



מרכז המידע הישראלי לזכויות האדם בשטחים

'בִּתְּסֵלֶם' מרכז המידע הישראלי לזכויות האדם בשטחים

B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories

January-February 1991 Information Sheet

Human Rights in the Occupied Territories

During the War in the Persian Gulf

In Collaboration with HaMoked: Center for the Defence of the Individual

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B'Tselem, the Israeli Information Center for Human Rights in the Occupied Territories, was founded in February, 1989, by a group of lawyers, intellectuals, journalists, and members of Knesset. The objective of **B'Tselem** is to document and to bring to the attention of policy makers and the general public, violations of human rights in the territories. **B'Tselem's** data are based on fieldwork, independent investigations, and official Israeli sources, as well as on the data of Palestinian sources, especially human rights groups such as PHRIC and al-Haq.

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Introduction

This report deals with human rights in the territories during the war in the Persian Gulf- a period different from any other in the history of Israeli rule of the territories.

Iraq's threat to use conventional and non-conventional weapons against Israel, the launching of more than 30 missiles towards Israel, the broad support that Iraq enjoys among the Palestinians, and the calls made for the Palestinians to aid Iraq in its war against Israel, have compelled the authorities to take special steps in both Israel and the territories, including the employment of appropriate security measures.

A state of war, however, does not lessen the duty of the state to respect human rights, and the new situation does not imply the absence of binding legal norms, morality, and fairness. The real test of a society is exactly its commitment to the basic value of justice during a time of a crisis. As the High Court of Justice recently made clear, the rumbling of canons does not silence the voice of the rule of law, and it is the difficult task of human rights organizations to research, document, publish, and call attention to the state of human rights during this difficult period as well. The government's human rights policy during wartime need not be identical to that in time of peace, but not all measures that are legitimate when taken immediately following the outbreak of war remain so after the passage of a week, two weeks, or a month. The ongoing obligation to balance obvious security needs against the wellbeing, health, and basic needs of residents of the territories, whose welfare rests in government hands, remains. Any step, such as curfew or closure, which inflicts heavy damages on civilians, steadily worsening with each passing day, must not be continued indefinitely. In the fourth week of the war, the curfew and closure seem uncalled for.

Due to problems in gathering information, this reports is only partial, and covers only a small portion of the limitations and difficulties which confront the residents of the territories on account of the curfew, closure and restrictions during the war.

Curfew

Curfew is a general restriction on residents' freedom of movement, forbidding them to leave their homes. During the Intifada, curfew has been widely used to "calm things down" following clashes, or to prevent them, to search for those suspected of hostile activity, or to execute arrests and prevent riots while the houses of suspected attackers were being destroyed.¹ Curfew has also been occasionally used during tax collection campaigns.

Many areas have been under protracted general curfew during the Intifada. In January, 1988, all refugee camps in the Gaza Strip (over 300,000 people) were under curfew for two weeks. In February, 1988, Kabatiya township was under curfew for over 40 days, following the murder of a suspected collaborator. In 1989, curfew was declared on the same township 4 times (28 days total) and 5 times in 1990 (19 days total). Since May, 1988, a night curfew (between 8:00 p.m. and 4:00 a.m.) has been in effect in the Gaza Strip.

Even considering the long curfews in the past, the curfew in effect in the occupied territories since the outbreak of the war, so far 4 weeks in length, is the longest continuous general curfew since 1967.

The authority to declare a curfew is established in two orders: Section 89 of the Order Concerning Defense Regulations (Judea and Samaria) (No. 378), 1970, and regulation 124 of the Emergency (Defence) Regulations, 1945. These regulations are general and do not specify a time limit. Section 89 states that:

A military commander is authorized to demand that any individual inside the area designated by the order remain inside a residence during those hours stated in the order.

Although international law does not explicitly mention the use of curfew, the Hague Convention of 1907 enables the occupying authority to take appropriate measures "to ensure public order and security."

According to a Supreme Court ruling, curfew may be used solely as a preventive measure; use of curfew as a punitive measure is unacceptable. Curfew is intended for security purposes, but along with the duty of an occupying power to ensure security is the duty to see to and maintain the welfare of civilians.

The accumulating ramifications of prolonged curfew on the health, livelihood, and

¹ For more on curfew see B'Tselem, Collective Punishment in the West Bank and Gaza Strip, November, 1990.

welfare of residents of the territories, calls into question Israel's fulfillment of this responsibility. The authorities' announcement that they are aware of the hardships to residents of the territories caused by the curfew and closure, is not consistent with the tax collection campaign conducted during the last month.

In Deheishe, tax collectors were aided by the army to ensure tax collection during the curfew. In Jenin and Tulkarm, residents were requested to pay advances on their 1991 taxes.

During the first weeks of the curfew on the West Bank, residents were ordered to remain in their homes, except for once every 3-4 days when they were allowed out for supplies. In Gaza, the curfew was lifted for two hours once a week, but only women were permitted to leave their homes. In certain areas, there were even fewer breaks in the curfew, and in some, curfew had been declared before the war. Deheishe refugee camp has been under curfew almost continuously from the beginning of December 1990, and the Nur Shams refugee camp, Tulkarm District, has been under curfew since the beginning of January.

