

MILITARY COURTS

MASTERS RULE





MachsomWatch is a volunteer organization of Israeli women which was founded in 2001. We are peace activists united by our commitment to the protection of human rights and our opposition to the Israeli Occupation of the Palestinian Territories.

These are our main activities:

- **Daily monitoring** of the West Bank checkpoints, the walls, fences and gates that prevent Palestinians from reaching their agricultural lands.
- We **document** the daily humiliations Palestinians suffer on their way to work in Israel and their challenges in carrying out the activities of daily life under military control.
- We **report** on the bureaucratic measures used by the Israeli Occupation to appropriate and control Palestinian land.
- We **reveal and publish** the violations of international law and of human rights.
- In our **guided tours** to the West Bank and the Jordan Valley we share with thousands of visitors what life under the Occupation looks like.
- In **meetings with young people** we explore the meaning and significance of human rights.
- **Confronting the Bureaucracy of the Occupation**, we attempt to assist Palestinians navigate through a complex bureaucratic system that restricts their freedom of movement, as they apply for work permits or request access to medical care.
- We **meet** with Palestinians in their villages throughout the West Bank and in remote hamlets in the Jordan Valley. We learn about the problems they encounter, be it the inability to access their agricultural lands, water restrictions, demolitions, evictions and military raids into their home, and **disseminate** and share this information with other human rights organizations and the public at large.

Since 2006 we have been observing and reporting on the legal proceedings which take place at the Military Courts. These are located mainly inside the Ofer Military Base and at the Russian Compound Police Station in Jerusalem.

The Military Courts provide legitimacy, at the national and international levels, to the military power exerted in the West Bank. The Military Courts purport to present an illusion of fairness or legality for Palestinians under the Occupation. However, the two legal systems, one for Palestinians living in the West Bank and the other for Israeli citizens who may

also live in the West Bank settlements or in Israel within the 1967 borders, are distinct in their laws, the harshness of sentencing, the time Palestinians can be detained before seeing a lawyer, the time Palestinians are kept as suspects in detention before trial and other procedures. We document our observations, report on the protocols of court proceedings and we record what is shared with us by Palestinians who attend their relatives' court hearings.

Our documentation is available in Israel and abroad. We hope that our testimonies and the factual information we present could bring about a change in Israeli policies. At the very least, our observations and reporting will remain as documentation of the Occupation, which we know will end one day, as other military Occupations of a sovereign people have ended.

This document consists of two sections:

- A short description of the differences between the Military Courts for the occupied Palestinian population and the Civil Courts that serve the Israeli civilian population.
- A lexicon of terms as used in the Military Courts. We have selected terms and expressions found in the protocols of court proceedings which demonstrate how the language is used to shape and reflect a world vision.

Our examples demonstrate how the language used by the Military Court prosecutors and judges when dealing with Palestinian suspects alters the meaning of words such as aggression, public order and conflict. The protocols show a world in which Palestinians who protest against the Occupation are dangerous and need to be incarcerated in order to keep the public order, that is, the order demanded by Jewish settlers.

NOTE: All the concepts included here are found in actual court protocols. The context has been provided by either the military judge or the military prosecutors.

"...A juridical inferno where there is no presumption of innocence and no rules of evidence and no justice and no mercy and no compassion, but there is a "court", a ridiculous show whose main purpose is giving an "orderly" and "lawful" vestige to wild military dictatorship."

B. Michael, Haaretz, May 15, 2016



Table of Contents

Occupation and Military Law	4
Two Legal Systems	4
Arrest Procedures	4
Procedures enforced after indictments are issued	5
Administrative Detention	5
Minors In The Military Courts	6

A Selection of Useful Terminology at the Military Courts

A Administrative Detention	8
Assaulting A Soldier	9
C Confidential Report	9
Conflict	11
D Disturbing A Soldier On Duty	12
Disturbing The Peace / Riots	12
E Exiting A Closed Area Without A Permit	14
Evidential Difficulties	15
F Fence	17
Free Will	18
I Ideology	20
Incitement	21
N Necessary Interrogation	23
P Potential Criminal	23
Prohibited Organizations	24
R Received By Deceitful Means	25
Regional Security	26
Rehabilitation	27
S Security Forces	28
V Violence	28
W Wanted	30



Occupation and Military Law

Historically, military Occupation is supposed to be limited in time. The longer it lasts, the greater the occupying power's obligations towards its occupied population. The Israeli military Occupation has so far lasted for over 50 years, and the life conditions of the population under its rule have only deteriorated and become more and more complicated.

From reports of MachsomWatch volunteers' observations on the ground, we learn that military courts are part of a mechanism whose role is to implement military control and impose Israeli government's policies. The courts give the Occupation a vestige of legitimacy, while arrests, interrogations and incarcerations serve as means of intimidation and enforcing obedience.

The decades-long Israeli Occupation of the West Bank does not take place in a legal vacuum: international law recognizes a situation whereby a foreign army temporarily occupies a region and establishes military courts in order to handle violations committed by the occupied population. One of the conditions imposed by international law is **that such military courts are situated within the Occupation zone**. Israel has placed most of its military courts and prisons inside its own territory, and thus such activity is illegal a-priori, according to Clause 66 of the Geneva Convention.



Two Legal Systems

In the Occupied Palestinian Territories two separate legal systems are in force: **military law** is applied to Palestinians, and **civil law** to Israeli Jewish settlers. Differences are found in the length of time that a person may be held in custody: A Palestinian may be detained for **96** hours without seeing a judge prior to indictment, whereas an Israeli – only **24** hours. A judge may also remand a Palestinian without

indictment for the duration of 90 days. Remand for an Israeli detainee, by contrast – is only up to 30 days. As for minors, in Israel the court must be presented a summary by the juvenile court service prior to arresting a minor, whereas this is not enforced in military courts.



Arrest Procedures

How arrests are carried out

Both in Israel and in the Occupied Territories, law enforcement bodies are supposed to detain whoever has broken the law. In Israel, if the felon is not caught "red-handed" he will be summoned for questioning. In the Occupied Territories, he is arrested. The common procedure is as follows: the army breaks into the person's home in the middle of the night, soldiers are equipped with a list of names but no search or arrest warrants. They arrest men and young boys, sometimes rousing them out of their beds and without being given a chance to get dressed. The detainees are brought to a central spot in the village and taken from there to a police station or to a detention facility.

The language of interrogation

A detainee's basic rights before signing the protocol of his interrogation are to understand the accusations made against him and to understand and know the language in which the interrogation is recorded. In fact these are recorded in Hebrew, a language not understood by most Palestinian detainees. They certainly cannot read it. Mostly their interrogations are conducted in Arabic, but the written record is in Hebrew. Thus the detainee is forced to sign a text that he cannot possibly read and comprehend. The language used in court is Hebrew as well, but there the services of an interpreter are usually provided.

Charges

Many civil activities of Palestinians are considered felonies. In fact, a very broad range of social, cultural and political activities are defined as acts of terrorism and thus outlawed. Political parties such as the Hamas, the Popular Front and the Islamic Jihad



are defined by military edict as illegal organizations (unlawful union), and one of the most common charges at the military courts is membership in such an organization – activity, work, a position of leadership, even just supplying services.

But not only political parties are defined as illegal organizations. Activity within the framework of students' unions, directorates of orphanages and Islamic charity committees, Qur'an reading groups or organizing summer camps – all of these actions are suspect as well. In other words, any activity that is somehow connected to Hamas, the Islamic Jihad or the Popular Front is considered activity in an outlawed organization. We witness an ongoing process whereby social and cultural activities – that in a normal state of law would be considered the very structure of civil society – are defined as criminal offences and their participants are penalized with incarceration and fines.



