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The Health and Welfare of the Palestinians under Israeli Occupation

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I. INTRODUCTION

"On Wednesday soldiers entered our home by way of the roof. There were a lot of soldiers. I was with my husband and children and one of the soldiers took my husband to one of the rooms and started hitting him. They broke his arm. The other soldiers hit my children. I started to scream. I tried to protect the children, and then one of the soldiers started to hit me as well - all over my body, especially my stomach."

The above account was given yesterday by Sabah al-Amari (26) of the Jabalya refugee camp. She is eight months pregnant and is at present in the maternity ward of the Shifa Hospital in Gaza. She said the doctors had told her that as a result of the beating, her foetus was in danger and she would have to remain in hospital.

Al-Amari further said that soldiers beat up her father (who is 70 years old) and her mother. "There are 15 of us in the house and they beat all of us," she claimed. In response to the question of whether she had told the soldiers she was pregnant, al-Amari replied: "I told them I was pregnant and they saw for themselves. One of the soldiers shouted at us in Arabic: 'For all I care, both you and your Palestinian baby can die.' "

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The Fourth Geneva Convention was created after World War II in order to protect civilians affected by war. It grants occupied civilians certain basic human rights which include the protection of their health and welfare. The United Nations, through resolutions, also addresses the protection of the human rights of civilians affected by war and through occupation.

Since the Fourth Geneva Convention applies to a sovereign country occupying territory through the use of force, the Geneva Convention obligates Israel to abide by this body of international law to protect the welfare and human rights of Palestinian civilians, who have been living under Israeli occupation in the occupied territories since 1967.

Numerous reports released since 1967 by such bodies as the International Committee of the Red Cross, Amnesty International, and the United Nations Human Rights Commission demonstrate a pattern of violations of internationally recognized human rights in occupied Palestine. These include illegal expulsion of residents, detention without charge, confiscation and destruction of property, the use of collective punishment, and mistreatment of prisoners.

This note will attempt to give a brief background on how the West Bank and Gaza Strip became the "occupied territories", analyze the treatment of Palestinians under Israeli occupation, and interpret the international law that relates to those territories, specifically the Fourth Geneva Convention and the United Nations Resolutions which address the protection of the health and well-being of the Palestinians under Israeli occupation.

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1 Israel is bound by the 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War [hereafter "Fourth Geneva Convention" or "Geneva Convention"] in its treatment of Palestinians in the occupied territories. The focus of this note is to determine whether Israel is in fact violating the Fourth Geneva Convention. See Mark P. Cohen, U.S. Legal Involvement in Violations of Palestinian Rights, 18 J. PALESTINE STUD. 76, 83 (Spring 1989).


3 Gail Pressberg, The Israeli-Palestinian Conflict, 19 HEALTH/PAC BULLETIN 27, 29 (Fall, 1989). In this note, the "Occupied Territories" refers to the West Bank and Gaza Strip which were taken by Israel in the 1967 War. Israel has not been recognized to have any sovereign rights over any of the occupied territories, which include the Golan Heights, East Jerusalem, as well as the West Bank and Gaza Strip. See Country Reports on Human Rights Practices for 1989, 1432 (1990) [hereinafter Country Report 1989].

II. 1967 War

On June 5, 1967, Israel breached the Armistice Agreements of 1949 and launched a surprise attack on its Arab neighbors. The causes of this war can be determined by examining the sequence of events that preceded the war. On April 7, 1967, an Israeli armored tractor, backed by Israeli forces, started cultivating a disputed area of land in the Syrian-Israeli Demilitarized Zone. Syria fired upon the tractor; Israel responded with a military action which included the use of artillery, tanks, and aircraft. Israeli jet fighters bombed several Syrian villages and reached the Damascus area. Syria reported this incident to the U.N. Security Council, but this did not terminate Israel's public and overt threats against Syria.

Israel's threats and troop movements were presumably intended to draw Egypt into this conflict. This did in fact happen when Syria asked for Egypt's assistance. Egypt moved its troops along the armistice lines with Israel and closed the Straits of Tiran (Egyptian territorial waters) to Israeli shipping. Egypt initiated these measures to deter Israel from attacking Syria, but the unfortunate result was the 1967 War.

During the 1967 War, Israel struck Egyptian and Syrian air forces, invaded and occupied the Old City of Jerusalem, the West Bank, the Gaza Strip, the Sinai Desert, and the Golan Heights region of Syria. According to Mark Cohen, a founder of the Washington-based Jewish Committee for Israeli-Palestinian Peace, "The U.S. considers Israel as an occupier in all of the territories captured in 1967 and therefore considers, Israeli administration to be subject to the Hague Regulations of 1907 and the 1949 Fourth Geneva Convention concerning the protection of civilian populations under military occupation."

III. Applicability of the Fourth Geneva Convention to the Occupied Territories

The Geneva Convention was created after World War II to prevent or at least to minimize the atrocities of war. The Geneva Convention is an

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7 Id. at 29.
8 Id. at 29-30.
9 Id. at 30.
10 Id.
11 Id.
12 Id. at 30-31.
14 Cohen, supra note 2, at 83.
15 Carol Bisharat, Palestine and Humanitarian Law: Israeli Practice in the West Bank and Gaza, 12 Hastings Int'l & Comp. L. Rev. 325, 335 (1989); Allegra A.
international treaty which is binding law on all its signatories, but many legal scholars consider it binding on non-signatories as well.\textsuperscript{16} Israel ratified the Fourth Geneva Convention in 1951, but it never acknowledged the fact that it applies to the occupied territories.\textsuperscript{17} In 1971, Israel's Labor government announced that it would act in de facto accordance with the Convention, but it left open the question of its applicability to the occupied territories.\textsuperscript{18} Six years later, the Likud government denied the Geneva Convention's applicability to the occupied territories, but claimed that Israel was still acting in de facto accordance with the Convention.\textsuperscript{19}

Article 4 of the Fourth Geneva Convention defines the persons protected by the Convention. It states: "Persons protected by the Convention are 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."\textsuperscript{20} This article has been interpreted to protect two main classes of civilians: (1) "persons of enemy nationality living in the territory of a belligerent State" and (2) "the inhabitants of occupied territories."\textsuperscript{21} The Palestinians living in the West Bank and Gaza Strip clearly fit into the class of protected persons under the Geneva Convention because they are living in occupied territories.

