

# ISRAEL

## WITHOUT STATUS OR PROTECTION

### Lebanese Detainees in Israel

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## SUMMARY

This report concerns twenty-one Lebanese imprisoned in Israel and the conditions and indefinite prolongation of their detention. These detainees have been held for up to ten years, some of them in secret locations, denied even the guarantees of due process and humane treatment required by the laws of war. Some of them “disappeared” after their transfer to secret detention in Israel, their custody denied for up to two years by Israeli officials. All of the detainees were initially held incommunicado, in conditions in which ill-treatment and torture by Israeli security forces is known routinely to occur. Two of the detainees continue to be held in utter secrecy and isolation in undisclosed locations; one of them has been in this situation since 1989. Others among these prisoners completed prison sentences in Israel up to nine years ago: orders for their deportation upon release were suspended without explanation and their long imprisonment under administrative orders began. All of the twenty-one were captured inside Lebanon by Israeli troops or Lebanese militia with close ties to Israel, such as the Lebanese Forces and the South Lebanon Army (SLA).

The prisoners in question were all detained in the context of the ongoing conflict between Israel and Lebanon. All are alleged by Israel to have been members of or associated with Lebanese groups engaged in armed opposition to Israel's occupation of southern Lebanon or in attacks on Israel itself. Israel has explicitly conditioned the release of two of the detainees on the release of, or the receipt of information about, Israeli soldiers missing in Lebanon, and has on a number of occasions expressed its willingness in principle to exchange other Lebanese detainees for missing and captured Israeli soldiers. All are now held in administrative detention, under orders handed down in secret proceedings in which even information on specific evidence or allegations against them has been withheld on security grounds, making it difficult to rebut or challenge their credibility. Orders prolonging their detention are issued in intervals of up to six months. Israeli courts ratify these orders in hearings in which the detainees can take no effective part. This report examines the treatment and continued detention of these detainees in the light of international standards. It does not address the legal issues surrounding the actual capture of these prisoners.

The government of Israel responded to Human Rights Watch's request for information on the status of each of these prisoners with a short, general statement that reads in part:

Israel is holding a number of Lebanese detainees. All are members of, or associated with, the Hizballah, a fanatic Iranian backed terrorist umbrella organization of Shiite Muslim groups and individuals. Hizballah's stated objectives include eliminating the State of Israel. These detainees were involved in terrorist activities in Lebanon.

All detainees are being held lawfully in Israel. They are represented by lawyers, and their detention is subject to regular judicial review. [See Appendix B for full text of letter.]

The status of these twenty-one individuals and developments in their cases have been shrouded in secrecy. Eleven of the Lebanese prisoners were detained in 1986 or 1987 and sentenced by military courts on a range of charges under domestic Israeli criminal law—including military training, participation in attacks against Israeli forces in Lebanon, membership in banned organizations, and weapons possession—to between one and-a-half and eight years' imprisonment. Upon completion of their sentences, up to nine years ago, their imprisonment continued. Initially held “awaiting deportation,” they have been held since then under the regime of administrative detention. Israeli authorities have not formally disclosed the grounds for their being administratively detained rather than deported.

Ten of the other Lebanese in Israeli custody have been held under administrative detention orders since they were brought to Israel in three separate operations. On July 28, 1989 Sheikh Abd al-Karim Obeid, a prominent young Shi'a cleric, was taken from his home in Jibchit in a pre-dawn raid by airborne Israeli commandos. In the same operation, Israeli forces also captured his bodyguards, Hashim Ahmad Fahs and Ahmad Hikmat Obeid. Since that time, Sheikh Obeid has been held incommunicado in an undisclosed location or locations, while Fahs and Ahmad Obeid have been held in various known detention centers and are currently held in Ayalon detention center in Ramleh. Sheikh Obeid is alleged by Israel to be a principal leader of Hizballah, the Lebanese Shi'a political movement whose armed

wing, the Islamic Resistance, opposes Israel's occupation of Lebanese territory and also launches military strikes into northern Israel.