Procedures enforced after indictments are issued

Time of the alleged violations

Mention of the time when certain violations were committed is very vague in the indictment sheet: "The suspect threw stones in late December, either a bit earlier or later..." The prosecution is not required to specify a precise date or place. Such formulation allows the prosecution nearly unlimited action and denies the defendant and his attorney the possibility of providing an alibi.

Informing and incriminating

The military court system relies greatly on the information and incrimination of collaborating witnesses when it presents indictments. Few suspects are actually caught committing the alleged act, and very seldom is actual evidence provided. Arrests are based on information provided by other interrogated persons who name friends, neighbors and schoolmates (what the attorneys call "a shopping list"). Consequently, those same friends, neighbors and schoolmates are arrested and interrogated, naming further persons. Eventually, many inhabitants of the same village or neighborhood find themselves

in jail. These interrogations are thus conducted more as means of gathering information on the general population than as interrogations that aim to get to the truth about the suspect's actions.

Plea bargains

Most trials in the Occupied Territories end with plea bargains. An essential part of a plea bargain is the defendant's admission of guilt (usually in an amended indictment) and conviction. This deal is 'advantageous' both for the detainee and his attorneys and for the military prosecution, since sessions of proof last a long time (the court's precious time) and the suspect's detention until the end of proceedings might take two years (the Palestinian defendant's precious time) – longer than the prison sentence he might expect from the plea bargain.

Convictions and their consequences

Lengthy prison sentences bear disastrous consequences for prisoners' families and destabilize Palestinian society, and their final result is the destruction of the fabric of society. The lives of families whose relatives have been convicted focus solely on the prisoners (their needs, attorneys, family visits, financial trouble, etc.). If one family member is in prison, other members of the same family cannot obtain permits to work in Israel – they are blacklisted. In addition to the prison sentence, a fine is usually imposed as well as a suspended prison sentence for months or years. Numerous Palestinians released from prison are still under suspended sentence and thus cannot obtain work permits (within Israel) that are issued by the Israeli Civil Administration. Thus, the two arms of Occupation (the military court and the Civil Administration) connect, create and reinforce a system of control over the Palestinian economy dependent for the most part on men's work in Israel.



Administrative Detention

Administrative detention is incarceration without trial. For its duration the detainee is not subject to normal legal proceedings and is detained without being indicted. His detention is based on the



assumption that it is his intention or ability to break the law in the future or that his actions will pose a threat to Israeli state security. Administrative detention is perceived as a deterrent measure and therefore is also time-limited – but there is always the option to extend it.



Minors in THE Military Courts

Although certain changes have been made in military law proceedings favoring Palestinian minors – for example, the maximal age for defining a minor has risen from 16 to 18 years, and the duration of custody prior to being brought before a judge has been shortened – military law still does not meet the standards required to protect the rights of minors as is commonly done in Israel. Palestinian minors are not interrogated by policemen who have undergone special training for interrogating minors, and usually a parent is denied presence during a minor's interrogation. Instead of summoning a minor for interrogation, many are arrested late at night, taken out of their beds – shackled and blindfolded – and transported to an unknown destination. Only in the morning are they brought to a police station, having suffered serious trauma. Furthermore, unlike the obligation in Israel to present an arrest memorandum prior to detaining a minor until the end of proceedings – no such obligation exists prior to the arrest of a Palestinian minor.



A Selection of Useful Terminology at the Military Courts

Prepared by the Military Court Team of MachsomWatch

Jerusalem, 2018

Occupation Double-speak

Zionism's amazing revival of the Hebrew language has morphed into an insidious instrument of repression.

Michael Sfard, Haaretz, 12 June 2011

"... the Hebrew language has been mobilized by decree of national emergency. It has been tasked with providing a soothing, anesthetizing name for the entire project of suffocation, for the blanket system of theft we have imposed on those we occupy.

Hebrew has risen to the challenge, showing the creativity and flexibility of a language that has been called to duty. Thus extrajudicial executions have become "targeted assassinations". Torture has been dubbed "moderate physical pressure". Expulsion to Gaza has been renamed "assigning a place of residence". The theft of privately owned land has become "declaring the land state-owned". Collective punishment is "leveraging civilians"; and collective punishment by blockade is a "siege," "closure" or "separation."

This is how we have translated the abominable things we have done over the past 45 years, and are still doing, into an indecent assault on one of Zionism's most beautiful and successful projects: the revival of the Hebrew language."

In this glossary we wish to show how language creates a world view and reflects it, in this case, the language used by Israeli military courts when judging Palestinian defendants living under Occupation. The Israeli military Occupation of the Palestinian Territories is already more than 50 years old, but most Israelis do not even know what is meant by the words "military court" and how it differs from the courts operating within Israel.

Separate legal systems for separate populations are characteristics of an apartheid regime. Israel's various governments continue to blur, erase and attempt to banish from memory the fact of the state's military hold on the population living in the Occupied Territories. The military courts, the arm that legitimizes the army's actions, use language and supposedly neutral terms derived from the legal terminology as a tool to ensure the incarceration of thousands of Palestinians in order to suppress their resistance to the Occupation.

The language used by interrogators, prosecutors and judges, their coined phrases and definitions, present a world view in which Palestinians are regarded as a threatening, dangerous entity that must be eliminated and imprisoned on behalf of "public" security, that public being the state's Jewish population.

This presentation deals with language. Our source material has been the protocols of military courts, and when these were not available the reports of MachsomWatch volunteers who attend military court hearings. We present here in alphabetical order commonplace terms used by the military courts, and highlight them in order to expose the world view of this legal system on which they are based.

Administrative Detention

"The lives of Palestinians in the Occupied Territories are controlled by an apparatus of organizations including the police, the Civil Administration, the Border Police, the Coordinator of Government Actions in the Territories, the employment services, military commanders on the ground, and the Israeli General Security Services. This system is based on mechanisms of identification and profiling of people determined by confidential decisions. Changing policy and intelligence gathering is an extreme case of a mechanism of administering an entire population."

Yael Berda, The Bureaucracy of Occupation, 2012.

Palestinian Legislative Council member Khaleda Kan'an Mohammad Jarar was accused of a series of security violations: membership and activities in the Popular Front for the Liberation of Palestine. As a representative, a spokesperson and a loud participant at the Front's rallies, among other things she cried out for was the liberation of the General Secretary of the Popular Front who is incarcerated in Israel. She also rallied in favor of abducting Israeli soldiers for the purpose of bargaining in return for Palestinian prisoner. She also regularly visited families of prisoners. For all of these Jarar was accused of incitement. She also regularly visited families of prisoners.

When sending her to **administrative detention**, the military prosecution claimed that army authorities have long followed the activity of Councilwoman Jara: "Up to the point where the need to **protect the public** against Jarar's activity overcame all other needs." According to the B'Tselem website:

"Administrative detention by definition is the imprisonment of a person without trial, claiming that s/he intends to break the law in the future, without having yet committed any violation. Since this is a would-be deterrent measure, it is not limited in time. Administrative detention is carried out without any legal proceeding on the basis of an instruction issued by the Regional Commander, and confidential evidence that is not exposed to the detainee. This procedure severely impacts the prisoner who stands helpless in the face of claims of which s/he is not made aware of and which he has no way of refuting, without knowing when he will be released, without an indictment, trial or conviction."

www.btselem.org/hebrew/administrative_detention_2017.