Article 6 provides that the Geneva Convention takes effect at the beginning of the conflict. It states:

The present Convention shall apply from the outset of any conflict or occupation . . . . In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occu-

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Pacheco, Occupying an Uprising: The Geneva Law and Israeli Administrative Detention Policy During the First Year of the Palestinian General Uprising, 21 COLUM. HUM. RTS. L. REV. 515 (1990). In 1949, the Red Cross convened and produced four conventions designed to protect victims of war. The First Geneva Convention dealt with protecting wounded members of the armed forces in the field. The Second Geneva Convention dealt with protecting the wounded and shipwrecked members of the armed forces at sea. The Third Geneva Convention dealt with the relative treatment of prisoners of war. The Fourth Geneva Convention, which is the subject of this note, deals with the protection of civilian persons in time of war. \textit{Id.} at 521.

\textsuperscript{16} Bisharat, \textit{supra} note 15, at 335. All the countries that are involved in the hostilities of the Middle East are signatories to the Geneva Convention. W.T. MALLISON & S.U. MALLISON, \textit{THE PALESTINE PROBLEM IN INTERNATIONAL LAW AND WORLD ORDER} 252 (1986).


\textsuperscript{18} Morgan, \textit{supra} note 17, at 486; Cohen, \textit{supra} note 17, at 44.

\textsuperscript{19} Morgan, \textit{supra} note 17, at 486; Cohen, \textit{supra} note 17, at 44.


\textsuperscript{21} \textit{FOURTH GENEVA CONVENTION}, \textit{supra} note 20, at 45.
pying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory. . . . Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.\textsuperscript{22}

This Article is interpreted to mean that the Convention becomes applicable "as soon as troops are in foreign territory and in contact with the civilian population there."\textsuperscript{23} As soon as the Israeli army entered the occupied territories, the Geneva Convention became applicable to protect the civilian population.

Article 1 provides that the "High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances."\textsuperscript{24} This article not only binds Israel to the Geneva Convention, but it also requires other countries to ensure that Israel abides by the Convention.\textsuperscript{25}

The Israeli government disagrees with this interpretation of Article 1, and claims that the Geneva Convention is inapplicable to its occupation of the West Bank and Gaza.\textsuperscript{26} Israel claims that it is not an occupier because it conquered the territories in 1967, when Jordan and Egypt did not have legitimate claim to the land.\textsuperscript{27} Legally, Israel's argument is flawed because the Geneva Convention does not mention a "legitimate sovereign", as Israel claims, but it focuses on the rights of civilians "in the lands of a Party to the conflict . . . of which they are not nationals."\textsuperscript{28} Israel's interpretation of the Geneva Convention, however, frustrates its main purpose: to protect civilians.\textsuperscript{29}

Although Israel claims that the Geneva Convention is not applicable to its occupation of the West Bank and Gaza, a number of states friendly to Israel, including the United States, have concluded that it does apply. The U.N. Security Council, the U.N. General Assembly, and the International Committee of the Red Cross have also concluded that the Geneva Convention applies to Israel.\textsuperscript{30}

\textsuperscript{22} See Bisharat, \textit{supra} note 15, at 336. \textit{See also} \textit{Fourth Geneva Convention, supra} note 20, at 58-59.
\textsuperscript{23} See \textit{Fourth Geneva Convention, supra} note 20, at 59.
\textsuperscript{24} See Bisharat, \textit{supra} note 15, at 336; \textit{Fourth Geneva Convention, supra} note 20, at 15.
\textsuperscript{25} See Bisharat, \textit{supra} note 15, at 336; \textit{Fourth Geneva Convention, supra} note 20, at 15.
\textsuperscript{26} See Bisharat, \textit{supra} note 15, at 336.
\textsuperscript{27} \textit{Id.}
\textsuperscript{28} \textit{Id.} at 337.
\textsuperscript{29} \textit{Id.} at 338.
On December 8, 1987, an Israeli trucker drove his semi trailer into a lane of oncoming traffic in Gaza. All of the casualties were from Jabaliya refugee camp. Word spread that the Israeli truck driver intentionally caused the incident to avenge the killing of an Israeli merchant by a Palestinian two days earlier in a Gaza marketplace. The following day, Palestinian youths in Jabaliya threw rocks at Israeli soldiers, demonstrating their anger at the deaths of the Palestinians the previous day. Soldiers opened fire and killed a seventeen-year-old Gazan. This incident sparked a full scale Palestinian uprising which is known as the intifada. Any incident could have sparked the Palestinian uprising. The intifada was the result of long-term frustration and helplessness felt from living under the Israeli occupation since 1967. The intifada drew Palestinians from all walks of life and spread all over the occupied territories. This massive uprising is a tactic for the Palestinians to express their anger over Israeli occupation and to put pressure on Israeli and the rest of the world to solve the Palestinian question.

The intifada continues to this day. The conditions and treatment that the Palestinians are subjected to daily under the intifada have been the same since the beginning of the occupation. The only difference is that the intifada increased the scale of repression inflicted by the Israeli forces upon the Palestinians, by violating the rights of a larger number of people as well as increasing the intensity of the abuses to which they are subjected.

