back on 9 March, and I was allowed to enter. I waited, and when they called my name, they took me to the GSS representative at the site. The GSS agent greeted me warmly and asked what I wanted. I told him that I wanted to renew my magnetic card. He asked what I do, and I told him. He asked if I pray, and I responded that I pray only on Fridays. At which mosque, he wanted to know. I gave him the name. He told me there is a mosque closer to my home and asked why I don't pray there. I explained why. He asked me to give him the names of persons whom I know from the Islamic movement. I told him that I don't know. Then he said, "Give me the names of persons from Fatah." I told him that I don't know. He asked, "You want to work with us, or don't you?" I told him that I want to work in Israel. He said, "I want you to tell me some small things, like the color of X's car." I said, "You want me to collaborate?" He said, "Don't make a big deal out of it, it's all very simple. You have a family and children, and you need to support them, and work in Israel is preferable to work in the Strip."*

*He told me there was no need to meet. We only had to exchange telephone numbers and be in touch by phone. I told him that I don't have a phone. At the end, he said, "You want to work, or not?" My identity card was on the table. I took it and told him that I did not want to work that way. He said, "If you change your mind, you know where to find me. I'll be here." I got up and left and on the way out they gave me a small slip to come back in two months.<sup>42</sup>*

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42. The testimony was given to Najib Abu-Rokaya on 15 April 1999 at a-Salul's home.

**Testimony of Ra'id 'Abd al-Karim Salah al-Mabeid, born in 1976, married with four children, resident of 'Aza al-Shaj'ayah Jadidah, Gaza Strip**

I worked in construction for the Ozen Brothers Company in Beersheva and other places in Israel. I worked for them for about a year. I received NIS 80 a day, plus transportation to and from work. I had a magnetic card and permit to enter Israel. My magnetic card was valid until December 1995. In January 1996, I went to Erez to renew it. Forty months have passed since then, and the Israelis still have not renewed it. I went to Erez maybe thirty times over the forty months to find out what was happening with my magnetic card.

In early 1998, I met with the complaints officer. He asked me the names of the members of my family and of my friends and told me to return in twenty-two days. When the time had passed, I returned and was told to come back the next day. I came back the next day, and they told me to go into the room of the GSS officer. I went in and sat down. He asked me, "What do you want to drink?" I said, "Nothing, thanks." He insisted, and brought me a glass of water. Alongside him sat another person. I didn't know who or what he was. The officer who received me introduced himself as "Captain Iyad." He said to me, "We want to help you and give you a magnetic card and permit to enter Israel, so that you can work there."

They asked me how much I earn in Gaza. I told them NIS 40-50 a day. He told me that in Israel I could earn NIS 300-400 a day. "Isn't that better for you? Do you want the magnetic card, or not? Do you want to earn NIS 300-400 a day and build yourself a house and buy a car?"

I told him, "If you give me the magnetic card, I'll accept it and go to work in Israel." Then he said, "Good, we'll give you everything, but you have to help us." I said, "That I refuse to do." He said, "Why? Many have agreed to do it." I said, "That's their business. I am not ready to dirty my name and my family's name and be a collaborator. I have a family and I have to support it, and I prefer to work in Gaza for NIS 40-50 a day and not make NIS 1,000 a day under such conditions." He said, "OK. Go outside and you'll get an answer." Outside, my name was called and I was told to come back in two months.

*I am still trying. The last time I went there to check was yesterday. At the gate they told me to go home and come back in a week.<sup>43</sup>*

***Testimony of Nasser 'Abd a-Rahman Hassan Dukhan, born in 1964, married with four children, resident of Nuseirat Refugee Camp, Gaza Strip***

*I finished my studies in 1983 and then spent four years in Egypt and elsewhere. I returned to the Strip in June 1987. On 9 December 1987, right on the first day of the intifada, I went to Jordan and the Emirates to look for work. I worked in the Emirates for about a year and a half, and on 8 December 1990, I returned to the Gaza Strip. From the time I returned until November 1996, I worked at various jobs in the Strip. In December 1996, I obtained a permit to enter Israel. I paid NIS 1,000 on the black market to get it. I promised to pay NIS 500 more for each month that I have the permit, and I made the payments....*

*From April 1997 to the end of November 1997, I worked in the Strip at temporary jobs. In December 1997, I obtained a new permit, also on the black market. I paid NIS 900 for it and promised to pay NIS 500 a month. I worked with that permit until 13 February 1998. Then my permit was revoked because I did not pay the NIS 500 a month. I didn't pay it because I did not work every day. The soldiers who checked me at the checkpoint that morning sent me to the number one lane, to which they normally send workers whose permits have been denied or revoked by the employer.*

*At the end of February 1998, I obtained a permit to work in a sewing factory in the Erez industrial zone. The wages were NIS 60 a day, and I worked there for three months... On one of the days that I got to the checkpoint, the machine buzzed. The soldiers took me to the GSS. The GSS agent in charge was not in his office at Erez, and after waiting two hours or so, I was told to go without anybody having talked to me. They told me to come back the next day at 4:00 P.M. I came back at the designated time, and two soldiers and a GSS agent were waiting for me. After waiting twenty minutes, a military vehicle took me to the GSS [office] at Erez. I waited there for about two and a half hours until I met with the GSS agent.*

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43. The testimony was given to Najib Abu-Rokaya on 28 April 1999 in Gaza.

*I was questioned about my family background. The GSS agent asked me about my uncles on both sides of the family, about their sons and my brothers, whether anyone in my family works in the Palestinian Authority, whether anyone in my family has a telephone, and what the number is. He also asked about my sisters, who they are married to, and their telephone numbers.*

*He asked me what job I had and how much I earned. I told him that I work in the industrial zone and earn NIS 60 a day. He asked me if that was sufficient. I said it was, and that I only wanted to make sure that I had that income. He told me that he wanted to tell me a story. He told me about someone who went to the sea to fish with a fishing rod, and someone passed by and said to him, "Why don't you buy a boat and net and go out to the middle of the sea, where you will catch plenty of fish, sell them, and make lots of money. Then you can buy another boat, catch more fish, and earn more money, and buy another boat and hire workers who will fish for you, and you can go to the Riviera in France and sit on the seashore and fish for enjoyment and not to make a living."*

*After he finished the story, he told me that it would be in my best interest to help them, and that it would benefit me, because my cousins are known as being active in the Hamas and in 'Az a'Din al-Qasam [military wing of Hamas]. He mentioned one of my cousins, who was killed by the Israelis in April 1991 along the Egyptian border, and another who is in an Israeli prison. He said that they and their brothers have evil intentions toward the Israelis. He demanded that I report to the GSS what I hear. I told him that my cousins were young when these things happened, and that times have changed. There is a Palestinian Authority, and these people [my cousins] are busy making a living. What happened in the past is over. After he saw that he had no chance to recruit me as a collaborator, he gave me back my permit and magnetic card and let me go. Our conversation lasted about an hour and a half. Only at 10:00 P.M. did they drive me outside the area, and then I walked home.*

*I went back to work the next day, and everything was all right for two weeks. On 19 June 1998, the magnetic-card device buzzed when I put my card through at the entrance to the industrial zone. The two soldiers who were there took my work permit and magnetic card and told me that I was "prevented from entering for security reasons." I went to the GSS office at*

Erez to speak with the GSS agent I met with previously and ask him why they took my magnetic card and permit, because he said everything would be all right.

I did not find him, but I found another GSS agent. I told him that I had been there two weeks earlier, and asked for his assistance. He entered the GSS room and I remained outside. He later came back and told me to take out a new magnetic card. Four days later, I went to get a new magnetic card. They told me to come back in two months. I went back two months later, and again they told me to return in two months. The same thing happened several times. Each time I went to Erez to request the new card took a lot of effort and was a hassle. It took eight, nine hours, and after all that time I still did not have a card. First, I have to go to the PA office in labalyeh, where I get a slip and, together with all the others, get on a PA bus, which takes us to Erez. We all hand over our identity cards at the entrance, receive an Israeli slip, and get on an Israeli bus that takes us to where they handle the requests for magnetic cards.

A complaints officer and GSS agent are there. I asked to meet with the GSS agent. At first, the soldier refused to take me to him. Another time, I succeeded in meeting with him. He asked me, "What's your problem?" I told him, and he asked if I had gone to the GSS at the Erez crossing. I told him that I did. He asked what they wanted from me. I said that they wanted me to collaborate and give them information, and that I refused. He told me that if I agree to give the GSS information, I would get a magnetic card and permit, and that they would also make sure I had a good job. I said that I wouldn't make such a deal and refused his offer. The last time I was there was 18 March 1999. I am supposed to go back on 18 May. I have gone through this procedure five or six times already and did not get a magnetic card, and I do not know if or when I will get it.<sup>44</sup>

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44. The testimony was given to Najib Abu-Rokaya on 15 April 1999 at Dukhan's home.

**Testimony of 'Abd Al-Qader Ibrahim Muhammad, born in  
1948, married with six children, resident of al-Maghier,  
Ramallah District**

*I worked at various jobs in Israel from 1971 to 1997. Most of them were in construction. I worked in Ashdod, Tel-Aviv, Jerusalem, Rosh HaAyin, the settlements, and other places. I had a magnetic card and permit to enter Israel. Everything was fine.*

*I would submit a request, and when I could, I got along without renewing my magnetic card. In 1997, I applied to the Civil Administration in Beit El to renew my magnetic card. I was surprised when I was told that the GSS had recorded comments next to my name, and that I couldn't renew the card. Two, three days later, I was summoned by the GSS to go to the Civil Administration office near Bituniyeh [next to the Givat Ze'ev settlement].*

*When I got there, the soldiers photographed me. When my turn came, "Captain Malik," a GSS agent, called me. I went into his room. He shook my hand warmly and asked if I knew why I had been summoned. I told him that I had no idea. He said, "I want us to cooperate with each other." I told him that I am not willing to be a spy. He said, "You didn't understand me. I am suggesting cooperation that would benefit your village. For example, you tell us who are the children throwing stones [at Israelis] on the road, we arrest them, and they serve their sentence. Everything will be quiet in your village because the soldiers won't have to go in and get involved in confrontations with the residents. It will be tranquil in the village." I absolutely refused.*

*He asked me if I knew what was the reason I could not renew my magnetic card. I said, "Yes, you!" He said, "That's right, I can renew your card. I'll make sure you get a permit that allows you to stay in Israel overnight, so that you won't be poor any more, and your situation will be better." Of course, I refused all the offers he tempted me with. At the end of our conversation, he asked about my brothers and their children. He wanted me to list all of them and to tell him where each one works. I told him what he wanted to know. He shook my hand and said that if I changed my mind, I should come back and tell the guard at the gate that I came to meet with the captain. I left his room and went home.*

*When I worked in Israel, I earned between NIS 2,000-3,000 a month. Now, I am unemployed and have no income. I have sixty olive trees and spend my*

*time taking care of them. I have an eighteen-year-old son who works a bit and makes around NIS 800 a month from his job and odds and ends. I live with my wife and five children. God will help me.*<sup>45</sup>

## **Criticism**

It is the right and obligation of Israel to defend its citizens. However, revoking or granting work permits to Palestinians depending upon their readiness to collaborate with the GSS is morally and legally unacceptable. All of the workers who gave testimonies to B'Tselem regarding GSS proposals to collaborate stated that, until the time the offer was made, they had received magnetic cards and work permits without problem. Their refusal to collaborate clearly created the "security reasons" because of which they were prohibited from entering Israel.

