

Jerusalem, October 1992

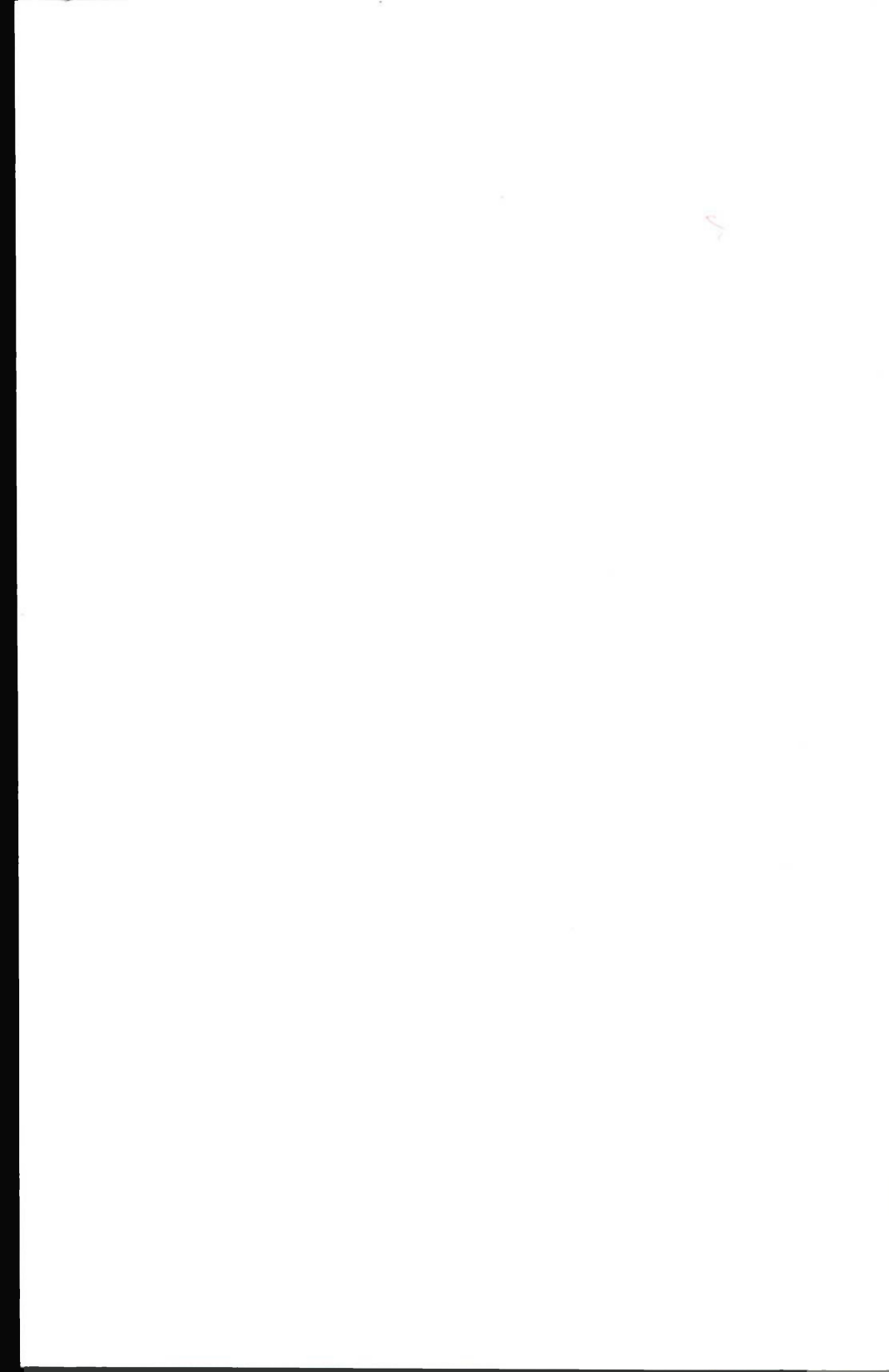
# **DETAINED WITHOUT TRIAL**

Administrative Detention in the Occupied  
Territories Since the Beginning of the Intifada

בִּצְלֵם

**B'TSELEM**

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



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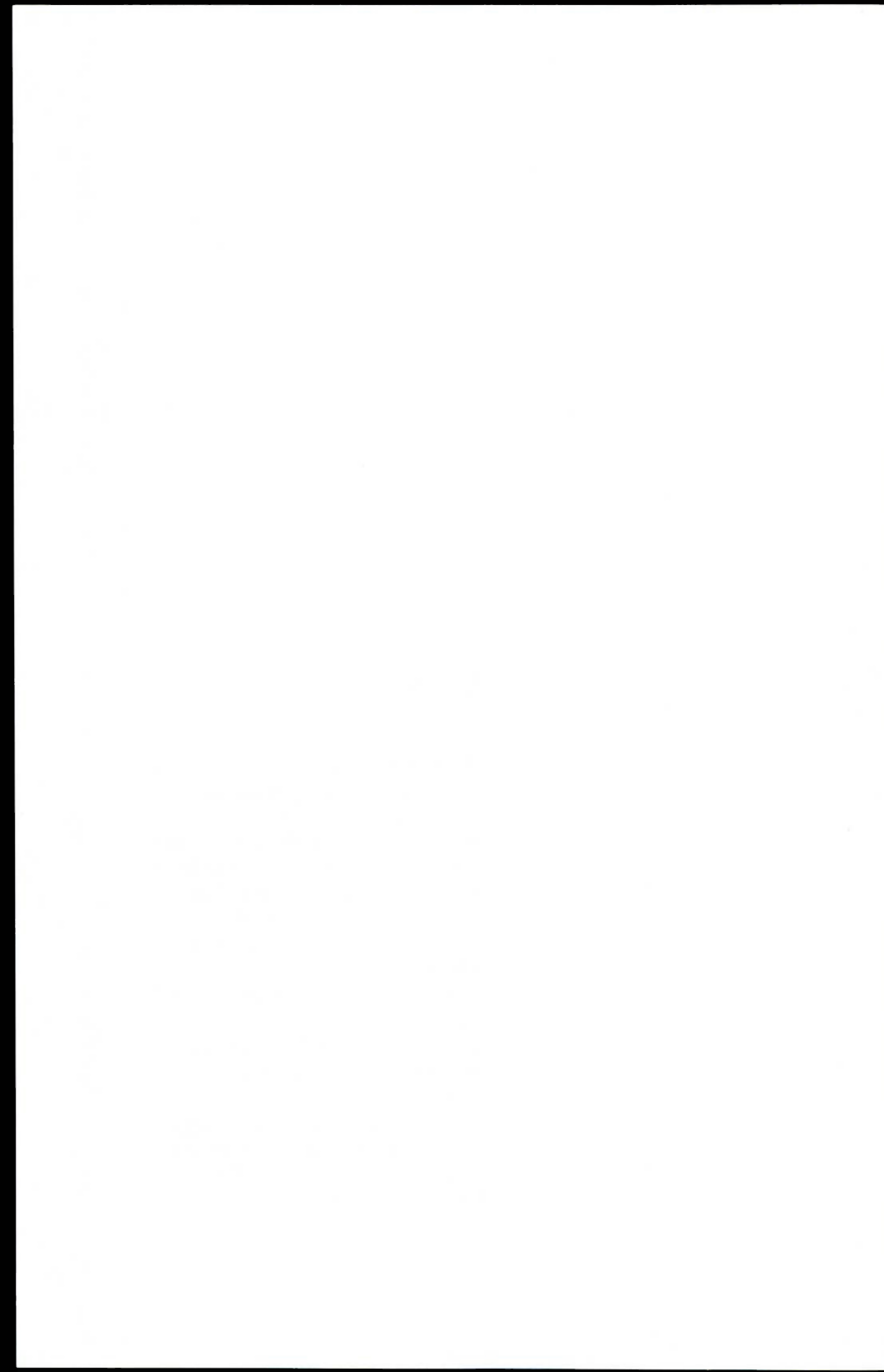
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# CONTENTS

1. Introduction	7
2. Administrative Detention in International Law	8
3. Historical Background	19
4. The Detainees	28
5. Conditions of Internment at Ketziot (Ansar III)	34
6. Conclusions and Recommendations	57
7. Notes	61
8. Appendix A	65
9. Appendix B	69



Ketziot Detention Camp (Photo: Herzl Yosef)

# INTRODUCTION

Over 14,000 administrative detention orders have been issued to Palestinians since the beginning of the Intifada. Most of these detainees received a six-month administrative detention order, some had their detentions extended by an additional six months, while a few were detained for several years without trial.<sup>1</sup>

In recent times, Israel's use of administrative detention has decreased. At the end of September, 1992, there were 185 Palestinians in administrative detention. In the course of the Intifada there have been periods when the number of Palestinians taken into administrative detention per month hovered around 1,500.

Eleven Palestinians recently received six-month administrative detention orders as a substitute for deportation orders, which had been cancelled by the new Israeli government.

According to international law, the arrest and detention of persons without trial is permitted only in situations of unusual and absolute necessity. International regulations have laid out clear restrictions and guidelines governing the use of detention without trial, which emphasize above all that administrative detention is a preventive measure that can in no way be used as a substitute for punishment.

This report describes in detail the criteria in Israeli and international law for issuing administrative detention orders. It then describes how the authorities have used this sanction in the territories since the beginning of the Intifada. The report seeks to determine whether administrative detention, as employed by Israel in the territories, is in fact being used as a preventive measure. The report then examines the dangers these detentions purport to prevent. As most of the administrative detainees (since March 1988) have been held in the Ketziot detention camp in the Negev desert, the report will examine conditions in Ketziot and seek to evaluate whether they comply with the requirements of international law.

## CHAPTER ONE:

# ADMINISTRATIVE DETENTION AND INTERNATIONAL LAW

Administrative detention is a "procedure by which governmental authorities detain individuals without charges and without judicial trial."<sup>2</sup> Most countries, including the most democratic, have recognized in their national legislation the existence of extraordinary situations in which the authority to detain lies solely in the hands of the administrative authorities. In Israel and the occupied territories, as in many countries, the authorities use this power to carry out preventive detentions.

Because administrative detention is such an extraordinarily powerful sanction involving the suspension of basic civil and human rights, its use is restricted to exceptional or emergency situations. There are a number of international regulations that clearly stipulate who can be detained, for how long, where and under which conditions.<sup>3</sup>

Israel inherited some of its laws, including the Defence (Emergency) Regulations of 1945, from the British Mandate, but subsequently restricted the authority to arrest without trial.<sup>4</sup> In the Israeli-occupied territories, however, the authorities' power to detain without trial remains extensive. The Fourth Geneva Convention, concerning the protection of civilians in occupied territories, permits occupying powers to detain persons without trial, but both the Convention and the official commentary clearly stipulate restrictions on the use of this power.

The Fourth Geneva Convention is an agreement between sovereign states that defines the humanitarian principles which must be abided by concerning treatment of civilians in time of war and military occupation. The underlying assumption of the Fourth Geneva Convention is that even in times of war and occupation, there are a number of fundamental rules that must be respected and that the most basic human rights should be safeguarded. Consequently, the Fourth Geneva Convention sets forth a number of basic principles governing an occupying power's treatment of civilians residing in occupied areas.

The Israeli government questions the applicability of the Fourth Geneva Convention to the West Bank and Gaza Strip, arguing that these territories were not under the sovereignty of either Jordan or Egypt prior to the 1967 war. Therefore, Israel argues, these territories did not belong to any state, and are therefore not "occupied" lands.

Notwithstanding these arguments, the Israeli government has publicly taken upon itself to apply the "humanitarian provisions" of the Geneva Convention on a de facto basis.

**B'Tselem** joins the international community as well as many Israeli legal experts in arguing that the question of sovereignty is not relevant to the Convention, which deals only with humanitarian concerns. Israel, by declaring its readiness to apply the "humanitarian aspects" of the provisions to its rule in the territories, has in fact promised to act in accordance with this Convention.<sup>5</sup>

**B'Tselem** therefore views the Fourth Geneva Convention as providing the guidelines for those minimum necessary rights which Israel is obliged to respect.

Israel's sweeping practice of administrative detention violates a number of restrictions on detention without trial stipulated in the Fourth Convention. Below are the relevant citations from the Convention and its official commentary as to when and how authorities are permitted to use their power to detain without trial.

### **1. When can an occupying power employ its authority of administrative detention?**

According to Article 78 of the Fourth Geneva Convention, "if the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment."<sup>6</sup>

The Fourth Geneva Convention limits the use of arrest without trial in a variety of ways. First, the occupying power may order that an individual be administratively detained only "for real and imperative reasons of security."<sup>7</sup>

Second, administrative detention and assigned residence are the most severe steps to which the occupying power may resort. Consequently, they may be used only "when other measures have proved inadequate."<sup>8</sup> The commentary explains that the decision to detain without trial should be taken only when it is necessary as a result of war. At all costs, the commentary states, this sanction's "exceptional character must be preserved."<sup>9</sup>

Israel has issued over 14,000 administrative detention orders to Palestinians since the beginning of the Intifada. It seems unlikely that all these detentions were exceptional, imperative, and unavoidable. It is important to keep in mind that administrative detention can only be used by the authorities as a preventive measure; in no way can it be used as a punitive sanction.

Under the Defence (Emergency) Regulations of the British Mandatory government (1945), any military commander was authorized to order administrative detentions of unlimited duration. Under Regulation 111, an administrative detainee was entitled to appeal his detention before an advisory board. This board, in turn, submitted its own non-binding recommendations regarding the appeal to the military commander. (See Chapter 2.)

With the establishment of the State in 1948, the Mandatory regulations were incorporated into Israeli law. In a series of non-binding guidelines for the implementation of the emergency laws, the authority to issue an administrative detention order was limited to the Israel Defence Forces' (IDF) Chief of Staff, the military commanders of Israel's three "regional commands," and the Commander of the Israeli Navy. The IDF Chief of Staff was the only officer granted the authority to detain individuals without trial for periods exceeding one month. In addition, a Supreme Court justice was placed at the head of the advisory board, in an attempt to grant its non-binding recommendations greater authority.

In 1967, after its occupation of the territories, Israel issued an order stating that the law applying in the territories prior to the IDF's arrival in the area would remain in force. The validity of the Mandatory Emergency Regulations in the territories at the time of the IDF's entry into the West Bank and Gaza Strip is the subject of much controversy. The official Israeli position, which has been endorsed by the Israeli Supreme Court, is that the Emergency Regulations were part of the local law in the territories prior to the war. In any case, however, the Military Order Concerning Security Regulations (1967), which was issued shortly after the IDF's entry into the area, re-enacts legislation similar to the Mandatory Emergency Regulations. The only major differences between the two are those changes implemented by the IDF in an attempt to adapt these laws to the requirements of the Geneva Conventions.

In 1979, following an initiative of then-Minister of Justice Shmuel Tamir, the laws in force in Israel were amended and the Mandatory administrative detention regulation was replaced by a new law – the Law Authorizing (Emergency) Detention 1979 – which imposed a further limitation, so that only the Minister of Defence, and not any military commander, as was previously the case, was authorized to issue an administrative detention order. The 1979 law limited the maximum period of detention to six months. It also stipulated that detainees must be brought before the president of an Israeli district court (48 hours after arrest and subsequently once every three months at least), whose decision could be appealed in the Israeli Supreme Court. This law applies only in the State of Israel.

In 1980, a military order implementing the principles of the 1979 Israeli law in the territories, amended the 1967 order in the following manner: the power to issue an administrative detention order in the territories (equivalent to that of the Minister of Defence in Israel) was relegated in the territories to the military commanders of Israel's three "regional commands;" whereas detainees in Israel were to be brought before a judge within 48 hours, detainees in the territories had to be brought before a judge within 96 hours; and while in Israel, detainees were to be brought before the president of a district court, detainees in the territories had to be brought before a military judge and could only appeal their detention to the president of a military court.