The practice of administrative detention is no Israeli invention. It is a well-known term in international law. Still its dry administrative tone does not expose the harshness and disregard with which the court ignores liberty and fair trial. The court's language once again takes matters out of context in order to defer to the listener who is unaware of the Israeli Occupation routine. Again - a person's freedom is denied on the basis of what might happen as a result of his or her action at some future date.

Assaulting A Soldier

Israeli soldiers, Civil Administration officials, and Border Policemen came to the home of Sawsan Mahmoud Hussein Hamamda in the South Hebron Hills, in order to demolish her home on "the basis of confidential rulings". The construction of a home, any home, is conditioned by the permission granted by any or all of the above-mentioned authorities. Most applications for such permits are refused, and therefore most Palestinian houses are built without permits. Thus too - Sawsan Hamamda's home.

"Sawsan was convicted by her own admission of guilt that on November 24, 2011, as security forces and Civil Administration officials came to evacuate an illegally built house, she struck a Border Policeman with a rock. The defendant was arrested following the incident and was held for 8 days in custody until she was released... Later, her friend Amal Jamal Moussa Hamamda approached the Border Policemen and after some altercation threw water at a Border Policeman."

From the indictment sheet, December 19, 2011

An indictment for **Assaulting a Soldier** is usually a manner of whitewashing beatings, injuries and harassment of Palestinians by Israeli security forces. Commonly, there is some unexplained congruence between such allegations of assault and the state of Palestinians who arrive as defendants at court - from hospital with visible signs of wounds and contusions.

The sacred principle of symmetry is at work again here, used so smoothly to oil the listeners' ears so that the obvious will not be asked - did this woman actually attack the security forces, or was her home being threatened with destruction and she was defending it? Why, in fact, is it assumed that she should passively allow her home to be demolished, even if the demolition order is based on a law that declared the home to be illegal on the basis of "confidential rulings". First and foremost, the fundamental question of who assaulted whom is not examined. If we place Sawsan versus the soldiers, the Civil Administration officials and the Border Policemen who came to demolish her home, who was the attacker and who the victim?

Confidential Report

A confidential report encompasses interrogation material that is presented to the remanding judge but not to the detainee or his/her attorneys. Such a procedure is also used in Israeli courts, but in the military courts an added measure is the denial of meeting with one's attorney (at times up to 90 days from the time of the arrest). The combination of these two measures leaves the defendant and

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area](#)

[Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)



whoever represents him in court in complete ignorance of the accusations made against him/her as well as a total inability to launch a defense against the accusations. The suspects' attorneys and the suspects themselves stand empty handed facing a police interrogator and a judge who share a common secret. The object of this secret sits in front of them and is prevented from knowing the secret itself. Ahmad Yassin Sid 'Aluan is such a defendant, one among many. A record of his court appearance follows:

"The Defense: Was the defendant required for the interrogation?

The Police Interrogator: The reasons for his arrest appear in the confidential report.

The Defense: From when do these reasons date?

The Police Interrogator: In the confidential report.

The Defense: Was he arrested on the basis of intelligence information?

The Police Interrogator: Points to the confidential report.

The Defense: Was he arrested after someone else incriminated him?

The Police Interrogator: There is material proving the allegations made against the defendant."

Court Protocol, June 5, 2017

Ilana Hammermann learned from the General Security Services how the confidential report is composed and consolidated, and her description follows:

"... In the morning the field coordinator sends the various arms of his logistics team information about the behavior of a certain Palestinian that he has received from agents he activates in his designated area (family relatives, neighbors, rivals...). He shares news that this specific individual has been frequenting the mosque lately, has posted messages on Facebook that he is sick of life, that his father is unemployed, he has even purchased a knife etc. At noon information gathering work is performed, data is processed and analyzed using the world's foremost state of the art technologies... And if that person is identified as a likely potential terrorist, at night he is apprehended at home, brought in for interrogation - and at 9 a.m. the next morning the fellow confesses."

Haaretz, March 30, 2018

Between "bringing him in for interrogation" and the remand session, apparently the special procedure of "[his own free will](#)" wherein the confidential report is composed as well as the performance of "[necessary interrogation](#)" - simply torturing the suspect until he or she confesses. Use of this report is of course devoid of the notion of fair process, as it denies the defendant any rights to a defense, and if "necessary" paves the way to administrative detention. Translated into normal human language, what the military court says in fact is this: "We will do whatever we please, and call it law and regulation and jurisdiction for we are the ones setting the rules."

Conflict

Conflict is perhaps the most popular term in discussions, essays, media stories, articles, foreign ministers' conferences, and studies of the impossible situation in our region. It is also the most confusing of terms, for it is usually distorted. The minor example of Sliman Salem Issa Adarah, shepherd from the Palestinian hamlet Tawaneh (in the South Hebron Hills), is proof of this.

"Mr. Adarah was accused of assaulting Gedaliah, the area's security official, by breaking into his jeep and breaking his glasses. Sliman Adarah said he was attacked, wounded and needed medical attention. All this happened against the background of what is regularly termed "land conflict" that encompasses settler attacks, theft of flocks, uprooting of trees, shifting of fences, closing off areas mentioned above, and more."

From a MachsomWatch report, June 7, 2010

From the interrogation of Sliman Adarah by the prosecutor (our own emphasis):

The Prosecutor: Do you know Gedaliah?

Sliman Adarah: Yes. For over two years.

The Prosecutor: You know he is a security official?

Sliman Adarah: So I've heard.

The Prosecutor: You said he takes your sheep and his conduct is part of a broader practice by the settlers.

Sliman Adarah: The ones doing it are more people from Havat Maon (outpost) who live in caravans.

The Prosecutor: Does Gedaliah take part in these ugly acts?

Sliman Adarah: Yes. I said he takes part in them.

The Prosecutor: Was there ever a dispute between you two? Some sort of **conflict**?

The term "**conflict**" is based on the assumption that relations between Sliman Adarah and the security official are symmetrical. Thus Sliman Adarah is turned into an equal party to this "**conflict**". This is such a sharp distortion of the reality of life under military and political oppression as experienced by Adarah, that anyone aware of it is amazed by its use. True, whoever is unaware could be trapped into thinking that as in any "**conflict**", the one referred to by the prosecutor in his questioning also has two sides. This is the reason that the term is so commonly used in the military court. It is part of the illusion of a fair procedure against a person who is rightfully tried in court, whose "**conflict**" with the Occupation could be settled there and then. But this is not the case.

Can such symmetry exist between the armed security official who

defends settlers who chase Palestinian shepherds, steal their flocks, poison sown fields and demolish water holes, settlers who are equipped with maps, weapons, an army and military courts - and Adarah, the shepherd from Tawaneh who is one of their victims? As in the insidious use of the term "conflict management", one side manages, the other is managed. Therefore this is no "conflict". This situation has an altogether different name, one that is not part of the official narrative, certainly not in this court.

Disturbing A Soldier On Duty

A minor took part in a demonstration in protest against Trump's decision to move the American Embassy to Jerusalem. The discussion of matters pertaining to minors is confidential and their identity is also kept confidential. About 50 youngsters took part in this demonstration. At some point the soldiers used known crowd dispersal techniques. The minor escaped and hid in a storeroom. The soldiers found him and arrested him. He was taken into custody at Ofer Prison and was indicted. The charge: throwing stones, read as follows:

*"By escaping from the soldiers, **the defendant disturbed the security forces on duty**".*

From the indictment, December 26, 2017. Our emphasis.