This frequently used method is a gross violation of international humanitarian law, particularly the Fourth Geneva Convention, which establishes the obligations of the occupying power toward the civilian population living in territory under belligerent occupation.

First, article 31 of the Convention explicitly prohibits pressuring residents in order to obtain information:

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Second, in most cases known to B'Tselem, the GSS pressure - promising to return the permit and magnetic card - was intended not only to obtain specific information, but also to enlist the worker into its service. This type of pressure is prohibited by article 51 of the Convention:

The Occupying Power may not compel persons to serve in its armed or auxiliary services. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

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45. The testimony was given to Najib Abu-Rokaya on 4 May 1999 at Muhammad's home.

Third, as noted, the effectiveness of the pressure results from the economic hardship entailed in losing the source of income in Israel. Article 39 of the Convention obligates the occupying power to support protected persons who, for reasons of security, are prevented from finding paid employment under reasonable conditions. Israel has not provided support under these circumstances, and certainly not under the circumstances described above, when Israel's objective is to threaten economic hardship.

## Chapter Five: **Social Rights and Terms of Employment**

In September 1970, the Israeli government decided to regulate the employment of Palestinian workers in Israel (see the Appendix). The decision, which continues to be in effect, states that "an employee from the Territories is entitled to the social benefits that every other worker in Israel with identical particulars is entitled to by law and the collective labor agreements." This right to equality in terms of employment is a fundamental norm incorporated in Israeli and international law. The data and testimonies obtained in preparing this report indicate that, in practice, the situation is quite different. Palestinian workers employed in Israel and the settlements suffer blatant discrimination, and their social rights are systematically trampled by their employers and at times also by the Israeli authorities.

The violation of their rights does not generally result from a defect or discrimination found in the law, but from breaches of the law by employers. Israel's labor laws do not distinguish between employees on the basis of nationality or citizenship. As long as the employment takes place within Israel, one law applies to all employees.<sup>46</sup>

Furthermore, the Israeli authorities bear responsibility for subsequent injustices, because they fail to properly enforce the law and because of the obstacles the judicial system places on Palestinians wanting to sue for their rights. Employers' exploitation of Palestinian workers does not occur in a vacuum, but is part of a system for which the State is at least partially responsible. A major factor is undoubtedly the closure policy that Israel has implemented since the beginning of the 1990s. The policy harms Palestinian workers directly and indirectly: directly, by denying them the right to work, causing wide-scale dismissals, and creating a situation easily exploited by their employers; indirectly, by creating economic

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46. Many social rights arise not from legislation but from collective labor agreements, according to sector, between the Histadrut and the employers' associations. The Collective Agreements Law, 5717-1957, stipulates equal conditions for all workers in the same unit for which an agreement was signed.

hardship and unemployment in the Occupied Territories, which increases the supply of workers and weakens the workers (who, in any event, are weaker than Israeli workers) in their business relations with their employers.

Regarding national insurance rights, the Israeli authorities are directly responsible for the discrimination. Furthermore, Oslo I formulated an arrangement that made the Palestinian Authority party to the denial of workers' national-insurance rights.

## A. The Payments Section

The Payments Section of the Employment Service, of the Ministry of Labor and Social Welfare, is the conduit through which Palestinian workers registered in Israel receive their net wages and a portion of their social benefits.<sup>47</sup> Employers are required to transfer to the Payments Section the gross wages of their Palestinian workers. The Payments Section transfers to the relevant authorities the workers' deductions and the sums set aside by the employers. These authorities include the Ministry of Finance, the National Insurance Institute, the Income Tax Department, the Histadrut, Palestinian unions, and the Palestinian Authority.

The main social right the Payments Section is responsible for is pensions. It collects the moneys and pays the basic pension. The moneys collected come from the sums set aside by the workers and employers. The workers are entitled to redeem the money that accumulated in the pension fund, in the event of retirement prior to the minimum retirement age, as is customary in Israeli provident funds.<sup>48</sup> Furthermore, since 1995, the Payments Section has been collecting payments from the employers for part of the social benefits to which Palestinian workers are entitled, based

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47. For information on the Payments Section, see State Comptroller, *Annual Report 44* (Jerusalem, 1994), pp. 566-570; Kav LaOved, *Information Sheet*, March 1993.

48. In the past, many workers had difficulty in drawing the money that had accumulated in their pension fund (when they needed it because they had lost their job), because of obstacles created by the Payments Section. The situation changed following the persistent efforts of Kav LaOved. See *Ha'aretz*, "Who is the Ministry of Labor Looking After," 27 December 1994.

on the sector in which the worker is employed. The other social benefits, which are not guaranteed through the Payments Section, are supposed to be provided directly by the employers.<sup>49</sup>

The legal status of the Payments Section is not explicitly set forth by statute, but was established in the previously mentioned government decision of September 1970. The Israeli employers, in writing to the Payments Section, undertake to pay to their Palestinian workers wages equal to that of their Israeli employees, and to set aside money for the workers' auxiliary benefits, as set forth in the government decision. Thus, the decision's objective was both to prevent systematic preference for "cheap" Palestinian workers and to ensure that employers did not evade full payment of wages and benefits of workers from the Occupied Territories.<sup>50</sup> It should be noted that the decision did not cover Palestinians employed in the settlements, and the Payments Section does not handle their wages or social benefits (see section E of this chapter).

The Payments Section does in fact collect from employers of Palestinian workers the payments and moneys set aside in amounts equal to that paid for Israeli workers in the same economic sector. However, the payments that Palestinian workers receive as social benefits are most often significantly less than those provided to Israelis. The reasons for this discrimination are described below.

## B. False Reporting

Examination of thousands of complaints received annually by organizations assisting workers from the Occupied Territories indicates that many Israeli employers submit to the Payments Section false reports

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49. Workers in all sectors receive basic paid-vacation benefits (unrelated to seniority) and sick pay through the Payments Section. In addition, construction and farm workers receive through the Payments Section annual convalescence pay. Only construction workers receive through the Section, in relevant instances, part of their severance pay (72 percent), total disability pension, and occupational-trade pension.

50. From the comments of Minister of Labor and Social Welfare Ora Namir, *Knesset Record*, meeting no. 93 of the Thirteenth Knesset, 24 May 1993.

on the number of days worked and the wages paid to each worker.<sup>51</sup> The large number of complainants indicates that the phenomenon is widespread. Since social rights like annual vacation, convalescence pay, basic pension, and severance pay are based on the number of hours worked and the amount of wages paid, it is clearly to the employers' financial benefit to report a minimum number of hours worked and a minimum wage paid. The differential between the number of workdays reported and the number of days actually worked and between the wages reported and those actually paid are paid directly to the worker.

According to the secretary of the Qalqiliya branch of the Palestinian General Federation of Trade Unions (PGFTU), Muhammad Diab 'Amer (Abu-Shadeh), in some trades, the damage from false reporting is greater than others. He contends that a relatively high proportion of the workers in the Qalqiliya area are tradesmen with vast experience in the construction trades - carpentry, welding, electrical work, laying floors, and the like - who work in Israel and receive a relatively high monthly salary (up to NIS 5,000). In most instances, their employers report a minimum wage to the Payments Section and give the worker the difference in cash.<sup>52</sup> In this way, the employee is denied social benefits on that portion of wages that are paid "under the table."

Many workers prefer to keep their job and not complain to their employers or sue them. They say and do nothing about the false reporting because they fear dismissal, a fear aggravated by the high rate of unemployment in the Occupied Territories.<sup>53</sup> Another reason the situation is "accepted" is

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51. For example, during 1998, the Palestinian unions in the West Bank filed 1,500 complaints in the labor courts regarding social benefits, most of which involved false reporting by the employers. Of these complaints, 1,055 are still pending. These data were provided to B'Tselem by the head of the legal department of the Palestinian General Federation of Trade Unions (PGFTU), Muhammad 'Aruri, at a meeting in his office on 27 May 1999.

52. Abu-Shadeh made these comments to B'Tselem at a meeting in his office, in Qalqiliya, on 27 May 1999.

53. The adjusted rate of unemployment (which also includes those who have given up on finding work) for the West Bank and the Gaza Strip during 1997 was as high as 30.3 percent. In 1998, it fell to 25.15 percent. These figures do not include women employed only a few hours a week and housewives. INSCO, *Economic and Social Conditions in the West Bank and the Gaza Strip* (Spring 1999), Table 9.

that the workers are unaware that their rights are prejudiced when they receive part of their wages in cash. In other cases, workers seek assistance of workers' organizations and decide to sue their employers.

Thus, although the law provides that all employees are entitled to social benefits based on their actual wages - regardless of the number of days worked or the wages paid as reported to the Employment Service - in most instances where workers sue their employers for failure to pay the social benefits, they have difficulty proving that their actual wages were higher than those recorded in the computer of the Payments Section, or that they worked more days than were recorded. As a result, the worker is lucky to reach a settlement with the employer for an amount less than the law entitles him to, from which attorney's fees must be paid. In other cases, the complaint is dismissed and the worker must pay the litigation costs.

False reporting reached its peak, apparently, during the total closure imposed in 1991 at the outbreak of the Gulf War. Because of the increase in security checks and the many checkpoints, the number of Palestinian workers registered at the Employment Service rose significantly in proportion to the number of Palestinian workers employed in Israel. Many employers filed false reports as a means "to compensate" themselves for the costs entailed in paying through the Employment Service. In reaction, the Payments Section issued a regulation, which is still in effect, that reports on less than fifteen days of work would not be accepted.<sup>54</sup> Even though this regulation significantly reduces the number of unreported days, ten days still remain that can go unreported by employers and thus prejudice the workers' rights.<sup>55</sup> The regulation did not reduce the loss suffered by workers who receive higher wages but are reported to have received the minimum wage.

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54. Contrary to this regulation, the High Court of Justice ruled in an order to show cause, issued in a petition filed by an employer against the Payments Section, that the latter must also accept reports for less than fifteen days. See HCl 5511/91. *Cohen Netivey Te'ufa v. Ministry of Labor and Social Welfare and the Payments Section*.

55. The head of the Payments Section, Aharon Barazani, informed B'Tselem, in a letter of 30 May 1999, that the average number of days reported in 1997 was 13.9. In 1998, the average rose to 16.5. One of the reasons for the increase was the low number of closure days in 1998.