In March 1988, three months after the beginning of the Intifada, the IDF suspended the 1980 order and issued a new one in its stead. The 1988 order expanded the IDF's authority to hold Palestinians in administrative detention and curtailed the detainee's rights. In fact, the March 1988 order reinstated the rules that existed prior to the liberalizations of the 1980 amendment. Once again, individual (non-regional) military commanders were authorized to issue administrative detention orders, the obligations to bring a detainee before a judge within 96 hours and subsequently for judicial review every three months, were cancelled, and detainees were allowed to appeal their detention to an advisory board authorized only to make non-binding recommendations.

A short time later – apparently in response to harsh public criticism – the appeals board was replaced by a military judge with legal training empowered to confirm or revoke an administrative detention order.

In August 1989, the IDF issued an amendment to the March 1988 order. This amendment extended the maximum period of each detention order from six to 12 months, but required judicial review at six-month intervals.

In December 1991, the maximum period of each detention order was again reduced to six months. These six-month detention orders, however, may be renewed for recurring six month periods.<sup>10</sup>

## **2. Who can be detained?**

In theory, persons subjected to administrative detention are regarded as potential and not actual offenders. This measure may legally be used only as a precautionary one, and therefore, may not be applied as a substitute for punishment.

The official Israeli stance corresponds to these limitations. According to Israeli policy, the IDF orders the administrative detention of Palestinians in the abovementioned circumstances only when normal judicial

procedures are inadvisable in light of the potential danger to witnesses' lives (many of whom are Palestinian informants), or because confidential sources of information cannot be revealed in an open court.<sup>11</sup> Yet a great number of detainees are placed in administrative detention after their interrogators fail to elicit a confession, or as a form of collective punishment, or simply because it is simpler to detain them without charge than to bring them to trial.

### **3. How is an administrative detention appealed?**

[The] procedure shall include the right to appeal for the parties concerned. There should be a review every six months, and the decision about the appeal should never be left to one individual but should be considered by a board or a court.<sup>12</sup>

As stated, in March 1988, the military commander's obligation to bring the administrative detainee before a judge within 96 hours of his arrest, was cancelled. The detainee may still appeal to a military judge, but the date of the appeal is determined by the legal advisor of the Ketziot detention camp, in consultation with the General Security Services (GSS). Justice Shamgar ruled that "one must at least ensure that the appeal be heard within, at the most, two to three weeks from the date of the appeal's submission."<sup>13</sup> In practice, however, all appeals by Palestinian detainees take place at least one month after their arrest, while most are heard even later.

In most cases, the appeal takes place at Ketziot. In attendance, apart from the judge, is a representative from the Office of the Military Prosecutor, the appellant, the appellant's attorney, and a GSS representative. The overwhelming majority of the evidence on which the detention is based is considered classified. The appellant and his lawyer are not shown this evidence, and receive only summary information that is not substantial enough to be contested. The judge, too, must rely for the most part on this information and on the explanations, frequently given behind closed doors, of the GSS representative, whose sources are informants. Often, the appellant and his attorney are not present, and sometimes, even the prosecutor leaves the courtroom, leaving the GSS agent and the judge to discuss the case alone. The judge has no opportunity to verify this information.

Attorney Tamar Pelleg-Sryck of the Association for Civil Rights in Israel recalled that:

On November 24, 1988, Ahmed 'Abd al-Wahhab Daim appealed his detention order... placed before the judge was a form on which he was to mark his decision, which had to be one of four possibilities. It appeared as follows:

- a. To postpone the appeal, leaving the detention in effect;
  - b. To postpone the appeal, but to calculate the detention period from the actual day of arrest, so that it ends on\_\_\_\_\_;
  - c. To cancel the detention order;
  - d. To accept the appeal and to set the period of administrative detention at\_\_\_\_\_, to end on\_\_\_\_\_;
- Date of decision:\_\_\_\_\_.

There was no space on the form for legal explanation or substantiation. If he so desired, the judge was free to provide the reasons for his decision on the back of the form, which was apparently the only space supplied for this purpose. The form has now been changed and space has been provided for legal substantiation.<sup>14</sup>

Judges make limited use of their powers and rarely cancel administrative detention orders (See Appendix B). Even if a judge decides to cancel the detention order or to shorten the detention period, the detainee may be served with a new order soon after his release.

There is considerable evidence suggesting that Israeli authorities have extensively used administrative detention during the Intifada as a punitive rather than preventive measure. Most of the non-classified evidence submitted against detainees in support of administrative detention relates to offenses committed in the past. Consequently, the entire appeals process deals with these past offenses. Judges make no attempt to discern whether the detainee poses a potential threat sufficiently grave to justify revoking his freedom. The president of the Israeli Supreme Court offered an explanation for why the entire appeals process revolves around the detainee's past offenses:

It is certainly possible that an evaluation of the situation in the future could be based on past deeds, and it is almost impossible that it could be otherwise, since the logical conclusions of one in a position of authority must be based on facts, and there is nothing like the facts of the past to inform as to what can be expected in the future.<sup>15</sup>

Supreme Court President Shamgar's analysis of the relationship between past offenses and the potential for future offenses is problematic. It is difficult to accept that there has been a necessary connection between past offenses and future threats to Israeli state security in over 14,000 individual cases since December 1987.

Moreover, the content of the discussion during the appeals process suggests that the entire system (including judges, the IDF prosecutors, and the appellants' attorneys) sees this process as an appeal against a punitive and not a preventive sanction. How else can one explain the shortening of an administrative detention from six to four months? Did the judge suddenly discover, in the process of presiding over the appeals proceedings, that the threat posed by the detainee would disappear after four months in detention and not six, as was previously thought?

#### **4. Who decides to order an administrative detention? Who is authorized to extend an order?**

One of the problems indicated by many of those interviewed is the uncertainty surrounding detention orders. Many detainees do not know on what grounds they were detained. In some cases, detainees reported that they were summoned to the Civil Administration and presented with two options: administrative detention or temporary exile from the territories. In one case, Israeli authorities presented Kamel Astel, a university lecturer in the Gaza Strip, with his options in a cynical manner: he was told that he could choose between three years in Oxford or one year in Ketziot. When he refused to leave his home he was sent to administrative detention.

In many cases, Palestinian detainees are not served a written detention order even after they are sent to the Ketziot detention center. As a result, these detainees do not know the date of their release. In fact, most detainees only know the probable date of their release because the order may be extended after its expiration.

Dr. 'Abd a-Sataar Qasem from Nablus, whose six-month detention was twice extended, told **B'Tselem** that:

[U]nlike a prisoner who has been sentenced, who knows that he is going to be freed on a certain day, the administrative detainee never knows. This leads to a difficult and unstable psychological situation. For example, when they renewed my detention the first time, they did not tell me that my detention had been renewed. On the day that my term was to end, they called out the numbers of persons whose period had ended and my number was not among them. I asked the officer and he promised to check the matter for me. He returned and said that my detention had been extended. The second time they renewed my detention they informed me eight days before the end of the period. It is simply a game with peoples' nerves – a well-planned game.

Abd al-Rauf Ghaben, recently released after a number of repeated administrative detentions, observed that the feeling of uncertainty continues to accompany ex-detainees long after their release. "The question," he said, "is how much time will pass until you are arrested again. There are people who are released, spend a few days 'outside,' and are then re-arrested.

When Salem Masurj was released from six months in administrative detention, he was told that he would be re-arrested if he didn't leave the territories for Jordan. Masurj remained out of Ketziot for 17 days; for seven of these days he was ordered to report daily to the local Civil Administration compound. During the remaining 10 days he was confined to his home due to a curfew imposed in his place of residence. During those 17 days, the GSS pressured him to leave the territories. When he refused to leave, he was issued an administrative detention order for an additional year.

Some 10%-15% of all Palestinian administrative detainees are interrogated before being brought to Ketziot. Only when the interrogation ends – usually after 18 days – are these detainees sent to Ketziot, where they are informed that they are under administrative detention. This procedure, which is illegal, suggests that many detainees are served with administrative detention orders only after their interrogators fail to accumulate sufficient evidence to bring them to trial.

A significant portion of the administrative orders are issued after the detention begins. When these detainees do finally receive their detention orders – sometimes weeks after the start of their detention period – the order is written in Hebrew, a language many detainees cannot read, and does not mention their legal rights as administrative detainees.

Over 25% of the detainees received an administrative detention order dated after the day of their arrest. These detainees are first arrested and the detention order is issued at a later date. Some judges presiding in the appeals process note this practice and shorten the detention period accordingly.

## **5. Where may administrative detainees be held?**

Following World War II, when many civilians were detained outside of their countries, the Fourth Geneva Convention was worded so as to prohibit the removal of detainees from occupied areas.<sup>15a</sup>

Most Palestinian detainees from the Israeli-occupied territories are held within Israel itself in the Ketziot detention center, located in the Negev

desert. This clear violation of the Fourth Geneva Convention has been protested by international organizations, including the Geneva-based International Committee of the Red Cross (ICRC), which departed from its usual practice of refraining from public expression in matters of policy, and published a statement condemning Israel's policy on this issue.

In contrast to the ICRC's position, accepted world-wide, the Israeli High Court of Justice ruled that the internment of Palestinian administrative detainees in Ketziot is legal. In 1988, a petition was submitted by several administrative detainees to the High Court of Justice against the Israeli Defence Minister. The petitioners argued that their detention within Israel violated Articles 76, 49 and 80 of the Fourth Geneva Convention. They argued that even if the Convention does not reflect customary international law, the Israeli government is obligated to uphold the Convention for two reasons: it has become part of the IDF General Staff orders and Israel has declared that it routinely applies the humanitarian aspects of the Convention to its rule of the territories.

The High Court of Justice rejected the detainees' appeal, ruling that imprisonment of Palestinian administrative detainees from the occupied territories in a facility located within Israel conforms to Israeli security legislation. The court also ruled that the content of the Fourth Geneva Convention could not be invoked in Israeli courts since it was not part of internal Israeli law.

The judges also ruled that "the lack of reference to Article 76 of the Convention within the series of articles mentioned in Article 79, which sets the principle guiding rules regarding conditions of administrative detention, indicates that Article 76 does not apply to administrative detainees." In other words, the judges maintained that since the Convention's unequivocal prohibition against the transfer of civilians out of occupied lands is located in an article that does not relate directly to administrative detention, the prohibition is irrelevant to administrative detainees.<sup>15b</sup>

## **6. What are the conditions of detention?**

The Fourth Geneva Convention clearly stipulates under which conditions detainees are to be held (Articles 79-135). Since they have not been charged with any crime, administrative detainees should be held in conditions superior to those provided to criminals tried and convicted in a court of law. According to the Convention:

The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset

of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is in an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit.

The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees.

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

Israel violates most of these requirements. Detainees in Ketziot are held in tents instead of buildings, they are not protected against the climate, and they receive much harsher treatment than prisoners held in prisons run by the Israeli Prisons Authority (IPS) (For details see Ch.4).

Article 116 stipulates that every detainee has the right to receive visitors "at regular intervals and as frequently as possible. [...] As far as is possible, internees shall be permitted to visit their homes in urgent cases, particularly in cases of death or serious illness of relatives."

From March 1988, when Ketziot was opened, until the end of October 1991, there were no family visits to Palestinian detainees in Ketziot. Since October 1991, when some family members began to visit detained relatives, **B'Tselem** knows of no cases in which Palestinian detainees were permitted to visit their families in the "special situations" mentioned in the Convention. The Israeli authorities allow Palestinian administrative detainees two visits per month by two different visitors. These visits are limited to one-half hour, an unreasonably small amount of time in light of the difficulties faced by family members seeking to travel to Ketziot from their homes in the West Bank and Gaza Strip.

The journey to the Ketziot prison from either of these areas is long and arduous; moreover, the authorities subject family members seeking visitors' permits to a long, frustrating and complex administrative procedure. (A number of other details concerning the conditions of Palestinian detainees with respect to postal deliveries, the supplies of food and water, etc. are discussed in Ch.4).

## CHAPTER TWO:

# HISTORICAL BACKGROUND

In 1945, the British Mandatory Government in Palestine issued the Defence (Emergency) Regulations. Regulation 111 of this legislation stipulated that any military commander was authorized to take a person into administrative detention. The regulations stated that the duration of detention could not exceed one year, but in a 1946 amendment, the limitations on the duration of the detention period were annulled. The regulations stipulated that an administrative detainee was entitled to appeal his detention before an advisory commission authorized to submit its recommendations to the military commander. The commission's recommendations, however, had no binding power. This legislation was based on the emergency regulations drawn up in 1937 to deal with rioting by the Arab population. By authority of these regulations, the military commander was empowered to arrest those suspected of participating in or aiding acts of violence, and to hold them in detention without bringing them before a judge. A significant number of Jews and Arabs alike were detained under these regulations. In theory, these detainees had the right to demand an investigation of the circumstances and reasons for their detention, but in practice, many were arrested on the basis of rumor or mistaken identity, without any investigation being conducted. The regulations granted the British High Commissioner "unlimited deliberation" in legislating regulations for the purpose of insuring public security, defense of Palestine, control of public order, and suppression of uprisings and disturbances, and ensuring the constant supply of necessary goods and public services.<sup>16</sup>

The range of powers which this legislation granted the High Commissioner sparked a debate among the British leadership. British judges and lawyers pointed out that the Defence (Emergency) Regulations granted the mandatory authorities excessive powers. The British High Court of Justice even argued that holding a person in detention without trial was likely to stand in opposition to one of the most basic principles of English law, according to which "a person will not be punished twice for the same crime." The court indicated in many cases, that the detainees had already fulfilled their sentences before being issued the administrative detention order.<sup>17</sup>

On February 7, 1946, members of the Jewish Lawyers Association in Palestine held a conference protesting the Emergency Regulations. The

meeting, attended by over 400 members, was opened by Dr. M. Donkelbloom, who stated:

While these regulations are a danger to the entire Yishuv [Jewish population in Mandatory Palestine], we, as lawyers, have a special interest in them: there is a violation here of elementary concepts of law and justice. The regulations give sanction to absolute arbitrariness of the administrative and military authorities. This arbitrariness, even if it is authorized by a legislative establishment, is anarchy. The most recent amendment to the Emergency Regulations is the last link in a chain, and it is a shame that we did not respond in time, when the Defence Regulations were published, in 1945.<sup>18</sup>

Among the speakers in the conference was Ya'akov Shapira, later to become Minister of Justice in the Israeli government, who said:

The regime established with the publication of the Defence Regulations in Palestine has no parallel in any enlightened nation. Even in Nazi Germany, there were no laws like this, and even the deeds of Maidenek and the like were against the written laws. Only one type of regime resembles these circumstances – an occupied country. Although they console us in saying that the regulations are intended only against criminals and not against the entire population, the Nazi governor in occupied Oslo also declared that no evil would come to a citizen who was only going about his business.<sup>19</sup>

By power of these regulations, the British arrested both Jews and Arabs. Among the Jewish detainees were "illegal" immigrants (and those who helped them immigrate) and members of the Jewish underground. Dozens of Lehi and Etzel activists ("Lehi" and "Etzel" were two of the Jewish underground organizations) were arrested in the 1940s and transferred without sentence to prison camps in Palestine and East Africa. The detainees in East Africa were held for years far from their homes and many had their detention extended every six months. Others were released without ever being tried. Dr. Cohen, age 73, spent six and a half years in administrative detention and was released in July 1948. **B'Tselem's** interview with Dr. Cohen appears in Appendix A.<sup>20</sup>

Rabbi Abraham Yellin, who was the rabbi and kosher butcher for the Eritrea Prison during his six-month internment, gave a description similar to Dr. Cohen's of living conditions in detention. In a report submitted upon his return from Africa, Rabbi Yellin described the living conditions as comfortable and roomy, and reported the existence of a synagogue built by British engineers at the detainees' request, and a canteen which

supplied detainees with fresh fruit and vegetables, eggs, canned food and cleaning supplies at reasonable prices. Full medical services were provided by a British military doctor.

