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ISRAEL AND THE OCCUPIED TERRITORIES

State Assassinations and Other Unlawful Killings

INTRODUCTION

“We will continue our policy of liquidating those who plan or carry out attacks, and no one can give us lessons in morality because we have unfortunately 100 years of fighting terrorism”. Deputy Defence Minister, Ephraim Sneh, after nine people were killed when a Palestinian driver drove a bus into a queue of people on 14 February 2001.

Since 9 November 2000 the Israeli Defence Force (IDF) has actively pursued a policy of deliberately targeting those alleged to have carried out, or to have planned to carry out, violent attacks against Israelis¹.

Since the beginning of the current intifada (uprising) in Israel and the Occupied Territories on 29 September, more than 350 Palestinians, including nearly 100 children, have been killed by Israeli security forces. The majority of the Palestinians were killed during riots or demonstrations where stones or Molotov cocktails were thrown. Many have been killed outside demonstrations, in streets, checkpoints, or even in houses. The great majority of these killings were unlawful: a result of the excessive use of lethal force when no lives were in danger. Some Palestinians have died in fire-fights with the IDF.

During the same period over 60 Israelis have been killed by Palestinian members of armed groups, members of Palestinian security forces or individuals; more than 30 of them have been civilians. Israeli civilians have been killed in drive-by shootings, bombs placed to target buses or public places, individual murders or in other ways. Some of these killings have been carried out by groups close to the Palestinian

¹ To date, at least 10, and perhaps as many as 30, extrajudicial executions are believed to have been carried out by Israel against Palestinians during the current intifada.

Authority, such as the *tanzim*, others have been claimed by armed groups such as *Hamas* or *Islamic Jihad*, opposed to the Palestinian Authority. Some killings are claimed by new groups, such as the “Brigades of the Martyrs of al-Aqsa”, whose political direction and organization remain vague. Some of the victims may have been killed, in a growing cycle of violence and revenge, by individuals unconnected with armed groups.

Human rights abuses by opposition groups or individuals can never justify abandonment of human rights principles by a government.

An extrajudicial execution is an unlawful and deliberate killing carried out by order of a government or with its acquiescence. Extrajudicial killings are killings which can reasonably be assumed to be the result of a policy at any level of government to eliminate specific individuals as an alternative to arresting them and bringing them to justice. These killings take place outside any judicial framework.

Most governments who have carried out extrajudicial executions deny it; the Israeli Government, however, states that the liquidation of those alleged to be a threat to Israelis is government policy and is legal. The IDF describes the situation as one of armed conflict thus allowing it to attack those who are alleged to have targeted Israelis and to kill without investigating each death.

The acceptance and even instigation of unlawful killings by the Israeli Government and its failure to investigate each death caused by its security services is leading to a culture of impunity in the IDF. Since the beginning of the *intifada* scores of other Palestinians have been killed unlawfully: the result of excessive, disproportionate or negligent use of force.

In the latest of a series of visits to Israel and the Occupied Territories, including areas under the jurisdiction of the Palestinian Authority, Amnesty International delegates, including an independent military adviser, investigated several cases of these targeted killings. They found that not only could some of those killed have been arrested, but in a reckless use of disproportionate force, uninvolved Palestinians were killed alongside some of those targeted.

In addition, Amnesty International delegates visited residential areas targeted by Israeli fire and Israeli settlements targeted by Palestinian fire. During their visit they collected disturbing evidence of the use by Israel of high explosive weaponry using air burst rounds against Palestinian residential areas. Such attacks have resulted in numerous civilian deaths, including children.

Details of unlawful killings of Palestinians as a result of targeted, random or negligent shooting by Israeli soldiers in other circumstances, particularly at checkpoints, were also gathered during this visit and are examined in this report.

It is a basic rule of customary international law that civilians and civilian objects must never be made the target of an attack. This rule applies in all circumstances including in the midst of full-scale armed conflict. Due to its customary nature it is binding on all parties. Israel is prohibited from attacking civilians and civilian objects. Palestinians are also prohibited from targeting Israeli civilians, including settlers who are not bearing arms, and civilian objects.

In this report Amnesty International is calling on the Israeli Government to repeal its policy of targeting for liquidation and not to use lethal force except against those posing an imminent danger to life. In order to ensure respect for human life, each individual killing should be fully investigated. Amnesty International also calls on Palestinian armed groups to halt deliberate and arbitrary targeting of civilians which is an abuse of the fundamental principles of international humanitarian law.

BACKGROUND

The Oslo Declaration of Principles of September 1993 between Israel and the Palestine Liberation Organization set the framework of a peace process aimed at reaching a final settlement within five years. The Palestinian Authority (PA) was established in May 1994 in Jericho and the Gaza Strip, areas which had been occupied by Israel in 1967 and had been under Israeli military government since that date. Between 1993 and 1999 a series of further interim agreements were signed, the most recent accord of which is that of Sharm al-Shaykh in 1999. However,

this agreement was only partially implemented and, thus far, no agreement has been reached on the issues of refugees (from 1948), borders, settlements or Jerusalem.

The Oslo peace process has led to a complex distribution of powers. In Gaza, one of the most densely populated areas in the world, nearly one million Palestinians live on 60% of the land over which the Palestinian Authority has full security and civil control (including its own security forces) while 6,100 Israelis live in 18 settlements covering about 40% of the land. However, Israel also controls four east-west access roads to the settlements which traverse the main north-south road. If it wishes, Israel can, therefore, close this main road in three places effectively dividing the Gaza Strip into four separate entities.

The map of the West Bank shows islands of Palestinian control in a sea of Israeli control. By the end of 1999 the Palestinian Authority had full security and civil control in Area A which includes nearly 98% of the Palestinian inhabitants and 10% of the land. Under international humanitarian law, the whole area remains under Israeli occupation; however, Israel claims that it does not have the authority to arrest from Area A. In Area B which covers approximately 26% of the West Bank, Israel has security control (and thus can patrol the area and arrest anyone who lives there or enters the area) and the Palestinian Authority has civil control. Israel has full civil and security control over the remaining 64% of the West Bank, known as Area C, in which Israeli settlements have been established. There are currently 300,000 people living in these settlements; 98.4% are Jews. The total Palestinian population in the West Bank is approximately 2 million.

The limitations on the freedom of movement of Palestinians living in the Occupied Territories have become more and more entrenched. It is not possible for any Palestinian from the West Bank to travel legally to Jerusalem (East Jerusalem was annexed by Israel after the 1967 war) or anywhere in Israel without a special permit. In addition to the checkpoints between the West Bank and Jerusalem, in the years since the Oslo Accords Israeli checkpoints have frequently been established - particularly at times of security alert - on access routes to Palestinian towns and villages; making it difficult to travel even from one

The West Bank Showing Areas A, B and C (August 1999)

town in the West Bank to another. Gaza is surrounded by a high security fence making it impossible, without a permit, for anyone from Gaza to travel to the West Bank or to Jerusalem.

THE AL-AQSA INTIFADA

The current *intifada* began on 29 September 2000 when Israeli security services entered the area around the al-Aqsa Mosque in Jerusalem and fired rubber-coated metal bullets and live ammunition in response to stones thrown at worshipers at the Western Wall below. On that day, five people were killed and about 200 people injured. Demonstrations throughout the Occupied Territories and Israel followed in reaction to these killings and spread further in response to the broadcast of film images of the killing of a 12-year-old boy, Muhammad al-Dura, at the Netzarim Junction in the Gaza Strip. Demonstrations were suppressed with force and within five days 35 Palestinians had been killed, including 13 Palestinian citizens of Israel, and more than 1,000 injured.

The present uprising presents a complex picture. Many demonstrations are spontaneous: protests against occupation, the failure of the peace process to resolve problems and also reactions to the killings of other demonstrators. However, some demonstrations and stone-throwing riots have been organized, including by the *tanzim* (its meaning is “organization”), the armed wing of *Fatah*, the leading faction of the PLO². In addition, on many occasions armed Palestinians including members of the

² *Fatah* is headed by President Yasser Arafat, who also heads the PLO and was elected President of the Palestinian Authority in January 1996. The degree of

security services shot at members of the Israeli security forces; some gun battles have taken place between members of the Palestinian security forces or armed Palestinians and Israeli forces which have claimed the lives of security forces or civilians on both sides.