***Testimony of Hereb 'Abd al-'Aziz Muhammad Barakeh, born in 1937, married with eight children, resident of Dir al-Balah, Gaza Strip***

*I have worked in Israel almost since the beginning of the occupation, in 1967. The last place I worked was for an Israeli farmer named Shlomo Abarbanel, of Masor Moshav, in the Negev. I have worked for him since 24 November 1995 together with another worker, a relative of mine from Dir-al-Balah, 'Abdallah Barakeh.*

*Abarbanel paid me NIS 105 a day in cash, once a week. On the pay slip, he would only record eight to ten work days, although I worked between twenty and twenty-five days. Now I realize he did that so he would not have to pay me severance pay.*

*In July 1998, Abarbanel requested the second worker from Gaza, 'Ala, and me to sign a document confirming that we had received our severance pay and our other benefits, so that he could fire us later without causing him any problems. We refused. He continued to make the same request until December 1998, when he pressured us and demanded that we confirm in writing that we had received our benefits. We refused and he fired us.*

*On 17 March 1999, he canceled 'Abdallah's and my entry permits. He still owes me wages of NIS 140, and he refuses to pay me the severance pay, clothing payments, convalescence pay, and for annual vacation and holidays. He never provided us with these benefits.*

*I went to the Center for Democracy and Workers' Rights in Gaza and requested that they sue on my behalf for everything I am entitled to.<sup>56</sup>*

***Testimony of Ghaleb Ibrahim Muhammad Qadus, born in 1952, married with four children, resident of Burin, Nablus District***

*I worked as an assistant to a floor-layer at Alpha Investment Ideas Company, from Petah-Tikva. The company sent me to jobs in Petah-Tikva,*

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56. The testimony was given to Najib Abu-Rokaya on 28 April 1999 at Barakeh's home.

*Tel-Aviv, Rishon L'Tzion, and other places. My last wages, for April 1997, were NIS 110 a day. My job there ended because the owner switched to another business. He fired all of his employees, including me.*

*I requested severance pay from Rami Bardeh, the owner, but he refused to talk about it. Because of my stubbornness and that of the other employees, he told us that he might obtain other flooring work, and he would rehire us. He is not willing to pay us anything.*

*I always worked a full month, except for closure days and holidays, but my pay slip only listed fifteen workdays, and sometimes less than that. He paid me NIS 110 a day, but the pay slip stated only NIS 90.*

*I went to the Palestinian General Federation of Trade Unions branch in Qalqiliya and asked them to sue for the severance pay and benefits.<sup>57</sup>*

## **Criticism**

The problem does not stem from the lack of legislation, but, as noted, from the lack of enforcement and the insufficient resources provided to enable proper enforcement, for which the Ministry of Labor and Social Welfare is responsible. The Ministry has the duty to ensure that employers' reports are accurate, and to punish those who file false reports, in part to deter other offenders. It also has the duty to ensure that the weaker and poorly organized workers obtain everything the law entitles them to. For some time, the State Comptroller has warned about this problem, stating:

The [Employment] Service - together with the tax authorities - should conduct meaningful inspections to determine whether the employers are reporting accurately on the employment of workers from Judea and Samaria, and whether they are paying the requisite taxes related to their employment.<sup>58</sup>

The demand that the Employment Service allocate greater resources to inspect employers' reporting has also been raised by non-governmental

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57. The testimony was given to Najib Abu-Rokaya on 22 May 1999 in Qalqiliya.

58. State Comptroller, *Annual Report 44*, p. 569.

organizations such as Kav LaOved.<sup>59</sup> This demand is especially valid following Oslo I, the economic protocol of which stipulates that the workers themselves shall bear two-thirds of the administrative cost of the Payments Section of the Employment Service, by having these costs deducted monthly directly from their wages.<sup>60</sup>

### **C. The Closure Policy and its Effects on Social Rights**

Another obstacle faced by Palestinian workers wanting to realize their social rights results directly from Israel's closure policy since the early 1990s. The various forms of closure are used to collectively punish the Palestinian population for terrorist acts and disturbances. Major General Uzi Dayan, while OC Central Command, unhesitatingly stated that, "working in Israel is a privilege, not a right, that quiet villages benefit from."<sup>61</sup>

It should be emphasized that neither Israel's labor laws nor the specific collective labor agreements condition social rights on proper registration of workers at the Employment Service. The rights are granted by law to every employee. Palestinian workers are entitled to all these rights, regardless of whether they have a work permit or magnetic card. Israel's closure policy has in practice prevented thousands of workers from exercising their rights. The effect of the closure in this context is felt primarily in three situations.

The first situation was created in 1988, when work permits were granted based on security criteria. The situation was aggravated in March 1993, when Israel imposed the general closure on the Occupied Territories, which led to the restriction of permits based on quotas according to sector. To enforce the closure, Israel set up checkpoints along the Green Line, between the West Bank and East Jerusalem, inside the Occupied

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59. For example, in its Information Sheet of May 1994.

60. Agreement on the Gaza Strip and the Jericho Area (Cairo, 4 May 1994), Annex 4, Protocol on Economic Matters, article 7(3)(a).

61. Dayan made these comments at a meeting with B'Tselem representatives on 3 June 1997.

Territories. As a result of Israel's policy, unemployment in the Occupied Territories rose, and, in order to support their families, many workers had no choice but to work in Israel without work permits. In most of these cases, the workers were denied the social rights provided by law, mostly because they were unable to complain to the bodies responsible for enforcing the law. Had they complained, they would most certainly have been fired, and they also would have been prosecuted for unlawful stay in Israel. Infrequently, and only after being fired, did Palestinian workers dare to sue their employers. Furthermore, with no work permit or record at the Payments Section, it was hard for the workers to prove that they had worked for a particular employer, how long they had worked, and how much they had earned.

The second situation, which affects both "legal" and "illegal" workers, also results from the general-closures policy. Palestinian workers properly registered at the Employment Service whose work ceases for whatever reason (dismissal, accident, retirement, and the like) automatically lose their permits to enter Israel. An entry permit is vital for workers summoned to appear at Labor Court hearings (see section F below), to be examined by the medical committee of the National Insurance Institute in accident cases, to meet with their Israeli attorneys, and other reasons. Since the criteria for granting entry permits are unknown and the entire process lacks transparency, many requests are arbitrarily denied.

The third situation results from the custom of imposing a total (hermetic) curfew on the Occupied Territories following terrorist acts and during Jewish holidays. The measure is used as collective punishment and as a psychological response to the Israeli public's anxiety. During the Gulf War, in 1991, the authorities imposed the longest total curfew until then, which lasted forty-one days. Total curfews increased significantly following the suicide attacks in 1994 as did their duration, lasting up to two months without a break.<sup>62</sup>

Even when the closure is officially removed, most workers are not allowed to return to their jobs immediately. In most cases, the closure is removed by gradually dissolving the quotas on workers in certain sectors. Also, after a decision is reached to approve a specific quota, the process of

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62. See <http://www.pna.org/mol/statistics/closures.htm>.

issuing the permits to the workers takes a large number of potential workdays.

These circumstances led tens of thousands of Palestinians to lose their jobs in Israel. In many cases, foreign workers brought from East Europe and East Asia took their jobs. The long closures also led to Palestinian workers being fired without receiving severance pay. The employers usually argued that they were not responsible for the workers' ceasing to work, and that the workers should be considered to have quit their jobs. Thus, they argued, the workers were not entitled to severance pay. Under section 2(9) of the Severance Pay Law, of 1963, employees who sever contact with their employers for a period exceeding three months are not entitled to severance pay. However, the "severance" was forced upon the workers by the closure, i.e. the government. In many cases, even if the job was saved for the employee for more than three months, the employers considered, as regards the worker's rights, the employee to have quit and then been rehired, that is, without any credit for the time worked.

Employers who were sued for severance pay by Palestinian workers whose work ended as a result of the closure won if they were able to prove that they had requested the employment office to issue a work permit for the workers, but the permits were not issued. The government has consistently evaded its responsibility for the economic loss, and the payment of severance pay in particular, resulting from the closures it imposed.

***Testimony of Ghaleb Salameh As'ad 'Abeid,  
born in 1949, married with three children, resident of  
'Anzeh, Jenin District***

*From 1994, I worked in Israel without a permit. I was paid in cash and did not get a pay slip. Between 1994 and 1996, I worked for dozens of Israelis at short-term jobs, sometimes for a week, or a month, or even for a few days.*

*The last job I had was as a laborer for an Arab contractor from 'Arareh, in Wadi 'Ara. He would pick me up, sometimes with other Palestinian workers, at Baqa al-Gharbiyeh, and take us to various work sites. He worked with Jewish contractors from Hadera. I don't know if they are partners or have another business relationship...*

*On 13 October 1996, I was working in home renovations in Tel-Aviv for two contractors, Muhammad Hussein Marzuq, from 'Arareh, and his Jewish partner. The day before, I worked along with three Palestinian workers from Gaza at the same location... Together with the contractors, I installed an asbestos roof. I fell from the roof and was unable to stand up. The homeowner gave me a medication of some sort. The Jewish contractor gave his partner from 'Arareh NIS 400 and told him to take care of me. The two put me into the car of the partner from 'Arareh, and he took me to the hospital in Hadera. He stopped alongside the emergency room and I remained in the car. He came out, got into the car, and we drove off.*

*He took me to the X-ray clinic in Baqa al-Gharbiyeh for an X-ray of my hip, but the clinic was closed. Ultimately, he took me to Baqa al-Ghabyeh, where he gave me NIS 200 and then left. Palestinian workers I met there took me to the hospital in Jenin, where the physicians found that I had broken my right hip. I was treated at home according to physician's orders. A month later I was hospitalized at Rafideh Hospital, in Nablus, where they told me that I needed an artificial implant, but they did not do it. I was taken to the hospital in Jericho, where I underwent surgery and remained for ten days. Now I frequently go back to the hospital at doctors' orders.*

*I am disabled. Nobody recognized my disability, and the contractors for whom I worked have not been in touch with me for three years. I went to the PGFTU branch in Jenin and gave them all the documentation. Attorney Ihad Sa'adi, of Nazareth, is handling my case on behalf of the PGFTU. The PGFTU demanded that I pay NIS 6,500 as a retainer, and I do not have the resources to pay it.<sup>63</sup>*

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63. The testimony was given to Najib Abu-Rokaya on 16 June 1999 at 'Abeid's home.

**Testimony of Mahmud Muhammad Yusuf Sa'id, born in  
1951, married, resident of Qalqiliya**

*I worked in a metalwork shop in Hod Hasharon for twenty months. In June 1998 I suffered face cuts at work and was treated at Beilinson Hospital. The doctors told me to rest for twenty-four days and gave me a doctor's slip for that period of time. When the rest period ended, I went back to work. At the end of November, I was injured again, this time when I fell off a ladder. I still suffer back pain and pain in my left leg as a result of the fall. I was treated at the hospital in Kfar Saba and then at a hospital in the West Bank.*

*Although I had doctor's slips covering fifty-six days, my employer, Nahum Passa, claimed that I was faking and refused to take me back. He did not pay me wages for the eighteen days I worked in November, and in effect fired me. He refused to give me severance pay. I submitted a claim to the National Insurance Institute for the accident, and was summoned to go to Netanya to be examined by the NII's physician. I applied, at the Palestinian District Coordination Office, for a permit to enter Israel so that I could go for the examination. They refused to grant the permit.*

*Following that, I went to the Kedumim settlement to meet the Israelis [DCO], but they also refused. I can't get the money I am entitled to from the NII without going to their branch in Netanya.*

*I should note that, in the past, I received work permits whenever I applied, and I have a valid magnetic card. Why can't I get a permit to enter Israel for a justifiable purpose?*

*I requested the PGFTU branch in Qalqiliya to help. I have the feeling that my employer used his contacts with the Israeli DCO to make sure I didn't get an entry permit.<sup>64</sup>*

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64. The testimony was given to Najib Abu-Rokaya on 22 May 1999 in Qalqiliya.