The food was plentiful and the detainees received meat every day. The rabbi said he gained weight during his stay in Eritrea. The detainees spent most of their time studying; most took correspondence courses, and the academics among them gave lectures to the others. The detainees received unrestricted supplies of mail and newspapers and even produced their own hand-written newspaper. The camp had soccer, basketball and tennis facilities, and a plan was underway to construct a swimming pool for the detainees. The camp cinema featured up-to-date movies, some of which had not yet reached Palestine. In summary, the rabbi stated:

I do not wish to make this sound like an Eritrean idyll; the men were deprived of their liberty, which is always irksome, and I know it is impossible to console people who are parted from their loved ones. But if this report relieves them of some of the anxiety which they must have felt regarding conditions out there, then the purpose for which it was written has been achieved.<sup>21</sup>

"Black Sabbath" – On June 29, 1946, 2,718 persons, 59 of whom were women, were placed in administrative detention in a nation-wide British operation aimed at uncovering secret ammunition supplies. The detainees were taken to Atlit and then transferred, due to lack of space, to a makeshift detention camp in Rafah in the southern Gaza Strip. Among the prisoners were many leaders of the Jewish population in Palestine, including Rabbi Y.L. Fishman, Acting Chairman of the Board of the Jewish Agency, David Remez, Chairman of the National Committee, and Bernard Joseph and Yitzhak Greenbaum, members of the Board of the Jewish Agency. Upon their arrest, the detainees refused to give the British their names and fingerprints. When rumors of torture began circulating among the detainees, they staged a hunger strike. The hunger strike was stopped only when they arrived at an agreement with the British according to which three representatives of the detainees would be present in every interrogation. The detention of so many people, among them leaders of the Jewish community in Palestine, and the rumors of torture, led to strong anti-British protests among the Jews. Protest demonstrations were launched around the country, and in a demonstration in Haifa four Jewish demonstrators were injured by British gunfire. Several days later, on July 3, 200 minors among the detainees were released. Later, every detainee that agreed to give his or her name and fingerprint was released as well. <sup>22</sup>

Following the Jewish underground's bombing of the King David Hotel in Jerusalem on July 22, 1946, 700 persons were placed in

administrative detention by the British authorities and sent to a camp in Rafah. Following these detentions, an article was published in the Jewish-run Palestine Post, protesting closures of the Jewish press and the public harm caused by British soldiers searching for Jewish suspects. The article charged that even such harsh measures had not even been used by the allies to capture Nazi war criminals in post-war Germany. The article added that:

[a]nd all the time, while hoping for Jews to form a kind of vigilante society, the leaders of influence and prestige, who alone might rally their people to deal with the scourge, are kept behind barbed wire, the targets of insinuations and charges which remain to be established and proven.<sup>22a</sup>

Administrative detention continued during the ensuing period. In the wake of anti-British activities by the Jewish underground, entire areas were placed under curfew, searches were carried out, and dozens of Jewish suspects were sent to Rafah for administrative detention. In September 1946 there were 1,500 Jewish male and female administrative detainees in detention camps in Palestine and Eritrea. In the following period, the number of the administrative detainees dropped, and on January 13, 1947, there were 859 administrative detainees among 1,140 Jewish political prisoners.

With the establishment of the State of Israel, the Defence (Emergency) Regulations, initially legislated by the British Mandatory authorities, were incorporated into Israeli law, as were most laws in effect prior to statehood. Immediately following statehood and the Altalena Affair in June 1948, two leaders of Etzel (the former Jewish underground organization), Hillel Kook and Ya'akov Vinirski (later Meridor), were arrested by the Israeli authorities. Some twenty days after the arrest, authorities issued an administrative detention order signed by Major-General Tzvi Alon with the support of Defence Minister David Ben Gurion. Two of the detainees appealed to the Israeli High Court of Justice, arguing that the Defence (Emergency) Regulations deviated from and were contrary to the Mandatory legal framework, and were therefore not absorbed into Israeli law by the Law and Administration Ordinance enacted after statehood. In the ruling, Justice Kasan stated that the Emergency Regulations were illegal, and said that:

The High Court of Justice is not obligated to abide by illegal regulations which exist in Israel just because the legislature has not found an opportunity to annul them, as long as other defense regulations for a state of emergency have not been stipulated in their place.

A judge cannot act and rule according to a law while he is convinced that the law is essentially invalid, and one cannot

require him to do so against his conscience, only because the present government has not yet invalidated the formal law.<sup>23</sup>

Presiding Justice Dr. Berdecki and Justice Kantrowitz, who voiced their criticism of the Emergency Regulations for depriving citizens of fundamental rights, conceded that "the trouble is that whatever our opinion on these regulations may be, I must state that we are not free on this matter." The Presiding Justice stated:

We must accept the regulations as they are, that is as valid, legal regulations, subject to the interpretation given them in the highest court in the country at the time.<sup>24</sup>

Opposition to the use of the Defence (Emergency) Regulations and detention without trial was heard not only from the legal system but in the Knesset from persons representing various political positions. In 1949, a suggestion was made to cancel the Defence (Emergency) Regulations and to replace them with permanent Israeli law. Regarding administrative detention, a suggestion was made to establish a commission of inquiry, authorized to release detainees rather than solely to recommend. In addition, it was proposed that the approval of extension of administrative detention for a period exceeding three months be made dependent on a renewed review by the committee.<sup>25</sup>

Immediately after the Knesset discussed the proposal, Minister of Justice Rosenblit stated:

Since the establishment of the State, a sizeable portion of the 1945 regulations have not been invoked, and these portions were for all practical purposes devoid of meaning. Since the establishment of the State, there have been oscillations in the number of detainees, and the authorities have deemed that to be imperative detention for reasons of State security and public order. Today, there are a total of eight persons imprisoned under the 1945 regulations. These are the questionable types, and even though there is not enough material against them to bring them to trial, their detention, in the eyes of the authorities, is essential for security reasons.<sup>26</sup>

In this Knesset discussion members of Mapam, the United Religious Front, the General Zionist Sepharadim, the Israeli Communist Party, and Herut, all voiced their opposition to the proposed law. The bill was supported by Mapai, the ruling political party. Y. Bader, a Herut member, argued vehemently against the regulations, saying:

Who did not serve time under the British regulations? The "dissenters" [Jewish members of the Etzel and Lehi undergrounds] served, the leaders of the Jewish Agency served, and thousands sat in Rafah. And I say to you – you who do not

know yet who will be imprisoned under this new law for Defence and Security that you seek to pass – the day will come when you will serve time because of this law of yours.<sup>27</sup>

A vote decided that the law for Defence and Security in an Emergency, 1949, be transferred to the Knesset's Law and Constitution Committee. In effect, the bill was "put on the back burner," according to Justice Minister P. Rozen. It was never approved by the Knesset and the Defence (Emergency) Regulations have continued to apply in Israel ever since.

In the summer of 1951, some members of an ultra-orthodox Jewish underground were arrested on suspicion of conspiring against the Israeli state, possession of explosives, commission of violent acts, and intention to commit a terrorist act in the Knesset. Subsequently, 53 suspects were taken into administrative detention in accordance with Regulation 111 of the Defence (Emergency) Regulations and were sent to Jamli detention camp. These detentions sparked a public uproar and led a number of Knesset members to push the abolition of these regulations. Once again members of Herut, Mapam, the United Religious Front, the General Zionist Party, and the Israeli Communist Party, all called for the annulment of the Defence Regulations.

In a speech to the Knesset, Menahem Begin, the leader of the opposition Herut party, called for an end to the use of the tyrannical laws of the British Mandate and to the detention of persons without trial in "concentration camps." In reply, acting Prime Minister Moshe Sharet told Begin not to "differentiate between law and law: all law is law."

Menahem Begin rejected this argument, declaring:

Not so! There are tyrannical laws, there are unethical laws, there are Nazi laws. I am saying that your legal advisor stated before a British court that even in Nazi Germany, no legislation resembling the emergency laws which you have used were legislated. Don't ask me who decides what law is Nazi and what law is unethical. The law which you have employed is Nazi, tyrannical, and unethical. And an unethical law is also an illegal law. The detention is therefore illegal, and your order is arbitrary. You did not have a right to do that, when there is a Knesset, when there is a judiciary. When you have at your disposal the entire system of inquiry, why did you open a concentration camp?<sup>28</sup>

Tawfik Toubi of the Israeli Communist Party joined the campaign against "these undemocratic laws." He said that the Communist party "also demands the immediate release of those arrested under the Emergency Regulations, as their detention is illegal, and we are opposed to it." The Chief of Police, B.S. Shitreet, agreed that the

Emergency Regulations should be replaced by other laws. "But," he said, "as long as they are not replaced by other laws, they are laws of the State, and must be upheld."

In the debate P. Rozen, then Israeli Minister of Justice noted that:

[A]dministrative detention is in general intended for situations such as these, where the government indeed possesses detailed information, but it is impossible to bring sufficient evidence before a court. Under the existing law, persons may be held in administrative detention for up to one year. The Acting Prime Minister has already explained that the government did not intend to use this law for an extended period, but only to buy time to carry out the investigation, and afterwards to release the persons against whom there is insufficient proof to bring them before a court, and to try the others in court.

At the end of the debate the Knesset resolved that:

The Knesset decides that the Defence (Emergency) Regulations, 1945, which have existed in the State ever since British rule, are opposed to the foundations of a democratic state, and charges the Law and Constitution Committee the task of presenting to the Knesset a bill proposing the annulment of the mentioned Regulations.<sup>29</sup>

In addition, the Knesset established a commission of inquiry to investigate the internment of the Jamli detainees. The commission's conclusions, submitted after three months, included harsh criticism of detention methods and conditions.<sup>30</sup> In spite of the Knesset resolution, however, the Emergency Regulations were never annulled. The Jamli detainees were released shortly after the report's publication. Four stood trial and were given light prison sentences of between six months and a year. All the others were released without trial and were never charged.<sup>31</sup>

During the 1950s and the first half of the 1960s, proposals for the annulment of the Emergency Regulations were suggested on a regular basis.<sup>32</sup> The Emergency Regulations were not cancelled primarily because they were the legal basis for Israel's military rule over Arab areas within Israel's borders. When the military government over Israeli-Arab citizens was finally abolished, the authorities' use of the Emergency Regulations was markedly reduced. Consequently, the government expressed greater willingness to cancel the Regulations. In June 1966, Justice Minister Ya'akov Shimshon Shapira stated that:

The 1945 Emergency Regulations have no place in our law books. We cannot be satisfied with those that we have deleted thus far.<sup>33</sup>

The Ministry of Justice formed a commission of experts to examine the regulations and to prepare a bill detailing which of the regulations could be deleted. The outbreak of the June 1967 interrupted the commission's work, which was not resumed after the war, according to the Justice Minister, due to the "acute emergency situation."<sup>34</sup>

In the 1950s and 60s, the Israeli Supreme Court repeatedly ruled that any administrative sanction that violates individual liberties and is not grounded in law is invalid. Despite these rulings, and despite the fact that administrative detention is an essentially preventive measure, there were cases in which administrative detention was used to punish Israeli-Arab citizens suspected of relatively light "security offenses." In 1956, for example, two residents of the village of 'Ara were placed in administrative detention for one month after "offending the State" during a flag-raising ceremony. In that same year, six residents of Sahnin were placed in administrative detention for a month after stoning the military governor's car.<sup>35</sup>

In 1967, following Israel's occupation of the West Bank and Gaza Strip, Israel issued an order stipulating that the law in effect in the territories prior to the IDF's entry would remain valid. In addition, due to a disagreement regarding the validity of the Mandatory Emergency Regulations in the territories, the IDF issued its Order Concerning Defence Regulations, 1967. This military order instituted a number of regulations that were similar to the Mandatory Emergency Regulations, with the exception of several changes which sought to make the military order compatible with the requirements of the Geneva Convention.

We do not have information regarding the number of Palestinians placed in administrative detention during the first years of the Israeli occupation. In the spring of 1970, 1,261 Palestinian residents of the territories were in administrative detentions, over 220 of which had been in for over one year.<sup>36</sup> In 1971, the number of administrative detainees dropped to 445. Between 1973 and 1977, the yearly average hovered around 40 per year.<sup>37</sup>

In 1979, administrative detentions in Israel were instituted by the Emergency Powers Law (Detention), 1979 – which laid out a special procedure for administrative detention and assured regular judicial review of the activities of the detaining authority. The 1979 law was the most significant reform of the Emergency Regulations since statehood in 1948. The 1979 law annulled Regulation 111, which granted the military commander authority to order administrative detentions. In the new law, this authority was relegated solely to the Minister of Defence. The period of administrative detention was limited

to six months, and the law obliged the authorities to bring detainees before the president of a district court president at least once every three months. The detainee was granted the right to appeal the court president's decision to the Israeli High Court of Justice.

Then – Justice Minister Shmuel Tamir linked his personal experience with the amendments to the Emergency law. When he presented the bill he stated that:

In May 1947, together with 49 other fighters, I was deported to exile in Kenya under these laws, and I see for myself, as stated, as a right and an honor, to propose that they be annulled and changed in the Israeli law, as preserving the good and democratic principles of Rule of Law and assurance of Human Rights, while at the same time safeguarding the security needs anchored in it.<sup>38</sup>

Professor Klinghoffer, in his article "Detention for Security Purposes" emphasizes the dangers involved in changing the law. Klinghoffer states that the detention law attempted to reduce the severity of the power to sentence a person to preventive detention by giving the district court authority to scrutinize the detention order.<sup>39</sup> Now, says Klinghoffer, the term "administrative detention" that was accepted regarding detention orders under Regulation 111 of the Defence Regulations, no longer suits the detention orders according to the new law." In effect, ever since the change, the judicial and the executive branches are both responsible for detention without trial.

In his discussion of the Supreme Court ruling regarding a petition submitted by Rabbi Meir Kahane and Baruch Ben Yosef, Klinghoffer argued that "if the judgement, according to which a District Court President cannot change the Defence Minister's decision with his own considerations is indeed correct, then all the changes which occurred, to the purely administrative quality of the detention order, which was the foundation of the former arrangement, have remained intact." In other words, if the court is not authorized to override the judgement of the executive branch, then the change in the law is insignificant. One may ask, pursuant to Klinghoffer's comments, whether, with the change in the law, the executive's use of administrative detention has not been legitimized.

## CHAPTER THREE:

# THE DETAINEES

Among the administrative detainees are many Palestinian journalists, trade unionists, physicians, merchants, laborers and students.<sup>40</sup>

Some of the detainees are persons attributed with political leadership both at the local level and the pan-Palestinian level. During 1988-1989, a large portion of the leaders in the territories were held in administrative detention. In other periods, there were mass detentions of attorneys, journalists, or members of professional guilds. At least 10% of the detainees were first interrogated. Those who did not confess and could not be tried, received administrative detention orders. In other cases, the administrative detainees were taken for interrogation during their detention and were tried afterwards. Some of the detainees were caught while throwing stones. Since detainees are not notified of the reason for their detention, and the authorities have very little non-classified evidence, it is difficult to know what is the basis for most of the detentions. However, in a substantial portion of the non classified evidence, detainees are accused of crimes such as organizing demonstrations, membership in hostile organizations, etc.

Roughly speaking, one might say that there are two main groups of administrative detainees, the first being detainees who have committed crimes but are not tried, either because the GSS does not wish to expose its sources of information (i.e. the people who turned them in), or since there is insufficient evidence (including cases where the detainee did not confess in interrogation). In this group there are also detainees held in administrative detention because the authorities find it more convenient and faster than holding a trial. As one GSS agent confessed during an appeal, in the presence of a judge, "the resources did not enable us to interrogate."