Additionally, Palestinian opposition groups, such as Hamas or Islamic Jihad, have claimed responsibility for bombs targeted at buses or busy streets in Israeli towns which have killed and wounded Israeli civilians.

The position of the Palestinian security forces, in particular the Palestinian police, is also complex. The 1993 Oslo Declaration of Principles specifically expressed the need for "a strong police force" to preserve security and act against "terrorism". In the name of security the Palestinian security forces have, over the past six years, arrested hundreds of suspected members of opposition groups and held them without charge or trial for up to six years. By 1996 at least 11 separate security services had been created in the Palestinian Authority of which there are now up to 43,000 armed members. Most members of the Palestinian security forces are supporters of Fatah. The typical weapon of the Palestinian security forces is the Kalashnikov (AK47 or AK74). However, not only the security forces are armed; many individual Palestinians own or have access to weapons, particularly members or supporters of Fatah. Though Palestinian security forces have sometimes been involved in gun battles, in general during demonstrations members

control which President Arafat has over those members who shoot at Israeli soldiers or target cars of Israeli civilians on bypass roads, is unclear. On occasion, President Arafat has called for cessation of violence but there has been no marked decrease in shooting or bomb attacks. On other occasions, a respite in the violence has occurred during peace talks, such as those at Taba.

of the Palestinian security forces appear to have remained uninvolved, allowing demonstrators to proceed to confront Israeli troops. At times they appear to have tried to restrain demonstrators, or, at least, to prevent armed individuals from moving among crowds of unarmed demonstrators.

AMNESTY INTERNATIONAL'S METHODOLOGY

From 8 to 18 January 2001 a fourth Amnesty International delegation visited Israel and the Occupied Territories, including the areas under the jurisdiction of the Palestinian Authority to investigate possible extrajudicial executions by Israel. The delegation which included David Holley, an independent military expert, visited the sites and interviewed family members and witnesses to the killings of seven of those believed to have been extrajudicially executed. They also investigated other deaths including the killing of three people in the context of Israel's shooting at residential areas. Delegates visited both Palestinian areas targeted by Israeli shooting and two Jewish settlements targeted by Palestinian shooting. They examined damage to houses, collected forensic evidence and talked to eyewitnesses, residents, victims and their families. They visited and were able to discuss IDF weaponry and policies with the Legal Adviser to the IDF, Colonel Daniel Reisner. They also discussed concerns relating to shooting from and at Jewish residential areas by *tanzim* with a *Fatah* member of the Palestinian Legislative Council; his comments reflect those made by the *Fatah* leadership.

EXTRAJUDICIAL EXECUTIONS

Israel has for years pursued a policy of carrying out assassinations of political opponents. Because extrajudicial executions are universally condemned most governments surround such political assassinations in secrecy and deny carrying out the killings they may have ordered. However, although the Israeli Government does not use the term "extrajudicial execution", it does not deny that such deliberate killings are carried out under its orders.

- After the killing of Hussein 'Abayat on 9 November 2000, the first of the extrajudicial executions carried out during the current *intifada*, Major General Yitzhak Eitan, Chief of the Army's Central Command, stated that: "You have to understand that such actions are taken by high levels of the IDF and by high levels of the Israeli government, and I would say that it was the same this time and I would prefer not to add anything about it.. The action was based on intelligence information. It was performed with accuracy by the Israeli air force." [Reuters 9/11/2000]
- After the killing of Dr Thabet Thabet, the most recent of the extrajudicial executions which Amnesty International investigated, Ephraim Sneh, the Deputy Minister of Defence stated "We will hit all those who are involved in terrorist operations, attacks or preparations for attacks, and the fact of having a position within the Palestinian

Authority confers no immunity on anyone." [AFP 3/1/2001]

On 21 December 2000, Voice of Israel radio laid down the parameters of the policy of extrajudicial executions according to a briefing by an unnamed IDF officer. The officer stated that there was indeed a new policy of what he called "pre-emptive operations". He said that the main method of killing leaders of *Hamas*, *Islamic Jihad*, and *Fatah*, was by sniper fire, but that other means were also used. He stated that the IDF would not kill political leaders - he gave as examples Marwan Barghuthi (leader of the *tanzim*) or Muhammad Dahlan (Head of the Palestinian Preventive Security) - and would only kill "terrorists". "The IDF goes to great lengths not to harm innocent bystanders".

The present operations of extrajudicial executions are ordered - according to the Legal Adviser to the IDF, Colonel Reisner - at the highest level of the army and the Government, and are carried out openly by whatever means seems most appropriate to the circumstances. The IDF claims that those who are killed are legitimate targets in a state of armed conflict³. No attempt is made to conceal the fact that Israel is carrying out targeted assassinations or that this is government policy.

The Israeli security forces who carry out the extrajudicial executions offer no proof of guilt, no right of defence. The identity of the person who authorizes the killing is as secret as the information which

³This argument is examined below, see pages 23-25.

allegedly “justifies” such an extreme and unlawful action. In some of the cases Amnesty International investigated, the targets were killed in circumstances where they might easily have been arrested. Jamal ‘Abd al-Razeq and Hani Abu Bakra, both killed in the Gaza Strip, could have been arrested by the soldiers who controlled the road and who reportedly stood just two metres away from Hani Abu Bakra. Instead the soldiers opened fire on the suspects and the uninvolved individuals around them. Dr Thabet Thabet, killed on 31 December 2000 as he was backing out his car from his drive-way, often passed through Area C and Israeli security services could have arrested him there.

In addition, in an attitude of complete disregard for civilians lives, not only the seven targeted by the IDF died in the killings investigated by Amnesty International. Six other individuals, only one of whom may have been politically linked to one of the targeted individuals, were killed and four others were wounded.

The seven killings studied by Amnesty International took place in five separate towns or areas under the jurisdiction of the Palestinian Authority. Targets included activists from *Fatah*, *Hamas* and *Islamic Jihad*. A statement made to the Knesset (Israeli Parliament) Foreign Affairs and Defence Committee by a high ranking official in the security forces indicates that the spread of areas and political groups was probably intentional:

“The liquidation of wanted persons is proving itself useful . . . This activity paralyzes and frightens entire villages and as a result there are areas where people are afraid to carry out hostile activities.”⁴

The extrajudicial executions have played their own part in an increasing cycle of violence and revenge in the Occupied Territories. On 13 January 2001 the Palestinian Authority executed by firing squad ‘Alan Bani ‘Odeh and Majdi Makawi on charges of giving information to Israeli intelligence services which was used to carry out the extrajudicial execution of Ibrahim Bani ‘Odeh and Jamal ‘Abd al-Razeq. Amnesty International condemned the executions of ‘Alan Bani ‘Odeh and Majdi Makawi. Two other Palestinians, Muhammad Dayf Allah al-Khatib, and Husam al-Din Musa Hamid were sentenced to death for their alleged role in the extrajudicial execution of Hussein ‘Abayat. The trials, before the Higher State Security Court, were summary and unfair; those accused were tried before military judges without the right to appeal.

By the end of January at least four suspected Palestinian “collaborators” with Israel had been killed by individuals or armed groups. In revenge for the killing of his uncle, the nephew of Dr. Thabet Thabet admitted that, with other *Fatah* members, he had killed two Israelis on 23 January 2001 who had travelled to Tulkarem to buy crockery for their restaurant. Immediately after the killings Ephraim Sneh, Deputy Minister of Defence, made it clear that the policy of extrajudicial executions would continue:

⁴ Ha’aretz newspaper 8 January 2001, quoted in *Israel’s Assassination Policy: Extrajudicial Executions*, B’Tselem 2001.