In another raid, on May 12, 1994, Israeli troops took Mustafa al-Dirani from his home fifty miles from Israel's occupation zone in south Lebanon. Al-Dirani was head of security of Amal, a Lebanese political movement whose military wing in October 1986 captured Israeli Air Force navigator Captain Ron Arad after he bailed out of his plane over Sidon. (Al-Dirani later left Amal to form another group, known as "Faithful Resistance," and is alleged to have transferred Arad into the custody of the new organization at that time.) Israeli officials have publicly made the release of Sheikh Obeid and al-Dirani contingent on progress toward resolving the fate of Israel's missing in action (MIA).

Obeid and al-Dirani have been held for years without contact with the International Committee of the Red Cross (ICRC) or visits from their families; they have had practically no correspondence with their families; and they are held apart from other detainees in undisclosed locations. To our knowledge, Israel has provided no justification for this regime of isolation, which appears harsher than that experienced by any of the other Lebanese detainees acknowledged to be in Israeli custody.

Israeli officials have consistently said the arrest and detention of the two was motivated in part by its efforts to obtain the release of, or information about, military personnel missing in action in Lebanon or their remains. Israeli personnel still missing are Arad, the Israeli Air Force navigator; Zecharia Baumel, Zvi Feldman, and Yehuda Katz, three members of Israeli tank units who went missing during a battle against a Syrian armored unit in Lebanon's Beqa' Valley in June 1982; and naval commando Itamar Iliya, who died during a failed commando raid in September 1997. Ron Arad was captured alive, though the Israeli government says that it is not aware of his location or of the identity of his present captors and has received no news of him since October 1987. Statements by Israeli officials in past years and as recently as September 5, 1997 suggest that Lebanese detainees in addition to Obeid and al-Dirani might be set free in exchange for the release of Israeli MIAs or the return of their remains, and the release of captured fighters of the SLA, a proxy force financed and trained by the Israel Defense Forces (IDF). Previous exchanges of this kind have been arranged through international negotiators.

The continued detention of Obeid and al-Dirani has been expressly tied by Israeli authorities to the fate of Israel's missing in action. The harsh and unparalleled conditions of isolation in which Obeid and al-Dirani are being kept, too, appears to be part of a strategy to increase its leverage with Hizballah and other Lebanese groups. Human Rights Watch—as well as other human rights organizations—have concluded that the two men are in effect being held as hostages: their treatment as well as their eventual freedom has been conditioned on the acts of others. This is discussed further below.

Six other prisoners were captured in two separate incidents in late 1987 by the Lebanese Forces, the then-powerful military arm of the Maronite Christian Phalangist Party. They were handed over to Israeli forces sometime in 1990 and for nearly two years "disappeared": Israel denied that the six were in its custody until January 1992 when the ICRC discovered their whereabouts. An IDF spokesperson then admitted their presence and since then they have been held in administrative detention. All six are currently in Ayalon detention center in Ramleh.

### **The conditions of detention**

In addition to the exceptional abuse inherent to long-term incommunicado detention, at least several of these detainees are believed to have undergone physical abuse during interrogation, according to information collected by Amnesty International and other organizations. For example, Bilal Dakrub complained that during his detention in south Lebanon, SLA members, acting on the orders of an IDF officer, tortured him with electric shocks, according to Amnesty International. In Israel, he was deprived of sleep for long periods, hooded, and forced to stand with his hands above his head for hours at a time. In the extreme cases of secret detention and “disappearance” suffered by some of the Lebanese detainees in the first years of their captivity, and the prolonged incommunicado detention still suffered by Obeid and al-Dirani, the psychological conditions of their imprisonment alone may constitute cruel, inhuman or degrading treatment or punishment. Torture is a grave breach of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (Fourth Geneva Convention) and a war crime.