Human rights organizations (B'Tselem, the Association for Civil Rights in Israel, and Hotline: Center for the Defense of the Individual) turned to the Defence Minister, as well as to a number of Knesset members, requesting that they do everything within their power to lift the curfew. Subsequent to the request of Knesset members, the Coordinator of Activities in the Territories, Shmuel Goren, announced that beginning February 3, a policy of "gradual lifting of the curfew" would take effect. Since then, the curfew has been lifted in most areas in the West Bank for more hours than previously, usually between 8:00 a.m. and 4:00 p.m. In the Gaza Strip, a complete curfew was maintained until the beginning of the fourth week of the war, and lifted only for a few hours once or twice a week. For three weeks only women and children were allowed to leave their homes during the curfew, and only then were men also allowed to leave their homes for the first time.

The hours when the curfew is lifted vary from place to place, and from day to day. Now and then, residents are notified of cities and villages where "incidents have taken place," on account of which the curfew will not be lifted the following day. For example, on February 9, 1991, an announcement was made in Beit Jala, Deheishe, Khader, and el-Duha Neighborhood in Bethlehem, that the curfew would not be lifted the following day due to disturbances.

The curfew has now been in effect for over one month. The policy of gradual lifting is unclear, nor is it evident when the curfew will end. Although in most areas of the West Bank the curfew has been lifted for 8 hours per day, in Gaza it has been lifted rotationally, such that in each area it is lifted only on every third day.

Closure

Even during the hours when curfew is lifted, exiting from the territories is prohibited to persons without special passes. The only people who enjoy absolute freedom of movement, with the exception of army personnel, are the Israeli citizens who live in the territories.

Closure also applies to each individual area of residence, meaning that the Palestinians are forbidden to pass from one area to another within the territories. As a result, many villagers are prevented from travelling to a nearby city to shop, go to the bank, and the like. Many people are therefore unable to get to work, or to visit relatives.

Movement to and from the territories is stipulated by two separate orders:

The Military Order Concerning Closure of the Territories (West Bank area) (No. 34), 1967, issued when the IDF occupied the West Bank and Gaza Strip in that year, declares the West Bank a closed area. In the order it is stated that "The West bank is hereby declared a closed zone." A similar order was issued for the Gaza Strip.

The right of individuals to pass between Israel and the territories is stipulated by general permit, which distinguishes between Palestinians from the territories and Israelis. With the outbreak of war in the Persian Gulf, permission for Palestinian residents to leave the area has been temporarily suspended. Regarding Israeli residents, an order has been issued according to which they may enter and exit the territories.

Entrance to the territories from Israel is arranged by another order: Those who possess special permits may enter the Gaza Strip from Israel, as may those travelling to Gush Katif. There is no legal way to prevent entrance to the West Bank except if the military commander declares a certain area as closed.

On February 10, 1991, Palestinians were for the first time given renewed permission to travel to their places of work inside Israel. The authorities allowed only a number of those Palestinians officially registered at the Israeli Labor Exchange to come to work inside the green line in spite of the curfew and the closure of the territories. Only those workers whose presence was requested by their employers and who were transported in their employer's car were allowed to go to work in Israel. This indicates that the motive for renewal of permits is not to alleviate conditions for the residents of the territories who were unable to attend work in Israel because of the curfew. Rather, the main motive was to aid Israeli employers in need of laborers.

Arrests

According to the IDF Spokesperson, from the beginning of the Gulf war up until February 12, 1991, 3,647 persons were arrested, 3,005 in the West Bank, and 642 in the Gaza Strip. In the West Bank alone, 1,714 persons were arrested for breaking the curfew.

Among those arrested are a number of individuals held under administrative detention (arrest without trial). As a result of the closure and the consequent difficulties in obtaining information from the territories, it is not possible to know the exact number of administrative detainees. The best-known among the administrative detainees is Dr. Sari Nusseibah, a lecturer of philosophy accused of passing security-related information to "an official Iraqi figure." Dr. Nusseibah, like other Palestinian leaders under administrative detention, was not tried in a court of law, because the military authorities claimed that they did not want to disclose information relating to their activities.

Hundreds of persons arrested for violating the curfew were tried in "quick courts," and without legal representation. The large majority pleaded guilty and were fined between NIS 500 and NIS 1,000 (between \$250 and \$500). (The average monthly wage received by Palestinian workers is approximately NIS 1,000 (\$500)). It should be noted that a substantial portion of those arrested and fined were unable to pay the sum, and remained in custody. Others, who did not confess, were sentenced to jail terms. A large percentage of those fined could not afford to pay, and therefore remained in detention. Attorney Mona Rishmawi reported to **B'Tselem** that in certain cases, detainees unable to pay fines of NIS 50 were forced to spend 50 days in detention. Others, unable to pay a fine of NIS 800, will be held for only 40 days in lieu of payment. In Gaza, on the other hand, the fines are higher but their payment can be postponed.