“There is no miracle cure in this war, but in the end, swift action against terrorists responsible for repeated attacks represents the most effective way of dealing with them.”⁵

EXTRAJUDICIAL EXECUTIONS - CASE STUDIES

Hussein ‘Abayat, Fatah, killed 9 November 2000 in Beit Sahur

Hussein ‘Abayat, aged 37, had been active in the first *intifada* between 1987 and 1993, but, according to his family, after that had apparently remained out of active politics, living in Ta’amra in the West Bank. However, on the outbreak of the second *intifada* he became an active organizer and was accused by Israel of planning lethal attacks on Israeli soldiers in the nearby village of al-Khader, and of organizing *tanzim* to shoot at the Israeli settlement of Gilo from gun emplacements set up in the top floors of two houses on the side of Beit Jala nearest to the settlement. At around 11am he was in his car in the street near his house in Beit Sahur in Area A when a helicopter fired three missiles at him, killing not only Hussein ‘Abayat but two women, Rahmeh Shahin and ‘Azizeh Muhammad Danun, both in their fifties, who were standing outside a house waiting for a taxi. Nine others were wounded.

The IDF statement issued after the killing of Hussein ‘Abayat said:

“During an IDF-initiated action in the area of the village of Beit-Sahur, missiles were launched by IDF helicopters at the vehicle of a senior Fatah/Tanzeem activist. The pilots reported an accurate hit. The activist was killed, and his aide, who accompanied him, was wounded.”

Hussein ‘Abayat is the only one of those killed whose alleged actions were spelt out by the IDF. The statement went on to say that he had participated in shooting attacks in Beit Sahur, Gilo and al-Khader during which three IDF soldiers were killed and a Border Policeman wounded. The IDF announcement further stated:

“The action this morning is a long-term activity undertaken by the Israeli Security Forces, targeted at the groups responsible for the escalation of violence.”

The statement fails to mention the killing of the two women bystanders.

⁵ AFP, 24 January 2001, *Israel vows to continue targeting Palestinian militants.*

Jamal ‘Abd al-Qader ‘Abd al-Razeq, Fatah, killed 22 November 2000 near Rafah.

On 22 November 2000 a *Fatah* leader, Jamal ‘Abd al-Razeq, aged 33, from Rafah was gunned down near the Morag junction while driving his car between Rafah and Khan Yunis in the Gaza Strip - one of the points invariably guarded by the IDF. His passenger, ‘Awni Idhhair, aged 38, and two passengers in a taxi ahead of Jamal ‘Abd al-Razeq’s car, Sami Abu Laban, aged 28, and Na’el al-Lidawi, aged 20, were killed at the same time. A study of the photographs led Amnesty International to conclude that massive and prolonged firepower had been used against them; Jamal ‘Abd al-Razeq’s corpse, in particular, was almost unrecognizable and his arm had been amputated by the gunfire. The driver of the taxi, Nahed Fuju’, aged 29, who drove regularly between Rafah and Tell al-Sultan was the only one who survived the attack. He told Amnesty International:

“I got up early in the morning and made various runs, taking children to school. I worked till 9.45am and found two young men, I later knew they were Sami Abu Laban and Na’el al-Lidawi. They asked me to take them quickly to buy fuel for the bakery where they worked. I went towards Khan Yunis, past the Palestinian checkpoint, I was going at 60 km an hour, when near the junction to the Morag settlement a lorry pulled out in front and I had to jam on the brakes. Suddenly there was intensive shooting - I could not see from where and against whom as I flung myself down as low as possible and lay as though unconscious. After some time an Israeli soldier carrying a body bag opened the door. He thought I was dead - it was as though he was about to put me in a body bag. Then he shouted “One’s still alive!” He laid me down, handcuffed and with a blindfold and took me to Gush Katif. I did not know if the other passengers were dead or alive. I heard soldiers, I was blindfold, I felt bad, I tried to vomit. After three hours I was taken, still handcuffed, blindfolded and with my legs tied to Ashkelon Prison. They took off my clothes and doctors examined me; I had a high temperature. They gave me prison clothes and I was interrogated by four intelligence officers. I told them the exact story, they asked some questions about six times: ‘Was there a Kalashnikov in the car?’ I said, ‘No, the people only had empty kerosene cans and their clothes were covered in flour’. They said they would release me if I said there were weapons in the car but I insisted there weren’t. They spat in my face, insulted and humiliated me, trying to get me to change my story.”

Nahed Fuju' was eventually released on the border with the Gaza Strip in Erez after seven days.

The IDF statement of 22 November stated that:

"During an initiated activity by the IDF in the region of Morag, the IDF killed a senior activist in Fatah-Tanzim, Gamal A-Kader Hasan A-Razak during an attempt to stop him, as he was traveling in his vehicle on the road between Rafah and Khan Yunis and he attempted to break through an IDF roadblock. In this incident three other terrorists were killed.

The IDF Spokesperson emphasizes that IDF forces will continue to act in a determined and directed manner against terrorist targets, and will strike at anyone endangering the lives of Israeli civilians."

The statement that on this occasion "four fighters" were killed has been repeated without investigation since then by the Israeli press and analysts.

It is clear that Jamal 'Abd al-Razeq could have been arrested. Without witnesses who saw what happened it is unclear if any attempt was made to arrest Jamal 'Abd al-Razeq; sources close to the IDF described the attack at the time as an "ambush".

Ibrahim Bani 'Odeh, Hamas, killed 23 November 2000 in Nablus

Ibrahim Bani 'Odeh, a *Hamas* activist living in Nablus, had been held by the Palestinian Authority in detention in Jneid Prison in Nablus without charge or trial for three years. He had reportedly previously been released for short periods on furlough. On 22 November 2000, just the day before he was killed, he was released from prison, arriving back home in Nablus (in Area A) around 4pm. According to the confession made by 'Alan Bani 'Odeh, the cousin of Ibrahim, at his trial, Israeli intelligence officers had taken 'Alan Bani 'Odeh's car a few days before and told him that he should ensure that his cousin borrowed it. After a number of visits and telephone calls trying to fix this 'Alan Bani 'Odeh succeeded and Ibrahim Bani 'Odeh took the car around 12.30pm on 23 November. According to his confession, 'Alan Bani 'Odeh then telephoned Israeli intelligence who set off a bomb in the headrest of the car as Ibrahim Bani 'Odeh was driving it in the centre of Nablus.

Immediately after the death of Ibrahim Bani 'Odeh, the IDF denied responsibility for his killing, suggesting that he was making a bomb which exploded in his car. However, the bomb had exploded while Ibrahim was driving round a busy roundabout and the IDF did not refute the confession made by 'Alan Bani 'Odeh during his trial before the Higher State Security Court in Nablus on 7 December.

Anwar al-Hamran, Islamic Jihad, killed 11 December 2000 in Nablus

Anwar Mahmud al-Hamran, aged 28, from Arrabeh, near Jenin, had been an activist for Islamic *Jihad*. He had been detained by the Palestinian Authority in Jneid Prison since October 1998 and released from detention six weeks before his killing. He was a student of Islamic studies and

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kept a bookshop and stationary store in the part of Nablus which lies directly below the Israeli military camp at Mount Jerzim. The area is in Area A, not many metres from Area C. Around 1.30pm on 11 December 2000 Anwar al-Hamran left his bookshop, as usual, to wait at the corner in order to pick up a taxi; at that point he was hit by gunfire and fell to the ground. Firing continued, reportedly for several minutes; Anwar al-Hamran was killed by 19 bullets fired from above.

Initially, the IDF denied that this was a targeted killing. An IDF spokesperson was quoted by Reuters as saying that: “*Fire was opened towards the army post. The armed Palestinian who opened fire was identified and the army responded*”. However, eyewitnesses stated that Anwar al-Hamran was simply standing by the side of the road with notebooks in his hand and no fire came from the area at the time. According to an Islamic *Jihad* statement issued after his death, Israel believed that he had been involved in setting up two bomb attacks against Israeli civilians.

‘Abbas ‘Awaywi, Hamas, killed 13 December 2000 in Hebron.