Namely, the soldiers' duty is to use those crowd dispersal techniques against the defendant - teargas, stun grenades, clubs and 'rubber' bullets - as a natural and logical deed, part of reality, whereas the defendant's role is to help them injure him. By escaping he violates the contract implied by the court's indictment.

Disturbing The Peace / Riots

Mundher Amira of the Aida refugee camp is a prominent and well-known activist in the Popular Committees' non-violent activity. He has been in prison since December 27, 2017. His indictment contains 13 points, all regarding riots.

From the judge's ruling (our own emphasis):

"Among the various considerations, and in light of his previous clean record, one may consider his release under conditions that will ensure public order and distance him from demonstrations and participations in riots".

The military court presents the demonstrations out of any context and thus constructs a distorted reality. The platform for "riots" is blatantly

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area
Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)



missing from the text: life under military Occupation – including expropriation of lands, denying access to them, checkpoints, arrests and more – is naturally absent in the judge's considerations and verdict.

This language, devoid of context, leaves the listener with the understanding that some sort "order" has been disturbed. Most of us prefer for order not to be disturbed. Order is good. No one asks the obvious question – what is this order which is being protected by the court? Is it public order as we know it from the context of our own lives, one in which we take part in its constitution, its content, and therefore is in our own interest to maintain? Did Amira also take part in constituting this order that he is now accused of disturbing, or is that very order one that we have constituted without his being party to it? And if the latter possibility is the one closest to an accurate description of reality, does Amira not have the right to challenge that order? According to the Fourth Geneva Convention – this is his full right. An occupied people has the right to resist its occupiers, even harm their soldiers. But the court's language looks out for maintaining the Occupation. It obviously expects the occupied population to maintain the order of Occupation.

Bassem Tamimi, of Nabi Saleh, is another prominent activist who was arrested for his central role in organizing popular resistance to the separation barrier.

"This defendant in the Occupied Territories from January 2010 until close to his arrest tried both vocally and otherwise to affect public opinion in the region in a way that might disturb public peace or public order. As for disturbing the public peace, the inherency of stone throwing poses a threat of disturbing the public peace."

From the indictment, March 14, 2012, our own emphasis.

"At first the defendant would organize a so-called 'peace' march held without violence and when this march would come close to the Israeli security forces it would turn back and this would be the signal for groups detailed above and guided by the defendant to begin mass rioting and throwing stones at the security forces."

Court Protocol, March 14, 2012

The indictment draws upon segments of reality and re-assembles them in order to paint a picture that suits its own narrative. But the forgery is obvious. The expression **riots** does not describe reality but judges it, condemns it and patronizes it.

The word "peace" is nestled between quotation marks in the original as well. Thus the court tells us what it thinks about the Palestinians' peaceful intentions. There was a time that the media also called this the "moderation assault". The description of the events during

the demonstration whitewashes the connection between cause and effect yet again. Why did the demonstrators turn around when they got close to the security forces? Is it perhaps due to all those crowd dispersal means used by the army – teargas and smoke grenades, clubs and rubber covered metal bullets, which are not listed?

Exiting An Area Without A Permit

Violating instructions which declare an area to be closed

"The travel permit regime is an apparatus of filtering, identifying and restricting movement of the largest population in the world. Ever since the Oslo Accords, Palestinians from the Occupied Territories need permits to enter Israel, and the permit apparatus is a cumbersome, labyrinthine system fed by endless documents and permits that are difficult to obtain."

Yael Berda, The Bureaucracy of Occupation: Apparatus of the Travel Permits in the West Bank, Van Leer Institute, Jerusalem, 2012.

Nabi Saleh inhabitants Rana Hamada and Nereeman Tamimi were arrested during a protest demonstration. Following is a segment of Hamada's trial protocol:

"In Nabi Saleh or thereabouts the defendant entered an area declared as a **closed military zone** and thus violated the edict **closing the area** without having a lawful permit to do so."

Court Protocol, July 1, 2013, our emphasis.

Her indictment proceeds to specify further that:

"This defendant **disturbed a soldier in carrying out his duty**".

We have elaborated on this under the headline of [Disturbing a Soldier](#)

Any area in the Occupied Territories may instantly turn into a "closed military zone" by force of the present military commander's decision. Consequently, anyone present in the area or obliged to pass through it and cannot know that it has been "closed" immediately turns into an outlaw. Everyone is in fact a "potential outlaw." These individuals are considered illegal aliens and are accused of violating instructions concerning closed areas.

Moussa Mohammad Gamal Zayed was indicted and even admitted that he entered into Israel seven years prior to his trial. He confessed that his entry was committed in order to bathe in the sea for the first time in his life.

"The defendant in our matter admits entering Israel with someone else's ID, knowing he is not permitted to enter without a permit, and he did all of this only in order to bathe in the sea on Israel's shore. A

person who disregards the law, even if just to bathe in the sea and not even to work for his and his family's livelihood is perceived as a frivolous person who would easily commit such acts again."

The military prosecutor, February 1, 2015

In this context Moussa Zayed is an 'illegal alien'. This patronizing definition turns us again towards the law-makers - the army and the State of Israel who direct a person's mobility and dictates who is allowed to go where, where to be, at what times, and even - who may bathe in the sea. Reading the protocol shows that the law maker in fact defines the Occupied Territories as a prison, and all of us Israelis as wardens.

Hatem Rasi Sliman Al Tirda is accused of breaching the security fence, entering Israel, and even confessing to have entered once before, in 2014.

"The military appeals court ruled that "in these cases one cannot disregard the danger posed by the defendant. An economic motive does not constitute sufficient grounds for violating the law and in case the defendant still needs to make a living there is no reason for him not to commit the same violation again."

The army prosecutor, March 1, 2015

Exiting the area without a permit is one of the most commonplace grounds for indictment in the military courts. Beyond the distress of people seeking livelihood or a dip in the sea, the language talks to itself in negations and permissions: "without permit", "violating", "closed". In these cases one can clearly see the stick held at both ends - if exiting "the area" is not for needs of livelihood as in the case of Moussa Zayed, it is irresponsible, and the culprit is likely to repeat it. If it is indeed for needs of livelihood (as in the case of Hatem Al Tirda) - of course he can be expected to repeat his transgression.

Evidential Difficulties

Tareq Abu Maria was accused of throwing stones (another accusation quite common in Israeli military courts), but it was not quite clear whether indeed it was he who had thrown the stones.

"The defendant was convicted by his own confession under the plea bargain, that in the early part of 2017 on two separate occasions, during riots, he threw stones at a watchtower from a distance of 40 meters... the parties reached the plea bargain due to the defendant's incriminating past... The court has also been made aware of the fact that certain evidential difficulty was considered regarding the identification of the defendant."

From Court Protocol, December 18, 2017, our emphasis

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)

"Evidential difficulty" usually goes hand in hand with "plea bargain", the first and foremost condition for which is admission of guilt. Plea bargains are made possible because the court considers its time as the most important resource of all. If a detainee insists on claiming innocence, the court may sometimes drag its session for up to a year or two and often neither the detainee nor his attorney can withstand this duration. Unlike the indictment sheets of military courts, formulated harshly and assertively - violation of law, incitement, danger, threat, conviction etc. - verdicts that follow plea bargains use soft understatement depicting "certain evidential difficulty" - the guilty party was the defendant, and perhaps it wasn't even him or her at all. The point is that this does not really matter to the military court. Evidential difficulty is no obstacle for conviction nor does it prevent the fine or even the prison sentence that follows.

A similar case occurred in the trial of Mohammad Ash'al who confessed and was convicted in a plea bargain of sabotaging, with others, an Israeli army installation.

