

LOCATING DETAINEES

The military law in effect in the territories states in Article 78A (b) of the Order Concerning Security Regulations: "Upon an individual's arrest, a notice will be sent without delay as to the fact of his/her arrest and his/her location to a relative, unless the detainee requested otherwise."² The order also states that: "In accordance with the detainee's request, the notice mentioned in section (b) will also be sent to a lawyer named by the detainee."³ In many cases, families of detainees are unaware that their relatives have been arrested, or do not know where they have been taken. Not only does this lack of knowledge create anxiety regarding the whereabouts of their family members, but it represents a violation of the legal requirement to provide such information to the family, and it impedes the family's ability to hire a lawyer to represent their detained relatives. Furthermore, even in cases where the family has indeed been notified of a relative's arrest and place of detention, this phenomenon continues to be a serious one, as many detainees are transferred from one detention facility to another without the notification of the family. The Hotline therefore deals extensively with relocating detainees whose first place of detention had previously been ascertained. Between its founding in July 1988, and the end of June 1991, the Hotline received 783 requests to locate detainees, constituting 34.1% of all requests received.

At the beginning of August 1989, relatives of three detainees petitioned the Israeli High Court of Justice (HCJ). The petition, submitted by Attorney Dan

Simon of the Association for Civil Rights in Israel (ACRI), addressed the IDF's failure to notify families of residents' detention by the IDF and of their location. According to the petitioners' testimonies, they had not received notification of their relatives' arrests by telephone, card, telegram or any other means, and as for information regarding which detention center their relatives had been transferred to, their only source was rumor.⁴

Two days before the High Court hearing of the petition, the commander of IDF forces in Judea and Samaria announced new procedures concerning the notification of families regarding arrests and place of detention. The main points of these new procedures, as presented by the State Attorney's office, are:

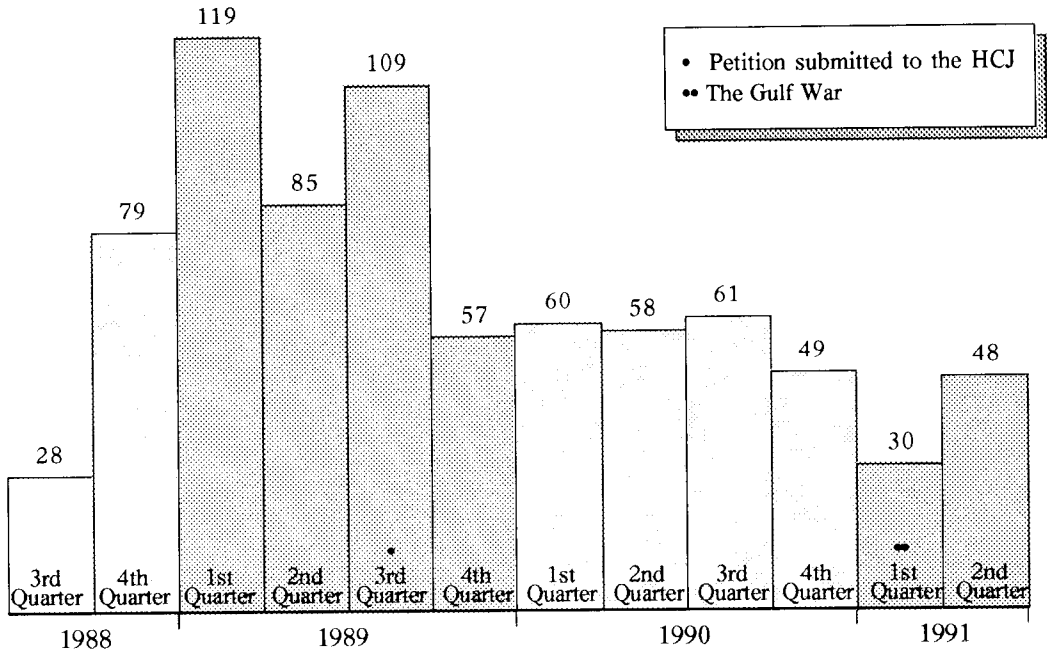
- a. The establishment of a communication system between the various detention facilities and a central controlling body for coordinating information regarding detentions and the movements of detainees between various detention facilities. This central body is required to submit daily reports on the condition of detainees to, among others, the military governors of the various districts.
- b. The establishment of a regulation requiring that all detainees arriving at a detention facility be given a postcard, in order to write to their families and notify them of their whereabouts.
- c. In addition to the above, a list of the detainees being held in the district's holding facilities at the time is to be published daily in the regional offices of the Civil Administration.

2 Order Concerning Security Regulations (Judea and Samaria) (No. 378) - 1970, Article 78

3 Ibid., Article 78A (c)

4 HCJ 670/89

Number of Requests Referred to the Hotline for Locating Detainees [July 1988 - July 1991]



According to the new procedures, detailed lists of all detainees are to be posted daily in the offices of the Civil Administration, including the names of those held outside the district. This list, which would be protected from being torn down, is to be updated, and would state changes of location and indicate to which prison the detainee has been transferred.

On November 21, 1989, justices of the Supreme Court ruled that the new procedures were satisfactory, and therefore rejected the petition. In the verdict, High

Court Vice President Judge M. Alon wrote that:

This commitment to notify stems from the basic right given to an

individual legally arrested by the legitimate authorities, who must inform his family of the fact of his arrest and the place of his detention, so that they know what has happened to their detained family member, and how they may extend to him the necessary aid so that he may defend his liberty. This right is a natural right, deriving from the dignity of man and general principles of justice, and is extended to both the detainee and to his family.⁵

Yet even after the publication of the new procedures, the problem has not been completely resolved, and requests to locate detainees continue to reach the

⁵ Verdict, HCJ 670/89

Hotline, albeit in fewer numbers, as illustrated by the graph above.

An examination of lists of detainees, conducted by Hotline representatives at the Bethlehem Civil Administration offices on April 26, 1991, revealed that four lists of names were posted, for January 11, February 2, February 7, and March 8, 1991. In other words, the most current list was more than one and a half months old.

In an additional examination carried out by representatives of the Hotline in Ramallah on May 2, 1991, the public notice-board was found to be far more organized and up-to-date.

The most current list was dated May 1, 1991, and there was another notice posted on the same board dated April 26, 1991, listing detainees transferred to Dahariya. Hotline staff-members report that in all their contacts with the IDF control center staff they have been impressed by the latter's willingness to help.

A significant drop has been registered in the average time required by the control center to determine the whereabouts of detainees. This improvement did not, in fact, take place immediately following the High Court ruling, but a year later, in the last quarter of 1990. This seems to be the result of improved computerization and updating of data.