The Lebanese detainees are held in various Israeli detention centers inside Israel. Israel holds them apart from common criminals and, when the detention center they are in also houses security detainees and prisoners from the West Bank and Gaza Strip, they are usually held with them. Eighteen of the Lebanese prisoners who are the subject of this report are held in Ayalon; the other whose whereabouts is known, Ghassan al-Dirani, is reportedly held in the Ayalon prison hospital. While these detainees have in recent years been held in “open” detention centers and have been able to receive visitors from local support groups, Israeli authorities have recently placed obstacles in the way of organizations that have sought to contact or visit them. Since September 1996 the Mandela Institute, a Ramallah-based Palestinian nongovernmental organization that monitors the plight of Palestinian and Arab security prisoners and detainees in Israeli and Palestinian Authority custody, and the Society of the Friends of Detainees and Prisoners (SFDP), a Nazareth-based prisoner support group, have not been able to visit the eighteen detainees currently in Ayalon, even though they have in the past been granted access to them.

The detainees and their families faced special problems related to the transfer of detainees to Israel. Under an agreement between Israel and the ICRC, Israel generally notifies the ICRC of Lebanese detainees' arrests on the twelfth day of detention. However, in at least nine cases involving Lebanese detainees (including six cases detailed in this report), Israel refused to acknowledge the presence of detainees within its custody for over a year. While preferable to no reporting agreement, the provision allowing detentions to go unacknowledged for up to twelve days regularized a regime in which prisoners were largely devoid of protection during that period. The absence of independent safeguards in such situations, when there can be no outside monitoring of a prisoner's treatment, creates conditions in which torture, ill-treatment and deaths in custody are facilitated. In February 1996, the Israeli State Attorney's office announced new arrangements for notification without delay to a telephone number given by the detained person.

Although most of the Lebanese detainees are now allowed visits, the travel restrictions between Israel and many of the states in which the detainees' families live often deprive them of direct contact with family members. Sheikh Obeid and Mustafa al-Dirani have a harsher regime. They have been denied any family visits since their arrests in 1989 and 1994 respectively, and have been permitted to receive and to send just one three-line letter each.

While the arrest of most of the Lebanese mentioned in this report occurred eleven or more years ago, the capture deep inside Lebanon of persons suspected of membership in Hizballah and their transfer to Israel continues. Appendix A of this report describes the August 1996 capture of Lebanese detainee Ali Banjak. Banjak alleges to have been tortured by the IDF during thirty days of military interrogation while held incommunicado at an IDF base inside Israel identified to him as “Sarafand.” Banjak described a days-long routine of beatings, slappings, threats, and being forced to straddle a wooden pole on which he was raised and dropped. A doctor in attendance is alleged to have authorized further torture even after the detainee was vomiting blood.

### **Without status or protection**

Israel has denied its Lebanese detainees laws-of-war protection either as prisoners of war or as civilians, refusing to meet even those minimum humane standards of protection common to the four Geneva Conventions (standards that largely coincide with the nonderogable standards at the core of human rights law and which are generally considered customary international law). Israel has in fact denied the Lebanese detainees any clear status—as if they were outside the protection of international law.

Without status or protection, some among these detainees have suffered forced “disappearance”; torture; incommunicado detention without limit; and denial of access to families and legal counsel. All have endured the prolongation of their detention indefinitely for reasons seemingly unrelated to the original cause of their detention.

The secrecy attached to the operations in which most of the Lebanese prisoners were detained, interrogated, and transferred to Israel cloaked a series of abuses. For Sheikh Obeid and Mustafa al-Dirani this isolation has continued, in violation of international standards that apply in peacetime and in war. Incommunicado detention has itself been identified as a condition that facilitates forced “disappearance,” extrajudicial executions and deaths in detention, and the practice of torture, as well as confinement in conditions that in themselves constitute cruel, inhuman or degrading treatment or punishment.

Accountability for violations of fundamental rights which can never be suspended is also obscured by the secrecy of incommunicado detention and the unchecked power of the forces into whose hands the detainee falls. Such core rights are upheld in both international human rights law—such as the International Covenant on Civil and Political Rights, to which Israel is a party—and the laws of war. A prisoner sealed off from the outside world for weeks, months, or years, has no one to appeal to for protection from abuse and no access to the remedies of domestic and international law. Israel’s judiciary has provided no effective check on the abuse of incommunicado detention in these cases.