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31 THOMAS L. FRIEDMAN, FROM BEIRUT TO JERUSALEM 371 (1989).
32 Id.
33 Id. Jabalaya refugee camp is the largest refugee camp in the Gaza strip.
34 Id.
35 Id.
36 Id. at 372.
37 Id.
38 Pressberg, supra note 4.
39 Id.; see also COUNTRY REPORT, supra note 4.
40 Tomeh, supra note 3; Simpson, supra note 3.
41 Cohen, supra note 2.
43 AL-HAQ, WEST BANK AFFILIATE, INTL COMMISSION OF JURISTS, Punishing A Nation 6 (1988). Examples of the increases in human rights violations inflicted upon the Palestinians living in the Occupied Territories can be seen in the following excerpts taken from articles and news reports published in the Israeli press:

I met Rajah Mahmoud Hamad, Ziad Ibrahim Hamad and Ahmed Sharif Hamad on the third floor of the government hospital in Ramallah. For some reason, the victims of the defence minister's clubbing policy are concentrated on the third floor. Rajah, Ziad and Ahmed are in their twenties. They live in Silwan Village, which is just outside Ramallah. Rajah, the oldest of the three, is an ex-prisoner who was released in the Jibril [prisoner] exchange. This is their story:
Palestinians have been subjected to a number of abuses involving the use of force, as well as collective punishment. The type of force exerted upon the occupied people includes among others, shooting, the use of tear gas, physical beatings, and demolition of homes. The choice of collective punishment includes, but is not limited to, administrative detentions (arrest without charge), extended curfews, denying medical treatment, 

"On Sunday, at 1:30 a.m., the defence forces came to our home in the village to arrest us. They blindfolded us, bound our hands behind our backs and put us on a bus. The trip from the village to the military government compound in Ramallah, which usually takes about twenty minutes, took an hour. The reason: all the way, they hit us all over our bodies with their clubs and gun butts.

"When we arrived at the military government [compound], more people joined in on the beating, including the medics who were supposed to treat us. Afterwards, they left us in the courtyard, in the pouring rain. [Later] they sent us to an army doctor at Beit El - probably after becoming alarmed by our condition. He said we should be rushed to hospital, but we were returned to the military government [compound] in Ramallah. And then they starting looking for a prison facility for us.

"We heard them talking to Dahariya, Jneid Prison in Nablus and Atlit (Prison 6). But none of these facilities wanted to accept us. Finally, at about 8 p.m. Monday, they gave us back our I.D. cards and kicked us out in the middle of a storm. We didn't have the strength to stand on our legs, so we lay down on the shoulder of the road. An Arab car picked us up and took us to the hospital."

Rajah's father added the following: "After my sons had been blindfolded, the soldiers rampaged in the house and broke everything they could lay their hands on: cupboards, tables, bedding - they even tore the door off its hinges. They also smashed up Rajah's Mercedes which was parked out front. Two thousand and sixty dinars I had at home are now missing as well as two thousand dinars worth of gold jewelry I had set aside for my daughter."

Military sources related that in order to make the arrests, force had been necessary. All the other allegations are lies.


"I don't know what the defence minister did or did not say at the Labour Alignment [Knesset] faction meeting. I only know what orders I gave my soldiers: I ordered them to beat up demonstrators, break their bones, and draw blood," a Gaza Strip army commander remarked.

The account of the commander is corroborated by the accounts of other officers and soldiers. They said there were many soldiers who found it difficult to implement this policy. "There were instances in which I did it on my own, because I didn't want the soldiers to see what we were doing, I was ashamed," said one commander.

Commanders related that the "striking fist" policy has engendered a situation in which each unit selects the "tough" soldiers from its ranks, and gives them the job of doing the dirty work for the rest of the unit, which is either opposed to the policy or not capable of carrying it out.

and deportations. All of these “systematic violations” are considered violations of international law.

A. Use of Force

1. Physical Beatings

The extent of the abuse the Palestinians have experienced can best be summarized by the testimony of an Israeli soldier: “The whole chain of command in the Israeli Army told me: If you don’t beat the person to the point that he can’t walk, you haven’t done a thing.” One might think that this is an isolated or exaggerated order, but the policy of beating and breaking bones has been widespread since Defense Minister Yitzhak Rabin announced his policy of “force, might and beatings” to quell the Palestinian uprising. Rabin’s policy backfired because such unprovoked and aggressive use of force has only fueled the uprising and increased people’s determination to continue their resistance to occupation.

After Rabin’s policy was implemented, a series of events which led to international criticism prompted the Israeli Chief of the General Staff to clarify the army’s orders:

There has been no let-up in the acts of brutality. Yesterday, a Hadashot reporter witnessed a number of soldiers beat an Arab youth until he began to bleed. [The incident occurred] in the village of Hawarah, which is near Nablus.

Some time around four in the afternoon, in the wake of riots in the village, soldiers arrived and shot rubber bullets and tear gas at the demonstrators. They chased a few masked youths and succeeded in capturing one of them. As soon as they caught him, they began to hit him with their clubs. They then loaded him on their jeep and continued to beat him. The soldiers drove out of the village in a wild manner as the youth bled. On the road they passed a soldier in a jeep who asked them to pull over so that he “could make mince meat out of him before he’s taken to prison.” The soldiers stopped on the road to Nablus and the wounded youth was transferred from the open jeep to the other soldier’s jeep, where they continued to hit him.

The IDF spokesperson said in response that the incident would be investigated.


See Quigley, supra note 30, at 503, 516-521.