‘Abbas ‘Awaywi, 26, was an active member of *Hamas* from Hebron who had been arrested before, by Israel in 1991 and 1992 (when he had spent four years in prison). After he was released he started to study at the university. After 1997 he was arrested on a number of occasions and held without trial by the Palestinian Authority; his most recent arrest was in September 2000, seven days before the *intifada*. However, he was released on the first day of the *intifada*. He went every day with his brothers to work in his family’s cobbler’s workshop. Around 11.45 on the morning of 13 December 2000 he left his shop to go to his car parked on the other side of al-‘Adel Street, a busy commercial street in the centre of Hebron. Suddenly he fell, struck by three bullets, two of which passed through the body, while one lodged in his chest. Amnesty International’s site visit to the scene of the killing and interviews with eyewitnesses led delegates to conclude that shooting had come from a military post based in Tell Rumayda, about 400 metres away, a Jewish settlement in the middle of Hebron.

Hani Abu Bakra, Hamas, killed 14 December 2000 near Khan Yunis

Hani Abu Bakra was a 32-year-old taxi driver from Khan Yunis in the Gaza Strip. A supporter of *Hamas*, he had spent time in detention, both in Israel and the Palestinian Authority. On 14 December 2000, driving a van, he picked up at different points in town seven passengers, without any prior knowledge of him or of each other, a normal mixture of passengers who were mostly traveling to Gaza for their work; they included an electrical engineer, working for the United Nations Relief and Works Agency (UNRWA), who had decided for safety reasons to use a shared taxi rather than his own car; a young Palestinian policeman; and a 20-year-old woman student studying Educational Art in Gaza. The road after Khan Yunis was patrolled by tanks and, leaving Khan Yunis at around 7.50am, Hani Abu Bakra's minibus had, like all Palestinian cars,

to wait five minutes while Israeli settler cars crossed the Strip along the east-west settler road. Then he was allowed to go through between two tanks. A little later the taxi reached the second Israeli tank guarding the road, and was halted, behind a Mercedes with a row of other cars behind them. The soldier inside the tank was using his mobile phone; after about three to five minutes he waved on the Mercedes and signaled the taxi to stop. Passengers in the taxi interviewed by Amnesty International delegates stated that they did not feel disturbed by this sign to halt; frequent stops and controls were part of the routine harassment of travel for Palestinians in the Gaza Strip.

Five soldiers jumped out of a jeep just round the corner and approached the minibus, standing less than two metres away, their guns at the ready. The soldier on the tank told Hani Abu Bakra to switch off his engine and get out. Hani Abu Bakra asked whether he should bring his ID, the soldier said: "Come out; we don't want your ID". The UNRWA engineer, Muhammad al-Khatib, who spoke Hebrew, understood the exchange; young people in the taxi, like the student and the policeman did not and thought that the driver was being asked for his ID. Muhammad al-Khatib, sitting close to the driver in the middle place of the second seat, said he saw no weapon in the taxi. According to Muhammad al-Khatib's testimony:

"The taxi driver delayed for about a minute and a half, then started to open the door. At that moment the soldiers who were two metres away started to shoot. One of them aimed his gun at my face and shot me. . . The bullet smashed my jaw and teeth . . . I threw myself onto the floor of the van and pretended to be dead . . . After five minutes I found the door beside me open. I got out, the shooting was still going on. It was raining, there was a puddle, I lay in it bleeding".

According to the student, the soldiers aimed all over, including at her; some passengers said they also fired from the tank. The student, in the back seat, and the policeman, seated behind the driver, had flung themselves to the floor and were not wounded, but the driver, Hani Abu Bakra, was dead, the passenger sitting beside him, ‘Abdallah al-Qanan, was seriously wounded and later died. Muhammad al-Khatib was wounded in the jaw and in both hands and the passenger in the back seat beside the woman student, who had flung himself over her on the floor, was also wounded three times in the shoulder.

The Palestinian Authority policeman, Ashraf Tulba, told Amnesty International delegates: “Blood poured out of the car. Everyone was still, there was no sign of life, only the girl was shouting.” The driver was dead, the other passengers in the minibus had thrown themselves out of the door or were dragged out by the soldiers and lay in the muddy puddle beside the taxi. The soldiers saw that one of those lying in the puddle was wearing the uniform of a Palestinian policeman.

“They kicked and hit me with their gun butts in the body and face. They lifted me and were surprised to see me alive under the mud and blood; they hit me against the car door and I fell down. My head hit the asphalt and I was temporarily unconscious. Then I was taken to an army post, my head wound was dressed and I was left in only my underclothes for one and a half hours. Then my uniform was put back on inside out and I was taken to Kissufim Terminal [a crossing point to Israel for Israeli settlers]. I was put inside a windowless container. About 10 soldiers came in and beat me with hands and gun butts. When I fell, I was thrown at the door. Then I was taken to interrogation. I was in a room with someone from the Shinbet [Israeli General Security Service - the intelligence branch]. I was covered with blood and mud. Looking at my ID, they found out that I had just had my birthday. They said: ‘Yesterday was your birthday. Today we’ll celebrate it in a way you’ll never forget’. They questioned me about what I thought of the peace, and whether I knew Hani Abu Bakra. Then I was put back in the container and made to face the wall and soldiers came and insulted and cursed me”.

Later the same day Ashraf Tulba was handed back to the Palestinian Authority and spent eight days in hospital receiving treatment for his head wound and the other injuries sustained during the beating.

The two who were severely wounded, ‘Abdallah al-Qanan and Muhammad al-Khatib, were taken from the puddle beside the taxi to an army post and then, in the back of a car, to Soroka Hospital in Beersheba where they were operated on and remained under guard for three days. Then they were returned to Khan Yunis; Muhammad al-Khatib has lost four fingers and still needs reconstruction of his jaw; ‘Abdallah al-Qanan, aged 40, severely wounded in the lung, later died.

The IDF statement after the killing of Hani Abu Bakra described the extrajudicial execution as a “Clash with IDF Forces”:

“During the attempted arrest of the Hamas activist at an IDF roadblock, the terrorist tried to fire the revolver that was in his possession. The force opened fire towards the terrorist, and killed him. In the exchange of fire two other Palestinians were injured, and another Palestinian was hurt from glass shrapnel.”

The passengers questioned by Amnesty International stated emphatically that they saw no gun with Hani Abu Bakra. Their accounts of the shooting were consistent. There was no exchange of fire. In addition, the passengers’ description of the positioning of some five soldiers within two metres of the taxi does not suggest that this was an operation in which the soldiers feared return shooting.

Dr Thabet Thabet, *Fatah*, killed 31 December 2000 in Tulkarem

Thabet Thabet, aged 49, had been a *Fatah* activist. Detained or put under town arrest⁶ in the past by the Israeli security forces, he was released in 1991 on the eve of the peace talks which started in Madrid. He was named as a PLO representative for the Madrid talks and was said to have promoted peace before and after the Oslo Agreement, developing many friendships with members of the Israeli peace movement. According to his wife, Dr Thabet was criticized by some Palestinians for being a strong supporter for the normalization of relations with Israel. Dr Thabet Thabet had worked as a dentist for UNRWA and been Head of the Palestinian Dentists’ Association before the setting up of the Palestinian Authority; then he worked as a director in the Ministry of Health in Tulkarem and taught public health at the

Tulkarem branch of al-Quds Open University. He was also Secretary General of *Fatah* in the district. On 16 November 2000, during helicopter attacks on *Fatah* targets, which according to official Israeli statements were carried out in response to increased violence and drive-by shootings near Ofra settlement earlier in the week, Dr Thabet’s office in the *Fatah* headquarters was destroyed by a missile.

Thabet Thabet’s house lies about 250 metres from the border between Area A and Israel. His wife, Dr Siham Thabet, also a dentist, said:

⁶ *Confinement of individual Palestinian opponents within a particular town was used frequently by the Israeli authorities during the 1980s.*

“I left home five minutes before the shooting. I called out to him to ask if he would travel to the clinic with me. He asked me to wait till he was ready. But since I had a patient waiting, I decided to leave at once. I heard the shooting. I didn’t think it was from home. When I got to the clinic a friend asked me where it came from. I called home, and found no one. Then I called my neighbour; she said my husband was wounded. Till then, I never believed it was him; he was a man of peace.”