West Bank lawyers declared a strike at the beginning of the Gulf war, announcing that they would not appear in the "quick trials", since they were unwilling to participate in a mere facade of justice. As a result of the curfew, families without a telephone are unable to contact a lawyer, and lawyers are unable to summon witnesses or to examine files. Consequently, most "quick trials" are held in the West Bank without attorneys in attendance.

Subsistence and the Economy¹

The curfew has altogether paralyzed economic activity in the territories. The Palestinians' livelihood, which had already suffered setbacks in recent months, has been severely damaged, and for many has been stunted entirely. The damage is immediate, cumulative, and, in some cases, long-term. Workers employed in Israel may lose their jobs. Farmers prevented from planting, harvesting their crops or picking fruit will lose an entire season's produce. Factories that failed to deliver merchandise on schedule will lose contracts and clients.

A. Loss of Income - An Overview

The following table estimates the losses inflicted on Palestinian laborers (employed in Israel or inside the territories), to service workers, and to the self-employed, as a result of the curfew.

Loss of income - January 17th - February 10th, 1991

Type of Workers	No. of Workers	Average \$Monthly Wages	Direct Losses	Total Losses \$Million \$Million
WB & GS Workers in Israel:	100,000	500	41.5	41.5*
Workers in WB & GS	47,500	300	11.875	23.750**
Service Job Employees in WB & GS:	56,500	600	2.825	2.825***
Independent Workers WB & GS:	100,000	750	62.5	62.5
Total	304,000		118.700	130.575

The minimal average of daily losses during this curfew is estimated at \$5.2 million, taking into consideration that we did not include in this calculation the surplus value brought in by type 4 workers.

¹ The data in this chapter are based on a report written by economist Samir Huleileh.

* Calculated according to the average wage and number of workers, taking into consideration the part-time and seasonal nature of this work.

** The total damages here are twice the sum of direct damages to workers' salaries, based on the fact that workers produce an added value of 100%.

*** The damages in this sector were calculated at 10% , since a number of educational institutions and health services, in addition to local authorities, received income from their services which covered part of their employees' wages.

B. Sectoral Losses

1. Industry

The industrial sector in the territories employs approximately 30,000 workers, 20,000 of whom are in the West Bank and 10,000 in the Gaza Strip. During the curfew, 30 food and pharmaceutical factories were permitted to continue operating. All other factories were shut down. Even when the curfew is lifted for longer periods, factories face acute difficulties. The credit system has broken down, and the cash flow of most factories is so severely constrained that many factories cannot even resume production. Many factories export to Jordan, Israel, and Europe (via Israel). These exports have almost completely ceased. Between January 17 and February 10, 1991, there was a 95% drop in production.

2. Agriculture

Some 40,000 farmers and agricultural laborers earn their livelihood from agriculture in the territories. Several additional thousands rely on agriculture as their secondary source of income. In the 1989/90 fiscal year, agriculture constituted 35% of the territories' Gross Domestic Product (GDP).

The curfew has severely interfered with the harvesting of field crops, plowing and sowing of fields (especially crucial after the prolonged drought), harvesting of citrus fruit, and routine maintenance such as spraying with pesticides, and irrigation (particularly in greenhouses).

Livestock farmers have been facing difficulties in obtaining feed, caring for their animals and taking them to pasture.

Agricultural exports have been severely damaged as a result of the almost complete closure of crossing points between Israel and Jordan, and by the lowered quality of produce resulting from the inability to apply pesticides or begin the harvest on schedule. The sharp reduction in consumption in the territories has also severely hurt farmers, especially those owning goats and sheep. In the fourth week of the war, consumption declined: meat and mutton by 80%, poultry by 40%, and fresh vegetables by 70%.

The following are examples of damages suffered by farmers:

- On January 31, 1991 Hassan Butma approached **Hotline: Center for the Defense of the Individual** on behalf of the residents of the village of Batir, who cultivate approximately 10,000 dunams of land. Batir's agricultural products include vineyards, apricots, olives and pears, as well as vegetable crops such as parsley, radishes and onions. Batir residents were not permitted to go out to their fields for 18 days. They were also prevented from caring for their livestock: goats, cows and chickens.

- The Palestine Human Rights Information Center (PHRIC) reports that the fruit of 9,000 dunams of citrus trees in the Tulkarm region has rotted after 12 days of the curfew. PHRIC estimates a resulting economic loss of NIS 180,000. The overall damage in the Tulkarm area in the first three weeks of the curfew has been estimated by PHRIC to be approximately NIS 9 million.

- As a result of difficulties encountered in marketing and exporting agricultural produce under curfew conditions, farmers have been selling their produce at a loss. Reports received by **Hotline** from the Jericho area indicate that chickens are being sold at 25% of their actual price.

- Abd al-Rahman Abu 'Aref, Chairman of the West Bank Olive Oil Marketing Committee, reported to **B'Tselem** that a contract for the export of 6,000 tons of oil was signed between the Italian Government and the Committee. Up until the imposition of the curfew, his Committee had managed to export 1,000 tons of oil. The remaining 5,000 tons have not been exported.

On the eve of the Gulf war, over 100,000 residents of the territories earned their livelihood inside the borders of Israel. Many of these individuals received wages on a daily or weekly basis. The forced unemployment brought upon them by the curfew has led to a severe cash shortage, added to which is the fact that banks are largely inaccessible. Continuation of this inactivity may result in a situation in which people are unable to purchase the most basic necessities.