Israeli soldiers violently beat four Palestinian youths and forced them to lie facedown on the ground. The military officer in charge of the area then ordered an army bulldozer to run over the prisoners. When the driver refused to run them over, the officer ordered him to shovel dirt on them. Once the soldiers left, the town’s resident dug the youths out from about one foot of soil. See Bierman, supra
Under no circumstances should force be used as a means of punishment. The use of force is permitted during a violent incident in order to break up a riot, to overcome resistance to legal arrest, and during pursuit after rioters or suspects... Force is not to be used once the objective has been attained... In every instance the use of force must be reasonable, and one should refrain as much as possible from hitting anyone on the head or on other sensitive parts of the body. No steps should be taken to humiliate or abuse the local population, nor should property be intentionally damaged.49

Despite this order, which came on February 23, 1988, severe beatings have continued with no less frequency.50 A report prepared by Amnesty International, covering the situation in 1989, reported:

Thousands of Palestinians were beaten by Israeli forces during the year. Many were punitively killed or struck with clubs or rifle butts. The victims included people who refused to clear road-blocks or delete graffiti, or who were suspected of having thrown stones. Many suffered severe injuries, particularly fractures, and at least six reportedly died. Fares Salha, a tailor, died in a hospital in April three weeks after soldiers reportedly assaulted him in his home in Jabaliya refugee camp. The soldiers apparently hit him with a hoe and rifle butts and threw him down a staircase after he tried to stop them from beating his sons.51

These incidents are not isolated, but rather are applied systematically among the entire Palestinian population.52 One of four soldiers who was

Note 47, at 34. Also, the media was able to capture Israeli soldiers beating handcuffed Palestinians with rocks, boots, and gunbutts. See The Data Base Project of Palestinian Human Rights (1988); The Cost of Freedom: 1988, A Special Report (1989) [hereinafter The Cost of Freedom: 1988]. [This information can be acquired by writing to: The Palestine Human Rights Information Center, 4753 N. Broadway Suite 930, Chicago, Illinois 60640].


50 Id.


52 One of a group of Americans who went to the occupied territories for a three-week stay with Palestinian families in May of 1988 verified that soldiers enter homes at night and take whoever they could get out of those homes, particularly males over 12 years old, and take them away and beat them. On the last night that he stayed in a Gaza refugee camp, he said 100 men were taken away and the soldiers kept 21 of them. The next morning, he noticed that these men sustained broken bones in their arms and legs. In that same camp, he witnessed eight Israeli soldiers beating a six-year-old child. He recollects: "I saw him afterwards when he got home from the hospital in shock, glazed eyes, bruises on his arms, legs, back, and chest. When you say 'are there two sides?' Tell me there are two sides of a child getting beaten." American-Arab Anti-Discrimination Committee Press Conference, Federal News Service, Aug. 29, 1988, available in
put on trial for beating a Palestinian to death testified that his superiors told him, "Even if the local was not resisting arrest, we were to beat him in order to deter him from further stone-throwing and, if possible, to break legs." The extent of beatings upon children (under the age of 16) is documented by the Swedish Save the Children Organization. Its report, covering the first two years of the intifada, collected records for 7,107 beaten children and estimated 23,600 to 29,900 children needed medical treatment for beating injuries. Its study of a sample of 3,460 records collected in the first year indicates that one-third of the beaten children were 10 years and under, and one-fifth were 5 years and under. Over 80% of the children requiring medical treatment were beaten on their heads and upper bodies. One-third of these children sustained broken bones.

A report by Physicians for Human Rights further corroborates the fact that there is a systematic pattern to injuries. This report indicates that most injuries were to the arms and legs, which suggests "a deliberate policy of systematic beatings designed to disable and not to kill, to inflict maximum damage while reducing the risk of death." In Gaza, it is reported that the extent and severity of the beatings were even worse. This severity was perhaps put best by the Physicians for Human Rights when their report stated "[i]ndeed, the word 'beating' does not properly convey the literal pounding and mauling with clubs and other weapons required to produce the injuries we saw."

The Geneva Convention expressly prohibits the use of beatings upon occupied people. Article 32 provides: "The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands." Article 32 not only prohibits beating innocent individuals, its scope also covers the protection of guilty individuals as well. Since it is uncontested that the Israeli military is beating individuals, the government of Israel is clearly in violation of international law.

LEXIS, Nexis Library, Wires File. See also Colonel Admits Ordering Beatings of Palestinians, THE PLAIN DEALER, Nov. 9, 1990, at 3A. An Israeli army colonel admitted that he ordered brutal beatings of Arab detainees during the uprising. The colonel said he received orders and acted accordingly. Soldiers who followed the colonel's orders "detained 21 men, bound and gagged them, then beat them with clubs and rifles." Id.

THE CHRISTIAN SCIENCE MONITOR, supra note 46. A soldier explained that young rock throwers are having their wrists broken so they would not be able to throw rocks for a couple of months. See John Barnes & Robert Rosenberg, A Two-Way Sword Takes Double Toll, U.S. NEWS & WORLD REPORT, Feb. 1, 1988, at 30.

Swedish Save the Children, The Status of the Palestinian Children During the Uprising in the Occupied Territories, 19 J. PALESTINE STUD. 136, 140-41 (Summer 1990).

The Casualties of Conflict, 19 HEALTH/PAC BULLETIN 7, 9 (Fall 1989).

Id. at 10.

Id. at 11.

FOURTH GENEVA CONVENTION supra note 20, at 221, See also Morgan, supra note 17, at 499.

See Morgan, supra note 17, at 499.
Even assuming, arguendo, that the Geneva Convention does not apply to Israel, Israel would be violating its own laws concerning the use of force. Israeli laws prohibit the use of force as punishment, but the military continues to beat people, including children, indiscriminately. Israeli laws further state "the use of force must be reasonable" and "no steps should be taken to humiliate or abuse the population." There can be no legitimate excuse for beating over 20,000 children in a two-year period and calling it reasonable force. Furthermore, entering homes at night and beating the residents clearly violates Israeli law.