Soon after his wife left, at 9.45 am, Dr Thabet Thabet had got into his green Peugeot, backing up the long narrow drive which led to the flat, which was in full view of the border with Area C only 300 metres away. There was a burst of gunfire; seven bullets smashed through the rear window of the car. The maid, who saw the shooting from the kitchen window, ran down and saw Thabet Thabet dead in his car and his body mangled - “there was no flesh left on his arm”, she said.

According to his wife, Dr Thabet Thabet could have been arrested by the Israeli authorities if suspected of any offence without difficulty since he regularly drove to Nablus and each Friday he attended a mosque in Far’un in Area B.

Basing her case on the prohibition under Israeli law of execution without trial, Dr Siham Thabet petitioned the Israeli Supreme Court on the killing of Dr Thabet Thabet. The Supreme Court accepted the petition and required Ehud Barak, who combined the posts of Prime Minister and Defence Minister, to explain the government’s policy by 31 January 2001. A document was submitted to the Court by Major-General Giora Eiland, Head of the IDF Operations Branch, stating that Dr Thabet Thabet “was indeed a physician, but his role as commander of a Tanzim cell, who instructed his people where to carry out attacks . . . removes him from the civilian category”. Prime Minister Ehud Barak also submitted a letter stating that: “International law allows a strike against someone identified with certainty as being prepared to commit an attack against Israeli targets . . . This pertains to a war situation in general and to the right of self-defence specifically.” During his plea to the Supreme Court on 12 February, State prosecutor Shay Nitzan included an opinion by Attorney General Elyakim Rubenstein:

“The laws of combat, which are part of international law, permit injuring, during a period of warlike operations, someone who has been positively identified as a person who is working to carry out fatal attacks against Israeli targets. These people are enemies who are fighting against Israel, with all that implies, while committing fatal terror attacks and intending to commit additional attacks - all without any countermeasures by the Palestinian Authority.”⁷

⁷ Ha’aretz newspaper 13 February 2001, ‘Liquidations’ legal acts in times of war, state tells court. Moshed Reinfeld.

The hearing before the Supreme Court is continuing.

SHOOTING AT RESIDENTIAL AREAS AND OTHER UNLAWFUL KILLINGS

During their fact-finding visit in January 2001 Amnesty International delegates investigated a number of killings of Palestinians in situations unrelated to riots and demonstrations.⁸ They included killings caused by random shooting at residential areas and unlawful killings apparently caused by negligence, random fire and a casual or reckless disregard for human life.

Amnesty International delegates went to a number of residential areas, Palestinian and Jewish, which had been targeted by gunfire. In all areas houses had been damaged and the lives of residents endangered. Delegates visited Palestinian areas, including Ramallah, Beit Sahur, Beit Jala, Hebron, Nablus, Tulkarem, Rafah and Khan Yunis, and the Jewish settlements of Psagot and Gilo. During a previous visit in November 2000, Amnesty International delegates had visited Beit Jala, al-Bireh and Jericho.

In Gilo and Psagot delegates saw a number of bullet holes in walls and windows. Houses were barricaded by sandbags and, in Gilo, a long concrete barrier gave extra protection to houses on the edge of town. The weapons used against these residential areas by armed Palestinians appeared to be AK47 rifles but there was also evidence of the use of small-arms such as .22 calibre weapons. In Gilo, about 400 metres away from the firing points on the edge of Beit Jala, the kinetic energy of the bullets appeared to have been largely spent by the time they reached houses. The settlement of Psagot is on a hill overlooking the Palestinian town of al-Bireh; delegates were shown places and houses where guns had been positioned which had fired at Psagot around 200 metres away; all the areas were in or near residential areas. Bullets had hit several houses, piercing windows in at least four houses and a synagogue; in one house a bullet had gone through the kitchen window passing within one metre of a woman standing there.

⁸ See Amnesty International, *Israel and the Occupied Territories: Excessive use of lethal force, October 2000* (AI Index: MDE 15/41/00), for an analysis of killings of rioters and demonstrators.

Amnesty International discussed with a *Fatah* member of the Palestinian Legislative Council, the organization's concern over the shooting by Palestinians who may have been supporters of *tanzim* at residential areas in Israeli settlements. Delegates also expressed concern that most of the shooting came from residential areas. International humanitarian law prohibits the targeting of civilians. A *Fatah* member of the Palestinian Legislative Council told Amnesty International delegates that settlements, being built in Occupied Territories, were considered by *Fatah* as military targets. Amnesty International stressed that the houses and those living in settlements who were not carrying arms could not be considered as military targets.

It was clear to Amnesty International delegates that IDF troops are responding to Palestinian attacks with disproportional use of force. About 25 Palestinians (some of whom may have been involved in shooting at Israeli targets) have been killed as a result of shooting at residential areas. It appeared as though the IDF was bringing every small-arm in range to return fire in the general direction of the Palestinian attack. It did not seem to matter to the IDF whether the Palestinian attack involved a lone or several armed Palestinians. In addition, the IDF response, in some cases, lasted for several hours or more, well after the Palestinian attack had ceased. Common IDF weapons used in these responses were the M16 rifle; General Purpose Machine Gun (GPMG); the .50 calibre Browning Machine Gun and sniper rifles (the Galil and the M21).⁹ The damage to homes in the "frontline" was, therefore, extensive. Houses on the edge of Beit Jala next to Gilo showed damage over an extensive perimeter of about 1.5 kilometres and there was widespread damage to almost every house in border areas in Beit Sahur, Khan Yunis and Rafah, with some dwellings rendered uninhabitable. Many other homes could not be occupied at night due to the possible threat of future fire-fights (most attacks occurred at night).

During some fire-fights weapons of large calibre were deployed against armed Palestinians shooting at settlements or Israeli military emplacements. Although this was not the norm, the IDF admitted using 105mm and 120mm tank rounds against buildings that were

⁹ See Appendix for the weapons used by Israel during the current *intifada*

frequently used by armed Palestinians. The IDF also admitted using the Apache attack helicopter which is armed with hellfire missiles and 30mm cannon; according to the IDF the hellfire missile was preferred because of its accuracy. Apaches were used in some riots against crowds or individuals and also in reprisal raids against offices of the Palestinian Authority and its security forces.

In some areas the IDF appears to be targeting residents in an attempt to create a no-go area on the edge of a town or settlement. For instance, on 17 December 2000, according to Palestinians living near the border with Israel in Rafah, in the Gaza Strip, about six soldiers descended from a tank on the Israeli side of the border, 200 metres away and shot down the road at **Iyad Da'ud**, 27, as he was arranging the shoes on a display stand in the street outside his shoe shop, hitting him in the chest. A youth who lived nearby, came to help him, and was also shot. **Ahmad al-Kasas**, 38, also came to help and was himself shot in the stomach. Witnesses told Amnesty International that the shooting lasted around half an hour. Both Iyad Da'ud and Ahmad al-Kasas died.

Amnesty International delegates were warned by Palestinians not to approach the border at Rafah. As a result of dangers perceived by the local people in casual shooting of civilians by Israeli soldiers, Amnesty International delegates remained 200 metres behind the areas examined during the previous visit on 10 October 2000. At that time they had visited houses near the border which had been hit by bullets (they were now evacuated and empty) and investigated the killing of a child, Sami

Abu Jazar, aged 11, during a stone-throwing demonstration on that day which had not endangered the lives of any Israeli soldier. Where before delegates had complained that Palestinian police should have held back stone-throwing children from going near the border, now there was a general fear felt by all townspeople of approaching to a distance of even 200 metres away.

It appeared to Amnesty International delegates that on a number of occasions weapons had been used in a reckless manner in such a way as to cause loss of life and injuries to Palestinian residents. This assessment was based on an examination of pieces of shrapnel, unexploded grenades, photographs of grenades, and consistent accounts by victims of the effects of the explosions. This information was passed to the IDF for comment.