*"The defendants were convicted by their own admission of guilt under a plea bargain in causing damage to an Israeli army installation, its security fence which they cut with wire cutters, causing damage estimated at about 7,700 shekel. It should be noted that this case came under review while hearing evidence, during and following which **evidential difficulty** arose in proving the facts of the indictment, and thus the parties came to a comprehensive agreement both about the indictment grounds and the sentencing."*

Court Protocol, June 24, 2015, our own emphasis

The protocol does not reveal which facts posed difficulty: the damage? the security fence? the cutters? the defendants' identity? Perhaps.

Both parties know however, that the judge holds both power and controls time, and thus plea bargains are signed and defendants confess to violations that remain unproven by the court. In spite of the fact that the court admits it could not prove the defendant's guilt even if it found grounds for taking the trouble to do so. How elegant - it is both impossible to prove and the defendants confess and are subsequently convicted.

In Mohammad Haryush's trial for having shot at some target on some date at an undefined site, **evidential difficulty** is especially prominent. He was still convicted, of course, by his own admission of guilt. Otherwise no plea bargain would have been signed.

*"This defendant fired **some** firearm at **some** person or at **some** groups of persons or at **any** place where people might be found."*

From the indictment, November 18, 2013, our own emphasis

More examples:

"This defendant came in contact, in writing or orally or in any other way with a person who is very likely to be acting on behalf of the enemy, whether in the enemy's ranks or any other way... at some time that is not precisely known by the prosecution".

From the indictment sheet, November 18, 2013, or own emphasis

Here the prosecution really outdid itself - it formulated a generic accusation without providing even a single solid fact - no date, no definition of firearm, no location, no names, not even a description of damages. It must have had a severe case of evidential difficulties. But "evidential difficulty" is precisely the terminology used by the court in order to hold both ends of the stick - not declare the defendant not guilty, even if there is no evidence of his or her guilt, since the defendant will confess in order to settle with a plea that brings a shorter sentence.

Fence

On February 21, 2012 Samih Khatib was accused of throwing stones at what the military court likes to affectionately call "the separation fence". This is how the act was described in court:

"... This is a detainee who is not deterred by the prospects of prosecution... It does not keep him from joining a group and hurling stones at the fence, when danger lies not only in harm to the fence itself but in the repeated summoning of the security forces who receive notice that the fence has been touched, which obviously impacts ongoing security and disturbs the activity of the security forces".

Court Protocol, February 21, 2012

The use of the word **fence** is designed to diminish in the listener's mind the dimensions of the extent in which the separation barrier impacts the human, political and natural landscape the threat it poses and the fact that it blocks one's field of vision and accessibility, without which no economic, commercial, family and other ties are possible. The term **fence** conceals from Israeli ears the land grab taking place and the actual imprisonment of thousands of people behind it. For **fence** brings to mind a small house with a red roof... In fact, in this case the word refers to a concrete monster 9 meters high. In its terminology the court creates another complete identification of the term with what we all aspire for, if we do not refer to the actual context of "ongoing security". The words in themselves form a tall and thick wall between deeds carried out in our name, reality, and in the reader's own conscience.

Free Will

As we have already written here, Nabi Saleh and Ni'lin are among the Palestinian villages in the West Bank that hold weekly protest demonstration against the separation barrier. In an effort to suppress these demonstrations and locate their leaders, the army uses children as informants. Fourteen year old Islam Dar Ayoub of Nabi Saleh was taken from his home in the middle of the night, in his pajamas, held shackled and blindfolded for nine hours, and then interrogated by 3-4 GSS interrogators. At the end of this interrogation he "incriminated" many people from his village. In court his defense attorney questioned some of these interrogators in order to show that the interrogation was not held according to the laws protecting minors, and therefore is unlawful and the confessions it yielded are not valid. How strange - the interrogators denied these allegations....:

"... Everything the defendant admitted was said of his own good free will; the atmosphere was positive: the person under interrogation made statements of his own free will; he cooperated fully; the atmosphere was light and I don't recall anything out of the ordinary. Relatively speaking this interrogation was mild and sensitive."

From the testimony of an interrogator, March 10, 2011. Our own emphases.

The individual in charge of this interrogation repeated:

"The atmosphere was relaxed; I could even say he was treated by the interrogators as their son, received their attention, his needs were taken care of, he was constantly offered food and drink, chocolates... They asked normal questions in a language he understood, gently, in a gentle tone of voice."

Court Protocol, March 10, 2011.

This is the blanket of lies that conceals the violent nature of the interrogation, the violations of the minor's basic rights, and the elephant in the room - the Israeli Occupation of the Palestinian Territories. In dozens, perhaps hundreds of protocols, the interrogators' answer to questions about their interrogation and the subject's answers is always as follows: "The suspect answered all the questions of his **own good free will**."

Defendant Nader Ismail Jibril Abu Zidiya claims to have been tortured in his interrogation.

"Prosecutor Tali Keret (Blank) presented the court with two statements by the defendant [declarations signed in the presence of a policeman] and five memoranda noted during the interrogation, and requested the court to overrule the defendant's claims that undue pressure was exerted during the interrogation."

Nader Abu Zidiya described the torture he underwent:

Banana-tie (a person is laid on a very low chair/stool, his back bent, his hands cuffed to the front legs of the chair, his ankles to the back legs of the chair, and he is left in this position for a very long time); blows, slaps, spitting on the photo of his deceased brother, obscenities about his mother, sleep-deprivation, he was thrown onto the ground and blindfolded for long periods of time. There were other trivia such as shaking the table, threats and curses."

From a MachsomWatch report, February 4, 2009

The judges listened indifferently to this horrifying list and to the prosecutor who claimed that it was all the figment of the suspect's rich imagination. She didn't just say this, the GSS interrogators who had interrogated the defendant and who, according to Zidiya's claims had done all of these things, were called to testify:

*"Credibly and clearly, both in the primary interrogation and in the cross examination, not a shadow of a doubt was left: the defendant had suffered no wrongdoing or pressure, and his confession was made of his **own free will**, and it can only be assumed that now the defendant is trying to escape from his own accountability by any means possible, even making false allegations about his interrogators."*

From Court Protocol, February 4, 2009, our own emphasis.

Even if the interrogators who were the objects of the defendant's allegations were to tell the truth about their conduct (only their own words were needed as proof), one can assume that what they do not find as "wrong" is in fact quite wrong. As soon as the Supreme Court allows interrogators to exert "a moderate measure of physical pressure" under the "suitable circumstances", the accusation that Arabs are endowed with a rich (Middle Eastern/ Levantine) imagination, in other words all Arabs are pathological liars becomes a contradiction. A court which views Palestinians as pathological liars only until the moment they incriminate others or testify against Palestinian brethren is a court filled with contradictions. When testimony against other Palestinians is regarded as the solid truth and is accepted as evidence against the "incriminated" person the idea that Palestinian imagination leads to false testimony when leveled against interrogation methods fails. Furthermore, testimonies about torture gathered by the Israeli Committee Against Torture provide evidence that this is indeed a regular practice. Adalah, the Legal Center for Arab Minority Rights in Israel, has written about the wrongful total exemption enjoyed by GSS interrogators when documenting their interrogations. Lastly, we cannot overlook the appearance of Palestinians as they arrive at court. Anyone who sees how these individuals look is free to decide how much "free will" was actually in place to a Palestinian defendant in the GSS interrogation rooms.