The second group is that of political leaders. Detainees of this category have included Faisal Husseini, Sari Nusseibeh, Ziad Abu Ziad, Jad Issac, Radwan Abu Ayash, and Sami Kilani, who have recently been selected as members of the Palestinian delegation to the peace talks. Since the peace talks between Israel and the neighboring Arab states has begun, members of the Palestinian delegation were detained, including Muhammad al-Hurani, and Jemal Shobqi, after being appointed as members of the delegation. The existence of this group indicates that administrative detention is also used as a political tool, to weaken leaders whom the Israeli government opposes. The activity of Hamas

was legal for many years. After the government decided to oppose the movement, dozens of activists received administrative detentions within a short period of time. According to Israeli jurisprudence, "political subversion" (i.e. political activism) justifies administrative detention, and the detention of Palestinian leaders with Jerusalem residency has been approved by the Supreme Court.

Palestinian leaders who openly support the peace talks with Israel and dialogue to promote Palestinian-Israeli understanding also number among the administrative detainees.

In recent years, a Jewish-Palestinian dialogue group has been meeting in Beit Sahur. Almost all the Palestinian members of this group have been held in administrative detention.

**'Ali Noaf Suetat**, age 35 from Jenin, and a member of the Palestinian delegation to the peace talks, was given a six-month administrative detention order in April 1992. Suetat, a journalist for a-Shab daily, is a graduate of Bir-Zeit University, where he was the chairman of the students' union.

Suetat publicly supported the peace process and "the importance that talks and dialogue replace the spilling of blood."<sup>41</sup>

Suetat had been detained many times in the past, but had never been convicted of using violence. In recognition of his non-violent activity, Amnesty International designated him a prisoner of conscience.

Suetat's detention history:

1975-1983 – sentenced to 7 years for membership in the PLO

October 1983 – sentenced to 9 months imprisonment for contacts with a hostile organization

December 1985 – six months administrative detention shortened to 4 months)

1986-1987 – short detentions

March 1987-1988 – house arrest in Jenin

March 1988-1989 – administrative detention for one year

February 1991-June 1991 – administrative detention for 6 months (shortened to 4 1/2 months)

**Husseina 'Abd al-Qader**, of the Balata refugee camp, was last detained on April 9, 1992. Al-Qader is active in a women's committee which organizes preschools. Her physical condition is unstable and she suffers from hypertension, heart disease, and problems of the spinal column.

The unclassified evidence regarding her previous detentions (1988,

1990) stated that al-Qader was a member of the PLO and active in a women's organization and in organizing demonstrations; a GSS member present at the appeal admitted that he did not know when the demonstrations al-Qader was accused of organizing had taken place, or whether they had been violent.

**Ahmed Haze'a Sarim** was born in 1948 in Qalqiliya. For 20 years, Ahmed Sarim sat in prison. Five months after his release he received a six-month administrative detention. Three months after being released, he received an additional administrative detention order for six months. During Sarim's appeal of the second order, he charged, *inter alia*, that it had been issued retroactively, 12 days after his arrest. He also mentioned that he suffered from severe anemia and had undergone three stomach operations. The judge ordered that Sarim be transferred to a regular prison and not be left in the Ketziot facility. Only with the intervention of **B'Tselem**, Rabbis for Human Rights, and Attorney Tamar Pelleg-Sryck of the Association for Civil Rights in Israel was the detainee transferred, months after his arrest. (Details of the detention appeal are presented in Appendix B.)

**Walid Zaqt**, age 31, from Gaza City, is married with one child. He was detained on June 16, 1992, by a four-month administrative detention order. At the beginning of 1992, Zaqt was appointed advisor to the Palestinian peace delegation. In February 1992 he was permitted, in this framework, to travel to Jordan. He was arrested just prior to the beginning of the fourth round of peace talks, and accused of involvement in the Democratic Front.

In his appeal on July 30, Zaqt made the following statement:

At the beginning of the peace talks I was in prison. My opinion was that to participate in the peace conference was the reasonable step for us to take. I think peace is not less important for Israelis than it is for us, the Palestinians. Peace will put an end to violence, suffering and bloodshed on both sides.

In his statement he said that he had publicized his opinions in newspapers and had taken part in the peace process. He also described his participation in two public meetings in the Gaza Strip. At one of these meetings, held in Shajaiyyah in Gaza City, in May 1992, he said that he had clearly expressed his opposition to the killings of Palestinians by Palestinians.

Walid Zaqt then continued:

I also met people from the Civil Administration who spoke to me

about the peace process and its chances to succeed. I said that I am sure that peace is important for both Israelis and Palestinians and that we are negotiating because of its importance for us. I also spoke about the economic situation and the conditions of the workers. Since my release, all my activity has been political, open and supportive of the peace process. I have never practiced violence or called upon others to use it. I have never been told by the Civil Administration or anybody else that my activities were illegal or undesirable.

Amnesty International designated Zaqt a prisoner of conscience and demanded his immediate release.

**Sami 'Atiyah Ziad Abu Samhadana**, born in 1962, is a resident of Rafah, married, and father of one daughter. In July 1992 he was taken into administrative detention after the deportation order which had been issued against him was cancelled.

Samhadana was held in administrative detention for an almost continuous period for five and a half years, since 1985.

Samhadana's detention history<sup>42</sup>:

November 29, 1984-December 14, 1984 – detention for purposes of interrogation

September 12, 1985-September 1, 1986 – administrative detention

December 18, 1986-June 10, 1987 – administrative detention

August 27, 1987-September 7, 1987 – detention for interrogation

October 9, 1987-October 13, 1987 – administrative detention

January 7, 1988-July 6, 1988 – administrative detention

July 6, 1988-November 2, 1988 – administrative detention

April 10, 1989-October 9, 1989 – administrative detention

October 9, 1989-April 8, 1990 – administrative detention

June 10, 1990-May 26, 1991 – administrative detention

May 26, 1991-May 25, 1992 – administrative detention

Just a few days following his release from administrative detention, in April 1990, Samhadana married, and two months later, was arrested again. During his detention, his first daughter, whom he has never seen, was born.

On January 3, 1992, the commander of IDF forces in Gaza issued a deportation order against Samhadana, under Regulation 112 of the Defence (Emergency) Regulations, 1945. This order was issued before the High Court heard Samhadana's appeal against his administrative detention. Samhadana appealed again to the High Court, this time against his deportation order. Following is the testimony of Col. Ze'ev Shaltiel, then-commander of Ketziot.

I don't profess an ability to characterize and describe peoples' behavior in an exacting way, but during the period that I was commander of the facility, from where I know Sami Samhadana, I knew a man with a high capacity for personal expression, and an ability to maneuver between the personalities in the block, between the laws and the regulations: to present things that bothered him or his friends in a respectful and pleasant manner that caused me to grant his requests and to treat him in a manner equal to the manner in which he treated me as commander of the facility.

**Ghassan Andoni**, from Beit Sahur, age 35, married and the father of a son, is a professor of physics at Bir Zeit University. He is the Chairman of the Palestinian Center for Rapprochement Between Nations. Almost all Palestinian members of this group, which encourages dialogue and rapprochement between Israelis and Palestinians, were taken into administrative detention. He relates:

My charge sheet was very general – it said that I was a prominent member of a hostile organization, and an inciter. This was a very common charge, but what was different for me was how general it was. In charges against other people they would list dates and places where these activities had supposedly occurred.

One of my speculations for why I was put in administrative detention is that the civil administration did not like my rapprochement work. They were worried about Israelis and Palestinians getting together. But, they didn't want to be embarrassed and say this publicly. So, they sent me an indirect message. They used the tools at their disposal to stop me from doing the things with which they disagreed.

Once, during one of my detentions, a Shin Bet agent summoned me. He didn't want to interrogate me, just to get a new picture of me to update my file. He said that he had nothing to do with the fact that I was being detained. That strengthened my speculation that this was all politically motivated by the civil administration. The normal court system is tedious and demands a lot of manpower. Administrative detention allows you to go around all of this, and desert detention camps don't cost much money.

**Sirhan Gasser a-Salaima**, a journalist for the daily *al-Fajr*, is 37 years old, married and the father of four children. He was administratively

detained 3 times.

1988 – 6 months

1989 – 3 1/2 months (reduced from 6)

1990/91 – 6 months

He recalls:

The first time I was arrested the Shin Bet came with soldiers to my house in the early morning and took me to a tent in Ramallah. I stayed there for several days – nobody asked me any questions or interrogated me. Then they took me to Dahariyyah. There was no interrogation there, either. After 18 days there, I was taken to Ketziot.

Both in the tent in Dhahriyya, and in transit, I received blows with sticks and fists. On the way to Dahariyyah, the "Nahal" [army unit] troops were stoned, and so I was beaten with my eyes blindfolded and my hands tied behind my back. I was not the only one: they beat all of us in the bus, with their fists. Even one of us who had been injured by bullets was beaten.

In each of the three detentions I was able to contact a lawyer. The procedure was that after being held 18 days, we were taken to Ketziot and were notified that we were in administrative detention. We were told to sign our administrative detention orders. I didn't sign mine. If I had done so I would been recognizing their authority to hold me without trial. I told them that if they had a case against me they should take me to a trial.

I was in detention during the Gulf War and we asked for gas masks but they didn't give them to us. We were told that we should put a damp piece of clothing over our face. Every time there was a SCUD we were closed up into the tent and the soldiers put on their gas masks.

## CHAPTER FOUR:

# CONDITIONS OF INTERNMENT AT KETZIOT (ANSAR III)

Before we address conditions of detention, a preliminary clarification is imperative, starting from the point that administrative detainees are not convicted of any crime, and in any case are not serving a sentence. They are imprisoned by a decision of the military – administrative authority as an exceptional emergency measure.

The difference between a prisoner serving a jail sentence and a person detained to prevent security risks, takes expression in the status of the administrative detainee and the resultant prison conditions. (Supreme Court Justice Meir Shamgar after a visit to Keziot.)<sup>43</sup>

Ketziot detention camp is not only the largest detention facility in Israel, but one of the largest in the world. The camp is located in the western Negev, close to the Egyptian border, and accomodates 5,000-6,000 prisoners, including administrative detainees, sentenced prisoners, and persons detained pending the conclusion of proceedings.<sup>44</sup>

The climatic conditions of the area are harsh: in summer, temperatures approach and sometimes exceed 40 degrees, and on winter nights, dip below zero. The tents do not offer protection from the heat and cold, and on rainy days they become flooded.

The detention camp is an expanse of desert surrounded by dirt mounds, enclosed by barbed wire fences, and divided into plots. Each plot, measuring some 60 sq. meters, contains 2-4 tents, and each tent accomodates 20-26 people. In the tents there are no chairs, tables, closets or any other furniture - only rows of low sofas and mattresses, and the detainees' bags, which hang on the interior of the tent. The overcrowding and the large number of detainees create a sensation that the detainees' inviduality is ignored: they have no privacy, they are called by their prison number, and almost all care they receive is in a group, through the "shawish," their representative to the camp administration.

The Ketziot detention camp was founded in March 1988 as a temporary camp, due to the sharp rise in the number of detainees

following the outbreak of the Intifada. The existence of the camp as a temporary site was intended, ostensibly, to prevent the entrenchment of a problematic situation in which the military of a democratic state is the primary body that arrests and imprisons. This temporary situation, however, has continued for over 4 years, and there is no indication that it will change. The temporary nature of this detention camp is perhaps of theoretical importance to the military, which is not meant to be engaged in supervising thousands of detained civilians; but on the daily, practical level, over 70,000 people have been held in this detention camp, this temporary camp, for periods of months and even years.<sup>45</sup> The military is not experienced in holding prisoners, and thus detainees at Ketziot are held in much harsher conditions than in all other Israeli prisons. The large number of detainees, together with the attitude that the camp is temporary, has created a Ketziot where essential minimal conditions are lacking.

The extreme overcrowding at Ketziot has drawn the attention of Israeli Supreme Court justices:

After looking into the matter, we are under the impression that the problem of extreme overcrowding must be solved. When you accommodate 28 people in a tent [...] the practical result is that the prisoners lie one beside the other, from one end of the tent to another, without any space between mattresses. Due to the circumstances at the site, the overcrowding has a more severe result than if the residents were only to sleep and rest there... [T]he prisoners spend many hours per day in the tent. This is also the place where they receive their meals and conduct their prayers. For these reasons, the overcrowding has an even greater significance.<sup>46</sup>

Since the visit of the Supreme Court justices to Ketziot in 1988, conditions of detention at the facility have improved. However, conditions in Ketziot are still much worse than those Israel Prison Service [IPS] facilities.<sup>47</sup>

One recurring charge heard among administrative detainees is that their conditions should be at least on a par with those in the police prisons. In addition to the difficult climate and the tents that offer no protection from heat and cold, there are a number of limitations on the prisoners. Following are a number of examples of conditions which are worse at Ketziot than at police prisons:

- a. It is forbidden to wear a watch. Only the prisoners' representative, the "shawish," is permitted to wear one. The reason for this prohibition is unclear. Wearing a watch is permitted in all other prisons.

b. Watching television and listening to the radio are permitted in Israel Prison Service facilities but forbidden in Ketziot. The former prison commander, Col. Shaltiel, explained to **B'Tselem**, that, due to the size of the camp, he fears how the prisoners may respond to what they see on television.

c. In some facilities, prisoners may be examined by an outside physician. In Ketziot there is no such option.

d. The garbage cans, made of barrel halves, overflow every day, drip, and stink, creating a difficult health problem. The 3 or 4 cans allotted to each section of 80-100 people are insufficient, especially since they are filthy and cannot be cleaned. The prison administration has provided boards to cover the makeshift cans, but this has not solved the problem.

e. Since Ketziot is a temporary establishment, no provisions were made for laundry. Given the severely crowded conditions, hand washing and drying are problematic.

f. While in other prisons inmates have the opportunity to study in outside institutions (although they are usually not allowed to take tests), studies are forbidden to Ketziot detainees.

In addition to the differences between the two prison systems, there are certain problems specific to Ketziot, described below.

## **Authorities of the Prison Commander**

The prison commander takes liberties whose legal basis is sometimes not clear, in order to punish prisoners according to his will. In a conversation with **B'Tselem**, Col. Shaltiel said that he was authorized to punish prisoners and hold them in isolation for as long as he desired. Indeed, 'Omar al-Beiq was held in isolation for months because he cursed at the prison commander, during which time he was not permitted to receive newspapers or books, or to send letters. He was not permitted to receive visits from his family or the ICRC. He performed his bodily functions in a bucket, which he was permitted to clean once a month. Only aggressive intervention by the Association for Civil Rights in Israel brought about his removal from isolation. This is not an isolated case.

This type of punishment is in clear violation of an HCJ ruling stipulating that a block commander or his deputy may order solitary confinement for up to three days, and that the prison commander may, by a personal order, have a detainee held in isolation for up to two weeks.<sup>48</sup>

## Violence

In Ketziot there are no interrogations, and there is no physical ill-treatment or torture of prisoners, but it is one of the only prison camps in the world in which armed jailors circulate within the prison. The atmosphere of fear affects the inmates and soldiers, and according to many administrative detainees, this fear is the feeling which dominates Ketziot.

On August 16, 1988, Ibrahim Samudi, age 27, a resident of Yamun (Jenin District), and As'ad Jabri Shoo, age 19, of Shaj'ayah (Gaza District), were killed, and an additional prisoner was injured by live fire, following rioting by prisoners in one of the sections.

According to military sources, the rioting began moments after ICRC personnel entered the prison for a routine visit. These same sources claimed to the press that the riots were apparently caused by information given to the prisoners by ICRC. "The prisons began going wild, throwing everything at hand at the IDF soldiers at the guard posts. Afterwards, they advanced towards the fences, posing a danger to the soldiers. It was necessary to shoot at the prisoners' legs, but since some 1,000 of them were crowding into one area and threatening to break through the fence, two were killed."<sup>49</sup>

Bassem Muhammed Milhem, an administrative detainee during that period, said that the disturbance broke out following the prisoners' refusal to work in prison sections not being used by the inmates. According to his version, on August 16, 1988, in the morning, many soldiers arrived in army vehicles and surrounded section 2, prison 3, where he was being held. The prisoners, when they saw this, made a group decision to oppose all attempts to harm any one of the prisoners. At around 2:00 the same day, related Milhem, many soldiers entered prison 3, armed with clubs and tear gas. They sat the prisoners on the ground in the square next to the tents, and passed from prisoner to prisoner, asking each if he was prepared to work outside of the prison. All the prisoners answered no. Then they all stood up, and began throwing stones and other objects at the soldiers.