The matter of administrative detention itself is regulated by both international human rights law and international humanitarian law. The latter, however, provides the standards most relevant to the cases of Arab detainees transferred to Israel and subject to administrative detention orders. As the twenty-one Lebanese were detained in the context of an international armed conflict, in territory under partial occupation by Israel, humanitarian law provides binding normative standards governing their treatment.

### **The applicable standards**

Israel is a party to the four Geneva Conventions of 1949, but has not ratified the 1977 optional protocols to them. Lebanese territory is under partial occupation by Israel and so Israel must be held to its binding obligations as a state party to the 1949 conventions.

In at least some of the cases under review, the applicable standards of humanitarian law have been flouted by the violation of:

- the right to humane treatment;
- the right to a fair trial for those charged with penal offenses;
- the right to due process of law safeguards in administrative detention so that no one is arbitrarily detained;
- the right to receive visits from the ICRC;
- the right to correspond; and
- the right not to be held in the condition of hostage.

The minimum standards of humane treatment are not optional to the detaining power. When an objective situation of international armed conflict and occupation exist, these standards must apply.

The terms of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (Third Geneva Convention), which protect combatants who fall into the hands of the enemy as prisoners of war, have not generally been considered to apply to the cases of detainees in Lebanon who did not form part of a conventional armed

force. Israel has refused to consider the detainees allegedly associated with Hizballah or Lebanese militia groups as prisoners of war, and Lebanon has not formally declared them to have been a part of that state party's armed forces.

Israel's practice, after transferring its Lebanese detainees to Israeli territory, has been to treat them neither as prisoners of war nor as civilians. Lebanese detainees in Israel have been subjected to prosecution under Israeli criminal law for their actions in Lebanon *as well as* to indefinite detention under Israel's administrative detention legislation. The treatment of these detainees while still in Lebanon and while incommunicado in Israel should, moreover, have been protected by the central injunction of the laws of war that all those who have been captured or who surrender should be treated humanely. These norms apply without distinction to the treatment of combatants and civilians alike.

Israel appears to accord the Lebanese detainees no particular status under the laws of war. It is as if the detainees are without status of any kind. Such situations were contemplated in the ICRC's *Commentary* on Article 4 of the Fourth Geneva Convention, on its field of application, in which it was explained that the body of humanitarian law was devised so that this would never occur:

Every person in enemy hands must have some status under international law: he is either a prisoner of war and, as such, covered by the Third Convention, a civilian covered by the Fourth Convention, or again, a member of the medical personnel of the armed forces who is covered by the First Convention. *There is no* intermediate status; nobody in enemy hands can be outside the law. We feel that that is a satisfactory solution—not only satisfying to the mind, but also, and above all, satisfactory from the humanitarian point of view. [Emphasis in original.]

The normative standards that apply expressly to the case at hand are those set out in the Fourth Geneva Convention. Israel identifies all of the detainees as "terrorists," and alleges they are members of forces which do in fact continue to fight Israeli forces in Lebanon under a situation of occupation as well as through cross-border raids. That such active fighting by organized forces continues is clear, even though the Lebanese state and its regular forces have only occasionally carried out military resistance to Israel's continued occupation. While neither regular combatants nor protected civilians, international humanitarian law provides a protective regime for such real or presumed fighters when they fall into the power of a party to the conflict.

Article 5 of the Fourth Geneva Convention, on derogations, outlines the exceptions under which persons protected under the convention "shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State." The test of such derogation is "that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State." Applicable also to occupied territories, Article 5's paragraph 3 requires that "such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived by the rights of fair and regular trial prescribed by the present Convention."