There is evidence that the IDF has used two types of grenade launchers against Palestinians. The M203 grenade launcher seems to have caused the death of at least two children in Rafah and Hebron. Colonel Daniel Reisner of the IDF denied that grenade

“The no-go areas created by the IDF have led to large numbers of residents leaving their homes temporarily or permanently over whole quarters in Rafah and Beit Jala. It is an IDF tactic which seems to have no military value in comparison with the disruption and discomfort it has caused. It is illogical to drive civilians from their homes, premises or streets unless the real objective is to create misery among the Palestinian population.”- David Holley, independent military expert.

launchers were used, though he told Amnesty International's delegates that he would have authorized them, if asked, as they were accurate weapons if used by skilled marksmen within 300 metres. According to military experts, if fired through a window where gunmen may be shooting from they would kill or injure those in the room. When used in other circumstances and at a greater distance they are inaccurate and extremely dangerous anti-personnel weapons. The use of such weapons in such a way as to cause random injuries to residents apparently not near any conflict or sources of fire, is a grave violation of the laws of war and the right to life.

On 20 December 2000 there had been shooting in Rafah from Israeli positions during the morning and people took shelter in their houses. Around 9.45am **Hani Yusef al-Sufi**, aged 15, and five friends were standing in a narrow alley-way when a grenade hit the wall above their heads. His father told Amnesty International delegates:

"I was going to my house and I saw my two sons with other people crowded in the narrow alley so I told them not to stay outside but to go home as Israelis were shooting indiscriminately. I crossed the road and a shell hit the road. I heard a loud explosion and my neighbour said my son was injured. I said it was impossible as I had told him to go back. I ran to the narrow street. What I saw was incredible - six boys in a pile, all injured. I saw my younger son Hani, killed. I tried to take him up, I saw he was alive. Young men came to help but I told them to carry the other son. Because of his injuries in the head, back and neck I couldn't go on and collapsed after two to three metres. I tried to stand again but they came and took him from my hands and at that moment he died".

Hani's brother Hamid, aged 25, injured in the shoulder and leg, said: "We were standing by the wall and a missile came and hit the wall. We were all unconscious. When I became conscious, I saw we were all injured. I saw my father come and take Hani..." Hamid al-Sufi and a cousin, Muhammad Saqer al-Sufi, described to Amnesty International delegates how they heard an extremely loud explosion and then they felt a wave of air pressing down on them. After the explosion they could not hear for two days. The shrapnel collected by the family from the area and examined by Amnesty International on the spot and later by experts in London and the description (the typical combination of the flash, downward pressure and deafness) of those who survived the attack suggest that the missile which killed Hani came from an M203 grenade launcher. The pattern of damage from the roofs of houses in Khan Yunis suggested that similar grenade launchers were used against residential areas in Khan Yunis.

Mu'azz Ahmad Muhammad Abu Hadwan, aged 11, who was hit at 3pm on 31 December 2000 in a narrow street in the al-Shaykh area of Hebron, may well have died from shrapnel from the same type of grenade launcher, though in this case forensic evidence from the roofs and walls were lacking and Amnesty International delegates were not able to talk to the only survivor, a woman who had been holding his hand during the attack.

Other weapons whose use against residential areas has been recorded are the Mark 19, 40mm, automatic grenade launcher. Unlike the M203, which fires single rounds, the Mark 19 has a 2,200 metre range and fires 48, belt fed, high explosive and air burst rounds in under a minute. Unexploded grenades of this type were seen by an Amnesty International delegate in Nablus. When such a weapon is used against a residential area it recklessly endangers civilians: each grenade has a lethal burst range of 15 metres. In addition, notwithstanding Israeli's denial that artillery was used against Palestinian areas, independent foreign observers informed Amnesty International that they had seen 40mm high explosive shells in Palestinian residential areas.

The phenomenon of random, negligent or reckless killings by IDF soldiers during the *intifada* is a growing trend. In recognition of this, the IDF was said to be pursuing a policy of replacing soldiers who had served three months in the Occupied Territories with new troops, mostly conscripts. However, the replacement of trained forces with relatively untrained 18 to 21-year-olds together with the continuing impunity allowed for unlawful killings can only lead to further unlawful killings.

- *Muhammad al 'Arja, aged 12, the oldest of five children was reportedly killed by a single shot in the neck on 1 December 2000 at a distance of about 800 metres as he and his father went out at 2.30pm to collect vegetables for the meal to break the Ramadan fast. There had been no demonstrations or shooting from the area during the day.*

- **Fatima Jamal Abu Jish**, 20, was killed on 7 January 2001 as she was returning to her village of Abu Dajan from the hospital in Nablus where she worked as a receptionist. Fatima Abu Jish was one of nine sisters. Since her father had died of cancer two years before she had insisted on going out to work with her elder sister in order to support the family, including her sisters at school and in the university. Over the past months the IDF had set up roadblocks across the roads to the village, which villagers travelling outside circumvented by following tracks through the fields. Such tracks were easily visible from the roadblocks, and soldiers at the checkpoints blocked the roads to the village as harassment rather than a serious attempt to halt entry to the villages of Beit Dajan and Beit Furik. As a result of the numerous checkpoints and blockades an 8-kilometre journey might often last an hour. The car (a Fiat 127) in which Fatima Abu Jish was travelling with her sister, who worked as a secretary in the same hospital, and her brother-in-law reached the checkpoint at 5.15pm, around sunset, and took the side-track. There was the fourth car in a slow-moving tailback of some 20 cars. Suddenly a shot rang out; *Fatima's sister did not realize what had happened till she looked back and saw Fatima slumped with blood trickling out of her mouth. After originally stating that IDF soldiers had been firing in response to shots, the IDF admitted that no shots had been fired at the checkpoint and agreed to investigate the killing. Apparently as a result of their investigation the IDF stated that a soldier had fired at the tyres of the car of Fatima Abu Jish, and disciplinary procedures would be taken against him. No reason whatsoever was given why one car in a convoy should have been targeted in this manner.*

THE POSITION OF THE IDF AND THE ISRAELI GOVERNMENT

During its four visits to Israel and the Occupied Territories during the present *intifada*, Amnesty International has been able to discuss at length and in detail its concerns with Israeli officials.

Spokespersons for the IDF and the Israeli Government have consistently expressed the view that Israel has a legitimate right to hit back at those who seek to kill and injure Israeli citizens. In order to gain a clearer expression of official policy on the current *intifada*, Amnesty International discussed its concerns twice, on 24 October 2000 and on 16 January 2001, with Colonel Daniel Reisner, Head of the Legal Department of the IDF and other IDF officers. On previous visits the organization also discussed concerns relating to the use of force with Shlomo Gur, Controller General at the Ministry of Justice and the spokesperson of the IDF in Jerusalem, Major Yarden Vatikay.

During the first interview with Colonel Reisner in October, he stated that he considered the situation in the Occupied Territories as one which was between law enforcement and armed conflict. In light of the classification of the situation as “approaching armed conflict” in general no investigations were being carried out, except, he said, in two cases: the killing of Muhammad al-Dura (see page 5) and one other.

During the second meeting with Colonel Reisner Amnesty International delegates raised specific concerns about extrajudicial executions and other apparently unlawful killings, and disproportionate shooting against residential areas. He stated that he considered the situation as one of armed conflict, between “a state and a Palestinian autonomy”. It was not a war, he said, because the Palestinian Authority was not a state, it does not have a formal army and “the element of

totality is lacking". However, as an armed conflict it differed from the first *intifada* where there was rock-throwing and the use of Molotov cocktails; now there were "43,000 armed Palestinian police and lawful and unlawful weapons." He stated that normal riots should be dealt with the same way as in the past but that

"for all other threats we use the laws of war. If you pick up a rifle then we will try to kill you. If you shoot and then move we will try to get you and kill you. This is standard warfare."

Colonel Reisner said that if the IDF had "100% accurate information" that a group of Palestinians had carried out attacks resulting in casualties and that they were planning another attack "we checked that we could hit them first and found we could do so". He stated that they had checked through all legal material and the practice of other armies, in particular those of USA, UK and Germany. During the previous *intifada* it had been possible to make arrests; during this *intifada* it was not possible to carry out arrests in Area A.