Milhem added that as a result of the riots, a large number of tear gas grenades were thrown at the prisoners, who subsequently threw them back. At a certain point, the prison commander, Col. David Tsemach arrived and began shooting into the air. Three officers joined him, and all four began shooting at the prisoners, at their upper bodies.<sup>50</sup>

Following a CID/Military Police investigation which revealed no conclusive findings regarding the use of live fire, Military Advocate

General Amnon Strashnov appointed an investigating judge in March 1989, to look into the circumstances of the deaths of the two inmates. The military judge, Col. Mordechai Peled, submitted his conclusions in November 1989, and recommended that the case be closed, since the shooting took place in the context of a life-threatening situation. In addition, it was decided that it could not be established from what weapon the two were shot. Given the circumstances, the report recommended that the families be paid reparations.<sup>51</sup>

One of those wounded, who lost an eye during the incident, requested from the army via his lawyer Raji Surani to be given appropriate medical care. Three years after the request, Atty. Surani received a reply stating that since the prisoner had taken part in the rioting, he would have to suffer the consequences.

To date, 28 prisoners have been killed in Ketziot by their companions. Not one of them was an administrative detainee. Torture of those considered collaborators include dripping burning plastic on all parts of the body, inserting a red-hot wire into the penis, breaking the knee caps with sticks, and tying heavy stones to the testicles. In Ketziot, there is a special area where prisoners who are seeking protection are brought when their fellow inmates mistreat them for suspected collaboration or for transgressing certain norms. Ill-treatment of those considered collaborators is extremely rare among administrative detainees, and we do not know of a single administrative detainee transferred to this protective area.

## Medicine

A veteran administrative detainee once said "they take care of us so that we will die – not here, but afterwards at home." The medical system in Ketziot utilizes a wartime strategy: an attempt is made to solve the most pressing problems, but there are no specialists, there is no preventative medicine, and until recently, there were not even any quarantine rooms. When the quarantine rooms were established, they were equipped with such minimal equipment that they seemed more appropriate for solitary confinement than for recovery. In the harsh climactic conditions of Ketziot, with the crowding and discomfort in the tents, it is difficult to overcome even common illnesses such as the flu.

As a result of the overcrowding and harsh hygienic conditions, skin diseases spread rapidly among the prisoners. A complaint we heard from all the prisoners with whom we spoke was that the only medications dispensed are aspirin and water. Water and aspirin are offered at Ketziot as the solution to all problems, from kidney stones to ear infections. The prison administration also does not take into account the special nutritional needs of anyone who requires special food, including diabetics and prisoners with heart disease.

The doctors in Ketziot are physicians on reserve duty. They serve for one month only, so inmates' health records are not monitored in any orderly fashion. The primary medical supervision of prisoners is carried out by army medics, some of whom have very limited experience. The chief physician, Maj. Alexander Yosher serves in the professional army, but does not require orderly record keeping, even though this is explicitly required by law.

Mahmud Madqur, who served 5 years in administrative detention, complained over a period of two months of strong headaches, but did not receive any treatment. When he was finally brought in for an examination, it was discovered that he had a malignant brain tumor. He underwent surgery in Soroka Hospital, and was released from detention.

Dr. Rabah Hassan 'Abd al-'Azizi Muhana from Gaza was arrested in October 1991 and his detention was extended to October 1992. Dr. Muhana is an endocrinologist, and expert on diabetes, and for years served as the Vice Chairman of the Gaza Physicians' Association. Dr. Muhana suffers from gallstones. His request to be examined was rejected for weeks. In the examination, it was discovered that he indeed required surgery, but the Legal Advisor of the Gaza Strip suggested to Tamar Pelleg-Sryck, Dr. Muhana's lawyer, that she attend to the matter after Dr. Muhana's release.

## Red Tape: "The matter is being addressed"

Col. Shaltiel, former commander of Ketziot, explained to **B'Tselem** that his approach was to try to help the prisoners, to respect them, and as much as possible to avoid confrontations. According to the administrative detainees, one of the methods for preventing confrontations is to accommodate all reasonable requests. The detainees claim that the only response they receive is "the matter is being addressed." Occasionally there is a hunger strike after a request of the prisoners has not been accommodated. The strikes are usually a response to the prison commander's promise to "address the matter." Below is a partial list of "matters being addressed."

– **Radios:** Although transistor radios may be used in all Israel Prison Services facilities, in Ketziot it is forbidden to possess radios or television sets. The prisoners hear 5 hours of the "Voice of Israel" Arabic station over the camp loudspeaker system. The sound of the radio, grating to the ears of the new visitor, can be heard kilometers away. The prisoners, on the other hand, were very pleased when radio time was increased from 3 to 5 hours; but over the years, they began requesting permission to listen to transistor radios, as is acceptable in other prisons. After a years-long struggle, the prison commander promised that the matter would be approved on March 16, 1992. To this day, August 31, 1992, the matter has not been addressed.

– **Video equipment:** The prisoners have no television. Col. Shaltiel explained to **B'Tselem** that television is dangerous because access to television could cause disturbances among prisoners. It is better, he explained, if they learn about daily events after they occur, from the newspaper. The prisoners were allowed to view video cassettes of animated cartoons (selected by the administration) during certain hours, but the video apparatus, which they had used before being transferred from block 5 to prison 7, has been broken for over six months, and "the matter is being addressed."

– **Insect control:** Due to the trash overflow, mosquitoes abound in the camp. The prisoners requested that the area where the trash cans are located be sprayed twice a week. This important matter is being evaluated, and in fact, even the weekly spray does not take place, since the "spraying apparatus are broken."

– **Sports:** the administration allows two hours of volleyball per day. The extreme crowding within the plots makes it impossible to play when there are people outside the tents. Therefore, in keeping with the prisoners' internal procedure, during the two-hour duration of the volleyball game, none of the prisoners participate in their main sport

activity – walking around the tents – and only the 10 players remain outside. The detainees have requested that instead of playing during the hot hours between 4:00 and 6:00 p.m., they be permitted to play between 5:00 and 7:00 p.m. The summer is already coming to an end, and the management is still reviewing the matter.

– **Camp Clean-up:** The detainees responsible for cleaning the tents requested permission to institute a weekly general clean-up. Meanwhile, the administration has allowed a clean-up with water only once every two weeks, but the crowded conditions continue to foster the easy spread of disease, and the prisoners claim that one clean-up every two weeks is not sufficient. The administration is looking into the matter.

– **Bringing in food from outside the camp:** Visiting families are prohibited from bringing any food or drink to their relatives. They may only bring shoes and clothes. Attorneys are also forbidden from bringing food into the facility, due to a recent policy change. The prison administration announced that it would allow families to buy food from the prison canteen, but since the first family visits in October 1991, and until the writing of this report in August 1992, the canteen had not yet been opened.

## Summary

Visually, Ketziot is shocking to visitors: the large size of the camp, its makeshift appearance, and its distance from any other place, are only part of the picture. In the background is the blaring of the loudspeakers, and the towers and barbed wire fences which surround the camp. When one approaches, one is confronted by the stench of the boilers, some of them broken, which heat water for the prisoners, and dozens of prisoners can be seen walking back and forth within the small plots, some of which are also fenced in from above, like human chicken coops.

During **B'Tselem's** visits, we noted the changes which the camp commander, Col. Shaltiel, had implemented. But it is impossible to mitigate the intense oppressive feeling simply by improving the food (which was absolutely necessary) or ameliorating the health conditions in the camp (also imperative). In Ketziot, despite all the improvements and good will, it is impossible to provide the prisoners with liveable conditions.

An additional dimension to the problems at Ketziot is the IDF policy regarding visits by independent groups to inspect camp conditions. The International Committee of the Red Cross conducts regular visits to

Ketziot, but these visits are classified, in accordance with an agreement with the Israeli government. The few publications that ICRC does release contain harsh criticism of the detention conditions in the military prisons and detention camps.

As for **B'Tselem**, with all our assertions regarding conditions in the camp, we maintain that the above description is incomplete, as it is impossible to describe a detention camp in detail after just two inspections, and the IDF would not allow us any additional visits.

Following are two testimonies, the first of a reserve officer who served in Ketziot, and the second of an administrative detainee who was held there.

## **Testimony of a Reserve Officer, Lieutenant Y. Zamir\***

### **Monday. Winter, 1992**

1:45 a.m. The war room is 2m. x 2 m. The operations sub-commander is dozing. I just came back from an inspection patrol between the guard towers. It is very cold. In some parts there is almost no movement. Here and there someone returns from the bathroom. Four plots of 50 m. x 50 m., in each 12 large tents with a capacity of up to 27 prisoners. Earlier, at 1:00, we went out for a surprise count. The count is the hardest thing for me here. There are day counts, and there is the night count. During the day, the prisoners sit at a distance of at least 4 meters from the fence, along a white line. There is an additional line, yellow, and beyond it, there is a red line. Venturing past the last line means rebellion. If a prisoner wants protection from other interns, he must approach the yellow line, and from there, crawl to the red.

At the beginning of the process, about 300 people sit in front of you in 12 double lines. The military police officer has a list of all the residents of the prison area - "section" is the official word. During the day count, they open the gate, through which the military police, and we, the guards, enter. Afterwards, they open the gate of the internal fence, and the military police officer and his assistant enter. The "shawish," [prisoner responsible for contact between prisoners and guards] calls out the orders, and then either each person calls out his name after the last digit of his personal number is read (name count), or in a regular count he counts off, and then turns around backwards while seated.

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\* The real identity is being withheld by **B'Tselem**

When we finish counting off a tent, the "shawish" calls out the total, and the number of people who are absent due to illness. At the same time, we are positioned between the tents, and the four soldiers with tear gas guns are ready to use them, should the jailors' lives be threatened.

In fact, the process began during my patrol together with a signal man with a field radio on his back, around the camp between the fences. I try to move quickly both because of the fear, and because I don't want to delay the count, and also because of the feeling that you are like some brutal German soldier who is making rounds in some prison camp like we saw in so many films. These rounds, whose purpose is simply to check that there are no breaks in the fence, are annoying both because of the number of areas that are difficult to pass due to protruding barbed wire, and because of the solar oil and mud between the furnaces. But the worst is to guard during a count (and the name count takes a long time) and look at the people standing there, at the stars, or at anything, but just not into the eyes of this large group of some 300 people who you see are the fathers of children whom they have not been able to see for a long time, [or lovers of] wives or girlfriends – the worst is to see that they are people. Even though during the day you see them playing ping-pong or volleyball, talking, reading, playing backgammon, now, when they're all sitting in front of you across from the barrels of 4 guns, an armed jeep in the background, they look like encaged animals.

When I don't have the strength or will to look into their eyes, I don't know for certain if they feel like furious animals who are at one point or another about to break loose and go wild for their freedom at any price necessary, or if they feel bitterness, despair, deep frustration that no doubt feeds deep hatred towards us, as we are the direct representatives of the enemy – the occupying authority.

When the section count is over and the military police officer with repulsive civility mumbles something like good night, you feel a sense of relief, and hurry to the next section. When the count in each of the four sections is over, you rush to calculate how many more nightmares like this you have to endure until next Monday, the awaited day of discharge.

Yes, we too, have a feeling here of being imprisoned. Within the fence of the block there is an additional section in which there are no fences, and the people in it circulate armed, and enjoy short breaks between missions. We too, although there is no comparison to the prisoners, we too are prisoners. We too, at least I, feel oppressed and humiliated. Humiliated by having submitted and agreed to take part in this brutality. Oppressed that I am acting in complete contradiction to all the principles and viewpoints that I supposedly uphold, and certainly that I

profess. There is also a feeling that in the future, we too will be included within this same large group of "offenders against the occupation."

Today, for example, the block commander summoned the "shawishes" of the four sections for a long talk. (One "shawish," by the way, was released - his name is Abu Mustafa, a character with a long beard, most of which is white, who they say is a karate expert. When he left, he waved goodbye (not with a "v" sign); it was not clear to whom.) An invitation arrived at the war room for the commander on duty to join the discussion. I was on duty, and preferred not to join. On one hand, it would be interesting to hear the complaints and gripes [of the prisoners], but on the other hand, it was direct contact with imprisoned people whom I fear and try to avoid.

It seems that at least for the time being, the authorities here are intelligent enough to keep things quiet in the cells by attempting to improve the prisoners' conditions. For example, between 12:00 and 1:00 p.m., and also between 6:30 and 7:30 p.m., the radio is on. From 3:30 p.m., for 1 1/2 hours there is a volleyball game. At 5:30 p.m. and 8:30 p.m., food is distributed to the inmates. By the way, flush up against our area is the inmates' kitchen, where they prepare their own food. Next to the kitchen are two storage sheds and an infirmary for inmates who are ill.

There is a medical staff composed of a doctor and medic, who examine them, and dispense medication according to need. According to the doctor, (who is not endowed with exceptional sensitivity) they receive better medical care than many members of the [Israeli] National Medical Insurance plan.

The operations sub-commander here who is already snoring, a civil engineer, claims that the design of this camp is successful, and that in his opinion, cost a lot of money. The idea was that between the four blocks, there would be high dirt-paved ramps to prevent eye contact between the blocks. The inmates, it seems, keep contact by shouting between the sections of neighboring blocks. On our way to eat, we walk over such a ramp, and from it we can see the layout of the entire camp.

Every block is divided into two parts by "Dizengoff," one side containing two sections and a bathroom area, and the other side, three additional sections. Currently, one section is vacant, so there are therefore four inhabited sections. Around the watch towers staffed by our people, and as in every fancy hotel, there are two "lobbies" along the sides of the section.

## **Tuesday**

One grows accustomed to the depressing routine. Currently, the sub-commander of the block is trying to pester us even more in his follow-ups on the guard shifts. What a pain. The interesting thing is that he is a Druze Captain. In contrast, the block commander, who is not a military policeman, seems "liberal" and considerate. For example, today a search was initiated in one of the sections but halted because of the claim of the "shawish" that it was too cold on account of the wind. It was doubtlessly unpleasant, but the wind was not so terrible. Perhaps there were additional reasons for ending the search. Perhaps it was because Red Cross representatives came for an inspection.

It turns out that the room in which I am now sitting as a soldier is also the general cultural center of the 1,300 prisoners in the block. There is a tape collection here, and a radio attached to a loudspeaker system, so that it's from here that the musical day of the inmates is determined. In most cases, in accordance with the will of the prisoners, the "shawish" makes [musical] requests to the policeman near his section. The latter calls us, and the operations lieutenant complies. By the way, today they listened to a lot of Zehava Ben. They claim that she is very popular among the inmates.

There is a crate of knives here in the room. It is brought here every evening, after the knives have been counted in the kitchen. During the day as well, the military police count and check all the knives in the kitchen, and not even one has been smuggled into the sections.

There is a box here called "fax." This is a box in which are placed the daily collection of faxes, which are messages wrapped around soap or apples, and thrown from section to section. An additional phenomenon we noticed is that there is a portable dental clinic situated beyond the fences, and those who have toothaches are sent there one by one.

Today there was also a "canteen" for the prisoners. There was a visit of 30 people from another block. There are all kinds of indications that the intention is to benefit the prisoners in order to earn some peace and quiet. Tonight during the name count (usually very long and annoying) it was clear that the "shawish" was trying to egg the prisoners on and to speed up the responses.

## **Thursday**

It is now 2:00 a.m. I am on the night shift. I just now returned from an inspection patrol. Everyone is awake and guarding, and it is cold outside. Today it rained here a few times, and some of the platforms are still flooded. They did a "rain count," in which they do not sit the prisoners down, but have them run from tent to tent, past the person

counting (that is what they told me; I did not personally participate). During my shift, which began at 12:00 p.m., two things happened during the 2:00 a.m. count: in two sections, prisoners went out during the count – in the first case from the lineup, and in the second from the sick tent. Both cases were of prisoners seeking refuge. In both cases, things happened very quickly, and even though they didn't want to hurry anyone, I didn't react in time. I didn't call out to halt, or step forward to frighten them. Now I am trying to be more prepared. According to the procedures, the moment they reach the red line, they have to crawl or kneel down or slow down, but it seems to me that if they are very threatened (as in yesterday's cases), they simply move forward. The military police officer and his assistant also did not have time to react.