### **Administrative detention**

Israel's practice of routine extensions of administrative detention, particularly in those cases in which detainees have been held for many years after the completion of prison sentences, also appears to violate the terms of the Fourth Geneva Convention's provision by which administrative detention is meant to be an exceptional measure. Article 78 of the convention permits the occupying power to order the detention of an individual "for imperative reasons of security." The ICRC's authoritative *Commentary* to Article 78 stresses that "their exceptional character must be preserved."

Even if detained under the terms of Article 5 of the Fourth Geneva Convention—which the ICRC has criticized as a "regrettable concession to State expediency"—the government's practices have violated the requirement that administrative detention be a measure that is strictly exceptional.

While Israel is not a party to the protocols additional to the Geneva Conventions, authoritative guidance on the interpretation of these obligations can be found in Article 75 of the first 1977 Protocol Additional to the Geneva

Conventions of 12 August 1949 (Protocol I), entitled: "Fundamental Guarantees." These require that "persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article . . ." Article 75(3) requires that any person "arrested, detained or interned for actions related to the armed conflict shall be informed promptly . . . of the reasons why these measures have been taken." Section 4 of Article 75, concerning the prosecution of penal offenses related to the armed conflict, requires respect for generally recognized principles of judicial procedure, and defines these at length.

In all circumstances, minimum humanitarian standards require that all persons detained or interned in connection with an international armed conflict, with the exception of cases of arrest or detention for penal offenses, "shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist" (Protocol I, Article 75(3)). Israel's requirement that all administrative detention proceedings be *in camera*, as well as its refusal to divulge the substance of these hearings, in themselves reflect the lack of safeguards against the arbitrary application of administrative detention. More strikingly, the very existence of cases of administrative detainees who, having served prison terms, remain in detention nine years after their sentences were completed without ever having a fair and public hearing during this period, illustrates the arbitrary nature of these measures. The routine extension of detention in these cases appears to obey strictly political imperatives. Consideration of the merits of the cases of individual detainees appears to have been subordinated to larger reasons of state.

The release, and implicitly, the treatment, of two of the detainees—Abd al-Karim Obeid and Mustafa al-Dirani—has been expressly conditioned by Israeli officials (including Uri Lubrani, Israeli Government Coordinator for Lebanon Affairs and then-Deputy Minister of Defense Ori Orr) on the acts of others: the resolution of the fate of Israeli MIAs including Arad. As a consequence, Human Rights Watch has concluded they are hostages in the terms of international law.

The condition of being hostage lies outside any lawful form of administrative detention and constitutes a grave breach of international law. Rather than being distinguished as arbitrary only by the absence of a lawful cause for its continuation, there is a clearly illicit motive for continued detention. In the two cases of this kind discussed in the report—those of Sheikh Obeid and Mustafa al-Dirani—senior officials have made clear that the detainees' personal responsibility for their actions has no bearing on decisions concerning their continued indefinite detention. Rather, government spokespersons have tied their fate to the actions or omissions of others. Hostage-taking is a grave breach of the Fourth Geneva Convention and a war crime: all parties to that convention have an obligation to try persons responsible for acts of hostage-taking.

The conditions of Obeid's and al-Dirani's secret and incommunicado detention add to the threat of their indefinite detention an implicit threat to their health and safety. This creates an oppressive situation for the prisoners themselves as well as a threat directed at their families and those the authorities are seeking to influence. The secrecy of the periodic reviews required under Israel's own legislation concerning administration detention, if they in fact occur, is a further mockery of due process. Moreover, if statements by senior officials concerning their continued detention are to be accepted, judicial review of their detention has clearly been subordinated to political decisions to hold the two as hostages in punitive conditions until others meet the conditions announced. As an urgent matter, Israel must bring the two detainees' situation into compliance with international standards, ending their years'-long incommunicado detention and lifting the conditions of hostage under which their imprisonment has been indefinitely prolonged. They should either be released or allowed the full guarantees of due process of law required by international humanitarian law.