2. Shootings and the Use of Tear Gas

Even more appalling than beatings are the deaths and injuries caused by bullets and the misuse of tear gas. Over 600 Palestinians died from gunfire and an additional 82 died from tear gas in the period from December 9, 1987 to December 9, 1989. Amnesty International repeatedly expressed its concern over Israel's open guidelines on opening fire. The organization states that the Israeli guidelines seem to permit unjustifiable killings by "allowing firearms to be used against people involved in activities which do not necessarily endanger life, or who are suspected of having been involved in such activities, or who are simply wearing masks."

Although Israel refuses to release its official policy on the use of force for "security reasons", the army command says that under no circumstances may children be shot. Despite this policy, an estimated 6,500 to 8,500 children were wounded by gunfire in the first two years of the uprising. An article in a Hebrew newspaper expressed concern over the deaths of children:

Last month Palestinian children killed haphazardly in the territories constituted for the first time almost half of the total number shot dead by Israeli bullets. I am not talking here about masked teen-agers aged thirteen or fourteen . . . but children between the ages of five and eight. Some victims have been even younger.
Over one-third of the Palestinians shot dead in 1989 were innocent bystanders. They were not involved in any violent or life-threatening form of confrontation at the time of their deaths. The other two-thirds were killed during demonstrations or stone throwing incidents, while writing graffiti or hanging flags.

Israeli security agents often dress as civilians or as tourists by wearing cameras around their necks. When they see a group of demonstrators gathering, they pull out their guns and begin shooting indiscriminately. The demonstrators they shoot are unarmed and pose no immediate threat. One such incident was shown on television and horrified the Israeli population. However, Israeli officials seemed more disturbed that the act was shown on television rather than at the fact that the act was committed at all. Such actions indicate that the Israeli government has little regard for Palestinian human life nor for international law.

As was stated earlier, Article 32 of the Geneva Convention prohibits the occupying power from exterminating civilians or causing them to suffer physical harm. Any action in which Israeli forces target civilians is a blatant violation of international law. The purpose of this Article is to ensure that all civilians are treated humanely by civil and military authorities. Article 37 holds the Israeli government liable for any harm committed against the Palestinians, whether it was an act sanctioned by the military or whether an Israeli was acting on his own.

Not only does the Geneva Convention apply to Israel, but there are numerous United Nations Resolutions that address Israel's treatment of the Palestinian population. U.N. Security Council Resolution No. 237, dated June 14, 1967, "calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities." U.N. General Assembly, Resolution No. 2546 (XXIV) of December 11, 1969, condemns violations of human rights in the occupied territories and calls upon Israel to desist from repressive practices.
on Human Rights Resolution No. 3 (XXVIII) of March 22, 1972, "[de-
plores] the persistent defiance and disregard by Israel of all United Na-
tions resolutions on the protection of human rights of the inhabitants of
the occupied territories."\(^7\) Because of Israel's refusal to abide by the
numerous U.N. resolutions calling on it to respect human rights, the U.N.
Commission on Human Rights Resolution No. 1982/1A of February 11,
1982, "declares that Israel's grave breaches of the Geneva Convention to
the Protection of Civilian Persons in Time of War of 12 August 1949 and
of the Additional Protocols to the Geneva Conventions are war crimes
and an affront to humanity."\(^8\)

B. Collective Punishment

Besides the use of violent force against individuals, the Israeli govern-
ment uses collective punishment against the entire Palestinian popula-
tion in order to force them to comply with Israel's policies. The most
widely used forms of collective punishment include curfews, demolition
of homes, and interfering with medical treatment. Other forms of collec-
tive punishment include seizing Arab lands for so called "security rea-
sons," storming homes and destroying property, disproportionate
allocation of water, deportations, and administrative detentions.\(^9\)

1. Curfews

Curfews are one of the harshest forms of collective punishment because
they affect the entire Palestinian population. During curfews, residents
are forbidden to leave their houses for any reason at all and may be shot
on sight if they violate this restriction.\(^10\) Curfews cause deplorable health
conditions because people are forced to accumulate garbage in their homes
since they may not go outside. Similarly, in villages where toilets are
located outside of the home, people are forced to use buckets inside their
homes as makeshift toilets.\(^11\)

Prolonged curfews also result in food shortages, and curtails in elec-
tricity during curfews lead to food spoilage.\(^12\) During one incident, Israeli

\(^7\) Id. at 168.
\(^8\) United Nations Resolutions on Palestine and the Arab-Israel Con-
Resolutions for the years 1983-1986 which repeat the fact that Israel's continuous
breaches of the Geneva Convention are war crimes. Id. at 244, 249, 253, 259.
\(^9\) Shaw J. Dallal, Israeli Human Rights Violations and Palestinian Violence,
\(^10\) See supra note 70, at 73.
\(^11\) Id. at 73-74.
\(^12\) Id. at 73.
soldiers trampled on the bread and vegetables they had seized from Palestinian women who broke a week-long curfew to smuggle in food to feed their starving families. Curfews are indiscriminately applied over the entire occupied territories. One soldier gave his account of the near starvation of Qabatiya residents:

Qabatiya is a town under curfew, but it's more like a siege. We patrol all day, making sure nobody comes out of his house .... The battalion commander tells us that they remain under curfew until they are "broken" .... I chase down a side road after a nine-year-old who had spotted a piece of bread in the gutter .... Anyone caught outside during the day is ordered to the [military base] where he is left unceremoniously in the boiling sun .... [O]ld men .... trying to sneak into the fields at night to save two kilos of rotting peppers .... [are] sent to Jenin for correction .... As we reach the end of a night patrol (the patrols ensure that nobody tries to rescue their dying crops), we spy a family bringing in a bucket of tomatoes .... We corner them. All are told to report to the commanding officer. They tell us they have no food, are simply starving to death and have no choice. At which point, the old woman, 90 years old, falls to her knees .... [and says] .... 'We really needed tomatoes' .... Patrolling in the fields we spot a young boy coming out of the orchard .... [H]e throws his hands up and says, 'Don't shoot me.' His identity card [i.e. birth certificate] shows him to be nine-years-old .... 'I'm hungry and came to collect apples.' .... [W]e went chasing old women and children in the fields with the officers. Unbelievable to see 70-year-old men living in the fields in order to pick a few tomatoes.