Ideology

In 2009, Ahed Tamimi's village, Nabi Saleh, joined the weekly protest demonstrations taking place in seven villages in the West Bank against the separation fence and in protest of the confiscation of their lands for the sake of founding settler-colonies.

When Ahed was 12, a member of her extended family, Mustafa Tamimi, was hit in the head by a teargas canister during a demonstration in the village. A year later, her uncle Rushdie was shot in front of her and killed by Israeli soldiers. On December 15, 2017, 17 year old Ahed was arrested. This was the day that her cousin Mohammad - two years her junior - was hit by a metal pellet covered with rubber that was fired in his face and entered his skull. On that day two armed soldiers entered the Tamimis' yard. Ahed's mother, Nariman Tamimi, photographed her 17-year old daughter and her cousin trying to chase the soldiers away from their yard, while slapping their faces and kicking them. Several days later Nariman, Ahed and another relative, Rana Hamada, were picked up, interrogated and indicted. The indictment reads as follows:

*"The level of violence here presents clear grounds of danger. She [Ahed] admitted that her acts are the result of an **ideology** [...] The initiative for her acts, their extent, the level of violence in which they were carried out and the range in which they were carried out while the [Israeli] security forces were engaged against acts of disturbing the peace in the village all provide clear grounds of danger which could not possibly be disregarded, also according to the ruling of the Court of Appeals in this case."*

From the court protocol of January 16, 2018. Our emphasis.

In other words, according to the indictment, the danger is embodied in the defendants' ideological motive for action. The court is right, of course, when establishing that the **violence** exerted by Ahed was motivated by **ideology**, but is **ideology** sufficient for declaring a person **dangerous**? Do the judges here not have an **ideology**? Don't we? And supposing that a certain ideology is inherently **dangerous**, is there no room in the legal proceeding to look more deeply for context?

For example, under what circumstances did Ahed Tamimi consolidate her ideology, what does it consist of, and if it means resisting the Occupation, is it immaterial for such ideology to come into being in the face of the presence of soldiers in her home, a presence that represents violence that is much greater - the Occupation itself? If a court does not delve into this, such an indictment, like many others, becomes sheer propaganda. The danger embodied in resisting the Occupation does not need proof, this indictment appears to be saying - namely, anyone resisting the Occupation is dangerous and his/her freedom must be denied.



Daoud Mahmoud Khaleel Rian, too, confronted soldiers in his village and admitted throwing a stone at them. His indictment, based on the testimonies of two soldiers, also attributes to him an attempt to throw a Molotov cocktail. During this confrontation he was shot, wounded, and was then hospitalized at Hadassah Hospital (Jerusalem). He was transported to the courthouse in a wheelchair and barely made it up the few steps to the defendants' bench. The defense requested that he be released on bail until the trial because he is unable to walk and thus did not pose any threat. In addition, due to his condition there was no chance for him to participate in further confrontations with the army. The defense was requested to provide the court session with medical documents regarding the defendant's condition.

These documents showed that the prison doctor found Daoud's general condition satisfactory and stated that he did not complain of pain. The prosecutor did not find the defendant suffering from any physical constraints that would prevent him from repeating his actions.

The Judge ruled:

*"... Apparently the prosecution is right to establish that the defendant acted out of typically **ideological** motives inherent in his perception and world view, to the extent that he is willing to sacrifice his own life on their behalf... In his own testimony the defendant states: "I wished to die as a martyr because the army kills women and children". In the opinion of the prosecution the **ideological** component inherent in the defendant's actions to the extent of willing to sacrifice his own life only adds to the danger he poses..."*

Court Protocol, January 20, 2016. Our emphasis.

Indeed, the defendant acted out of ideological motives - he does not like the fact that the army kills women and children. The military judge sees Daoud Rian's ideology as a dangerous weapon. Namely, he is tried not for his actions as much as for their motive. And again we ask - does the physician who found Rian's general condition satisfactory not have an ideology? The court which Israel has placed in the forefront of its attempts to reinforce and stabilize Occupation, settlements and suppression of any resistance thereof - is this court devoid of ideology?

The State of Israel is, according to its official ideology is a democracy in defense of itself - does it not act upon its own ideological motives when judging Daoud?

Incitement

Dunya Ali Mohammad Musalah is a first-year accounting student at



university. Her indictment is based on her Facebook page and lists two violations on her part:

Membership in the Popular Front for the Liberation of Palestine, and incitement. The defendant has used Facebook to incite violence...

From her indictment, December 6, 2015, our emphasis.

The judge's ruling:

"The courts have reviewed danger resulting from incitement and ruled that praise and cheer of terrorist acts published on the social media, especially at times of repeated disasters, fan the flames and make youngsters take excitedly to the streets."

Judge's ruling, same date, our emphasis

Professor Imad Barghouti was arrested when his Facebook page was found to contain calls to resist Occupation. Here are some of the quotes:

"We wish to unfold our sleeves and take up knives; The Zionist enemy Prime Minister Benjamin Netanyahu who took terrorist measures against stone-throwing children has been given the right by the Israeli army to use live fire against these children..."

I swear to God that the dust on the shoes of whoever fights the Occupation with a knife is more respectable than the most respected of their sons, purer and more honest... Only the inhabitants of their own land can free it."

In order to reaffirm and reinforce the accusation, recognizing the Security Services' strong influence upon policy making, the army prosecutor presented the following:

"The General Security Services have presented their opinion pointing to a connection between incitement and terrorist attacks."

In the judge's ruling we find:

"I have concluded that on hand is real incitement through the various postings and decided calls for a third intifada, all of which constitute grounds for arrest at the highest security level, necessarily until the end of proceedings... furthermore, the fact that the postings began close to the beginning of the last and especially severe wave of attacks, bearing harsh and painful results. It is also evident that lately, since October 2015, we witness a long series of rioting, stabbing and live fire with especially severe consequences."

Court Protocol, June 6, 2016

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area
Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)



Military court verdicts are based on making the other side disappear and ignoring the background against which resistance of the Occupation is rampant. In view of their formulation the reader does not wonder whether Palestinians need "incitement" in order to resist the Occupation. The judge's ruling is based on the strange assumption - unquestioned by the reader - that if the "inciters" are arrested, the Palestinians will simply not know they live under Occupation, will be happy, and peace and tranquility will reign.

Necessary Interrogation

"During the remand of Jamal Abed Al Jalil Yousef Abu Salem, the defense attorney asked whether the detainee was interrogated according to the order of "necessary interrogation" (a name given to interrogation under torture). The question remained unanswered, but was not rejected by the interrogator. Nor did the judge explicitly deny the question."

From a MachsomWatch report at the Russian Compound Court, Jerusalem, July 3, 2014

On September 6, 1999, the Israeli Supreme Court made public its ruling on several petitions against the State of Israel and its General Security Services, to forbid use of interrogation methods that comprise forbidden harassment and even torture. The verdict changed the legal situation that was in force in Israel until that time, regarding the authority of the GSS while interrogating suspected terrorists.

The Supreme Court's main ruling was that the GSS has no legal authority to implement physical interrogation methods that transcend "reasonable and fair" interrogation and cause the interrogated person suffering. However, the Supreme Court also ruled that GSS interrogators who had exceeded their authority and applied physical pressure would not bear criminal responsibility if proven in retrospect that this was done under "the relevant circumstances".

Potential Criminal

Fareed Moafaq Fareed Sa'abaneh confessed to two grounds of violating an instruction in a closed zone.