A first step toward compliance with international standards with regard to all of the prisoners of concern in this report would be to grant each of them a fair and public hearing in which both their treatment in detention and the motive for their continued detention could be aired and injustices remedied. Israel should release without delay those for whom no basis for detention or prosecution has been established in consonance with international standards. An independent investigation should in addition be facilitated by the government of Israel into the practices of forced

“disappearance,” torture, and prolonged incommunicado detention that have occurred in some of these cases. The goal of the investigation should be to establish the criminal liability of those responsible, provide compensation to those wronged, and develop safeguards against recurrence. Those conducting the investigation should be empowered to compel testimony by current and former security personnel and to make its findings public.

## RECOMMENDATIONS

### To the Government of Israel

In the case of Sheikh Abd al-Karim Obeid and Mustafa al-Dirani:

- End their status as hostages immediately.
- Commit itself publicly not to use other individuals as hostages.
- Communicate to all Israeli military, intelligence and security forces and the SLA that hostage-taking will no longer be tolerated.

As safeguards against arbitrary detention:

- Establish an independent commission empowered to conduct without delay and in the shortest possible time a systematic and public review of the reasons for the continued detention of each long-term administrative detainee as well as his treatment during detention in order to determine the legality of each in light of international legal standards.
- Where such a review determines that the treatment of the detainee during detention fell below minimum guarantees under international law, the detainee must be compensated and any shortcomings rectified immediately.
- Ensure that all future proceedings relating to the imposition or review of administrative detention orders are conducted in accord with international norms of due process.
  - The detainees should be heard publicly before a court or other independent body that is competent and impartial.
  - The government should repeal those legal provisions that require as a general rule the conduct of *in camera* hearings to review of administrative detention orders or extensions of periods of administrative detention.
  - The hearings should permit the active participation of the detainee or a lawyer appointed by him or her.
- Administrative detention should be imposed or extended only if the authorities have presented specific, detailed and individualized reasons that justify such detention. Otherwise, Israel must immediately and without delay either initiate criminal proceedings in which international standards of fair trial are respected or release and repatriate the detainee.

As measures to halt the practice of unacknowledged detention, “disappearance,” and arbitrary detention:

- Establish an information bureau responsible for maintaining, receiving and transmitting in an ongoing manner up-to-date information on each non-Palestinian Arab or Iranian detainee in its custody. The information on each detainee should include: the full name, age, and nationality; place of confinement; date and place of arrest; information regarding access to legal counsel; the legal basis under which he or she is held, including the charges and precise sentence where applicable; and an address to which correspondence may be sent to the prisoner or detainee. In cases where prisoners or detainees are wounded or seriously ill, regular updates on that person’s health situation should be made available to relatives, on a weekly basis if possible.
- Communicate this information regarding each detainee to an address the detainee specifies.
- Require that at the time of arrest or detention, the arresting authorities identify themselves, and that all individuals taken into custody be held only in publicly recognized detention facilities, where accurate registers



of detainees and prisoners are maintained and available for public inspection. Such procedures should be instituted at all detention facilities in Israel.

- Inform individuals taken into custody of the reasons for arrest, and enable them to challenge the legality of their detention before a judicial authority.
- Permit individuals taken into custody to inform without delay their relatives and lawyers of their arrest and place of detention.
- Communicate to all Israeli military, intelligence and security forces and the SLA that “disappearances” will no longer be tolerated.

With respect to safeguards of the rights of Lebanese prisoners and detainees held by Israel:

- Modify the procedures for security forces interrogations so that they conform to the international laws barring torture and ill-treatment.
- Issue clear orders to all bodies and persons responsible for the interrogation of detainees that the torture and ill-treatment of defendants, as these are defined in international law, are strictly prohibited.
- Institute immediately rules permitting regular family visits and exchange of correspondence.
- Facilitate the arrangement of family visits, either directly or through the good offices of the ICRC.
- Disclose to the ICRC the names and locations of the prisoners and detainees; allow the ICRC access to all detainees after their arrest or capture without delay; and guarantee regular and repeated access thereafter.
- Ensure the right of every detainee to be visited by legal counsel and to consult and communicate with such counsel without delay or censorship and in full confidentiality.
- Extend the right to access to a lawyer “without delay,” which is guaranteed under Israeli law for non-security detainees, to security detainees.