The reaction of the other officers and the others were that I should have stepped forward and shot into the air... I am convinced that in both cases I would not have fired anyhow, because it was clear that these were prisoners seeking protection, but I am disturbed by the thought that I in essence did not respond in time, at all, and that the counting operations officer and his deputy, the policeman, were essentially very vulnerable, and I do not understand the need to conduct the count within the section.

Saturday night. I have two nights remaining, and thus two shifts, tomorrow morning and night. We're beginning to see the end. Yesterday, during the "wet" night count, I could see the faces of the prisoners. At least 80% of them are 20 year-old youths. Only a few that we counted in each camp looked older. Both yesterday and today, during a routine inspection, we threw them a basketball that had fallen on the other side of the fence. Today, the inmates even called out explicitly for me to hand them the ball. Since they really are youths, it compounds the frustrations of our service here. We made a calculation that the upkeep of everything for one year costs on the order of 10 million dollars. Its crazy to give each inmate \$2,000 to ensure that he does not throw stones, or do the devil knows what thing he is being detained here for. Yesterday, on Friday, they told me that they did not participate in the Friday prayer that was broadcast over the loudspeakers (from the radio). The reason which became clear to me today is one of the 16 prohibitions, which are as follows:

1. It is forbidden to touch the fence.
2. It is forbidden to assemble, except for prayer.
3. It is forbidden to take part in sport in a group of more than 2 inmates.
4. It is forbidden to circulate between the tents and the fences.
5. It is forbidden to wash the platforms.
6. [It is forbidden] to lower the tent flaps during the day.
7. [It is forbidden] to raise them at night.
8. Song and dance [are forbidden].
9. Assembling

more than 26 in one tent [is forbidden]. 10. [It is forbidden to wear] colorful clothes. 11. It is forbidden to send "faxes." 12. Ball games [are forbidden]. 13. Volley ball games, except for table tennis [are forbidden]. 14. [It is forbidden] for more than two inmates to run. 15. Hanging objects on the fences [is forbidden]. 16. [It is forbidden] to make noise at night. 17. [It is forbidden] to remain outside the tent at night.

### **Saturday**

1:46 a.m. I have just completed a round between the towers and the men on patrol. It passed quietly. Here and there, there was an inmate who had come out of the bathroom tent, or passed to another tent. There are rumors circulating about the sex life of the prisoners. The imagination of our people is no doubt well developed. I heard stories about those among the prisoners who are "women," who wear rolled up socks, etc... Ezra, the operations sub-commander, who seems to be a reliable source, claims that there are no sexual relations between the prisoners. He claims that this is a command from above, and according to what the "shawishes" told him, it is observed. In front of me, on the wall, hangs the daily schedule of the block:

5:00 - turn on inmates' water, 6:00 - wake up the next shift, 6:15 - begin guard shift, 6:30 - change guard, 6:45 - lineup for count, 7:00 - morning count, 8:30 - distribution of breakfast to prisoners, 9:00 - play radio for the prisoners, 9:15 - lineup to change guard, 9:30 change guard, 10:40 - end of playing radio for inmates, 12:15 - lineup to change guard, 12:30 - change guard. 13:45 - lineup for count, 13:50 - announce: Prepare for count, 14:00 - count, 15:00 - volleyball game until 16:30, 17:15 - lineup for guard duty, 17:30 - change guard, 17:45-18:40 - play radio, 19:00 - distribution of food to prisoners - meal, 18:15 - lineup to change guard, 18:30 - change guard, 18:30-19:40 - play radio, 19:45 - lineup to prepare for count, 20:00 night count, 21:15 - lineup to change guard, 21:30 - change guard, 23:00 - block enters tents and lowers flaps, 23:50 - lights out in tents, 24:00 - wake up guards. 0:15 - lineup to change guard, 0:30 - change guard. 3:05 - wake up guards, 3:15 - lineup to change guard, 3:30 - change guard, 3:30 - turn on water for inmates, 4:00 - turn off inmates' water.

Tonight, in the war room, we heard the operations officer tell stories of Ketziot prison and others like it. He claims that in the future, there will be a discussion, following which it will be decided whether to allow the inmates to have radio and television appliances in an attempt to equalize the conditions with those in a regular prison. Tonight, during the count, there was an incident in which an inmate was removed from the section

because of an onset of pains due to a kidney stone. There is a doctor here, and two on-duty medics, who examine all the sick prisoners. The latter do not participate in the counts, but sit in the sick tent and sometimes go out when the count is over.

According to the doctor, most requests are insignificant. There are a few prisoners who are "addicted" to valium, but the doctor tries not to "pump them up." Among the inmates, by the way, is a doctor, the "shawish" from section 4, who replaced the famous Abu Mustafa. (The operations officer told me that there is also a physicist – he has a B.S.). There are others who are "learned." Among them are those who teach the inmates history of the Palestinian struggle, comparative study of the Torah and Koran, etc. There are also some five books here, which, according to the operation officer's claim, were among books given to the inmates. The books are brought by the inmates' attorneys. The latter take care of the inmates' civilian needs (in exchange for money). For example, they bring them underwear, clothes, zatar [a local spice], olive oil, cigarettes, and treats. Every lawyer brings things to his or her clients, and after they are approved by the authorities, they are given to the prisoners. He claims that family visits are conducted once a month. The prisoners are taken to another place, where they meet with family or the Red Cross – one visitor per inmate.

## **Testimony of Sami al-Kilani**

When I attempt to write about my days in Ansar 3, I find that I am unable to find a means of expression which does justice to the experience. Also, I am not a good documentary writer, and the literary style, which forces itself on me even when I want to document, is inappropriate. What can you do when many people tell you they want to read an account of those days at Ansar in the Negev?

The easiest way is to talk, and to leave it to someone else to write the things down, and phrase them in the style that he desires. But this is the way of evading responsibility. You yourself must write something about those days. Therefore, write the outline for your upcoming composition. Write it in terse prose, write about the peaks of your experience, and leave the dark details to the future. It may be that there is someone who does not agree with you regarding the designation of a specific peak or of several peaks. It doesn't matter, because differences of opinion are legitimate and they will enrich your future composition.

### **The Road to Ansar 3**

The path I took the first time from Jeneid Prison, near Nablus, to the Negev, and which was, in a sense, the writing on the wall, cannot be erased from memory. In those same moments, in the morning hours which I love, I reflected on the visit which was supposed to take place the following day. I thought about my son who had been born just a few days before, and whom I would see tomorrow for the first time. The officer entered with a few guards, and they began calling off a list of names. We understood the matter: We were to be transferred to the Negev. The soldiers on guard wanted us to pay careful attention: before leaving the internal prison gate, they instructed us to cover our eyes with a strip of cloth from our clothing, and they checked that the cover was tight, and that no light seeped through. The buses remained in the prison courtyard from 11:00 a.m. until 4:00 p.m., with us inside them, blindfolded and tied two-by-two. When we would ask them to decrease the pressure of the metal handcuffs, one of the soldiers would answer with a curse or a string of curses, strike the iron part of the seats with his club in order to instill fear, or strike the nearest prisoner. Five hours in a tin box, in the August heat, when you are tied and blindfolded, is not something which can be forgotten. An additional picture is etched in my mind: shouts were heard from the second bus. I lifted my blindfold very slightly, and looked out the window: a soldier bearing a club burst into the bus as if he were storming a military stronghold. Another soldier kicked Jamal, who was seated in the ground in the scorching sun, with his eyes tied. Things one sees in a stolen glance are etched in the mind, just as a photographed picture is etched in the camera's sensitive film.

The buses set out on their way and the heat became less unbearable. Many details on the way earned a place in my memory. The journey was torture. My neighbors and I spoke among ourselves as blind people. It was then I understood why blind people speak to one another without moving their heads. One of the soldiers caught us whispering, and suddenly thrust his hand on my neighbor's neck. The worst, most painful blows are those which you receive when you are blind. Abu Hussein, who suffers from diabetes, began to plead that they allow him to urinate. He explained to the soldiers that he had diabetes and had to urinate immediately. His bladder might burst, he was likely to urinate in his pants. He spoke in Hebrew, and the soldiers understood him well. One of the soldiers began mocking him, saying he was acting like a child. After over two hours, the bus stopped at a gas station. One of the soldiers brought him to the bathroom, and remained by his side to urge him to hurry. He was not able to urinate, apparently for psychological reasons. He returned to the bus, writhing in pain, and thus remained until the end of the journey.

When the buses stopped, we waited for a long time until they removed our blindfolds. We felt that an eternity passed between the stopping of the buses and the removal of our blindfolds. Suddenly we saw Ansar 3, Ketziot, the desert detention camp in the Negev... tents extending out into the distance, spot-lights, people moving behind the barbed wire fences, voices calling out, asking us who we were, from where did we come... the people finally descended from the buses, and at long last I was allowed to free my hand from the accursed chains. My hand had fallen asleep, the skin was a blue color, and handcuff marks looked like burns. The lacerations and the handcuff marks on my hands remained for several days. They placed us in a large square where many armed soldiers equipped with gas masks were circulating. Every soldier was more than ready to give orders, yell, and curse. They commenced the procedures for inducting us into the prison. All of the possessions we brought from Jeneid were taken from us, and we each received four blankets. We were not permitted to exchange anything. Half a blanket is a whole blanket if the officer says so, and you have to keep quiet. The clothes are large or small, they fit you or they don't, torn or whole, clean or covered with dust and the sweat of the person who wore them before you. These are the things about which it is forbidden to argue. Many preferred not to argue in order to speed up the moment of entrance to the tents, and to see those who had arrived before us.

At 3:00 a.m. we entered our section of the camp. Most of the prisoners in the wing woke up, and we spoke with them a bit. We each received a sponge sheet, which with extreme exaggeration could be called a mattress. We laid the mattress on a "dargash," curled up in the blankets, and sunk into a deep sleep. The absence of a pillow delayed my falling asleep. The Israelis can be proud that the Hebrew word – "dargash" (a low platform for sleeping) – has become a daily word, just as the Palestinians can take pride that the word "Intifada" has entered many languages, and one English dictionary has included it among its entries. The voice of the "shawish" tore me from the depths of my sleep: "Count-off, men!" We went out to the square, and the "shawish" explained to us how the counting was to proceed: you sit in rows with your hands behind your back. He added that within a day or two the [court] battle against this policy of humiliation was to begin, but that Ansar 3, which had two weeks previously sacrificed 2 martyrs, would never accept this.

The stranger the clothes you wear, the less you realize your tragicomic appearance. The shirt's buttons are torn off, and the pants are a fist's-width wider than your waist, and therefore you connect two belt loops from the right side, and two from the left, by means of a wire or

rope, because a belt is a dangerous item and it is forbidden to bring one into the detention camp. On this minor point, the mentality of the occupation and the prisons is revealed in all its stupidity. The instructions say that bringing belts into the camp is forbidden due to a fear that the prisoners may use them to commit suicide, and this in a place where there are many ropes and thousands of other ways to commit suicide, if someone only wanted to commit suicide. The point is that these clothes do not change you in your own eyes, but when you see them on someone whom you knew outside of the detention camp, you grasp why they take a person's clean and neat clothes, which suit him, and give him these rags in their place, which are called, generously, clothes. They want everything around you to cause abasement and misery and will search for every way, large and small, to bring you to live in an emotionally difficult situation. But they do not know that a person who knows for what he is struggling is able to knock an opening in any steel wall so that the light will pass through.

### **Officers**

Life in a detention camp, and transfer between two camps, enables you to see many types of soldiers and officers. At one extreme, there is the officer who always behaves, sometimes with reason and sometimes without, in a way which convinces you without doubt that there is no human dimension to his personality. You cannot imagine, not even in an instant of humane thinking, that he is son to a father and mother, or that he is the father of a boy or girl, or that he was once a child in grade school, full of innocence, jumping and playing. You cannot imagine him as anything but a murderer who will take any opportunity to kill, and if he does not have an opportunity to kill in actuality, for reasons beyond his control, he releases his animosity and hatred in every possible manner. At the other extreme there is the officer who says to you: I want to pass my period of military service with the absolute possible minimum of problems. It was not I who brought you here, and I do not know why they brought you, and my job is to fulfill my duty according to the law." Then there is another type, of whom I met only one. In order not to do him injustice, my human responsibility obligates me to mention him, despite the fact that he is an exception. This is the type who is interested in hearing your story, and is very astonished when the details of "administrative detention" are made known to him, and he declares before you in all honesty: "I know that this is evil, but I don't have the courage to refuse to serve."

1. The day of release, the day of freedom, the day of joy, the day of meeting your loved ones after the separation... we thanked God that they moved us out of our section early. That meant that we'd get home

early, and wouldn't have to stop over and lose another night in Dhahriyya Village or in Hebron. That is what happens to those who get out later in the day: they find themselves in the evening hours at Arad junction without any way of getting home. Things went smoothly. They carefully checked our bags, confirmed the discharge date, returned our possessions which had been deposited for safekeeping, and everything was ready. At 1:00 p.m. we got on the bus, and the officer responsible for our bags and deposits told the bus driver that everything was ready, and that he could set out.

The period of waiting dragged on. At 2:00 we asked one of the soldiers when the bus was leaving. He was kindhearted, and went and asked the driver. The driver turned to a young officer and spoke with him, and then the officer came to the bus and began shouting: "Who asked when the bus was leaving? I am the one who decides when the bus leaves. Whoever opens his mouth will have his head opened. Is there anyone here who is asking about the bus?"

He ordered, with gestures and in easy Hebrew, to take the number of one of the prisoners, and to go check if his administrative detention had been renewed. We were worried, and our hearts were with our friend. We were almost positive that the matter was staged, and that the officer did not have the authority to carry it out, but we still felt for our friend, because there is nothing more difficult than the extension of your detention when you are just a step away from freedom. Extension of detention is difficult in general, but this is the most difficult type. Apparently the officer was aware of this, and therefore decided to part from us in this way. The officer exited with his sunglasses, hatred on his face, and the bus left at 4:30. Another day lost, far from our families.

2. When we entered Ansar 3, the water problem was the worst problem of daily life. A large water truck would fill up black plastic tanks, and every two of those would supply water to one of the spigots in the section. We spent most of the afternoon hours in thirst. Despite this, we longed for the color green, the color of life. Some people took initiative, and cultivated small plots of land in the back entrances to the tents. The plots were sometimes as small as a chessboard, planted with lentil, hummous (chickpeas) or fowl (broadbeans), which they got from the kitchen. I heard that in Section 7 they planted watermelon seeds, and they germinated and gave fruit which got bigger and bigger, but before the date of harvest, the residents of the section were transferred to a new section. When I saw the vegetable plots in the neighboring wing I became filled with the intoxication of victory. Ansar 3 did not succeed in the mission for which it was created. It did not kill the seed of life, and the love of life. I was reminded of the houses in the refugee camps. What tugged at my heartstrings the most was that

despite the narrow dimensions of the tiny front yards, their owners found enough room to plant a grape vine that would creep and fill the space with green.

Apparently, one of the officers discovered the secret. When he passed near the barbed wire fence which surrounded the section, he noticed a small bush climbing along the tent rope. He approached the gate, called to the "shawish", and demanded that he uproot the bush. The "shawish" argued and staunchly defended the bush. In the end, the officer stood his ground, but the "shawish" for our wing refused to do it. During the count, the officer entered with soldiers armed with gas, behind whom were soldiers with rifles, and behind them a tracked military vehicle mounted with a rifle. But the officer and the soldiers did not leave after the count was completed. The officer turned to face the row of tents, and after some time returned, carrying the uprooted bush. The prisoners rose on their feet, but I remained sitting in the local courtyard, in my numbered spot. I thought of the Russian novel "Rainbow in a Cloud" which I had read during my previous prison term, in Jeneid, and the description of an officer of the occupation, holding a newborn infant by his legs, shooting him in the head before the eyes of his imprisoned mother who had given birth to him the previous night.