"The defendant confessed today that early in 2011, on three different occasions, he exited the Occupied Territories through A-Zaim checkpoint and entered Israel, and that on the day of his arrest, June 21, 2011, he did so by jumping over the separation fence. The Hon. Judge Haniel mentioned that the level of punishment in this case... might encourage criminals of this type to repeat the same violation... It was mentioned that a young age and the lack of previous convictions are not rare in the state of criminality involving

A

Administrative Detention

Assaulting A Soldier

C

Confidential Report

Conflict

D

Disturbing A Soldier On Duty

Disturbing The Peace / Riots

E

Exiting A Closed Area Without A Permit

Evidential Difficulties

F

Fence

Free Will

I

Ideology

Incitement

N

Necessary Interrogation

P

Potential Criminal

Prohibited Organizations

R

Received By Deceitful Means

Regional Security

Rehabilitation

S

Security Forces

V

Violence

W

Wanted



illegal entry into Israel and that active incarceration of one month does not deter potential criminals”.

From the verdict, August 10, 2011, our emphasis

Any Palestinian in the Occupied Territories is a potential criminal and this opens unlimited possibilities for the military court system. Thus, for example in many indictment sheets as well as verdicts, the court takes responsibility for the future: Abu Rahma, too, is accused of “potentially criminalizing a public that is easily influenced” so they don’t go to prison, God forbid!”

Rehabilitation

Prohibited Organizations

One of the many ways in which the State of Israel fights terrorism and its funding, is through the authority it possesses to declare various organizations and bodies as “terror organizations. The Minister of Defense is authorized to declare various organizations and bodies as “prohibited unions”.

From the Ministry of Defense website:

http://www.mod.gov.il/Defence-and-Security/Fighting_terrorism/Pages/default.aspx

Maher Yaseen Mohammad Redaida was elected as mayor of Abadiya in 2004, and in his capacity as mayor he managed to raise donations abroad in order to establish a library in town. In 2009 he was indicted and convicted in an Israeli military court, charged with four counts: carrying out service for a prohibited union, holding public office, membership and activity in that union, namely Hamas. He also admitted organizing summer camps and a Qur’an study center. The prosecution demanded a sentence of 24 months in prison for membership and activity alone, to which added punishment must be meted for the other grounds of his indictment.

“The defendant was found guilty of serious violations comprised of strengthening terrorism politically, socially and economically. This is a senior and prominent personality in his town and his public influence is considerable, there is no knowing where the Hamas held out its tentacles through this person and what the implications would be in the future.”

From the verdict, May 11, 2009

By defining a **union as “prohibited”** any civil activity becomes a violation of the law. The innocent public is not aware of the arbitrariness of this violation. When the defendant was elected to his senior position, was Hamas still legal? Two years later, when Israel allowed him to run for office, was he permitted to run for office? The formal answer is that Hamas became a prohibited union as early as summer 1989. So why now? Well, why not? If a law exists that

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)

may be used to remove this person from his activity on behalf of his occupied people, why not use it... Add words from the semantic field that poses such a threat to Israeli citizens - "Terrorism", "tentacles", and the court has already gleaned wall-to-wall public approval that the defendant is guilty and we simply must be protected against him. Again we learn that whoever opposes the sovereign's measures of deterrence and intimidation in his own habitat is the "terrorist". The facts tell it all - he acts on behalf of a prohibited union. The rest is decoration to appease the untrained ear in this Orwellian language. Especially interesting is the phrase "there is no knowing where the Hamas held out its tentacles through this person and what the implications would be in the future." (see also [Administrative Detention](#)).

Received By Deceitful Means bribery/special benefits as well as the use of forged documents

These expressions, deceit, bribery and forgery, all evoke moral objections by law-abiding citizens who fail to remember that a person who is not allowed to live life above ground digs tunnels underground. Having no alternative pushes the individual to take all sorts of steps in order to survive. Deceit, bribery and forgery have been borrowed here from an irrelevant semantic field.

"Khaled Al A'araj defended his client Daoud Sabateen, the third hand in the chain that smeared glue on its fingers while passing on bribe money to a senior official in the Civil Administration from Palestinians wishing to obtain an entry permit into Israel. The Civil Administration official, R., responsible for issuing such permits, turned to a businessman called Mahmoud Sabateen and suggested that he interest people in purchasing entry permits into Israel, while he, the Civil Administration official, would issue the permits.

Mahmoud Sabateen turned to Ziad Abed Mahmoud Sabateen with this offer and explained the economic benefits that both would reap, while he would keep for himself any amount of money exceeding 4000 shekel received from the applicants.

The defendant passed on a list of names and ID numbers to Mahmoud Sabateen and the latter apparently passed on the list to Civil Administration official R., who received 4000 shekels for every permit. These transactions earned R's bank account 200,000 shekels. Now, as that the violation has been exposed, the people who purchased these permits will stand trial for receipt by deceitful means, helping to violate the instructions of a closed zone, and exiting the area without a valid permit."

From a MachsomWatch report, January 28, 2015

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area
Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)



The problem lies in the situation that enables such a theft. One cannot blame the Palestinians who purchased such permits or for receiving something by deceitful means. They neither deceived anyone nor did they know what the deal entailed. No doubt, so did the court. But what does the court say? The court translates the issue into language that even the ears of this hall of justice could absorb, namely, explanations that are irrelevant and out of context.

"Two officers of the Civil Administration - Major E. who served as the Deputy Commander of the Hebron area DCO and in charge of issuing transit permits for merchants in the area, and Lieutenant Azoulay were arrested after an investigation conducted by the Internal Police Investigation Unit and the Samaria and Judea District Police.

The two are suspect of receiving benefits from several Palestinian business people around Hebron in return for issuing numerous transit permits. The Palestinian business people became "permit merchants" and sold the permits to Palestinian residents... The police claims that these merchants denied having bribed the officers for "expediting" permit, and claimed that these were permits issued on the basis of "personal acquaintance and relations" and not as a result of bribes... However, the police holds two testimonies of merchants according to which 2,000 shekels in bribes were given to the officers... Indictment sheets have been presented against two of the Palestinians... for bribery."

Haaretz, August 23, 2011

For the sake of readers less familiar with these matters, we note that the partners in this bribery and exploitation deal were judged by two different judicial systems, separated by their national affiliation - a military system for the Palestinian business people, and a civil system for the Israeli Civil Administration officers.

Regional Security

Omar Naji Mahmoud Nazal is a member of the Palestinian Journalists Council and of the International Committee of Journalists Union. He was arrested when on his way to represent Palestinian journalists at an international conference in Bosnia.

The army prosecutor wished to prolong the suspect's detention for 72 hours in order to issue a military arrest warrant according to the edict regarding security regulations. The army claimed he was a member of the Popular Front for the Liberation of Palestine and that he posed a danger to **regional security**.

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area
Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)



Here is what the judge wrote in her summary:

"I have reviewed the evidence presented regarding the suspect and the confidential report including the request for administrative detention in his matter. I have found that the allegations against the suspect go beyond his journalistic activity."

Court Protocol, April 27, 2016

In view of this, she instructed that Nazal be held in custody for another 72 hours. An administrative detention order was then issued against him for four months. This order was prolonged twice, and eventually the journalist was held in custody without trial for ten months. The expression, **poses danger to regional security** is so commonplace in military rulings and so widely applied when the freedom of a Palestinian is denied, with or without indictment, that the term itself should be addressed. Still in the indictment sheets and convictions we have reviewed it is hardly to be found, only in remand reports from the Russian Compound (Jerusalem Police Station, court and detention facility) and even then not as a specific allegation - namely, let's detain the person first for endangering regional security, and then we'll find out what that danger is.