During curfews, people were prevented from standing on their porches, hanging laundry on their roofs, or gasping a breath of fresh air in the courtyard of their homes. Curfews have also prevented farmers from planting and harvesting their crops. Estimates say that over 50% of the Palestinians' agricultural income has been lost because thousands of farmers were prohibited from caring for their crops during curfews. Over 90,000 trees have been uprooted by Israelis since the intifada started in December 1987.

84 Barnes, supra note 53, at 30.
85 See supra note 49, at 374.
86 Id. at 389.
88 See Palestine Human Rights Information Center, Human Rights Violations Summary Data: Uprising Years 1, 2, and 3 [hereafter Summary Data]. See also THE COST OF FREEDOM: 1988, supra note 56, at 50 (Thousand of acres of grapevines, olive, almond, date and citrus trees have been uprooted or ploughed under); THE
Medical treatment is also disrupted by curfews. Access to medical treatment has been obstructed or totally denied to the sick and wounded.\textsuperscript{90} Israeli troops who patrol the streets warn Palestinians through microphones that anyone who leaves his home risks death.\textsuperscript{90} Such constraints have forced women to give birth without help from a doctor.\textsuperscript{91} Most hospitals and clinics are unable to function because the medical staffs are prohibited from going to work.\textsuperscript{92} The entire population of the West Bank and Gaza, 1.75 million Arabs, were made prisoners in their homes for over four-weeks when the Gulf War began.\textsuperscript{93}

Although there is no Geneva Convention provision that explicitly prohibits curfews, Article 33 states, "[N]o protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."\textsuperscript{94} Since curfews are a form of collective punishment, the Geneva Convention prohibits their use unless they are used "to maintain the orderly government of the territory, and to ensure the security of the Occupying Power."\textsuperscript{95}

The legality of curfews is dependent on their purpose. If their purpose is to quell riots, they are legal; but if their purpose is to punish, they are clearly illegal.\textsuperscript{96} Determining the Israeli government's objective in imposing curfews is a complicated task. One must therefore look to statements made by Israeli authorities to assess the legality of such curfews. Defense Minister Rabin stated that the purpose of curfews was, "First,
to pacify the area, and second, to make clear to [the Palestinians] that we have got the forces and measure to impose our own will not in the political sense but in the maintaining of tranquility.\textsuperscript{97} This dual purpose was also expressed in the Israeli press:

The curfews are intended not merely to keep stone throwers off the streets, but to penalize the populations through the denial of access to work and easy access to goods so that they, and not only Israel, pay a price for the demonstrations, in the hope that this price will encourage restoration of civil order.\textsuperscript{95}

Since Israeli military commanders are permitted to order curfews at any time under Israeli law, it is important to note a statement made by an Israeli officer in Jabalya refugee camp:

In fact, one may say that we succeeded in our assignment. The Israeli army succeeded in breaking them. They are totally crushed. They are weak and tired. Not so much because of the policy of the stick, but because of the economic pressure and the continuous arrests and curfews . . . . The price they pay is that we made their life hard, almost intolerable.\textsuperscript{99}

The fact that Israeli authorities, as well as Defense Minister Rabin, admitted the purpose of curfews was for deterrence and punishment unquestionably categorizes the curfews as breaches of the Geneva Convention. "The prohibition of ['c]ollective penalties and likewise all measures of intimidation' would make curfews imposed with the objective of deterrence impermissible."\textsuperscript{100} The curfews that the Israeli government imposes on the entire Palestinian population in the occupied territories clearly puts a hardship on the innocent population and constitutes a violation of international law.

2. Demolition of Homes

Demolition of homes is another form of collective punishment imposed on Palestinians by the occupier. The Israeli military either dynamites or bulldozes a home in which a "suspect" lives. With this form of collective punishment an entire family is punished for an alleged offense of one of their members. Israeli authorities have been carrying out demolitions since the beginning of the occupation in 1967.\textsuperscript{101}

\textsuperscript{97} Id.
\textsuperscript{98} Id. at 497-498.
\textsuperscript{99} See supra note 69, at 59.
\textsuperscript{100} See Morgan, supra note 17, at 498.
\textsuperscript{101} See THE COST OF FREEDOM: 1988, supra note 48, at 31. Over 1700 demolitions and sealings have been carried out by the Israeli military in the past years. This has caused over 15,000 people to be displaced. Palestine Human Rights Information Center, Human Rights Violations Summary Data (1991).
In addition, the majority of the demolitions are carried out quite suddenly, even before the accused is brought to trial, in order to inflict maximum shock value. Most demolitions occur between midnight and dawn, and the only warning for the targeted family is soldiers banging on the door ordering them out of the house. The residents are only given minutes to remove their belongings before the house is demolished. The force of the blast used by the Israeli military not only destroys the contents of the house, but in areas of high population concentration often destroys the property of neighbors.