***Testimony of Khaled Yusuf Mahmud Zaban, born in 1957, married with six children, resident of Burin, Nablus District***

*The first time I worked in Israel was from 1975 to 1977. From 1977 to 1990, I worked in Kuwait. After the Gulf War, I returned and began to work in Israel. The last organized job I had was for a construction firm, Amirat Ltd., at Moshav Kadima. I worked for that company from April 1995 to July 1997. Following the July 1997 closure, the company did not renew my work permit. I earned NIS 130 a day, but my pay slip stated only NIS 80.82 a day.*

*The owner, Amos, took advantage of the closure and didn't renew my permit so he wouldn't have to pay me severance pay for the more than two years I had worked for him. One of the Palestinian workers who worked with me filed suit in the Labor Court. Amos asked him why he didn't go to him before filing the suit, as they could have worked it out. So I went to Amos and said, "I am coming to you before filing suit. Let's settle the matter." He refused, claiming that all the other workers returned to work, and only I did not. I told him that he did not give me my last pay slip, so I couldn't renew my permit to enter Israel.*

*I requested the PGFTU branch in Qalqiliya to sue the employer for the severance pay.<sup>65</sup>*

## **Criticism**

Under international law, Israel is not required to supply residents of occupied territory with work inside its sovereign borders. However, Israeli economic policy in the Occupied Territories, the objective of which has been to limit economic development, has led directly to employment inside Israel of large numbers of Palestinians from the Occupied Territories.<sup>66</sup> These circumstances change Israel's obligation toward Palestinians working in Israel, making the prohibition on their entry into Israel immoral, even if the prohibition is not explicitly prohibited under international law. Also, article 6.1 of the International Covenant on

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65. The testimony was given to Najib Abu-Rokaya on 22 May 1999 in Qalqiliya.

66. See Chapter One, particularly footnote 3.

Economic, Social, and Cultural Rights, ratified by Israel, which also applies to the Occupied Territories, stipulates:

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

The UN committee charged with overseeing implementation of the Covenant met in November 1998 to discuss the report submitted by Israel regarding its implementation of the Covenant. The Committee concluded that Israel's closure policy violated, in addition to the right to work, the ability of the residents to exercise their auxiliary social rights, by discriminating against workers from the Occupied Territories in favor of Israeli workers. Article 2 of the Covenant explicitly prohibits all forms of discrimination in applying the rights.

As noted, Israel has continuously maintained the general closure that began in 1991. Since the total closure of August-September 1997, except for a few days (primarily Jewish holidays), Israel has not imposed a total closure. It is important to recall that the main reason for this positive behavior is, apparently, the sharp decrease in terrorist acts by Palestinians against Israeli civilians, and not the government's basic resolve to cease the policy of total closure.

#### **D. National Insurance Rights**

The government's decision of 1970, which regulates the employment of Palestinian workers, states that the percentage of deductions for national insurance from Palestinian workers' wages will be the same as that deducted from Israeli workers. However, the decision states that Palestinian workers will be insured only for work accidents. Insurance covering employer bankruptcy and maternity benefits were added later. The money intended for the other parts of national insurance, like unemployment coverage, supplemental income, old-age pension, children's allotment, disability pension, nursing care, and the like, "will be transferred to a fund of the Territories intended for social development." In other words, the major portion of the moneys deducted from

Palestinian workers under the line "national insurance" will not be directed toward that purpose, but to some unknown fund that Israel is responsible for. There was good reason for the government to classify the decision as "Extremely Confidential" (see the Appendix).

In accordance with the decision, over the years the Payments Section collected the full percentage from the workers and employers, and forwarded the proportionate share for the three types of insurance noted above (work accidents, employer's bankruptcy, and maternity benefits) to the NII. The rate of the deductions varied from time to time, but over the years this proportionate share constituted less than one percent of the wages, while the remainder (between seven and eighteen percent of the wages, depending on the year) flowed directly into the State treasury.<sup>67</sup> The "legal basis" for denying the right to most of the insurance coverage under National Insurance is the prerequisite that a recipient be a resident of Israel. In the case of coverage for work accidents and employer's bankruptcy, residency is not a prerequisite to entitlement.

Maternity benefits are also not dependent on residency. A Palestinian woman working in Israel or the wife of a Palestinian worker in Israel is covered. This insurance covers hospitalization, a birth grant, and maternity leave.<sup>68</sup> However, a prerequisite to entitlement to the hospitalization coverage and birth grant is that the delivery take place in an Israeli hospital. In most cases, this prerequisite prevents Palestinians from exercising these entitlements.

Despite the scant exercise of maternity benefits, the NII throughout the years collected the proportionate share for this coverage. In May 1994, the Knesset passed the law proposed by MK Tamar Gozansky, removing the

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67. The rate of deductions for national insurance, including the amount paid by the employers, changed over the years. For example, in 1970, the rate was 13.0 percent, in 1980, 20.3 percent, and in 1990, 14.7 percent. There are presently two rates: up to one half of the average wages is subject to deductions at a rate of 7.33 percent (including the equalization deduction, see below) and above that at 9.4 percent.

68. Under the National Insurance Law, maternity leave granted to a working mother is based on the wages she received at the time she ceased working. This right is less relevant in the present context because the number of Palestinian women working in Israel is relatively minimal.

condition that the delivery take place within Israel, thus rectifying this injustice.<sup>69</sup> Before the law took effect, the relevant matters changed radically. In December 1994, the Implementation of the Gaza Strip and Jericho Area Agreement Law (Gaza Strip-Jericho Area Agreement Law) was passed. The law revokes the amendment and provides that Palestinian residents of the Occupied Territories are not entitled to hospitalization and a birth grant.<sup>70</sup> Thus, the deductions transferred to the NII for maternity benefits decreased,<sup>71</sup> but the total deductions apparently did not.

In addition to the revocation of the entitlement to maternity coverage, the Gaza Strip-Jericho Area Agreement Law legitimized the theft of national insurance moneys from Palestinian workers.<sup>72</sup> This law states that the differential between the money deducted from the wages of Palestinian workers for national insurance and the money transferred to the NII for entitlements will be called "the equalization deduction." According to the Gaza Strip and Jericho area agreement, the equalization deduction will be forwarded, from the time of the agreement onwards, to the Palestinian Authority "for social benefits and health services, decided upon by the Palestinian Authority, for Palestinians employed in Israel and for their families."<sup>73</sup>

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69. National Insurance Law (Amendment 87), 5754-1994. The law was formally passed on 30 May 1994.

70. Implementation of the Agreement on the Gaza Strip and Jericho Area (Economic Arrangements and Miscellaneous Provisions) (Legislative Amendments) Law, 5755-1994, section 37(1)(a).

71. Shula Zeltser, head of the Maternity Insurance Division of the NII, provided this information to B'Tselem by telephone on 1 June 1999.

72. The first challenge to the legality of the deductions occurred July 1991, when the Flower Growers Association petitioned the High Court of Justice against the Employment Service, claiming that the payments its members were required to pay to the NII for their workers from the Occupied Territories constitute an illegal additional tax, insofar as the money is transferred to the Ministry of Finance. The parties settled the matter, whereby some 3,800 workers and their employers (members of the petitioning association) would be reimbursed moneys that had been deducted ostensibly for national insurance for the period from the filing of the petition to the signing of the Gaza Strip and Jericho area agreement.

73. Agreement on the Gaza Strip and Jericho Area, Annex 4, Protocol on Economic Relations, article 7(3)(a).

The Payments Section deposits these moneys in a bank fund, where they remain until the Palestinian Authority establishes an institution to be responsible for social insurance, as the agreement provides. The agreement does not obligate the PA or the relevant Palestinian institution to grant social benefits to the workers from whom the moneys were collected or in proportion to the money set aside by the particular worker. Over the five years that have passed since the signing of the agreement, the PA has not established an institution to provide insurance to workers in the Occupied Territories, or to Palestinians employed in Israel, as the agreement stipulates.<sup>74</sup> In June 1999, B'Tselem wrote to the Palestinian Minister of Labor, Rafiq a-Natshe, requesting an explanation why the PA does not demand the "equalization deduction" moneys, and why it does not use them to provide social insurance to the workers who had set aside moneys for this purpose. The PA has not responded to the request.

Section 34(1) of the Gaza Strip-Jericho Area Agreement Law "legitimized" retroactively the deduction of money from Palestinian workers. This section is clearly intended to block potential suits:

Every amount of the equalization deduction that the Employment Service collected prior to the aforesaid date, even if called by another name, will be considered an equalization deduction that was properly paid and received...

In 1993, Kav LaOved sued the State, on behalf of three Palestinian workers, to compel it to reimburse them for the deductions from their wages for national insurance.<sup>75</sup> The Jerusalem District Court dismissed the

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74. A researcher at the Hebrew University, who requested to remain anonymous, explained to B'Tselem that the primary reason that the PA does not demand these moneys and does not establish the "Palestinian National Insurance Institute" is the ongoing pressure of the World Bank and the International Monetary Fund not to allocate resources to welfare purposes. This pressure results, he contends, from these organizations' ideology that economic development and growth will be attained by investing in infrastructure and creating jobs, and not by a welfare policy.

75. Kav LaOved did not request that the suit be declared a class action, though that would have benefited all the workers whose rights of this type had been prejudiced, because of the stringent opposition of the PGFTU. The Federation opposed the class action, according to Kav LaOved coordinator Hana Zohar, because it feared the "theft of their role" as the sole representative of workers in the Occupied Territories. (Zohar made these comments to B'Tselem on 27 April 1999).

complaint on the grounds that the "retroactivity clause" of the Gaza Strip-Iericho Area Agreement Law removes the legal grounds for the complaint. Kav LaOved appealed to the Supreme Court, which granted the appeal and directed the District Court to hear the complaint.<sup>76</sup> It should be noted that the Supreme Court's ruling, three-quarters of a page long, was made four years after the appeal was filed.