When questioned about the modalities of approving targets for attack, especially the Legal Department's assessment of the evidence against those targeted, Colonel Reisner stated that the IDF Legal Department was not consulted on individual cases. When Amnesty International delegates raised individual cases of killings with him, where Palestinians had been killed in the IDF's attacks or where those deliberately killed could have been arrested, he stated that he was not aware of the individual cases raised. Delegates found this not only surprising (as the two cases mentioned had been widely reported and were mentioned on the IDF website) but also extremely alarming,

indicative of the secrecy surrounding the process of deciding who should be assassinated.

Because the current *intifada* is considered by the IDF as a situation of armed conflict, Colonel Reisner said that no case of killing was being investigated and no compensation would be paid. "No army carries out investigations in warfare; up to then, every question is investigated . . . I don't think Israel should pay compensation to Palestinians in conflicts . . . Countries do not pay compensation in armed conflict. No country has ever allowed people to sue them in the courts". He stated that internal operational debriefings were held after every operation; otherwise the army had carried out three internal investigations.

Colonel Reisner said that the present IDF was made up of a small core of long-serving members and a large number of conscripts serving three years military service. The *intifada* was an exceptional situation, different from anything encountered before by the IDF or by other armies. When delegates asked whether soldiers had training in international humanitarian law (especially on the 1949 Geneva Conventions) Colonel Reisner said this was limited to the basic principles and not every soldier received such training though most officers would have gone through long or short courses.

In response to delegates' requests, Colonel Reisner said that he could not show Amnesty International delegates their rules of engagement.

"Most countries won't divulge the rules of engagement. We have to tailor the rules of engagement to the situation...This is a constant

process and we make adaptations as we go along. . . . The best way is to give soldiers a pre-mission briefing telling them the rules of engagement for that particular day. That is coupled with the fact that threats constantly change - we may find booby traps. Thus it is better to give soldiers clear rules of engagement for each day and we ask officers not to make them ambiguous.”

The full briefing each day meant that it was therefore not necessary for patrol or roadblock commanders to seek permission from a higher command before moving to a higher “scenario”. The admission that rules of engagement may change from day to day underlines observers’ impressions that the force used by the IDF in response to stone-throwing demonstrations and the number of killings and woundings which result from this is not necessarily dependent on the danger presented and adherence to clear criteria. The attitudes of an individual commander whose orders are not subject to scrutiny or political considerations may also play a part. For instance, there were riots but no killings between 24 and 31 January 2001, during the Taba talks between Israel and the PA.

Amnesty International delegates discussed in some detail the weapons used by the IDF against Palestinians during the *intifada*. Colonel Reisner stated that there was no limitation on the weapons used as long as they did not endanger civilians. “If someone is shooting a rifle at me, why can’t I blow off his head with a tank shot?”

“When we decide to use helicopters, we do so with a high level of accuracy. The moment someone attacks us using live weapons we have no limitations on what we can use. We prohibit inaccurate

weapons such as mortars, artillery. But we use accurate weapons. Snipers can hit up to one mile away, but tanks can hit a target one yard wide from 2-3 miles away with 90% accuracy”.

Commentary on the IDF position

There are a number of questions which should be raised about the IDF analysis of the situation as one of armed conflict.

Firstly, its practical use has been to validate the use of the methods and arms of war against a civilian population. Although some Palestinians have been killed in circumstances where they were using firearms against Israelis or Israeli military positions, many of the killings have taken place in situations where no Israeli life was in danger.

Secondly, the “armed conflict” argument has allowed a situation where fewer than five of the more than 350 killings of Palestinians since 29 September 2000 have apparently been investigated by the Israeli authorities and where nervous or negligent Israeli soldiers are aware that they will never be arrested, prosecuted or sentenced for unlawful killings. Palestinians who kill Israelis have also not been held fully accountable. The impunity allowed to those who kill unlawfully has played its part in cheapening the value of human life in the Occupied Territories.

The State of Israel should not be considered as fighting an “autonomy”. The security forces of the Palestinian Authority have sometimes been involved in shooting at soldiers of the IDF and have on occasion engaged in armed confrontations with the IDF. Individual members of the Palestinian Authority security forces have also launched

bomb or weapons attacks against soldiers of the IDF. However, the Palestinian Authority security services have often been on the sidelines during this *intifada*. They have continued, for most of the *intifada*, to maintain joint cooperation, at least at some levels, with Israeli security forces. The leadership and the main role in the action is taken by the *tanzim* and *Fatah*.

Israeli civilians have been deliberately killed by armed Palestinian groups. In reprisal, entire neighbourhoods of Palestinian houses have

“The response of the IDF is a disproportionate reply to demonstrators throwing stones or Molotov cocktails, and even armed individuals firing with Kalashnikovs or small-arms. There can be no justification for the massive amount of fire, including armour-piercing rounds, from heavy machine guns.” - David Holley, an independent military advisor

been shot at and swathes of land have been declared no-go areas. The IDF has razed to the ground houses and blocks of flats, olive orchards and cultivated land, with the tenuous explanation that this is a military necessity. In the Occupied Territories, village is cut off from village and town from town by barriers whose intention often appears to be more to harass and cause economic difficulties than to serve any military necessity.

It is a matter of concern that IDF soldiers and officers are not receiving sufficient training in international humanitarian law. It is also deeply worrying that the IDF sees no need for limitation on the weapons used. The evidence that inappropriate weapons are being used which increase the risk of casualties among unarmed Palestinians is compelling. Colonel Reisner's statement that, unlike during the previous *intifada*, the IDF was not arresting Palestinians is also questionable. Arrests are not, of

course, at the level of the first *intifada* when 25,000 Palestinians were arrested during 1988 alone. However, arrests are taking place in Area B and at checkpoints, and the IDF's own figures show that on 13 December 2000 they were holding 461 Palestinians in pre-trial detention. As the islands of Palestinian control in Area A are not large, those whom Israel seeks to arrest are likely to pass an Israeli checkpoint by travelling into Areas B or C; otherwise they live effectively under town arrest.

INTERNATIONAL STANDARDS

The right to life has been described, by the United Nations Human Rights Committee¹⁰, as the "supreme human right" (General Comment 6(16)). The 1983 report of the UN Special Rapporteur on Summary or Arbitrary Executions describes the right to life as "the most important and basic of human rights. It is the fountain from which all human rights spring. If it is infringed the effects are irreversible..." (E/CN.4/1983/16, para 22).

The UN International Covenant on Civil and Political Rights (ICCPR), to which Israel is a State party, enshrines not only the "inherent right to life" but also states that: "No one shall be arbitrarily deprived of his life". The right to life is also, according to the ICCPR, Article 4, one of the rights which may not be derogated from even in "time of public emergency which threatens the life of the nation".

¹⁰ The UN Human Rights Committee is an international committee of experts which monitors implementation by States parties of the provisions of the International Covenant on Civil and Political Rights.

The standards relevant to the use of firearms against members of the public are laid down in the UN Code of Conduct for Law Enforcement Officials (Code of Conduct) and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles).

“Whenever the lawful use of firearms is unavoidable law enforcement officials shall ...

(b) minimize damage and injury, and respect and preserve human life;

(c) ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.”

(Principle 5 of the Basic Principles)

“Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.” (Principle 9 of the Basic Principles)

The UN Human Rights Committee in its General Comment on Article 6 of the ICCPR states that:

“The protection against arbitrary deprivation of life . . . is of utmost importance. The Committee considers that state parties should take measures . . . to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the state is a matter of the utmost gravity. Therefore the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.” (General Comment 3(16)).

The United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions emphasise that extrajudicial executions are never allowed, not even in time of war. According to Principle 1:

“Governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences. Exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions.”

Conclusions on International Standards

Amnesty International rejects the argument used by the Israeli Government and the IDF that the government has a right to order the deliberate killing of those it believes have planned or may be planning the

death of Israelis. International standards make it clear that such killings are not justified if lives are not in imminent danger. The 1996 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions stresses the fact that: "Governments must respect the right to life of all persons, including members of armed groups and even when they demonstrate a total disregard for the lives of others". (E/CN.4/1996/4, para 609).