It is important to note that Palestinian workers from the territories were charged the same taxes and social security payments collected from Israeli citizens over the years. Social security payments of 16% of income have been directed into what is termed the "territories fund." This fund was created to enhance the welfare of the residents. In spite of this, to the best of our knowledge neither this fund, nor any other sources - governmental or Histadrut Labor Union monies - have been used to compensate and ease the suffering of the workers forced to remain idle. *

Hundreds of Palestinians were laid off in the months preceeding the war. The "**Worker's Hotline**" is handling the petitions of 40 such workers fired without any compensation. Dozens of other cases are being processed in the courts. As a result of the curfew and the closure, these hearings have been frozen, and those same Palestinian workers are meanwhile left without money.

*See: **Information Sheet January - February 1991**, by "**Worker's Hotline**" - Protection of Workers' Rights.

Bridge Crossings To and From Jordan

The IDF prevents hundreds of Palestinians who crossed into Jordan before the Gulf war from returning to their homes in the territories. Approximately 5,000 Palestinians are presently waiting in Jordan for permission to cross over.

During normal times, some 30-40 buses cross daily from Jordan into Israeli-held territory. At present, the number of buses has decreased to one, and some of its passengers are usually forced to turn back.

Captain Nurit Hochman, assistant to the IDF Coordinator of Activities in the Territories, told **B'Tselem** on February 11, 1991, that entrance from Jordan is permitted only to religious leaders, members of the press, and "humanitarian cases." Despite this, **B'Tselem** has been contacted by residents of the territories who have been denied entry despite "humanitarian reasons."

Raika Sulieman Hashash, aged 50 (ID# 98009232), a resident of Nablus, arrived at the bridge on February 5, 1991. She presented a medical document confirming that her husband was hospitalized in al-Itihad Hospital in Nablus as a result of a heart condition. She was denied entry into the territories.

Mai Kakhawish (ID# 918730185), a resident of Nablus, and her two children, crossed into Jordan to visit her mother, who was ill. On February 8, 1991, she was denied permission to re-enter the territories, and was told she must present a re-entry permit from the military governor of the district, in addition to the permit in her possession. The Nablus civil administration refused to issue her husband such a permit.³

Education

Two weeks prior to the outbreak of war in the Persian Gulf, all schools in the territories were ordered to go on an unexpectedly early mid-year vacation, from December 31 through January 12, 1991. According to the educational program announced by the civil administration in autumn, mid-year exams were to be given in government-run schools between January 3 and January 10, 1991, and the vacation was to begin on January 12 and to continue until the 26th. The order closing the schools for vacation disrupted their normal functioning, and caused the postponement of mid-year

³ **B'Tselem** approached the Coordinator's office regarding these two cases, and we were subsequently informed that the two women would be allowed to return home. Nevertheless, as stated above, the problem still exists for thousands of other Palestinians.

examinations which had not yet been administered. The order to go on ``vacation" applied to private schools as well, including the Christian schools, which had, for religious reasons, already begun their Christmas vacation on December 23.

The schools were reopened on January 13, and were again ordered closed on the 15th. Since then, all schools and kindergartens in the territories have been closed. It is now the fourth consecutive year that schools in the territories have been closed by military order for long periods of time.

In February 1988, closure orders were issued to the entire educational system in the West Bank, including kindergartens, primary schools, secondary schools, high schools and vocational and technical schools. Since then, education in the schools has not returned to normal. During the 1987-88 school year, schools in the West Bank were open for only 147 days of 210. During the 1988-89 schoolyear, grade school was in session for 35 days, middle school for 26 days, and highschool for 20 days.

In the course of the 1989-90 schoolyear, system-wide, there were approximately 140 days on which schools in the West Bank were functioning.

Many schools were closed on days on which no official military closure order was issued, as a result of regional closure orders or as a result of the closure of schools in areas in which there were riots or clashes between Palestinian residents and the military.

The present school year began gradually, and later than planned. This had a severe detrimental effect on high school students, who missed 31 days in the West Bank, and 40 days in Gaza, before the war began. While the Israeli school system gradually returned to a partial schedule on January 27, and to a full schedule on February 12, the schools in the territories are still closed.

In addition, all universities and colleges in the territories remain closed. Four of the universities have been shut since February, 1988, while two others which had reopened in March, 1990, were again closed at the outbreak of the Gulf war.

Medical Services

The curfew has severely impinged upon the medical infrastructure and services in the territories, primarily as a result of restrictions placed upon the freedom of movement of medical personnel and patients.

A. Difficulties in Access to Medical Attention

Persons who do not possess a telephone face extreme difficulties in obtaining medical attention. Leaving the house to call an ambulance is a violation of curfew and is dangerous, as is traveling in a private car without permission from the authorities. According to information received by **B'Tselem** from the Union of Palestinian Medical Relief Committees, there have been cases of loss of blood, and serious complications as a result of delays in medical treatment. In hospitals, the number of patients receiving medical care, and the number of births, have dropped considerably.