To help ensure that wrong-doers in government service are brought to justice and to make reparations to victims:

- Request the independent commission described above to look into the practices of forced “disappearance,” torture, and prolonged incommunicado detention with a view to establishing the criminal liability of those responsible, providing compensation to those wronged, and developing safeguards against recurrence.
- Grant the commission the power to compel testimony by current and former security personnel and to make public its findings.

#### **To States with Citizens in Israeli Custody**

- Facilitate the arrangement of family visits, either directly or through the good offices of the ICRC.

#### **To Parties Detaining Israeli Soldiers or Holding their Remains**

- Communicate to the Israeli government or to a responsible third-party intermediary information about the MIAs, such as their names, whether they are alive or dead and the health status of those that are alive.
- Permit the sending and receiving of correspondence between any living MIAs and their families.

#### **To the United States, the European Union and E.U. Member States**

- Publicly acknowledge and condemn, at the highest level, Israel’s treatment of certain Lebanese detainees as hostages and the prolonged detention of Lebanese under arbitrary conditions.
- Use all possible means, including linkage of financial assistance and other forms of aid to Israel, to bring about an end to this practice.
- Seek the prompt termination by Israel of irregular detentions, either through release or the initiation of criminal proceedings in which international standards of fair trial are respected.
- Promote the arrangement of family visits for prisoners and detainees who cannot receive them due to travel prohibitions between Israel and the countries in which their families reside.
- Demand that Israel permit immediate access by the ICRC to all Lebanese detainees without exception.

- Fulfill the obligation of parties to the Fourth Geneva Convention to search for persons alleged to have committed, or to have ordered to be committed, grave breaches of those conventions, including hostage-taking and torture, and to bring such persons before their own courts.

Many European Union member states have recently ratified the Euro-Mediterranean Association Agreement between the European Union and Israel. Article 2 of the Association Agreement stipulates that “respect for human rights and democratic principles . . . constitutes an essential element” of the Agreement. Thus, the ratification of such an agreement presents the E.U. and its member states with an important opportunity to promote Israeli compliance with basic norms of human rights and humanitarian law. To this end, Human Rights Watch urges each government which has ratified or is presently contemplating ratification of the E.U.-Israel Association Agreement to state clearly and for the record:

- The government’s condemnation of practices detailed in this report that violate human rights and international humanitarian law, in particular arbitrary detention, torture, and the holding of hostages.
- The government’s understanding that the persistence of these practices is unacceptable, and that Israel must end them in order to be in compliance with the terms of the Agreement.
- The government’s request that the European Commission establish a mechanism to assess, monitor and report on present and future compliance of Israel and other Euro-Mediterranean Association states with principles of human rights and international humanitarian law, including in the case of Israel the treatment of security detainees from beyond the borders of Israel, the West Bank and the Gaza Strip.

The European Parliament should adopt a resolution, making reference to Article 2 of the Association Agreement, requesting the European Commission and Council of Ministers to undertake the above recommendations and to report to the parliament with regard to these undertakings.

## BACKGROUND

There are an estimated three thousand Palestinians from the West Bank and Gaza Strip held in Israeli detention centers and prisons. The Lebanese prisoners whose situation is described here are among a smaller group of at least 119 security detainees and prisoners who are non-Palestinian Arabs, Palestinians who were residing in neighboring countries, or Iranians. They include fifty-two Lebanese, twenty-two Syrians, twenty-one Jordanians, fifteen Egyptians, seven Iraqis, three Iranians, two Kuwaitis, and one Libyan, according to an incomplete list that *Ha’aretz*, a leading Israeli daily, said it obtained from the Israel Prison Service in March 1997.<sup>1</sup> These do not include the persons held in Khiam, a detention center in Israeli-occupied south Lebanon run by the SLA.