## Criticism

Yosef Almogi, Minister of Labor and Social Welfare at the beginning of the occupation, foresaw what was coming and described succinctly the problem inherent in the arrangement regarding the deductions for national insurance relating to Palestinian workers:

We have no moral right to use the money of a worker without his approval. What will happen when the day comes that we attain peace and the Arab workers demand from us, properly, fulfillment of the terms pursuant to which the deductions were taken from their wages? Can we deny these justifiable claims?<sup>77</sup>

From a legal perspective, Israel breached the contract between it and residents of the Occupied Territories and their employers. For years, Israel collected money from Palestinian workers and their employers on the pretext that it was for national-insurance coverage (as set forth on the pay slips) when in fact most of the money was taken for other purposes.

The State's practice also unjustifiably violates the right to property, guaranteed by section 3 of the Basic Law: Human Dignity and Liberty. Section 8 of the Basic Law allows for a law that violates rights set forth in the Basic Law. However, the law must befit the values of the State of Israel, be designed for a proper purpose, and to an extent no greater than required. In the case of the section of the Gaza Strip-Iericho Area Agreement Law, which legitimates the theft of national insurance moneys

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76. Civ. App. 4235/95, *Hussein 'Abd al-Hafez Algani et al. vs. State of Israel*.

77. Y. Almogi, *B'Ovey HaKoreh [In the Depths of the Matter]* (in Hebrew) (Jerusalem: Idanim Publishing, 1980), p. 286.

of Palestinian workers, it is difficult to argue that even one of these conditions exist.

This practice clearly violates article 9 of the International Covenant on Economic, Social and Cultural Rights, to which Israel is party, which provides:

The States Parties to the present Covenant recognize the right of everyone to social security including social insurance.

Because of its inactivity in the area of social security, the PA also cheats the workers and prejudices their social rights and their right to property. For five years, the workers have set aside moneys to the PA from their wages for social insurance (in the form of "the equalization deduction"), when in practice these moneys have been deposited in a bank account in Israel rather than serve their declared purpose. These workers still have no comprehensive social insurance, just as it was before the Gaza Strip and Jericho area agreement was signed and the PA "took over responsibility" for handling the matter.

## **E. Rights of Palestinian Workers in the Settlements and Industrial Zones in the Occupied Territories**

Israelis who establish factories in the Occupied Territories enjoy governmental benefits (such as grants and tax reductions) based on definition of the areas as "national-priority areas."<sup>78</sup> The special status led, primarily in the 1990s, to a gradual increase in the number of factories in the settlements and industrial zones in the Occupied Territories, or to the transfer of factories there. Several industrial zones are found in the Occupied Territories, among them Barkan, Rehan, Atarot, and Mishor Adumim, all in the West Bank, and Erez in the Gaza Strip. Large numbers of Palestinians also work in the service sector in the settlements, primarily for the local councils and guest houses. During 1997, 10,000 work permits

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78. The new Minister of Industry and Trade, Ran Cohen, stated his intention to cancel this special status. See *Ha'aretz*, 29 July 1999.

per month were issued for the settlements and industrial zones. In 1998, that number rose to 12,700.<sup>79</sup> The Civil Administration estimates that in 1998, 16,000 Palestinians worked in the settlements and industrial zones.<sup>80</sup> It should be noted that Palestinian workers do not formally require a permit to work in the settlements. Despite this, the Civil Administration issues work permits to satisfy the security demands of the settlers.

In addition to grants and tax breaks, Israeli employers attain another economic benefit: the freedom to exploit Palestinian workers without concern for the restrictions applying within Israel. They can do this because, on the one hand, the applicability of Israeli law to employee-employer relations is unclear and, on the other hand, the authorities fail to ensure workers rights even when there is no dispute that such rights exist.

According to a military order, Palestinians employed in a settlement in the Occupied Territories "are entitled to receive from their employers wages that are not less than the minimum wage, and to cost of living increases, as may take effect in Israel from time to time."<sup>81</sup> David Shapira, one of the owners of the Abir factory in the Barkan industrial area, sees the situation differently:

It is true that a minimum-wage order was issued, but we consider it a recommendation. Even a minimum wage for Jews is not healthy for the economy. If there is a wave of complaints, a wave of factory closures will follow. It would be a tragedy for the Arabs more than for us... You have to understand that not only legally are they not entitled to a minimum wage, morally, too, they are not entitled: if an Arab worker receives a minimum wage, he would clearly be preferred to a Jew. The expenses expended by a Jewish worker, his standard of living, is higher than the Arab worker. If we have to pay a minimum wage, we would get rid of all the Arabs tomorrow.<sup>82</sup>

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79. UNSCO, *Economic and Social Conditions in the West Bank and the Gaza Strip*, Table 1.

80. From the comments of Shlomo Dror, spokesperson of the Coordinator of Government Operations in the Territories, in a telephone conversation with B'Tselem on 6 June 1999.

81. Order Relating to the Employment of Workers in Certain Places (Judea and Samaria) (No. 967), 5742-1982. The sentence quoted was added to the order in 1987.

82. Amira Hass, "A War over Twelve Shekels," *Ha'aretz*, 1 January 1998.

According to workers' organizations in the Occupied Territories and testimonies given to B'Tselem, despite the aforementioned order, the vast majority of Palestinian workers receive wages significantly lower than the minimum wage.<sup>83</sup> Palestinians employed by Israelis in the Occupied Territories, contrary to Palestinian workers in Israel, do not receive their wages through the Payments Section, but directly from their employers. Thus, no agency serves as an intermediary or ensures payment of the minimum wage. Furthermore, neither the Civil Administration nor the Ministry of Labor and Social Welfare enforces the military order.

There is no dispute over the legal duty of employers to pay at least the minimum wage. However, there is a dispute that has waged for several years in the labor courts, over which law applies in determining the relations between workers and employers in the West Bank. The workers claim that Israeli law applies, and the employers argue that the Jordanian law, which provides fewer social rights than the Israeli law, is applicable.<sup>84</sup>

In a case heard in 1995, an Israeli employer from the Alon Moreh settlement argued that the Jordanian law applies in labor-related matters with workers from the Occupied Territories. National Labor Court Judge Elisheva Barak ruled, in a precedent-setting decision, that:

Public policy and considerations of justice demand that the contract be construed pursuant to Israeli law. Take, for example, the case of an Israeli employer in Alon Shvut who employs Israeli workers and workers from the local area in the same jobs and tasks. It would be unjustifiable discrimination if the rights secured in Israeli labor law apply only to Israel workers and not to foreign workers at the same place of work.<sup>85</sup>

In 1995, several Palestinian workers sued, through Kav LaOved, the local council of the Givat Ze'ev settlement for paying them lower than the minimum wage and under terms of employment inferior to those of Israelis working in the same positions. The Local Council argued, like

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83. See, for example, Kav LaOved, Information Sheet, August 1998; ILO, International Labor Conference, *Report of the Director General*, Geneva, June 1998.

84. The relevant Jordanian law is Law No. 21, of 1960, as amended by Law No 2, of 1965.

85. Lab. Ct. Comp. (Jerusalem) נה/3 - 570, *Mahmud Muhammad vs. David Brand*.

other employers in the Occupied Territories, that the relevant law in relations between the parties is the Jordanian law. Judge M. Meron ruled that the Israeli law should be applied.<sup>86</sup> The Local Council appealed to the National Labor Court. The Attorney General decided to intervene and filed a brief with the appellate court.

In his brief, submitted on 15 July 1999, the Attorney General argues that the lower court decision should be nullified and the file returned to the court for further hearing.<sup>87</sup> The brief's main argument is that international law prohibits Israel from applying its law in occupied territory. This norm requires Israel, the Attorney General contends, to "respect the law in effect in the occupied territory and limit its intervention in it, unless there is an absolute reason to do so." The brief also states:

It should be especially noted that the Israeli legislature did not legislate extra-territorial application of its labor laws, and neither the Israeli executive branch, the government, nor the Minister of Defense, considered it appropriate to extend application of Israeli law beyond the State's borders, in Judea and Samaria, except for East Jerusalem...

For "public policy" to be employed for the purpose of altering an existing situation, the party requesting it must show that the supreme interests of society in vital matters like religion and morality are prejudiced, justifying such exceptional intervention.<sup>88</sup>

The rehearing in the District Labor Court, as called for by the Attorney General, has not yet begun.

The poor supervision and enforcement by the Ministry of Labor and Social Welfare and the Civil Administration has resulted in the failure to apply fully even the Jordanian law, which is inferior to the Israeli law regarding several rights of workers. The rights ensured by Jordanian law, such as prior notice of dismissal, severance pay, and annual vacation pay, are

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86. Nat. Lab. Ct. (Jerusalem) נ/14 - 284.

87. Brief of the Attorney General in the matter of appeal 30050/98. The appeal was heard together with the appeal of *Abir*, mentioned above, where the lower court also ruled that the courts should apply Israeli law in such labor disputes.

88. *Ibid.*, pp. 10-11.

often realized only after suit is brought, and then usually by a compromise settlement.<sup>89</sup>

The situation in the Erez industrial zone, in the Gaza Strip, is slightly different from that in the West Bank's industrial zones. First, the military order requiring employers in the settlements to pay at least the Israeli minimum wage does not apply. Second, the Egyptian Labor Law, of 1964, applies in place of the Jordanian Labor Law. B'Tselem is not aware of suits filed in Israeli labor courts by Palestinian workers from the Erez industrial zone in which they request that the Israeli labor law be applied. However, in several cases, Israeli employers have reached agreement with the Palestinian Ministry of Labor and the Gaza Workers Association to apply the Egyptian Labor Law.<sup>90</sup> One hundred and forty-one factories are currently operated in Erez, employing 4,200 Palestinian workers and 300 Israeli workers.<sup>91</sup> Like the Jordanian law, Egyptian labor law is inferior to Israeli labor law in the matter of workers' rights.

Unlike Palestinian workers employed in Israel and Israelis employed in the settlements, Palestinians employed in the settlements are not covered for work accidents. Although the Civil Administration issued a military order obligating employers to insure their workers privately (Military Order 663, 5736-1976), like the order regarding minimum wage, this order is not enforced, and workers injured on-the-job have to cover the cost of their medical treatment.

***Testimony of 'Abd al-Rahman 'Omar Yassin, born in 1964, married with four children, resident of Salfit, Salfit District***

*Nine Palestinian workers work in the Ariel Metal Factory in Ariel [a settlement in the West Bank]. I have worked there the longest, having begun in 1984. The others started to work there at various times afterwards. The last to be hired were Tahsin Yusuf and Bassem Haj Muhammad, who began in 1994.*

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89. B'Tselem was so informed by attorney Ihab Sa'adi, who represents, on behalf of the PGFTU, Palestinian workers.

90. See, for example, *Ha'aretz*, 6 March 1998.

91. This information was provided to B'Tselem by the spokesperson of the Erez District Coordination Office, Ohad Avidan-Kiner, in a letter of 4 August 1999.