B'Tselem has been informed that in al-Muqassed Hospital only 150 births have been registered, as opposed to an average of 500 births in a normal month. Since 75% of the hospital's staff live in the West Bank, many have been forced to sleep near the hospital since they are unable to travel within or exit the territories.

B. Travel Restrictions on Medical Staff

Between 30-40% of the medical staff in the territories is unable to reach their place of work because they were denied travel passes.

Even with the lifting of curfew for a number of hours, there are still many restrictions on the movement of medical personnel. For example, since the curfew is lifted between different hours according to area, medical personnel who work outside the region they reside in need a permit to pass from district to district. Not all medical workers are granted such passes.

Doctors and nurses in al-Muqassed Hospital in Jerusalem have received passes enabling them to travel from the territories to work, but other personnel such as orderlies, sanitation staff, clerks, and engineers have been denied passes. Four hundred and sixty of al-Muqassed's 700-member staff live in the territories. Only 260 of them have received travel passes.

C. Preventive Medical Care

Preventive treatments and medication have ceased entirely on account of the curfew. Pre-natal care, inoculation of infants, and routine checkups have been postponed indefinitely due to severe staffing shortages.

UNRWA Statistics: Food Distribution

UNRWA (United Nations Relief Works Agency) has taken upon itself to distribute 47,000 tons of foodstuffs during a three-month, one-time emergency operation. The distribution program aims at providing a minimum of 1,000 calories per day to some 295,000 residents of the West Bank and Gaza Strip.

UNRWA is also distributing milk to those children most severely affected by the prolonged curfew.

Food distribution began in the al-Mughazi refugee camp on January 29, 1991. As of February 4, 1991, 2,000 tons of flour and 124 tons of powdered milk had been distributed to 41,445 families in al-Mughazi, Rafah, Nusseirat, Dir el-Balah, Beit Hanun, Khan Yunis, and the surrounding areas. In the West Bank, between January 20 and January 31, food rations were distributed to the following refugee camps: Aqbat Jabar, Ein Sultan, Deheishe, and Nur Shams. In addition, 25-kilogram sacks of flour were distributed to 15,732 families in the other refugee camps throughout the West Bank.

Here, for example, is a list of foodstuffs distributed to each family in Deheishe refugee camp, Bethlehem district:

20 kg. flour, 1 kg. rice, 1 kg. cracked wheat, 1 kg. powdered milk, 1 tin tomato puree, 2 tins ground beef

The regular UNRWA distribution personnel were not given curfew passes, but UNWRA hired local residents at each distribution point, and this worked efficiently.

Testimony Given By UNRWA Director of Deheishe Refugee Camp (Bethlehem Region) To B'Tselem Staff Member Bassem 'Eid - February 2, 1991

There are 7,500 residents in the camp.

The curfew was imposed on the camp on December 12, 1990, following disturbances. The following is a list of the days on which the curfew was lifted for residents to stock foodstuffs:

<u>Date</u>	<u>Duration of Curfew Break</u>
11.12.90	09:15-11:15
31.12.90	09:15-11:15
12.1.91	09:30-11:00
13.1.91	curfew lifted
14.1.91	curfew renewed following disturbances
20.1.91	06:00-20:00
22.1.91	08:00-10:00
24.1.91	08:30-10:30
30.1.91	12:00-14:00
2.2.91	12:00-14:00
5.2.91	09:00-12:00
9.2.91	12:00-16:00

On February 1, 1991, UNRWA began to distribute powdered milk to 800 children in the camp. Each child received two bags of powdered skim milk and one bag of whole milk powder.

Since the commencement of the curfew until this date, UNRWA has submitted the names of 60 UNRWA employees whose work was necessary to the Civil Administration. The Administration granted passes to only 30 workers, all Bethlehem residents, enabling them to travel between Bethlehem and Hebron. None of the Bethlehem residents who work in UNRWA in Jerusalem received permits. In addition, the 24 teachers who work for UNRWA in the Sur-Baher School did not receive permits to go to work. Engineers who live in Bethlehem and work at the UNWRA agency in Jerusalem did not receive permits.

Among the 30 recipients of permits were: doctors, nurses, drivers, sanitation workers, guards and aides.

Residents of the camp who are ill have been able to reach the UNRWA infirmary without difficulty, and if the patient requires hospitalization, UNRWA ambulances transport him to the hospital.

Since February 7, 1991, until this day, the infirmary has been operating between 7:00 a.m. and 11:00 p.m. We have not encountered difficulties in transporting women in labor to hospitals in UNRWA ambulances.

None of the septic trucks have received permits; thus, 300 families have registered overflowing septic tanks which cannot be emptied.

Infirmary employees in refugee camps in the Bethlehem District received gas masks from the Civil Administration. UNRWA supplied masks to their families.

The IDF Spokesperson relates that the curfew was shorter than reported in the above accounts.

The dates of curfew according to the IDF Spokesperson are as follows:

7.12.90 - 11.12.90

23.12.90

30.12.90 - 2.1.91

5.1.91 - 8.1.91

15.1.91 - to this day (12.2.91) the curfew has not been lifted.