Even in armed conflict, extrajudicial executions are not justified. The 1998 report of the visit to Sri Lanka by the Special Rapporteur on extrajudicial, summary or arbitrary executions emphasises the importance of the government maintaining its respect for life, whatever the circumstances:

"International human rights . . . are very clear: torture, disappearances and extrajudicial executions can never be justified under any circumstances, not even in time of war. Regardless of who may be responsible for the initiation of a war, and faced with the reality that war or armed conflicts short of war continue to inflict their pain on humanity, international human rights law requires that its norms continue to be respected . . ."

It must be stressed that in the case of armed conflict, the response of the Government must always be relevant and proportionate, such that the standards of human rights may be respected for every individual in every case; the existence of an armed conflict does not permit a carte blanche response. Any violations on the part of the insurgents . . . which the Special Rapporteur acknowledges are most likely to have occurred and to continue to

occur, cannot be used as an excuse for violations by the Government.” (E/CN.4/1996/4)

Amnesty International rejects Israel's suggestion that the present *intifada* constitutes an armed conflict. At the same time the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) is applicable throughout the territories occupied by Israel since 1967. Persons protected by the Convention are all those who “at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals”(Article 4). The rules governing the conduct of the occupying power towards “protected persons” are strict. Wilful killing of protected persons is a grave breach of the Fourth Geneva Convention.

It is a basic rule of customary international law that civilians and civilian objects must never be made the target of an attack. This rule applies in all circumstances including in the midst of full-scale armed conflict. Due to its customary nature it is binding on all parties.

Palestinians are prohibited from shooting Israeli civilians, including settlers who are not bearing arms, and at civilian objects.

Israel is prohibited from attacking civilian and civilian objects. Palestinian residents of the West Bank and Gaza are civilians benefiting from the protection of the Fourth Geneva Convention. Armed Palestinians who directly participate in hostilities – for example by shooting at Israeli soldiers or civilians – lose their protected status for the duration of the attack. Article 51 (3) of Protocol I Additional to the Geneva Conventions of 12 August 1949 explains how civilian status can

be temporarily lost. "Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take direct part in hostilities." Palestinians engaged in armed clashes with Israeli forces are not combatants. They are civilians who lose their protected status for the duration of the armed engagement. They cannot be killed at any time other than while they are firing upon or otherwise posing an immediate threat to Israeli troops or civilians. Because they are not combatants, the fact that they participated in an armed attack at an earlier point cannot justify targeting them for death later on.

Similarly, there are no Palestinian objects in the Occupied Territories that meet the criteria of military objectives. Certain objects may be attacked while they are being used for firing upon Israeli forces. But they revert to their status as civilian objects as soon as they are no longer being used for launching attacks.

In countering any armed attacks by Palestinians, Israeli forces are prohibited from responding with disproportionate force. The standards that should be applied in determining whether security forces have responded appropriately are those relevant to the use of firearms against members of the public (UN Code of Conduct and Basic Principles).

RECOMMENDATIONS

To the Israeli Government

- ✓ The Israeli Government should repeal their policy of targeted killings which amount to extrajudicial executions and take immediate action to ensure that the right to life is respected and protected. Those who order or carry out extrajudicial executions should be brought to justice in fair trials.

- ✓ In order to ensure respect for the right to life, every killing should be fully investigated by Israel. The results of these investigations should be made public. All those who have committed unlawful killings should be brought to justice in trials that are consistent with international standards.
- ✓ The Israeli security forces, the IDF, the Israeli Police and the Border Police should comply with international standards governing the conduct of law enforcement officials and the use of force and firearms. Lethal force must be targeted only against individuals who are posing an imminent danger to life.
- ✓ The Israeli Government and the IDF should cease reckless and random shooting at residential areas. Those who have ordered such unlawful attacks should be brought to justice in fair trials.
- ✓ The Israeli Government should make reparation including by payment of compensation to families of victims of unlawful killings by the Israeli security forces.

To the Palestinian Authority

- ✓ The Palestinian Authority should take effective action, including by making a public statement, prohibiting anyone under its jurisdiction from attacking or otherwise endangering the safety of civilians. Anyone who unlawfully endangers human life should be brought to justice in fair trials with no possibility of the death penalty.
- ✓ In order to ensure respect for the right to life, the Palestinian Authority should fully investigate every killing. The results of these investigations should be made public. All those who have committed unlawful killings should be brought to justice in trials that are consistent with international standards.
- ✓ President Arafat should immediately commute the death penalty on all those condemned to death and take steps to abolish the death penalty.

To Other States

Israel and the Palestinian Authority receive from other states weapons and munitions which are being used in the conflict. In many cases these are being used in a manner which results in unlawful killings.

- ✓ States who sell or transfer military equipment, including spare parts for military equipment, to Israel should demand effective and enforceable guarantees that such

equipment will not be used by the IDF in a manner that leads to the unlawful killing of civilians.

- ✓ States who sell military equipment, including spare parts, to the Palestinian Authority should insist that the Palestinian Authority gives clear orders and exercises control to ensure that weapons are not used in carrying out unlawful killings.

APPENDIX
IDF weapons believed to have been used during the current *intifada*

(Please note that this is not an exhaustive list. The Apache Helicopter is imported to Israel from the US; some spare parts come from the UK and Israel has the capability of making the other weapons although some may be imported.)

- a. **M16** The standard issue assault rifle. It fires a high velocity 5.56mm round. As an individual weapon its effective range is 300m, when fired by a section (1 section = 8 soldiers) of troops, 600m. Judging by the damage to houses, this is the most commonly used weapon. The 5.56mm round will penetrate 'breeze blocks', which are the most common building material used in Palestinian homes, from a distance of 300m/600m.
- b. **M203** This is a 40mm grenade launcher that fits under the stock and barrel of the M16. It fires many types of ammunition which are fin stabilised; the most common are CS gas and HE (High Explosive). . Maximum range is 350m. An accurate weapon system only in the hands of an experienced operator.
- c. **M19 - 40mm** Fires 48 belt fed rounds in under 1 minute. Range is 2,200
Automatic Grenade Launcher metres and rounds are either high explosive ground burst or air burst.
- d. **Galil Sniping Rifle** A very accurate weapon that fires a 7.62mm round. It is designed to hit the head at 300m, half body at 600m and full figure at 800-900m. In the hands of a skilled operator these ranges can be extended.
- e. **M21** Another sniper rifle that fires a 7.62mm round. It is less accurate than the Galil.
- f. **FN MAG** This is a general purpose machine gun that fires a high velocity 7.62mm round. The range can differ depending on mounting but is around 800m. Most

commonly found mounted on the IDF's armoured personnel carriers, tanks and at permanent checkpoints.

Bullet holes showed that it had frequently been used against residential areas.

- f. **0.50 Browning** An extremely powerful weapon that fires a 12.7m round.
Machine Gun Judging by the damage and the amount of armour piercing rounds found by Amnesty International delegates, this is used extensively in shooting at residential areas. The steel, armour piercing rounds will penetrate concrete at a range of 600m; it will easily penetrate 'breeze block' homes. Often found mounted on IDF armoured vehicles.
- g. **Main Battle Tanks** The IDF MBTs have either a 105mm barrel (Mark 1) or 120mm main armament (Mark 2). These can fire High Explosive rounds very accurately over a range of 2000m. The IDF have used the High Explosive round against gunmen in buildings. There is evidence that they have fired fin stabilised discarding sabo rounds which are armour piercing (for instance at the casino in Jericho).
- h. **Apache Attack** The main armament is the hellfire missile that is accurate
Helicopter up to 6000m but it needs 800m minimum to 'gather' the missile. It also has a 30mm cannon which is not particularly accurate.

Palestinian weapons believed to have been used during the current *intifada*

- a. **AK 47** A very common assault rifle. It fires a high velocity 7.62mm round.
- b. **AK 74** A modern update of the AK 47. It fires a 5.45mm round.

- c. **Mortars** Home made mortar tubes with ammunition smuggled into Gaza along the coast are said to exist.