Israel's justification for demolitions and sealings include "security" reasons and charges of "illegally built" homes. Israel claims that Article 119 of the British Defense Regulations of 1945 permits demolitions and sealings. However, these Regulations were canceled by the British in 1948, and they were never applied to the occupied territories by Jordan.

Demolitions and sealings are prohibited by the Geneva Convention. Article 33 prohibits: (1) punishing a person for an act that he or she did not commit; (2) collective penalties; and (3) reprisals against protected persons and their property. Article 53 further provides: "[A]ny destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, . . . is prohibited, except where such destruction is rendered absolutely necessary by military operations."

Israel claims that Article 53 allows it to demolish homes on grounds of military necessity, but the proper reading of this Article states, "[I]f the act constituting a security risk already has been committed, then the military necessity giving rise to the demolition order no longer exists." Therefore, demolitions are prohibited by Article 33 and 53 of the Fourth Geneva Convention because they constitute collective punishment and are apt to cause great suffering to the family of the accused.

104 Id.
105 Id.
106 Sealings are the process of welding shut or bricking up the part of the house in which the accused live. See supra note 49, at 345.
107 See supra note 49, at 345.
109 Id. The Geneva Convention requires the occupying power to apply the laws that were in place before the occupation to the occupied territories in order to protect the civilian population's rights.
110 See supra note 2, at 89. See also FOURTH GENEVA CONVENTION, supra note 20, at 224-225.
111 See supra note 2 at 89. See also FOURTH GENEVA CONVENTION, supra note 20, at 300.
112 See supra note 2, at 89. "In that situation, the suspect should be arrested and tried for the particular offense at issue." Id.
The United States considers demolitions and sealings to be in contravention of the Fourth Geneva Convention, especially since the owners are not allowed to rebuild. This makes the punishment one of indefinite duration. The United Nations, in many resolutions, has condemned Israel's demolitions of Arab homes. The U.N. Commission on Human Rights Resolution No. 6 (XXV) of March 4, 1969, states that the U.N. "deplores Israel's continued violations of human rights in the occupied territories, particularly the acts of destroying homes of Arab civilian population." This language is typical of other U.N. Resolutions concerning the demolition of Arab homes.

3. Interference with Medical Treatment

Another grave violation of international law is interference with the medical treatment of wounded civilians. Israeli authorities have restricted medical care to wounded civilians by several acts, including obstructing medical treatment, delaying transportation of the wounded to hospitals, and mistreating wounded Palestinians in their custody. Israeli soldiers have often refused to let ambulances reach victims of shootings and beatings. They have set up roadblocks and denied ambulances and private cars from entering an area to evacuate the injured. Consequently, the injured were left to die at the site of the incident. Soldiers have also commandeered ambulances that were on their way to rescue the injured, in order to enter villages and make arrests.

Soldiers have also invaded hospitals, smashed medical equipment, assaulted medical personnel and families of patients, and forcibly removed the wounded. These wounded patients were not only arrested by the soldiers, they were also beaten. Soldiers have also fired tear gas, live ammunition, and rubber-coated bullets inside hospital buildings.
Israeli actions of interfering with the medical treatment of the wounded violate many Geneva Convention Provisions. Article 16 specifically states that "[T]he wounded and sick... shall be the object of particular protection and respect." It further states that the wounded shall be protected from ill treatment. Article 18, concerning the protection of civilian hospitals, provides: "[C]ivilian hospitals organized to give care to the wounded and sick,... may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict." Article 56 further states, "[M]edical personnel of all categories shall be allowed to carry out their duties."

Israeli authorities have violated Article 16 by interfering in the treatment of the wounded and beating the wounded. Article 18 is also violated every time Israeli authorities enter hospitals and attack the wounded or medical personnel. Israel's actions preventing medical personnel from aiding the wounded is also illegal.

Since the occupation began in 1967, the Israeli government has continuously committed flagrant human rights violations. There are many other systematic violations of international law that the Israeli government commits against Palestinians. These include torture and death in detention; administrative detentions; deportations; economic and fiscal sanctions; seizure of Arab lands; disproportionate allocation of water; and storming homes and destroying property.

U.N. Commission on Human Rights Resolution No (XXVIII) of March 22, 1972, gives a clear indication of the violations of international law committed by the Israeli government. This resolution states in part:

_The Commission on Human Rights, ... [is g]ravely concerned at all acts and policies that affect the status or the character of these occupied territories and the basic rights of the inhabitants thereof, such as:

(a) The declared intention of annexing certain parts of the Arab territories;

(b) The establishment of Israeli settlements in the occupied territories and the transfer of parts of the civilian population into these territories;_

\[122 \text{FOURTH GENEVA CONVENTION, supra note 20, at 133.}
\[123 \text{Id.}
\[124 \text{Id. at 141.}
\[125 \text{Id. at 312.}
\[126 \text{There are several dozen reports of soldiers shooting Palestinians and then aggravating their injuries by beating, dragging, stepping on, or throwing them out of moving vehicles, over walls or out of windows. See THE COST OF FREEDOM: 1989, supra note 70, at 112. After a nineteen-year-old resident from Dheisheh refugee camp was shot in the head and neck with metal marble bullets, soldiers then beat him and dragged his body for 30 miles along the ground and left him. He died in a hospital 13 days later. A fourteen-year-old boy from Qalandia refugee camp was shot in the head and neck by live ammunition on July 20, 1989. Despite being in critical condition, he was beaten, arrested, and then dumped on the sidewalk in front of the Ramallah hospital's gate. The boy miraculously survived the ordeal. Id. at 112-113.}
\[127 \text{See generally, supra notes 43, 48, 49, 70.}
(c) The evacuation, transfer, deportation and expulsion of the inhabitants of occupied territories;
(d) The destruction and demolition of villages, quarters and houses and the confiscation and expropriation of property;
(e) The denial of the right of the refugees and displaced persons to return to their homes;
(f) Collective punishment and ill-treatment of prisoners and detainees;
(g) Administrative detention and holding of prisoners incommunicado;
Noting with regret that the aforementioned acts have not been rescinded in spite of the numerous resolutions adopted on the subject,
Deploring the persistent defiance and disregard by Israel of all United Nations resolutions on the protection of human rights of the inhabitants of the occupied territories, ... Taking note of the fact that the Geneva Convention of 12 August 1949 (Article 147) has considered unlawful deportation or transfer, unlawful confinement, deprivation of the rights of fair and regular trial, taking of hostages and extensive destruction and appropriation of property as grave breaches of the Convention, ... Considers that grave breaches of the Fourth Geneva Convention committed by Israel in the occupied Arab territories constitute war crimes and an affront to humanity.129