ACRI Attorney Tamar Pelleg- Sryck's Testimony: Visit to Gaza Under Curfew February 3-5, 1991

Gaza under curfew is a deserted area; the roads are empty of cars, and there are almost no roadblocks either. No one is on the streets. Only here and there, a military vehicle passes. Next to the [military] court, a few cars are parked in the morning hours. A few residents, mainly women and children, wait by the clinics and the hospitals.

In a few areas, business seems as usual. The [military] courts that were closed during the initial days of the curfew, are again open. Visits to the prisons are more difficult now, and fewer detainees are brought to hearings. Prior notifications of court hearings are not given, neither in the press nor on the day of the hearing. Quick hearings for curfew-violators have been added to the court's activities, and lawyers spend long hours trying to plea-bargain with the [military] prosecutors. Families of detainees who are prevented from coming to the courthouse are pressing that the hearings not take place (most were in the habit of coming daily in hope that their relation would be brought to trial). The [military] judicial authorities have decidedly stated that the policy is "business as usual." The lawyers are trapped between the two. They alternate between feelings of justifiable bitterness, sometimes in the form of paralyzing despair, also justified, and a sense of obligation to their clients. They spend many hours in internal meetings, in negotiations with the authorities, and then they return to their sisyphian routine, primarily comprised of waiting: waiting for the meeting in prison, waiting to enter the court clerk's office, waiting to speak with the prosecutor, waiting for a hearing.

Arrests in the Gaza Strip continue. There are those who say, "as usual," while others say that the quantity, and particularly the quality of the arrests is different. For example, seven engineers, a doctor, a pharmacist, an accountant, two lawyers, and a reporter were arrested in the last few weeks.

One press agency has been closed down, and everyone in the Gaza Strip knows that closing a press agency usually means the arrest of its owners as well.

I saw with my own eyes broken arms and other bodily injuries, and I took affidavits from those injured. They said the injuries had occurred on February 3, when the curfew in the Shabura refugee camp in Rafah was lifted for three hours. The injured I interviewed were all elderly people or children. They said they were in their homes when the curfew was lifted. Border Policemen burst into their homes, looking for children. This was how it all started.

- "Did the children throw stones?" I asked.

- "We didn't see. We were inside. Only the women are allowed out during the curfew break."

One woman was standing near the entrance to her house. She heard screaming from her neighbor's house, and saw someone being dragged outside.

- "I asked them (she told me), 'What are you doing with him?' And then a border policeman hit me on the head with his walkie-talkie. Now I have five stitches under the bandage [on my head]."

The following is a partial list of those residents who have stated they were injured by Border Policemen at around 2:00 P.M. on February 3, 1991, in the Shabura refugee camp:

Ibrahim Ahmad Ashkhada Balbisi, born in 1937, was beaten with a club. His left arm was broken and is now in a cast. The club was also broken.

Muhammad Ibrahim Balbisi, born in 1966, received punches, and blows from weapons on all parts of his body. He was sprayed with tear gas from a cannister held practically next to his face. At the same time, his sister Amal also inhaled tear gas. His wife, Taghrid, was beaten with a club and was kicked in the legs. Three days after I visited his home and took his affidavit, soldiers came to his house and arrested him. This is the first time that Muhammad Balbisi has been arrested. His place of imprisonment remains unknown, as does the reason for which he is being held.

Mahmud Ibrahim Ashkhada Balbisi, Muhammad's brother, who suffers from diabetes, received blows to his testicles, was beaten on all parts of his body, and lost consciousness.

Sahar Muhammad Jamal Shahin, 12, suffers from pain and swelling in his left knee. His left knee is bandaged. He was beaten and kicked inside his home.

Hassan Mussa Shahin, Sahar's 70 year-old grandfather, was also beaten when his grandson tried to hide in his arms.

Watzafia Mahmud Ahmad Balbisi, born in 1937, was beaten with clubs while on her way to a grocery store not far from her home. She was picked up by a car and taken to the hospital. Her left forearm is in a cast that extends past her elbow.

I have submitted a complaint to the authorities regarding all of the above cases, hoping that those responsible will be identified and brought to trial.

In recent weeks the residents of Shabura refugee camp have spent most or all of the money they have. The situation is similar in the other refugee camps, whose residents comprise the overwhelming majority of the Gaza Strip's total population. Stories abound of women who have pawned or even sold their jewelry. The rich are also weighing every penny that leaves their hands. The Gaza Strip's economy is paralyzed. Merchants explain that money is only leaving Gaza, and that they cannot go on this way.

Protection and Warning of the Palestinian Population in the Territories

The Israeli authorities are obliged by international law to ensure the well-being of the population in the occupied territories. Despite this, the authorities failed to install air-raid sirens in Palestinian areas in the territories, and purchased gas masks for only one-tenth of the Palestinian population there. A High Court of Justice order was issued requiring the defense establishment to distribute those masks purchased. The distribution was carried out very slowly, and to date, only 50,000 persons, all of them adults, have received gas masks. Especially grave is the dilemma of the thousands of Palestinians detained by the authorities inside Israel and the occupied territories, who both live in tents and have not been issued gas masks.