Among the privileges that the Occupation regime has appropriated is also the option to decide what security is and how the region is defined. "Region" is the laundered term for defining the Occupied Territories, and "regional security" in the sense used by the military court naturally has nothing to do with the security of the Palestinian inhabitants of the region. It means the security of the settlements and the Israeli military forces that act as their police force. When this fact is known, then no proof is needed when a Palestinian journalist wants to leave the "region" and going abroad poses danger. What would he be inclined to tell the public over there; does he intend to report how "secure" this "region" is for him under military rule?

Rehabilitation

Abdallah Abu Rahmah is one of the popular struggle's resistance leaders in Bil'in. In the arguments for punishment his prosecutors state that this person is not likely to be rehabilitated, among other things because he is motivated by [Ideology](#).

Considerations of deterrence and **retaliation** are even more significant here and there is no room for considerations of **rehabilitation**... the court is presented with a person motivated by uncompromising ideology that places in doubt any possibility for changing his ways and being rehabilitated...

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area
Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)



Apparently the term 'rehabilitation' has been adjusted, attuned and absorbed into the needs of the Israeli military court system. Its meaning has now become "to abandon protest demonstrations, be satisfied with his lot in life, and stop resisting Occupation".

Security Forces

Here is a description of a situation as described in the trial of Nasreen Yousef Hasan Tabahna

"The accused stands at the checkpoint without the necessary permits in some wrong track, and is taken for clarification to the woman-soldier present. At that point a dispute unfolds and the accused slaps the soldier in the face. She fights the soldier, resists arrest, scratches and tries to bite the soldier."

Court Protocol, July 28, 2014

This issue resulted in the prosecutor's pedagogical sermon below:

"I am aware of these sensitive times. My colleague said one should show consideration since these times are sensitive for us all... I beg to differ. A person who lives in the area, especially in these times, should show reserve and **respect the security forces** whose entire work and purpose is to maintain public order so that this person could fulfill her right to enter places where she wishes to pray."

The army prosecutor, July 28, 2014

The language declares the court's perception of reality: Nasreen embodies the disturbance of the right to public order. **She is devoid of the necessary permits, in the wrong track, slaps, fights, resists, scratches.** The right order of things is to maintain **reserve** and **respect the security forces**. On behalf of the right public order, her indictment is based on a false premise - that a Palestinian woman could supposedly fulfill her right to worship, but this is of course true only if she internalizes the right order of things and how to respect it.

Violence

Bil'in is a Palestinian village west of the Palestinian city of Ramallah and east of the Israeli settlement of Modi'in Illit. The village is inhabited by 1,800 people most of whom are farmers. In 2005 the village began demonstrating following the announcement of the Israeli government's intention to erect the separation fence nearby and to this end confiscate a large part of its land. Protest demonstrations held on Fridays often ended up with demonstrators hurling stones and soldiers using clubs, teargas canisters, stun grenades and rubber bullets against the demonstrators. This village is considered a symbol

of the popular struggle against the separation fence. Alongside the demonstrations, the villagers have petitioned the Israeli Supreme Court against the fence route that has left about 50% of their land out of bounds for them.

On a certain Friday, Mahmoud Mohammad Abu Rahma was arrested, and this is how the court described the grounds for his arrest:

"The prosecution has claimed that the violations attributed to the defendant indicate that he acted, incited and persuaded the crowd and the youngsters at the demonstrations to act violently and hurl stones against the security forces... The defendant... took part in demonstrations and incited people to exert violence... It should be noted that such youngsters who are caught throwing stones in these demonstrations are arrested, and if convicted are even incarcerated. Thus the defendant has been found not only guilty of his own actions but potentially causing others, who are easily influenced, to act with that same incitement."

Court Protocol, October 11, 2010, our emphasis.

Military courts devote much time to trials held against the organizers of demonstrations in Bil'in, Ni'elin and Nabi Saleh, and their participants. The formulation of such convictions refer to the defendants as disturbing the peace, inciting and violence mongers, and tends to deny their freedom, for without them it is harder for the villagers to protest against the real violence on the ground - Israeli military Occupation. Even Abdallah Abu Rahma's indictment sheet diverts the accusation of violence from the violator to the violated, the victim, and thus places the Israeli army in a position of the party in need of protection. "The robbed Cossack"...

The Israeli army also intends to erect a fence on the lands of Beit Sira village, and one Friday after their prayers, the villagers went to check out the site of the planned fence and to try and lift this ruling by prayer. In response the Israeli soldiers attacked the group engaged in prayer with clubs, hurled teargas canisters and even opened fire. During this altercation a soldier pushed Adnan Ahmad Nimr Dar Khatab to the ground and began to choke him with his club. In his indictment, Adnan was accused of exerting violence:

*"This defendant... at the cited time and place... when First Sergeant Daniel Lashinsky of the Border Police wished to arrest the defendant, the latter **violently** resisted arrest. He began going wild and when First Sergeant Lashinsky wished to restrain him the defendant bit down strongly on one of Lashinsky's fingers. The defendant did not let go in spite of Lashinsky's pleas and when he let the defendant loose the latter escaped."*

Court Protocol, April 18, 2006, our own emphasis.

A

[Administrative Detention](#)

[Assaulting A Soldier](#)

C

[Confidential Report](#)

[Conflict](#)

D

[Disturbing A Soldier On Duty](#)

[Disturbing The Peace / Riots](#)

E

[Exiting A Closed Area
Without A Permit](#)

[Evidential Difficulties](#)

F

[Fence](#)

[Free Will](#)

I

[Ideology](#)

[Incitement](#)

N

[Necessary Interrogation](#)

P

[Potential Criminal](#)

[Prohibited Organizations](#)

R

[Received By Deceitful Means](#)

[Regional Security](#)

[Rehabilitation](#)

S

[Security Forces](#)

V

[Violence](#)

W

[Wanted](#)



The indictment does not deal with trivia such as how Lashinsky's finger came in between Adnan Khatab's teeth, nor dealt with the question how Lashinsky let the defendant loose after the latter resisted arrest? So he was caught? Otherwise how could he have been let loose? In such a case, at least at the evidence stage, the real picture was revealed -

Adnan was pushed to the ground and choked by Lashinsky with his club. But even in such a case, the demonstrator is the one blamed for using violence rather than the context in which things happened and certainly not the violence that was exerted against him.

Wanted

Mohammad Mustafa Mahmoud Haryush was indicted on 22 counts, all having to do with activities against the Occupation - the possession and production of weapons, opening fire at military targets and more.

*"From 2003 until 2004, the defendant used to aid Hani Haryush, Basel Abu Sehab and Ashraf Daher who are familiar to him as **wanted men**... Furthermore the defendant used to host Rami Tiah and Islam Hamad Abed Rabu Al Abid... all familiar to the defendant as **wanted men**".*

From the indictment sheet, November 18, 2013, our own emphasis.

The words "wanted man" are the ticking bomb attached to Palestinians (along with "potential criminal"). With time these words have become synonymous with the word 'suspect' or 'guilty'. Any soldier at a checkpoint may detain anyone on the grounds that he is "wanted" and the list of detainees under the heading "arrest of wanted men" sounds natural and justified to followers of the Israeli media, and even justifies the violent practice of breaking into people's homes in the middle of the night - if a person is "wanted", whoever "wants" him certainly knows why.

Final Note

The **MachsomWatch** website can be found at:

<https://machsomwatch.org>

Do look us up. The section on the Military **Courts** contains over 900 reports spanning more than 10 years of observations and reporting. For comments or questions write to us at: friendsofmachsomwatch@gmail.com

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