3. I was transferred from Ansar 3 to Dhahriyya. I remained there for six days, without knowing the reason for my transfer, and then I understood that I had been transferred so that I could meet an American professor who had been sent by the American Physical Society (APS) to investigate the complaint I had submitted on being beaten relentlessly for an hour and a half in a barrage of immeasurably painful blows at the checkpoint between Tulkarm and Nablus. I thought to myself: Great, either they don't want my American colleague to see the Negev, or they don't want to trouble him with the journey to the Negev. Following the visit, I was not immediately returned to the Negev. Instead, I was transferred to 'Anatot, from 'Anatot to al-Far'ah, from al-Far'ah to 'Anatot, and from there to the Negev. When I arrived at al-Far'ah, I hoped that the chain of transfers would continue, and would include Meggido as well, so that I'd be able to see my brother who was imprisoned there.

On the way from 'Anatot to al-Far'ah we were blindfolded. We were quiet until we had fully left the 'Anatot camp, since the security procedures in each place required that the prisoners keep silent during entering and exiting the camp. We remained blindfolded a long time, and then we told the soldiers that we had come from the Negev to Dhahriyya, and from Dhahriyya to 'Anatot, without blindfolds. Therefore, why should we be blindfolded now? An officer spoke with us. We didn't manage to communicate with him in Hebrew or Arabic,

although our Hebrew vocabulary was far more extensive than his Arabic vocabulary. I spoke with him in English and tried to appeal to reason, but he held his ground: "That's how I want it, so shut up." During the exchange, one of the prisoners told him that I was a university lecturer, so he turned to me and said, "Professor, if you explained something twice to your one of your students, and he didn't understand you – wouldn't you call him an ass?" I really wanted to see the face of this man who thought himself a professor, and us his pupils who must understand the first time around – who thought that by virtue of the rank on his shoulder he could do whatever he wanted, and if we didn't cooperate, we were asses. Someone suggested that we all remove our blindfolds together, and that they could do to us as they pleased. We made our intentions known to one of the soldiers, from whose voice we discerned that he was more easygoing than the others, and he apparently transmitted our plan to the officer. Because of this he came and began to discuss with us removal of the blindfolds. His condition was that we sit silently on the bus. They removed the blindfolds, and I recognized the one who had seen himself as my teacher, and me as his prize student. He had a child's face, and the beard growing on his face was nothing but yellow peach fuzz.

### **Doctors and Medical Care**

1. Since the time I met him in that tent I can still see the pain in his eyes. Perhaps his eyes had become smaller due to all the pain he had suffered. When his ulcer bothered him, he would sit on his mattress wrapped in blankets and smoke, despite the fact that smoking exacerbated the problem. I asked him why he didn't go to the doctor. He said that it wouldn't help since at best, the doctor would give him a pill or two and advise him what to eat and what not to eat, as though he were residing in a hotel. The problem of eating proper food and avoiding harmful food is a painful problem when brought up by a doctor on reserve duty who comes to the prison for a month and then leaves. He wants to get that month's service over with in whatever way he can and get away from this desert. There is another reason which prevents 'Ali from going to the doctor and preferring to wait for medication sent by his family through a lawyer even though he may have to wait a long time. (First, the Red Cross transmits a letter from 'Ali to his family. The family then gives the medicine to the lawyer, who waits his turn for a visit. When the visit takes place he gives the medicine to the administration of the camp, which passes it on to the clinic when someone remembers to do so. The clinic then passes the medicine on to the prisoner.) 'Ali told me this additional reason when his eyes were almost bursting from a combination of pain and controlled

hatred. One night he had a terrible attack of pain. He tried to control himself but the pain was very strong and he felt as if knives were cutting his stomach. His friends in the tent went to the "shawish" and woke him up. The "shawish" went to the guard at the gate, the guard spoke with the officer, and the officer decided to send him to the clinic. Two of them laid him out on a platform and took him to the clinic. After they waited for a while, the doctor came out, rubbing his eyes. Apparently they had woken him up from a deep sleep. He approached the platform, and without even bending down to see the patient, asked him: "Does your stomach hurt very much?" 'Ali said yes and the doctor said, "You won't die tonight. Come back tomorrow morning". After that he told the guards to return 'Ali to his section.

2. At the time of the routine examination [when I first came to the camp], I asked the doctor for a salve for hemorrhoids. He said that I had to request to see him after I was already in the camp. The Dhahriyya prison is Ansar 3's twin brother. Both were established at the same time and the same stories can be told about them. On the first day the nurse practitioner (medic) didn't arrive. The second day I signed up, but they didn't see me. On the third or fourth day (I don't remember anymore), I went with other prisoners to the clinic. There were about ten of us. We stood in a line in front of the clinic. We were sick and supposed to receive treatment. A soldier came and told us to stand up and keep quiet, not to sit down on the ground, and to face the wall. He cursed and hit the iron bars on one of the doors with his club. We waited for a long time and no one called us. After about an hour the door opened and the doctor came out. I stole a glance at him: he was a strange looking man. With his shirt hanging out of his pants, and his hair down to his shoulders, he reminded me of a hippie from the 1960s or the early 70s. He began to call us one by one. Each one went in and came out after a few minutes. I waited impatiently for my turn to go in and rid my body of the stiffness accumulated from standing up facing the wall. I went in and explained my ailment to him. He said that the medication I needed was not available then and that they would send it to me when it arrived. I went out hoping to return to my tent, and was surprised to see that those who were ahead of me were standing facing another wall. The soldier placed me alongside of the others. When there were five of us I heard the doctor out in the yard joking with a woman soldier. We started to get annoyed and asked when we would be freed from standing in such a stiff position. This was punishment, not treatment. An officer came and threatened and warned us that he didn't want to hear us again. One of us asked when we would return and the officer screamed that he was the officer here and he would decide when we would return. The doctor, who was strolling through the

yard, approached us. It looked like he was resting, and loosening his muscles after having worked very hard examining the five of us. I thought of raising the matter with him. I didn't think that a doctor would agree that his patients should receive this kind of treatment. I called to him, "Doctor!" His answer was short and to the point: "Shut up." I regretted that in my naivete I had deceived myself into thinking that I would get a kind response from a cruel person.

3. Muhammed raised his medical problem with the Red Cross doctor who visits us in the prison camp and takes complaints, though she has no authority to do anything about the treatment of the patients. I acted as interpreter. I understood that sometimes air from his lungs escapes into his chest and causes him pain. He had undergone surgery prior to his arrest, and was supposed to be under medical supervision and would perhaps need another operation. He had explained his condition to the camp doctor some time ago and the doctor had promised to send him to the hospital to be examined by a specialist and to undergo the necessary examination. Muhammed was subsequently transferred to a different section of the prison camp. About a month later, I was transferred to the same section. I asked about him and his friends told me that he had been sent to the hospital. I was happy for him, but my happiness evaporated when he came back and told me what had happened to him.

He had been taken to a hospital in an army ambulance under the guard of two military policemen. All the way they cursed him. He understands Hebrew. I don't remember whether they told him in the hospital that he had come to the clinic by mistake and that he had to go to another ward, or whether they scheduled an operation. I sometimes confuse his story with that of Sami. In short, he returned without being treated. On the way back, the guards' cursing turned into slapping his face while his hands were tied. One of the guards said to him: "Why do they send you for treatment? Someone like you deserves only to die. I feel like killing you." When Muhammed returned to the camp he asked to submit a complaint. An officer came to him, heard his complaint, recorded it, and left.

We were released on the same day. We left the prison camp without his getting to the hospital and without ever knowing the outcome of his complaint.

## CONCLUSIONS AND RECOMMENDATIONS

In the period immediately following the establishment of the State of Israel, when individuals were held in administrative detention, Knesset members warned against the concentration of powers in the hands of the executive, and the Supreme Court sharply criticized the "draconian" arrangement by which a person could be arrested without trial.

Since the beginning of the Intifada, the use of administrative detention has grown to monstrous proportions, and over 14,000 administrative detention orders have been issued.

There are those who claim that administrative detention is universally invalid since it precludes due process, impinging on the freedom of a person who committed no crime and who does not know why he has been detained, or what he must do in order to not be detained.<sup>52</sup>

Others (such as the formulators of the Geneva Conventions) state that administrative detention is an imperative and legitimate measure accruing to an occupying state that cannot adequately respond to a popular uprising through the regular criminal mechanisms. In other words, the State cannot hold criminal trials for thousands of people, and in the case of the Israeli-occupied territories, one could claim that the military courts indeed bring people to trial, but they are not arbiters of true justice.<sup>53</sup>

Both those who unilaterally oppose the use of administrative detention, and those who consider it permissible in rare and extreme cases, reject the sweeping use that has been made of administrative detention in the Israeli-occupied territories. Its use is invalid and illegal for the reasons stated below.

## **Administrative detention in the occupied territories is employed for purposes of punishment rather than prevention:**

- Administrative detention constitutes an inexpensive and quick substitute for punishment. The military system, like the civil courts, do not deny the connection between detention and the alleged commission of crimes. The explanations offered, including the lack of sufficient evidence to bring someone to trial, or the fact that the GSS does not want to expose its sources, do not stand up to the test of international law. From the language of appeals trials it appears that administrative detention is either an easy method of punishment, or a deterrent for political leaders. The timing of the detentions of certain professionals, or the close proximity in which dozens of Hamas members were arrested, illustrate that these detentions were not intended to prevent real dangers, but were motivated by a political decision to operate against certain sectors in Palestinian society.

- Preventive detention is in any case illegal. The detention is meant to prevent security offenses, and not, as commonly used in the occupied territories, to prevent political activity.

- 10-15% of the administrative detainees are first interrogated, and only after interrogation are given administrative detention orders. Administrative detention is thus a means of punishing those against whom there is not enough evidence to bring to trial.

- Appeal of an administrative detention takes place before a judge, and most of the evidence made available to the attorney and the appellant, or the "accusations," presented to the detainee relate to deeds committed in the past. It is difficult to assume that one can separate so consistently between non-classified evidence, which serve as the basis for administrative detention in the present, and actions which the administrative detention is trying to prevent, but the evidence for which is actually classified.

## **Administrative detention procedures and appeals are illegal:**

- Most of the detainees receive their administrative detention orders not upon arrest, but weeks later. They do not know for certain the day of their release and are often informed as the date of expected release approaches that they have received an additional period of detention.
- The detention order is written in Hebrew. The order contains mostly general information and includes few details regarding reasons for the detention. The detainees are not informed of their right to appeal.
- Residents of the occupied territories are granted the right to appeal administrative detention only one month following the date of their arrest, and sometimes even longer. Generally speaking, they can submit an appeal only after arriving at Ketziot. [N: This does not include residents of Jerusalem, who, like Israeli citizens, may appeal their detention in a civil court just days after arrest.]
- GSS personnel have sweeping powers – they decide who will receive an administrative detention, and they reveal the evidence to the judge only, for "professional consultation." It is not clear to whom they report, who supervises them, or what is done to limit this dangerous concentration of power.
- Occasionally, retroactive administrative detention orders are issued for the period during which the detainee is held without order. Most of the appeals court judges approve such orders (See Appendix B).

**The location of Ketziot, where most of the administrative detainees are held, is illegal; the conditions of the facility are illegal and inhuman.**

- The Ketziot detention camp is located hundreds of kilometers from the homes of most of the internees, in violation of the explicit prohibition in international law against transporting residents of occupied areas into the occupying state.

The report enumerated grave shortcomings in the areas of health, nutrition and living conditions, and discussed the extreme crowding in the tents and the exposure to the difficult climatic conditions in Ketziot. The report does not, however, include recommendations for improving these conditions, **since our position is that the entire camp should be closed down.** Four years after its establishment, it is impossible to treat this detention camp, one of the largest in the world, as a temporary facility. It is the duty of the IDF to close the Ketziot camp, and transfer its internees to prisons in the occupied territories, where they will receive the basic conditions which are the right of all imprisoned persons around the world. Israel, as part of the international community, is obligated to uphold the minimum conditions stipulated by the U.N.; lack of prison space, or lack of funds, are not considerations which justify these pronounced violations of fundamental rights.

## NOTES

1. In August 1989, the military was authorized to give year-long administrative detentions. Since December 1991, the period of an administrative detention order has been limited to six months.
2. International Commission of Jurists, "Inquiry into the Israeli Military Court System in the Occupied West Bank and Gaza," Report Mission, December 1989, p.50.
3. L. Joinet, Rapporteur to the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, as cited by the Lawyers Committee for Human Rights in an unpublished report entitled "The International Law of Administrative Detention."
4. The same 1945 Emergency Regulations were adopted by the Israeli Knesset with the creation of Israel as an independent state.
5. Virtually all legal scholars as well as international organizations such as the International Committee of the Red Cross (ICRC), the United Nations, and all other states party to the Convention have adopted a similar position with respect to Israeli rule in the West Bank and Gaza Strip.
6. Article 78 of the Fourth Geneva Convention.
7. J. Pictet, ed., *Commentary, Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, hereinafter cited as the "Official Commentary". For a useful analysis of the limitations on the use of administrative detention, see U.R. Halabi, "The Legality of Utilizing Administrative Detention in the Israeli Occupied Territories," *Netherlands Quarterly of Human Rights*, vol. 9, no. 4, 1991.
8. *Official Commentary*, p.256.
9. *Official Commentary*, Article 78, para. 1.
10. Amendment to Order 1361 (*West Bank*) and Order 1066 (*Gaza*) of December 22 and 24, 1991.
11. Israeli Attorney General, January 26, 1986, as cited in al-Haq, *Punishing a Nation* (1988), p. 148.
12. *Official Commentary*, p. 36.
13. H CJ 253/88.
14. Tamar Pelleg-Sryck, Ketziot, "Report No. 5," Association for Civil Rights in Israel, March 1989.

15. HCJ 554/81, *Birwansa v. OC Central Command*.
- 15a. *Geneva Conventions*, Articles 76 and 49, and *Official Commentary*, p. 368.
- 15b. HCJ 253/88, HCJ 323/88.
16. See, Amnon Rubinstein, "The Mandatory Defence Regulations: The Law and the Need to Change It..."
17. Decision, April 4, 1946. See: Daphne Trevor, *Under the White Paper. Some Aspects of British Administration in Palestine from 1939 to 1947*. Jerusalem, 1948, p. 186.
18. *HaPraklit*, vol. 3, Part II (1946).
19. *Ibid*.
20. The real name is being withheld by **B'Tselem**. The interview was conducted in Jerusalem on May 26, 1990, by Dr. Daphna Golan.
21. British Public Record Office co 537/1710.
22. See D. Trevor, pp. 216-227.
- 22a. *Ibid.*, pp. 232-235.
23. HCJ 1/48, *Dr. Herzl Kook v. Defence Minister of the Interim Government*. In the ruling the judges also related to an additional appeal submitted by Tziporah Vinireski, regarding the detention of her husband Ya'akov Vinireski, a.k.a. Meridor. (HCJ 2/480.)
24. Presiding Justice Dr. Bertzekei, *Ibid*.
25. *Proposed Defence (Emergency) Law*, 1949, H-Ch. 13. See also Menachem Hofnung, *Israel - Security Needs vs. the Rule of Law, 1948-1991*. (Jerusalem, 1991), pp. 79-80.
26. *Knesset Record*, vol. 10, July 12, 1949, p. 976.
27. *Ibid*.
28. *Knesset Record*, vol. 9 (May 12, 1951), p. 1807.
29. *Knesset Record*, vol. 9, p. 1831.
30. *Knesset Record*, vol. 9, p.2187.
31. See, Hofnung, pp. 83-85.
32. *Bill for Annulment of the Defence (Emergency) Regulations*, February 20, 1962. See Hofnung, p. 85.
33. *Knesset Record*, vol. 46, June 13, 1966, p. 1706.
34. Minister of Justice in response to a parliamentary interpellation, *Knesset Record*, vol. 52, August 6, 1968, p. 3087. As quoted by Hofnung, pp. 83-85.
35. *Knesset Record*, vol. 20, p. 1306. See. Hoffnung, pp. 156. 221.