In contrast to the situation of the Palestinians of the territories, air-raid sirens have been installed in most Jewish settlements, and all Jewish residents of the territories have received protective kits.

A. Gas Protective Kits for the Palestinians

According to international law, Israel is responsible for the wellbeing of the population in the occupied territories. International law regards the West Bank and Gaza Strip as areas under belligerent occupation, which therefore must be treated in accordance with those international conventions regulating the rule of such areas.

Article 43 of the Hague Convention of 1907, Section III (Military authority over the Territory of the Hostile State) states that:

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety...

Article 55 of the Fourth Geneva Convention states, among other things, that:

The Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territories are inadequate.

Article 56 of the same Convention states that:

The Occupying power has the duty of ensuring and maintaining, with the cooperation of national and local authorities... public health and hygiene in the occupied territory.

Despite the above, the Israeli defense establishment did not prepare adequately for the distribution of protective equipment against chemical attacks on the Palestinian population in the territories. On the eve of the war, the authorities had in their possession only 173,000 gas masks for a Palestinian population numbering 1.7 million. When the defense establishment announced they would not distribute the masks to the Palestinians in the territories, and after the military had provided masks to all Jewish residents in the territories, **B'Tselem**, on February 12, 1991, demanded that the State Attorney immediately take steps to distribute the masks to the Palestinians as well. At the same time, Miladi Marcus, via Attorney Linda Bryer, a Bethlehem resident, petitioned the Israeli High Court of Justice.

In an affidavit submitted to the High Court of Justice (HCJ 168/91) The Deputy Coordinator of Activities in the Territories, Brig. Gen. Freddy Zack, explained the authorities' decision not to distribute protective equipment to the Palestinian population

The defense establishment has estimated, on the basis of factual evidence, that the areas of Judea, Samaria and the Gaza Strip are not the target of possible Iraqi missile attacks, and are therefore not endangered areas.

Following the landing of a number of Iraqi missiles in the West Bank, it is clear that this estimation was erroneous.

On January 14, 1991, the Supreme Court ruled (168/91) that:

The military commander must indeed exercise equality in the area. He may not discriminate between residents. When the military commander has reached the conclusion that protective kits must be distributed to Jewish residents in the area, protective kits must also be distributed to the area's Arab residents.

In view of this, the Supreme Court issued the following order:

First, the 173,000 gas masks presently in stock in emergency warehouses must be immediately distributed to adults living in the areas surrounding Jerusalem, as well as in those areas near the Green Line. Second, all efforts possible should be made to secure masks for the children of these adults, and these masks must be distributed immediately upon their being obtained. Third, all residents of the area should receive masks immediately upon their being purchased by the military commander. The military commander must make every possible effort to secure these masks as soon as possible

Although a later petition to expedite the distribution was rejected by the High Court of Justice, the rate at which the Court's ruling quoted above is being implemented is far from satisfactory. The IDF Spokesperson's office told **B'Tselem** on January 29,

1991 that to date, 35,000 masks had been distributed in the territories. On February 2, 1991 the same source reported that to that date, 50,000 masks had been distributed. In other words, during the first 25 days following the Supreme Court's ruling, only one-third of the masks held by the defense establishment for distribution to Palestinians were actually given out. As quoted above, the defense establishment was ordered to distribute the masks "immediately." At the current rate, it will take approximately two years to complete the distribution of gas masks to Palestinians in the territories.

As far as we know, the defense establishment has to date (February 12, 1991) failed to distribute any protective kits for children and infants.⁴ Adults have received only the gas masks, and have not received the atropine injections and detoxifying powder distributed to all Israeli citizens.⁵

B. Distribution of Gas Masks in Detention Facilities

Article 85 of the Fourth Geneva Convention establishes, among other things, that:

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 rigors of climate and the effects of war.

In Article 88 of the same convention, it is stated among other things, that:

In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed...

All due preparations must be taken in places of internment against the danger of fire.

According to the figures given to **B'Tselem** by the Army Spokesperson, on December 2, 1990, there were 9,972 Palestinians in IDF detention facilities in Israel and the occupied territories. Only 500 of them were held in buildings; the remainder

⁴ For this reason, residents of the Tulkarm Refugee Camp refused to accept gas masks.

⁵ When the slow rate of distribution of gas masks in the territories, and the failure to distribute them to children, were revealed, **B'Tselem** wrote a letter to the Defence Minister, demanding that he act immediately to quicken the pace of, and complete the distribution.

were held in tents. In other words the overwhelming majority did not have the means to protect themselves by sealing a room.

In response to our questions on the matter, the IDF Spokesperson's office related on January 15, 1991, that "the principle means of defense provided for security violations detainees are the same as those provided to the IDF soldiers who guard them."

Despite this, it is clear from the phrasing of the Attorney General's announcement (in response to HCJ petitions 237/91, 238/91, 239/91) that even in detention and prison facilities such as Ofer and Megido which are supplied with protective kits, the kits are not distributed to all the prisoners. Rather, they are stored together, at least for some of the prisoners. According to the announcement, in each one of these facilities "there are... protective kits for all those detained therein."

In the Ramallah facility, for example, masks were distributed to the detainees in cells, but not to those residing in tents.