It is important to make clear that not all Israelis support their government's inhumane treatment of Palestinians. There are many Israeli peace activists from all walks of life including civilians, members of the Knesset, attorneys, and Israeli human rights organizations.130 There is even dissent among soldiers. The following incidents tend to show that many soldiers are disgusted with their government's policy of torturing Palestinians:

One day, during a lunch break, some soldiers went over to a detainee whom they claimed had thrown stones and beat him black and blue with their clubs. When they were finished, one of the soldiers who had watched it all from the side, called one of the soldiers who had enthusiastically beaten up [the detainee] a 'Nazi'. The soldier responded by calling him a 'bleeding heart.' The soldier who opposed the beating got angry and said: 'Wait till we get out of our uniforms. I'll pay you back for everything you did here. I'll finish you off.'

129 See supra note 76, at 167-168.
130 Gail Pressberg, The Israeli-Palestinian Conflict, 19 Health/PAC Bulletin 27, 29 (Fall 1989).
Another time, a soldier went over to a detainee and started beating him up for no reason. Another soldier went up to him and told him to stop. The first soldier refused, and when he was finished beating [the detainee], they began to argue. It ended in fisticuffs. Only when the unit commander arrived did the fight come to an end.\textsuperscript{131}

Another article written by an Israeli soldier, on duty at the Gaza Beach Internment Facility, conveys the fact that he, as an Israeli citizen, is not pleased with the status quo. He explains that his experience at the detention facility has changed him, "[b]ecause a person who has heard the screams of another being tortured is already a different person.\textsuperscript{132} He explains that "from the other side of the galvanized tin fence of the interrogation section come hair-raising human screams. Literally hair-raising."\textsuperscript{133} He further states that he will no longer be able to rest "[b]ecause no more than fifty yards from the bed where you try to sleep, eighty yards from the mess hall where you try to eat, people scream. And they scream because other people, wearing uniforms like your own, do things to them that cause them to scream."\textsuperscript{134}

The soldier further emphasizes that, in this interrogation facility, they do not question dangerous spies or traitors or guerillas who are about to blow up the army's headquarters.\textsuperscript{135} The disturbing fact is that "[t]housands upon thousands of political prisoners are questioned by Shin Bet. In all internment camps, on any given day, about 14,000 people are being held: almost 1 percent of the population of the territories."\textsuperscript{136}

He is further disturbed by the fact that several thousand men must do reserve duty in internment camps each year in Israel, yet "the country has been quiet."\textsuperscript{137}

And Prime Minister Shamir has continued to believe that everything's all right, more or less. And our ambassadors in Washington and New York have explained to the networks over and over that we are the good guys and they are the bad guys. And Benjamin Netanyahu has reminded Ted Koppel time after time that Israel is the only democracy in the Middle East. And no one has arisen to silence them, in shame.\textsuperscript{138}

The soldier is angered by the fact that at least ten thousand Israelis have done their job by leading men "from the interrogation chamber to the clinic, from the clinic back to the interrogation chamber,"\textsuperscript{139} and yet they have not done anything about it. He states,

\textsuperscript{132} Id.
\textsuperscript{133} Id.
\textsuperscript{134} Id.
\textsuperscript{135} Id.
\textsuperscript{136} Id.
\textsuperscript{137} Id.
\textsuperscript{138} Id.
\textsuperscript{139} Id.
They have looked close up at people shitting in terror, pissing in fear. And not one among them has begun a hunger strike in front of the house of the prime minister. Not one among them that I know of has said, This will not happen. Not in a Jewish state.\textsuperscript{140}

VI. INITIATING A SOLUTION

Gross human rights violations are unacceptable to the U.S., and our Foreign Assistance Act prohibits giving economic assistance to any country which "engages in a consistent pattern of gross violations of internationally recognized human rights . . . unless such assistance will directly benefit the needy people in such country."\textsuperscript{141} Eliminating or at least minimizing gross violations of the human rights of the Palestinians can be achieved by refusing to give Israel economic aid until these violations cease to exist.

VII. CONCLUSION

The Israeli government has been violating international law in its treatment of Palestinians ever since the occupation began in 1967. Once the Palestinians began their uprising in December 1987, Israel's human rights violations have become more flagrant. Israel no longer tries to conceal the fact that it mistreats Palestinians, but rather claims that the Geneva Convention does not apply to the occupied territories.

Israel's argument that the Geneva Convention does not apply to the territories is unpersuasive. The United States, the United Nations, and several states friendly to Israel have rejected Israel's argument and have found that the Geneva Convention does apply. Therefore, Israel must terminate its hostile treatment of Palestinians, and abide by the guidelines set in the Geneva Convention with respect to the treatment of the Palestinians.

\textbf{Neal Atway}

\textsuperscript{140} Id.

\textsuperscript{141} See Dallal, supra note 80, at 111.