36. *Knesset Record*, vol. 57, pp. 1472. 1867.
37. See Hofnung, p. 318, note 8.
38. *Knesset Record*, vol. 83, p. 3955 (August 2, 1978). Hofnung pp.61, 89-90), links the change in the law with the personal experience of Likud leaders in administrative detention. In his opinion, this is also the reason that the law was altered two years after the Likud came to power.
39. Y.H. Klinghoffer, "Preventive Detention for Security Reasons." *Mishpatim*, 11, 1981, 286-294.
40. For a socio-economic analysis of Ketziot detainees by an administrative detainee, see: Jad, Issac, "A Socio-Economic Study of Administrative Detainees at Ansaar 3," *Journal of Palestine Studies*, v. 18, no.4 (1989), pp. 102-109.
41. Testimony to his attorney Tamar Pelleg-Sryck, as it appears in the information sheet: *Amnesty International, Israel and the Occupied Territories*, June 1992.
42. From a petition to submitted by Atty. Dan Yakir of the Association for Civil Rights in Israel, HCJ 3518/91.
43. President of the Supreme Court, Justice Meir Shamgar, following a visit in Ketziot, HCJ 253/88.
44. During **B'Tselem's** visit on May 30, 1991, the prison population of Ketziot included: 710 administrative detainees (476 from the West Bank, 234 from the Gaza Strip), 3,582 sentenced prisoners 1,793 from the West Bank, 1,789 from Gaza), and 1,757 detained pending completion of proceedings (all from Gaza). The total number of inmates was 6,049. During our visit on February 20, 1992, there were 5,080 prisoners 4,130 of them sentenced, 700 detainees awaiting completion of proceedings (all from Gaza) and 250 administrative detainees.
45. These data were provided by Col. Ze'ev Shaltiel, commander of the facility.
46. HCJ 253/88.
47. This situation, in which the conditions in IPS prisons are better than in Ketziot and other IDF facilities is problematic. Detainees at Ketziot usually serve for up to 5 years, while prison inmates have been sentenced for longer periods, for more serious crimes. The gap between the conditions is unreasonable, and certainly does not correspond to the prison system's goals of deterrence or education. Even worse, prisoners who sat for many years in IPS jails are sometimes brought to Ketziot to complete the last year or two of their sentence. Subjecting prisoners to worse conditions as the end of their release approaches also remains an unresolved difficulty.

48. HCJ 253/88, Sajbiya et al v. Minister of Defence.
49. *Hadashot*, August 17, 1988.
50. *Ha'aretz*, August 26, 1988.
51. *Hadashot*, Oct. 7, 1990.
52. Position of the Association for Civil Rights in Israel, as it appears in their booklet "Limitations on the Right to Freedom of Movement in the Occupied Territories," Jerusalem 1989. The Association for Civil Rights in Israel vehemently opposes the use of administrative detention, as there are no legal or practical means of supervising and limiting its use to extreme cases.
53. Two **B'Tselem** reports on the military courts have indicated the many problems in the military justice system, including the arrest of suspects several months before they are stood trial, and many months or years until the completion of their trial. See, *The Military Judicial System in the West Bank*, **B'Tselem** 1989; *Update*, 1990.

## **APPENDIX A**

### **Interview with Dr. A. Cohen\* Former Administrative Detainee Jerusalem May 26, 1990**

I would like to begin by saying that the worst thing in prison is time – the amount of time you're there, and not how you're kept. If there is basic food and hygiene (and the British were very careful about hygiene), you can stay there for 10 years. The problem is time. It is difficult for people to understand this – they ask "how was the food, how were the beds," but the important thing is that they took away six years of my life. Administrative detention, or 15b, as they called it, is a British invention which began during the Boer wars in 1899. I think it is a humane law and that there is logic behind it. It is preventative detention – when there is evidence against someone he is detained for 6 to 12 months. The law makes sense. I have yet to talk, though, about its enforcement.

In any case, the conditions of administrative detainees were much better than the conditions of those who were sentenced. Those who had been sentenced sat in rooms all day long, except for two daily walks in the courtyard. We were free from 6 a.m. until darkness – we had beds, mattresses, blankets, it was not crowded, we were permitted to receive as many letters as we wanted. Once a week there was a visit, and we were allowed to receive an unlimited amount of cigarettes and chocolate.

We were detained in Israel for over two years, in Mazra, Latrun, and for almost four years in Africa. There was a big difference between the conditions in each facility, for both objective and non-objective reasons. The law was the same, but in Israel there was a war, the situation was terrible in any case, and we were also deposited in the hands of the police, who had us taken care of by officers who weren't capable of doing anything else. Most of the time, there was a commander who drank all the time, and the place was run by sergeants, who made a business out of our food. The amounts were correct, just as it should be

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\* Dr. A. Cohen is a fictional name; the real identity is being withheld by B'Tselem

on paper, 100 grams of meat per day, vegetables, fruit, bread, but the police were corrupt, and brought poor quality food. There was a period when there was a better commander, named Dabelnik, who was very nice to us. I grew a vegetable garden, a fantastic garden in Latrun. One day he passed by and saw the garden, got excited, and asked me what I needed. He said that he had a private farm in Acre, and from it he brought me seeds, hoes, and everything you need for a garden.

In October 1944, after the massive escape [of detainees] from Latrun, they transferred us to Eritrea. In Eritrea, they put us up in the Italian absorption camp, the "Gadna" [para-military youth organization] of the fascists. These were large villas with large, beautiful windows, a number of showers in every house, a lovely kitchen, a nice dining room. When we arrived the Eritrean governor greeted us, a Scottish Brigadier-General, who asked us – have you eaten? drunken? washed up? Now I must apologize that the soccer field is not yet ready. He joked that the field had not yet been completed because a company of Jews in the British army had blocked the way for the Italians in the company command for a month. Within a few days, they set up a proper soccer field, and two tennis courts.

The law in Eritrea was the same as that in Latrun and Mizra on paper. But if the conditions in Palestine were worse than those stipulated by law, in Africa they were much better. Instead of goats' milk we were given Australian kraft cheese, British army food – wonderful food. The guys put on weight.

We were given clothes – army whites. To this day I have good, warm undershirts that don't tear. We received good winter shirts, wool pants, Shinel – a long winter coat, army shoes.

We wore what we wanted. We received endless amounts of books and records. Classical music from the army's cultural unit. The Jews of South Africa, encouraged by the British, sent us an enormous library – there I became an expert on the history of English literature. We played basketball, volley ball, tennis, and we had "olympics." We requested and received a photographer to film our "olympics."

In Africa we were held not by the police, but by the army. The war was over and we were the only ones who were not released. They treated us nicely – like P.O.Ws. There were soccer games between soldiers and prisoners, there was a military doctor who took care of us, and for every other medical problem, we had their entire military infirmary at our service.

The difference between the police and the army was enormous. The professional army officers cared for us as if we were their own soldiers.

One of the commanders heard that we didn't see movies and was appalled – he himself hung the sheets, had them bring us films, and was insulted when he saw that I wasn't interested in the sentimental movie that he brought. On Hanukah, he heard that we also had Christmas, and sent us a sack of sugar, eggs, and 100 kg. of flour, in order that we would be able to prepare cakes.

We made a party, and for the party we made chocolate cakes, on which we wrote "Merry Christmas Major Kolman." He appeared at the party in his uniform – with his Scottish clothes, his Scottish kilt and camera, and when he saw the cake he stood still – a giant man, 120 kg – and cried because he was so moved.

There was something so human about him, in our relationship. In my opinion, with all the vileness of the British, I also learned from them what humanitarian treatment is. They did not want corpses – they wanted quiet. They knew who was guilty, but they could not bring them to trial, and therefore arrested them. In my opinion, there were no innocent people there. Maybe one or two. People probably did not get what they deserved, but sat for longer. But people did not sit in prison for nothing.

For example, one day, they brought us 10 people from Melabes Petah Tikvah), among them Motke Tsipori, who later became Deputy Defence Minister, when [Etzel members] attacked the transmitting station in Ramallah with live ammunition. The attack was a failure but caused no casualties, except for one person who was injured in the heel. The British had been ready for the attack. They waited with a large force and drove them off. The people from Melabes fled, and near Petah Tikvah, they jumped off the truck, and all ran home.

Towards morning, the British came and arrested everyone in their homes. They had known about the operation in advance, and knew whom to arrest, since there had been an informer-but they didn't have proof. They weren't interested in bringing the squealer to court to obtain proof, and therefore sent them to detention.

We were 240 when we arrived in Africa, and we were 240 when we left, but not the same 240. The people changed from time to time -some were released and new ones arrived. They renewed the administrative detention orders every six months or year. Each time I got a letter which said "Dear Sir, Your detention has been extended. Signed, your faithful servant, Officer such and such."

In Kenya we were held in fairly good houses, which served the British army – but the windows there were very narrow. We demanded that they widen them. The English stalled. Then we got organized, every bunk took two long blocks of wood of some meter and a half that were

there, and together we broke through the walls – we made openings.

Colonel Pork, who was the camp commander, announced to the supervisor, our internal director, Shmuel Tamir, that he wanted to speak with us, and requested that we meet him in the mess hall.

An argument ensued, to go or not to go. We decided that we were not afraid, and we all went. The colonel arrived. He entered by himself, a man of some 70 years, and said to us – you learned from the Romans how to knock down walls – nice. He explained that the narrow windows were there because of the weather conditions, but that if we wanted large windows, he would set up large windows for us in the holes that we made in the walls. He told us tales from the days when he fought in the Russian Civil War, which ended in laughter and applause, and we got the windows we had wanted.

We were in Kenya during the last year. We requested a photographer and they brought us one so that we could send home pictures. I remember the last day, liberation day. On July 12, 1948, we set off at 5 a.m. And even though we had gotten up so early in the morning, the commander stood there at 4 a.m. and gave each soldier hot tea and said goodbye. Despite the fact that it was such a short night, he insisted that we sleep in our own beds. From there we flew to Tubruk, and then travelled by boat to Tel-Aviv. On July 18 we disembarked onto the Tel-Aviv shore. I remember that I saw the first Israeli soldier sitting on the pier and guarding the country with a rifle. They said to me thank you, goodbye, and you're free. Six and a half years had passed, and I was immediately drafted because the country was at war.

## APPENDIX B

### **Ketziot Court of Appeals: Decision Regarding the Request of Ahmed Haze's Sarim**

Appeal of administrative detention  
Heard by a legally trained military judge  
in the Ketziot Detention Facility

Hearing by Col. Yoram Zelkovnik  
November 5, 1990

Appellant: Ahmed Haze'a Sarim  
ID 99678023  
Inmate No. 4588  
Represented by Atty. Tamar Pelleg-Syrck  
The Association for Civil Rights in Israel

v.

Defendant: Military Commander of Judea and Samaria Region  
Represented by Atty. Schwartzberg

#### **Decision**

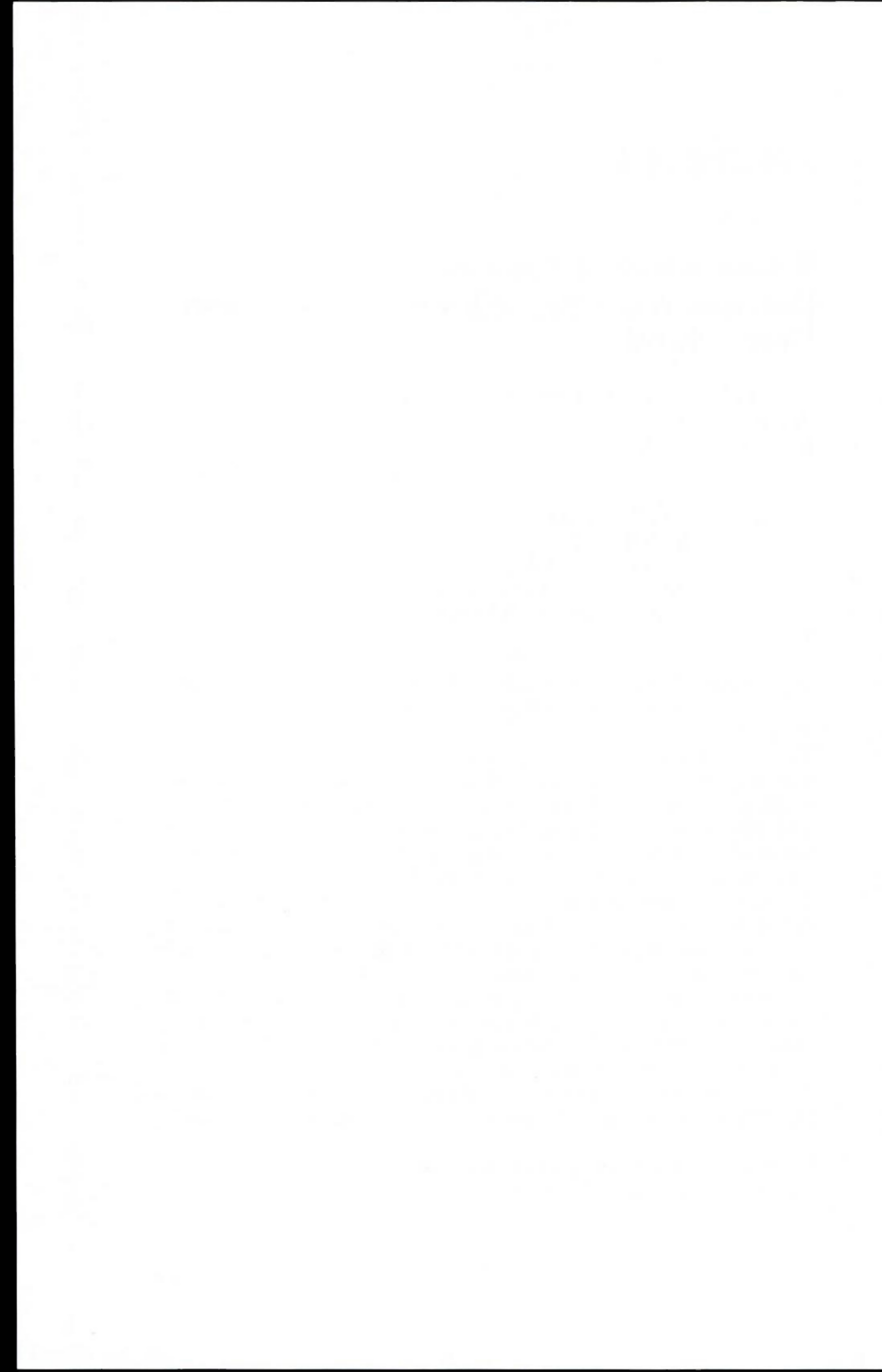
The administrative detention order was issued by the military commander on October 12, 1990. It was effective retroactively, beginning September 30, 1990, and ending on March 29, 1990.

The prosecutor, Ms. Tamar Pelleg, claims that due to the order's retroactive nature, the order is invalid, since it is ostensibly clear that an order is valid from the day of issuance and onward.

I accept the claim in part. Indeed, I think that the order cannot be retroactive, nor can it "validate" in this manner a previous period in which he was, supposedly, in police detention (a matter that is not at all clear according to the sides before me). An order is valid from the day of issuance. Nevertheless, the circumstances do not require that we make it null and void. As mentioned, the order is valid as of the day of issuance, i.e. October 12 1990 - and the order is therefore in force from that day to the expiration date.

The "administrative detention" period which preceded the issuance of the order is nullified, since the order cannot reactivate it, as explained.

Issued today, November 5, 1990, and posted  
Col. Yoram Zelkovnik, Judge



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