There is no doubt that IDF soldiers in detention carry their masks on their person; therefore, the IDF Spokesperson was not accurate .

Additionally, the Attorney General has announced that there is no intention of distributing protective kits in detention facilities in the southern West Bank, in Ketziot, and in the Gaza Strip, since they are located "outside the range of the Iraqi threat." This claim sounds strange, considering that all civilians who live near Ketziot, for example, and even those many miles south of Ketziot, received protective kits. Again it should be emphasized that the detainees are circumscribed in their movements and are housed in tents. This condition heightens the danger to which they are exposed relative to the rest of the population.

Distribution of Gas Protective Kits by UNRWA

The UNRWA office in the West Bank received, or is soon due to receive 52,000 gas protective kits from the governments of Canada, Switzerland, France, Finland and Norway. This is in addition to the kits received from Switzerland and distributed among UNRWA workers and key health staff workers. The kits arriving now are being distributed to family members of UNRWA workers, to health and public service staff who still have not received kits (from UNRWA or from the Israeli authorities) and to people who live near the green line. UNRWA emphasizes that it will distribute all the kits it receives, but that it considers Israel responsible for the security of the Palestinians in the territories.

Conclusions

During the time of this report's writing, Israeli is in a state of war, a situation necessitating, as we have stated, taking necessary security measures.

However, a month has passed since the beginning of the war, and within Israel, life has returned to normal. In contrast, steps implemented in the territories at the beginning of the war are still in effect:

- * All residents are under curfew, although it has been lifted in various places for various time periods. The Coordinator of Activities in the Territories stated that the curfew was gradually being lifted, but it seems that the defense establishment intends to drag the gradual lifting over a few weeks, if not months.
- * The closure in the territories continues, and prevents travel from one area to another within the territories, as well as the entrance of most Palestinians from the territories into Israel.
- * Most residents of the territories have been disconnected from their places of work, most factories are closed, essential agricultural work has been neglected, and marketing of agricultural produce has been severely interrupted.
- * The education system - from kindergarten and grade schools to university - has been closed and is not functioning.

In addition, more than a month following the HCJ decision, less than one-third of the masks in the IDF's possession for distribution among Palestinian residents of the territories, have been distributed. In total, masks have been distributed to only approximately 3% of the Palestinians in the territories. Graver still is the fact that the overwhelming majority of the thousands of Palestinian detainees has not received protective kits, and since they live in tents, they are denied even the protection of sealed rooms.

The defense establishment must operate immediately to lift the curfew, to remove limitations on travel within the territories, to enable laborers who work within Israel to return to their jobs (or alternatively to provide them with another source of income), to immediately provide the protection necessary for a gas attack to all residents of the territories, and to enable the entire school system to reopen. We refer, of course, to quick action, and not to steps drawn out over a long period of time which would prolong the hardships of the residents.

Intifada Fatalities

Since the beginning of the Intifada through the end of January, 1991, **742** Palestinian residents of the occupied territories have been killed by Israeli security forces . Of these:

- * **Shooting deaths** (including plastic and "rubber" bullets): **707**
- * **Non-shooting deaths** (beatings, burns and other): **35**
- * **Children: 168**, of them:

Aged 12 and younger:	46
Aged 13 to 16:	122

At least **85** additional people, including approximately **30** infants, died a short time after exposure to tear gas. **From a medical standpoint it is difficult to pinpoint exposure to tear gas as a sole and direct cause of death.**

35 additional Palestinians have been killed, apparently by Israeli civilians, and **10** were killed by "collaborators."

During this period, **13** security force members and **11** Israeli civilians, including **3** infants, were killed in the occupied territories by Palestinian residents.

According to the Associated Press, **336** Palestinians suspected of collaboration with the Israeli authorities have been killed in the occupied territories since the beginning of the Intifada.

According to the IDF Spokesperson, during the same period, **26** Israeli civilians, **3** female tourists, and **6** security service personnel were killed **within the green line** by Palestinian residents of the territories. At least **16** Palestinians from the territories have been killed within the green line by Israeli civilians, and **one** was killed by a policeman's gunfire.

January's Fatalities

In the month of **January**, 1991, according to **B'Tselem's** data*, **15** Palestinians were killed by security forces' gunfire, **8** of them in the West Bank, and **7** in the Gaza Strip. Among the fatalities from security forces' gunfire were **5** children, **1** aged 12 (in the West Bank), and **4** between the ages of 13 and 16 (**3** in the West Bank and **1** in the Gaza Strip).

According to the **Associated Press**, **12** Palestinians suspected of collaborating with the authorities were killed in the month of January, 1991.

One Israeli female was killed **within the Green Line** by being run over by a Palestinian resident of the territories apparently motivated by nationalism. **One Palestinian**, the driver, was shot dead by an Israeli civilian.

The number of fatalities from security forces' gunfire rose again in January. The especially high number of children - one third of the fatalities, should be noted. 13 of those killed were killed prior to the outbreak of war in the Persian Gulf, and 2 after the war began.

*Due to the difficulty in gathering information posed by the continuing curfew in the territories, these figures, particularly the ages of those killed, should not be viewed as final.