*Prior to October 1996, the company did not give pay slips to the workers.... All of the workers receive less than the minimum wage. Now, the minimum wage is NIS 15.03 an hour. The company pays some workers NIS 14.10, and others NIS 14.40. They only pay us four days a year for holidays, rather than nine. They pay twenty-three days a year for vacation and convalescence pay, with a work day being calculated at NIS 112.80 a day for some, and NIS 115.20 for others, even though one convalescence day is worth NIS 260.*

*The company fired workers without paying severance pay. That is what happened, for example, to Jamal Muhammad al-Asud, from Askar Refugee Camp. We worry that the company will do the same to us....*

*One worker, Ghassan Abu Yaqub, was paid for thirty-six hours as sick pay covering twelve days. Hussein Abu al-Khir suffered an injury to a nail of his right hand, and couldn't work for a week, but he received no wages or compensation. Bassem's and Ghassan's mother died a year ago, but the company didn't pay them anything for the day of mourning that they took off.*

*The Israelis who work in the factory, like Haim, who has an ordinary job, receive NIS 18.50 an hour. Ezra Hillel, for example, who is a metalworker like some of us, receives NIS 22 an hour. We feel exploited and discriminated against.<sup>92</sup>*

## **Criticism**

Two problems must be considered when examining the legal situation of Palestinian workers in the settlements and industrial zones in the Occupied Territories: the lack of enforcement of the relevant orders and the "legal" discrimination between employees.

The problem of the failure to enforce the military law requiring payment of at least the minimum wage throughout the Occupied Territories raises the same problem as false reporting within the Green Line: both the Ministry of Labor and Social Welfare and the Civil Administration do not allocate any resources to ensure compliance. A simple comparison between the resources and efforts dedicated to executing a house demolition order, for

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92. The testimony was given to Najib Abu-Rokaya on 22 May 1999 in Qalqiliya.

example, and the resources (or more precisely the lack of resources) allocated to enforce payment of the minimum wage to Palestinian workers indicate how suspect the policy makers' values and priorities are.

The second problem is the practice of providing inferior terms of employment for Palestinian workers compared to Israeli workers laboring at similar tasks. As noted, the employers are protected legally because two different legal systems apply to the two groups of employees.

The Attorney General's brief, noted above, dismisses the possibility of applying Israeli law to labor relations between Palestinians and Israelis in the settlements as the default choice of law. On the one hand, the brief does not eliminate the possibility of examining, on an individual basis, application of Israeli law to Palestinian workers in the settlements. To achieve this, each worker suing his employer would have to prove the discrimination. On the other hand, this brief is unsound and improper for two primary reasons:

1. It ignores the fact that discrimination between Palestinians and Israelis regarding terms of employment is the norm in the settlements and industrial zones. Thus, refraining from issuing an unequivocal order prohibiting application of different labor laws in the same work place in practice firmly establishes and perpetuates the discrimination.
2. It legitimates the absurd situation whereby Israeli law applies to an Israeli employer in the Occupied Territories, like it does to every settler, for almost every purpose. One of the rare exceptions is labor relations with Palestinian workers. In effect, then, when the employer is involved in the area of labor relations he "sets aside" the Israeli law that controls the other areas of his life, and switches to acting pursuant to the Jordanian law applying there.

It should be clearly understood that B'Tselem opposes unilateral annexation of occupied territory and application of Israeli law in occupied territory as a means to achieve annexation, since such action violates the laws of war. The transfer of Israeli civilians into occupied territory for purposes unrelated to military needs violates international humanitarian

law.<sup>93</sup> Unlike East Jerusalem, which was annexed, in the rest of the Occupied Territories, Israeli law has been imposed on settlers individually and not on the area where they are located. The prohibition in international law on altering the domestic law in the occupied territory, which the Attorney General relies on in his brief, was applied selectively to cover only matters between settlers and Palestinian workers employed by them. This manipulative application only serves the economic interests of the settlers, while grossly violating the principles of justice and equality.

## F. Obstacles to Exercising Rights in the Labor Courts

The labor court is often the last refuge of Palestinian workers whose rights have been denied. However, two principal obstacles face the worker in seeking legal redress. The first is the high sums that Palestinian workers must deposit before the court agrees to hear the plaintiff's claim. The deposit is unrelated to the court fee, comprising one percent of the claim, which every plaintiff must pay. In 1996, the National Labor Court decided, in accordance with the opinion of the Attorney General, to approve imposition of a "guaranty" on Palestinian workers to ensure the payment of court expenses in the event that the worker loses the suit.<sup>94</sup>

It should be noted that Israelis are not required to provide a guaranty when they file suit. The grounds for the requirement is that Palestinian residents of the Occupied Territories are considered foreign residents, against whom it is difficult to collect expenses in the event they lose the case and refuse to pay. Although the judge has discretion in each case in determining whether to require the guaranty, in most cases the judge orders that a guaranty be deposited with the court. The amount of the guaranty is approximately ten percent of the plaintiff's claim.

The guaranty is returned to the worker at the end of the proceedings, if it is not needed to pay an order for expenses issued against the worker.

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93. See B'Tselem, *Israeli Settlements in the Occupied Territories as a Violation of Human Rights: Legal and Theoretical Aspects*, March 1997.

94. Nat'l Lab. Ct. נ/3-218, *'Ali Iyub al Hadiyeh vs. Sharfan David Ltd.*

Since the expenses can be especially high, ranging from NIS 1,000 to NIS 6,000, the worker often cannot pay them, particularly since most of the plaintiffs are unemployed and have difficulty supporting their families.<sup>95</sup> In many instances, the complaint is "denied", which, unlike a dismissal, does not enable the worker to re-file the suit at a later date.<sup>96</sup>

According to attorney Ribhi Qatamesh, of the Center for Democracy and Workers' Rights, his organization has handled several suits in which the court required the workers to deposit a guaranty and, after they won their suits, found that the employer had disappeared, gone bankrupt, or paid the judgment by a check on an account with insufficient funds.<sup>97</sup> However, as noted, the labor courts do not ensure in advance that the employers pay the judgments entered against them.

The Ministry of Labor and Social Welfare proposed a solution to the problem. The Palestinian Authority would serve as guarantor for the payment of the litigation expenses Palestinian workers are ordered to pay. According to the proposal, which was raised in early 1998 in the Joint Subcommittee for Labor Matters, if a Palestinian worker were to evade payment of such an order, the expenses would be paid from the equalization deductions (see section D above), which Israel is to transfer to the PA. The PA has not responded to this offer.<sup>98</sup> On 14 June 1999, B'Tselem asked the Palestinian Minister of Labor, Rafiq al-Natshe, for his response, but received no reply.

The second obstacle to legal redress results from the numerous restrictions on freedom of movement imposed on Palestinians in the Occupied Territories pursuant to the general closure that has been in effect since 1993. Palestinians suing in the labor courts are usually former workers in Israel who lost their job and their work permit. Consequently, they must

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95. Kav LaOved assists workers it represents by lending them fifty percent of the guaranty. The PGFTU offers loans to its members to cover the guaranty, depending on its financial resources at the time.

96. See Kav LaOved, *Information Sheet*, August 1996.

97. Qatamesh provided this information to B'Tselem on 19 April 1999 at the Center's office in Ramallah.

98. Mr. Eli Paz, senior Deputy Director General of the Ministry of Labor and Social Welfare and an Israeli representative on the Subcommittee, to B'Tselem in a telephone conversation on 13 June 1999.

request a permit to enter Israel to enable them to appear at court hearings. Workers and attorneys report that obtaining entry permits is often an exhausting process, the results of which are unpredictable. Appearance of the worker at the preliminary hearing of the complaint is not necessary. However, his appearance at the proof and testimony stage is crucial, and his absence is liable to result in rejection of his claims. In that case, the worker will be obligated to pay the litigation expenses.<sup>99</sup>

***Testimony of 'Abd al-Karim Ahmad Mustafa Suf (Abu Fahdi), born in 1953, married with six children, resident of Danabeh, Tulkarem District***

*I worked in Israel for three years for a contractor from Taiba. In November 1997, he told me that business was bad and that there was no more work for me. He also stated that when things got better, he would call me. I went to him once in a while asking if he had something for me, and he said that he didn't. After a year or so in which I did not work at all, I gave up going back to him, and asked for a letter of dismissal. He refused.*

*I went to the PGFTU branch in Tulkarem, and asked them to help me get severance pay. They filed a complaint against the contractor in the Israeli labor court, and told me that I had to deposit the sum of about NIS 2,000. I didn't have that kind of money and had nobody to borrow it from... The Federation told me that the labor court file had been closed because the deposit had not been paid.*

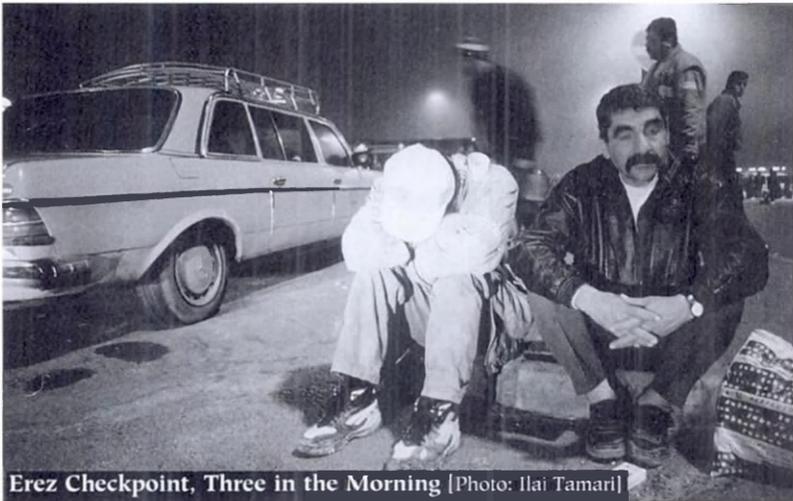
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99. In December 1998, another problem surfaced: the clerk's office of the Tel-Aviv Labor Court issued a directive that plaintiffs who do not speak Hebrew must arrange, at their expense, that a translator be present at the hearing. The directive does not apply to new immigrants, since they can be assisted by court secretaries who are fluent in their language and Hebrew. The problem was solved following a parliamentary query of MK Tamar Gozansky, which led the Minister of Justice, Tzahi Hanegbi, to revoke the directive.

## Criticism

As this report has argued throughout, Palestinian workers from the Occupied Territories and foreign workers are the groups with the least power among Israel's labor force. The reasons, which are varied and numerous (lack of citizenship, poor organization of the workers, fear of unemployment, racism, and others), are not the subject of the report. However, the result is clear: these workers are more exposed than other workers to coercion and exploitation by employers. Israel's judicial system, which is charged with ensuring that justice is done, should show greater sensitivity to Palestinian workers and find ways to facilitate use of the courts to exercise their rights. Rather, and without ignoring the sensitivity shown by a few judges, the problems discussed above portray a system with an entirely opposite approach.

To the same extent, the Palestinian Authority should recognize the problems faced by Palestinians working in Israel, and act to promote their welfare, rather than serve narrow political interests. As described above, the attitude of the PA to the problem of the deposit of a guaranty in the labor courts indicates that the PA does not act accordingly.



Erez Checkpoint, Three in the Morning [Photo: Ilai Tamari]

## Conclusions and Recommendations

This report describes various human rights violations, the common denominator being the victim: Palestinians living in the Occupied Territories and working in Israel and the settlements. Several principal conclusions can be noted from the overall picture presented above.

First, Israeli security forces act violently against Palestinians entering Israel to work. The violence is arbitrary and directed primarily against those who do not have work permits. Israeli civilians, mostly employers, have also acted violently against workers from the Occupied Territories.

Second, Israel's General Security Service exploits the work permit requirement imposed on Palestinians working in Israel and its ability to deny the permits arbitrarily, which it uses to extort information from the workers and recruit them to assist it. The GSS takes advantage of the economic hardship and high unemployment in the Occupied Territories that has made many Palestinian families completely economically dependent on the family member working in Israel.

Third, many Israeli employers oppress their Palestinian workers by violating their social rights, while the state authorities refuse to take meaningful preventive action. The scope of the violations, which include paying wages below the minimum wage, is more common among employers in the settlements. As regards terms of employment in the settlements, Palestinian workers are discriminated against in comparison with Israeli workers. The Attorney General recently gave legal sanction to this discrimination.

Fourth, until 1994, Israel denied most national-insurance benefits to Palestinian workers, and later "legitimized" the denial retroactively through legislation. Since the Oslo Accords, the Palestinian Authority has also violated the right of Palestinian workers to social insurance, for which money has been deducted from their wages. This injustice results from the PA's failure to establish an institution for social insurance, which would use the deducted sums, which continue to accumulate in Israel, for their intended purpose.

Fifth, Israel's closure policy, in all its forms (general, total, and internal), has directly and indirectly prejudiced, and continues to prejudice, the rights of Palestinian workers employed in Israel in the past and present. The primary harm inherent in imposition of a total closure on the Occupied Territories is the loss of workdays and the resultant dismissals (often without providing severance pay) that occur because the workers are unable to reach their jobs in Israel. The general closure indirectly affects the Palestinian workers' ability to exercise their social rights by filing suit, because of the difficulty in obtaining permits to enter Israel. Without an entry permit, the workers have problems meeting with their attorneys, appearing to undergo medical examinations by the National Insurance Institute, appearing at hearings of the labor court, and the like.

As noted, this report discusses a variety of issues. There is currently almost no dispute that human rights are interconnected, inter-dependent, indivisible, and of equal importance in safeguarding human dignity. To some degree, the hardship of Palestinian workers in Israel and the settlements, as presented above in brief, expresses the inherent connection between civil, political, economic, and social rights. In this context, the desire to make a living with dignity exposes Palestinian workers to violence at checkpoints and denial of their social rights. In both cases, their dignity as human beings is severely harmed. The severity of the harm is unrelated to the entity that causes the harm, whether Israel or the Palestinian Authority.

## **Recommendations to Israel Regarding Social Rights**

- Actively inspect employers of Palestinian workers to ensure provision of statutory social rights, verify employers' reports to the Employment Service, and take measures against employers who oppress their employees.
- Refrain from imposing total closures, which constitute collective punishment (which is illegal) and severely prejudice Palestinian workers' ability to make a living.
- Entitle workers to severance pay when they have lost their jobs as a result of closure.

- Immediately provide entry permits to Palestinians who worked in Israel in the past and are required to enter Israel in order to exercise their social rights.
- Revoke the section in the Gaza Strip-Jericho Area Agreement Law that retroactively denies the rights of Palestinian workers to sue for sums fraudulently deducted for national insurance. Simultaneously, establish an arrangement that will provide individual compensation to those workers who suffered losses as a result of that law.
- Ensure that employers in the Occupied Territories comply with the military order requiring payment of the Israeli minimal wage, and the other social obligations set forth in the domestic law and the military orders.
- Apply the same labor laws to Palestinians and Israelis working in the settlements in the Occupied Territories.
- Refrain from dismissing suits of workers in the labor courts because of the failure to deposit a "guaranty," which is imposed on Palestinian workers as a prerequisite to filing suit.

## **Recommendations to the Palestinian Authority Regarding Social Rights**

- Immediately establish an institution that will provide comprehensive social insurance to Palestinians employed in Israel, using the moneys available to the PA in Israel for this purpose, as stipulated in the Oslo Accords. The insurance should be individual (according to the records of Israel's Employment Service) and according to the moneys set aside by each worker (for example, the amount of unemployment compensation should be a certain percentage of the wages that the worker earned).
- Cooperate with Israel in solving the problem of the "guaranty" so that Palestinians working in Israel will not be hindered in filing suit.

## **Recommendations to Israel Regarding the Use of Violence and Pressure**

- Require the security forces at the checkpoints into Israel to safeguard the well-being and dignity of Palestinians entering Israel, by absolutely prohibiting unnecessary delay, harassment, or ill-treatment of any kind.
- Investigate thoroughly and speedily any suspicion of the use of unreasonable force or authority by security forces against Palestinian workers, and prosecute to the full extent of the law persons committing such acts.
- Conform the conditions in which detainees are held in the Occupied Territories to comply with the rights of detainees as they appear in the Regulations of the Prisons Service in Israel and in the International Covenant on Civil and Political Rights.
- Investigate thoroughly and speedily any suspicion of the use of violence by Israeli employers against Palestinian workers, and prosecute to the full extent of the law persons committing such acts.
- Act to change the Persons Injured by Hostile Acts Law, so that persons injured in terrorist acts by Jews are compensated pursuant to the Law.
- Prohibit unequivocally any linking of the granting or revocation of a permit to work in Israel with the willingness of the applicant to collaborate with the General Security Service or provide information to it.

## Appendix\*

Jerusalem, 11 October 1970

Extremely Confidential

To: The Prime Minister, Minister of Finance, Minister of Defense, Minister of Labor

From: The Cabinet Secretary

I respectfully bring to your attention decision No. B/1 of the Ministerial Committee for Security Matters, at its meeting of 8 October 1970:

B/1 Wages and Social Benefits of Workers from the Territories

It is decided:

- A. A worker from the Territories will receive for his work in Israel gross wages and net wages equal to that of every other worker in Israel with identical personal and professional particulars.
- B. A worker from the Territories is entitled to the social benefits that every other worker in Israel with identical particulars is entitled to by law and the collective labor agreements.
- C. An employer employing a worker from the Territories will transfer to the Payments Section of the Employment Service the gross wages and the social payments he pays pursuant to law and the collective labor agreements for an Israeli worker with identical particulars. The obligation to transfer said wages [and] payments will continue to be included, according to current practice, on the special form of undertaking executed by an employer requesting from the Office a worker from the Territories.
- D. A worker from the Territories who worked in Israel will receive from the Payments Section of the Employment Service the net wages in accordance with the principle mentioned in paragraph A above.

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\* Translated by B'Tselem

- E. The Payments Section will regularly transfer the deductions:
- A. To [the] Income Tax [Department];
  - B. To the National Insurance Institute for insurance covering work-related accidents;
  - C. To the Histadrut for organizational-occupational processing fees.
- F. The deductions from the wages and the employers' payments for social benefits for the purposes of paragraph B above will remain in the Payments Section, except for the sums transferred as aforesaid in paragraph E. The Payments Section will make the payments to the worker upon his being entitled to a payment.
- G. Amounts equal to the amounts deducted from the workers in Israel to an equalization and HAGA [Civil Defense] fund will be transferred to a fund of the Territories designated for social [benefits] development.
- H. The Prime Minister and the Ministers of Finance and Labor will agree among themselves as to administration of the fund and its procedures on expenditures.
- I. On the form that the worker completes at the labor office in the Territories together with the card of the person requesting work, there will be added an instruction in which the worker consents to deductions taken from his wages as customary under the law and the agreements in Israel and to transfer said deductions as aforesaid in paragraph G above.
- J. The Minister of Labor will appoint a committee composed of representatives of the government, the Histadrut, and the liaison office of the economic organizations, among whose tasks will be to recommend procedures to implement these decisions.

Sincerely,

s/

M. Arnon

cc: Mr. A. Agmon, Chair, Directors General Committee for Occupied Territories Matters  
Brig. Gen. S. Gazit, Ministry of Defense  
Mr. M. Shamgar, Attorney General

## Response of the Border Police\*

Border Police Headquarters  
Office of the Border Police Commander  
Tel: 08-9770400  
8 September 1999

B'Tselem  
Mr. Yehezkel Lein

### Re: Response of the Border Police to B'Tselem's Report

In the report (August 1999), the Border Police is portrayed as the perpetrator of violence against the Palestinian population.

The cases described in the report are isolated incidents that do not reflect the true situation and the organizational culture in the corps.

I do not intend to respond to the isolated cases that, as is known, are being handled by the Department for the Investigation of Police, and those [Border Police personnel] found to have acted improperly are prosecuted.

I doubt that the officer who gave testimony "anonymously" acted to improve the situation. It is inconceivable that an officer would recount offenses in which he was involved and did not report to the competent authorities, as required by the regulations, and as required of an officer in the corps. We are aware of the identity of the officer, who acted out of personal interests and frustration, and was unsuited for his position.

In making this response, I do not intend to deny or justify these acts. It is important to note that these are isolated incidents when viewed in the context of the daily activities of thousands of Border Police, who perform difficult and complex national assignments to enforce the law, on the one hand, and to act with restraint, on the other hand.

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\* Translated by B'Tselem

In conclusion, I invite B'Tselem to lecture to Border Policemen, in coordination with the Corps' Education Officer, in order to present the message so that these exceptional incidents do not recur.

It is recommended that B'Tselem's staff visit the Border Police to see up close the activities of the Border Policemen and the problems they face daily around-the-clock, so that misunderstandings do not occur.

New Year's Greetings,

s/

Chief Inspector Peretz Ratson  
Spokesperson

cc: Spokesperson, Israel Police Force

## B'Tselem Publications

### Comprehensive Studies

February 1998	Routine Torture: Interrogation Methods of the General Security Service
July 1997	Prisoners of Peace: Administrative Detention during the Oslo Process
March 1997	Israeli Settlement in the Occupied Territories as a Violation of Human Rights: Legal and Conceptual Aspects
January 1997	A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem
August 1995	Neither Law Nor Justice: Extra-judicial Punishment, Abduction, Unlawful Arrest, and Torture of Palestinian Residents of the West Bank by the Palestinian Preventive Security Service
March 1994	Law Enforcement vis-a-vis Israeli Civilians in the Occupied Territories
January 1994	Bi-Annual Report: Human Rights Violations in the Occupied Territories 1992/1993
January 1994	Collaborators in the Occupied Territories: Human Rights Abuses and Violations
June 1993	Deportation of Palestinians from the Occupied Territories and the Mass Deportation of December 1992
October 1992	Detained Without Trial: Administrative Detention in the Occupied Territories since the Beginning of the Intifada

May 1992	Activity of Undercover Units in the Occupied Territories
March 1992	The Interrogation of Palestinians During the Intifada: Follow-up to B'Tselem Report of March 1991
January 1992	Bi-Annual Report: Violations of Human Rights in the Occupied Territories 1990/1991
March 1991	The Interrogation of Palestinians during the Intifada: Ill-Treatment, "Moderate Physical Pressure?" or Torture?
November 1990	Collective Punishment in the West Bank and the Gaza Strip
July 1990	The Use of Firearms by the Security Forces in the Occupied Territories
February 1990	The System of Taxation in the West Bank and Gaza Strip as an Instrument for the Enforcement of Authority during the Uprising
December 1989	Annual Report 1989 - Violations of Human Rights in the Occupied Territories
November 1989	The Military Judicial System in the West Bank
September 1989	Demolition and Sealing of Houses in the West Bank and the Gaza Strip as a Punitive Measure during the Intifada

### **Information Sheets**

July 1999	On the Way to Annexation: Human Rights Violations Resulting from the Establishment and Expansion of the Ma'aleh Adumim Settlement
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May 1999	Oslo: Before and After - The Status of Human Rights in the Occupied Territories
November 1998	Death Foretold: Firing of "Rubber" Bullets to Disperse Demonstrations in the Occupied Territories
September 1998	Disputed Waters: Israel's Responsibility for the Water Shortage in the Occupied Territories
May 1998	Divide and Rule: Prohibition on Passage between the Gaza Strip and the West Bank
September 1997	Demolishing Peace: Israel's Policy of Mass Demolition of Palestinian Houses in the West Bank
August 1997	Sheer Brutality - The Beatings Continue: Beatings and Maltreatment of Palestinians by Border Police and Police Officers during May-August 1997
December 1996	Sexual Harassment in the Name of the Law: Violence and Degradation during Searches of Palestinian Homes in Hebron
September 1996	Beatings, Maltreatment and Degradation of Palestinians by Israeli Authorities during June-July 1996
April 1996	Without Limits: Human Rights Violations under Closure
September 1995	Impossible Coexistence: Human Rights in Hebron since the Massacre at the Cave of the Patriarchs
July 1995	Incidents of Death and Injury Resulting from Exploding Munitions' Remnants

November 1994	Torture During Interrogations: Testimony of Palestinian Detainees, Testimony of Interrogators
September 1994	Bureaucratic Harassment; Abuse and Maltreatment During Operational Activities in the West Bank in the First Year of the Declaration of Principles
February 1994	Firing at Vehicles by the Security Forces in the Occupied Territories
June 1993	The Killing of Palestinian Children and the Open-Fire Regulations
May 1993	House Demolition During Operations Against Wanted Persons
April 1993	The Closure of the West Bank and Gaza Strip: Human Rights Violations against Residents of the Occupied Territories
January 1992	Limitations on the Right to Demonstrate and Protest in the Territories
September-October 1991	Renewal of Deportation of Women and Children from the West Bank on Account of "Illegal Residency"
June 1991	The Death of a Youth: Mahmud 'Alayan; Maltreatment by an Income Tax Clerk; Pressure on Families of Wanted Persons
January-February 1991	Human Rights in the Occupied Territories during the War in the Persian Gulf
November 1990	House Sealing and Demolition as a Means of Punishment
October 1990	Loss of Control: The Temple Mount Events - Preliminary Investigation

September-October 1990	Closure of Schools and Other Setbacks to the Education System in the Occupied Territories
August 1990	Limitations on Residential Building on the West Bank
June-July 1990	Violence against Minors in Police Detention
May 1990	The Military Judicial System in the West Bank, Follow-up Report
April 1990	IDF Posts on Private Homes; Purimshpiel in 'Abud; Follow-up Investigation: The Death of Rafaida Abu Laban
February-March 1990	Censorship of the Palestinian Press in East Jerusalem
January 1990	Cases of Death and Injury of Children
November 1989	Soldiers' Trials and Restrictions on Foreign Travel
October 1989	Banned Books and Authors
September 1989	Death Cases, Administrative Detention
August 1989	Detention Facilities
July 1989	Death Cases, Settlers, Deportations
June 1989	Plastic Bullets, Curfew, Settlers, House Demolitions
May 1989	Data, Confiscation of ID Cards, Death Cases

## Case Studies

March 1997	Lethal Training: The Killing of Muhammad Al-Hilu by Undercover Soldiers in Hizmeh Village
December 1996	Playing with Fire on the Temple Mount: Use of Lethal and Excessive Force by the Israel Police Force
June 1995	Detention and Interrogation of Salem and Hanan "Ali", Husband and Wife, Residents of Bani Na'im Village
April 1994	Summary Execution: Jabalya Refugee Camp, March 28, 1994 (joint report issued with Palestinian Lawyers for Human Rights)
March 1994	Lethal Gunfire and Collective Punishment in the Wake of the Massacre at the Tomb of the Patriarchs
November 1993	The "New Procedure" in GSS Interrogation: The Case of 'Abd A-Nasser 'Ubeid
January 1992	Khan Yunis, December 1992
September 1992	The Death of Mustafa Barakat in the Interrogation Wing of the Tulkarm Prison

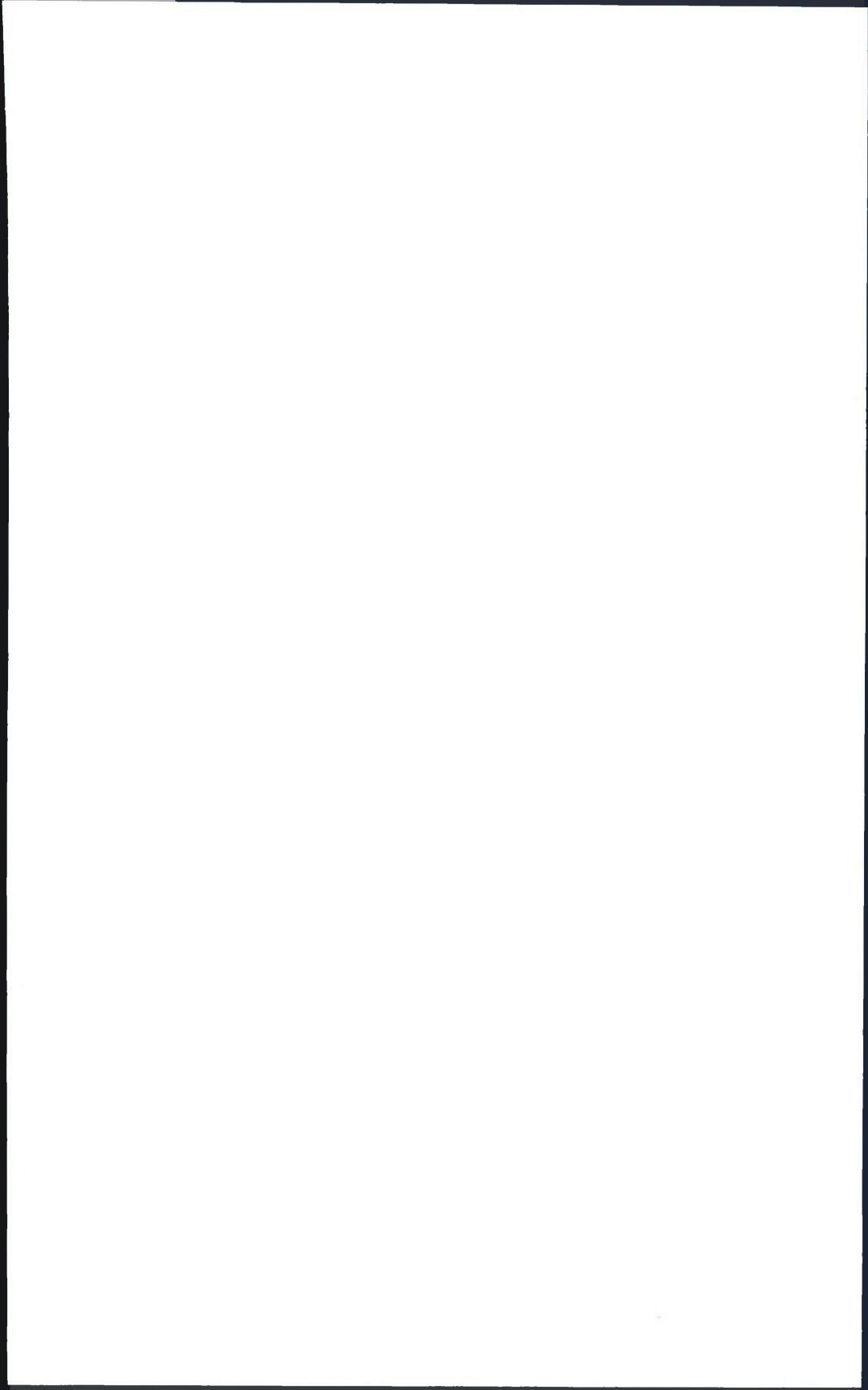
## Miscellaneous Reports

- July 1999 Families Torn Apart: Separation of Palestinian Families in the Occupied Territories (joint report issued with HaMoked: Center for the Defence of the Individual)
- June 1999 Cooperating Against Justice: Human Rights Violations by Israel and the Palestinian National Authority following the Murders in Wadi Qelt (joint report issued with LAW)
- May 1999 Oslo: Before and After - The Status of Human Rights in the Occupied Territories
- March 1999 Captive Corpses
- September 1998 The Quiet Deportation Continues: Revocation of Residency and Denial of Social Rights of East Jerusalem Palestinians (joint report issued with HaMoked: Center for the Defence of the Individual)
- April 1997 The Quiet Deportation: Revocation of Residency of East Jerusalem Palestinians (joint report issued with HaMoked: Center for the Defence of the Individual)
- December 1996 Human Rights in the Occupied Territories since the Oslo Accords: Status Report (joint report issued with The Palestinian Human Rights Monitoring Group)
- January 1997 Legitimizing Torture: The Israeli High Court of Justice Rulings in the Bilbeisi, Hamdan and Mubarak Cases

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**B'TSELEM**

The Israeli Information Center for Human Rights in the Occupied Territories

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B'TSELEM- The Israeli Center for Human Rights in the Occupied Territories, was established in 1989 by a diverse group of academics, attorneys, journalists, and public figures. It endeavors to educate the general public and policymakers about human rights violations in the Occupied Territories, and to press for policy changes in human rights issues.

B'Tselem thoroughly scrutinizes all information it publishes. Fieldwork data and findings are cross-checked with relevant documents, official government sources, most notably the IDF Spokesperson, and information from other sources, among them Israeli and Palestinian human rights organizations.

As an Israeli human rights organization, B'Tselem acts primarily to change Israeli policy in the Occupied Territories and ensure that Israel complies with its obligations to respect human rights and international humanitarian law. B'Tselem's mandate is limited to monitoring and documenting human rights violations in the Occupied Territories. However, B'Tselem also strongly opposes human rights abuses committed by any party, whether committed in the Occupied Territories or elsewhere.

Despite the potential of ending military administration of the Occupied Territories offered by the signing of the Declaration of Principles in 1993, the necessity of safeguarding human rights in the Occupied Territories remains. As the peace process proceeds, B'Tselem shall continue its efforts to ensure respect for human rights.