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<sup>1</sup> Yosef al-Ghazi, “More Than 120 Citizens of Arab States Detained in Israel,” *Ha’aretz*, March 18, 1997. The list obtained by *Ha’aretz* is not complete, as it excluded Mustafa al-Dirani and Sheikh Abd al-Karim Obeid. Human Rights Watch attempted to obtain a copy of this list directly from the Israeli government but was refused.

These detainees were taken into Israeli custody in various circumstances. Most were captured in Lebanese territory or in Lebanese territorial waters. Detainees were captured in the course of military operations against the IDF or the SLA, taken from their homes by Israeli commando units, seized in Lebanese waters by a Lebanese militia and handed over to Israel, stopped and arrested at road blocks manned by the SLA, or taken into custody after entering Israel illegally from Jordan to seek asylum,<sup>2</sup> among others. Persons seized in Lebanon or in its territorial waters include Lebanese citizens as well as nationals of Jordan, Syria and other countries living in Lebanon. Others were captured by the IDF after infiltrating into Israel from neighboring countries such as Jordan and Egypt. In some cases, persons captured in south Lebanon were detained in Khiyam and other detention centers in Israeli-occupied south Lebanon before their transfer to Israel.

The *Ha'aretz* report that the Israeli Prison Service lists three Iranian prisoners among Israel's non-Palestinian prisoners has given rise to speculation among local human rights groups regarding the fate of four Iranians who "disappeared" in Beirut one month after the June 1982 Israeli invasion, as Israeli authorities have refused either to respond formally to queries concerning them or to make public the list that reportedly identified them.<sup>3</sup> The four—Mohssen Mousavi, chargé d'affaires of Iran's embassy in Beirut; Ahmad Motovasselian, a diplomat; Kazem Akhavan, a photographer with the Iranian News Agency; and Mohamad-Taghi Rastegar-Moghadam, a driver—were never seen again after being stopped at a checkpoint on the Beirut-Tripoli highway manned by the Lebanese Forces, the then-powerful military arm of the Maronite Christian Phalange Party that assimilated other Christian militias during Lebanon's civil war. In November 1990, a delegation that visited Beirut on behalf of the families of the four missing Iranians was reportedly told by Lebanese Forces commander Samir Geagea "that his predecessor as leader of the Lebanese Forces, Elie Hobeika, had ordered the four killed within hours of their arrival at the military roadblock," although members of the delegation insisted that the four Iranians were still alive and were being held at a militia prison.<sup>4</sup> Although no hard evidence has emerged as to their fate, Israel's resort to secret detention and "disappearance" in some of the cases described in this report make it all the more imperative that Israel disclose the identities of all foreign nationals in its custody.

Israel occupies a strip of territory in south Lebanon, which it controls through the IDF and the SLA. The SLA and the IDF continue to carry out arrests in these areas, and some of the persons thus arrested are taken by the Israeli authorities to Israel. Dozens of persons currently in Israeli jails have been transferred there after arrest in areas under occupation.

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<sup>2</sup> Thirty Iraqis entered Israeli-controlled territory from Jordan in early 1994 after fleeing Iraq, crossing in small groups into the West Bank and southern Israel. Upon their arrival into Israel, they all surrendered immediately and applied for asylum. While recognized as refugees by the United Nations High Commissioner for Refugees, Israel denied all of them asylum, and entered orders of deportation against them. Until now, no country has accepted these persons; in the meantime, Israel has released twenty-four of the detainees and kept six in detention, citing unspecified security reasons. Until a country accepts them, there is no provision in Israeli law which would limit the duration of the detainees' detention. Human Rights Watch/Middle East telephone interview with Moshe Cohen, Association for Civil Rights in Israel, Haifa, April 16, 1997.

<sup>3</sup> Human Rights Watch wrote to the Israeli government on April 15, 1997 concerning the prison service list cited in *Ha'aretz* requesting in particular information on the Iranians reportedly detained. In a separate letter that same day, the Committee to Protect Journalists (CPJ) inquired specifically about whether Kazem Akhavan, an Iranian photographer who was among the four "disappeared," was one of the Iranians in detention. Neither Human Rights Watch nor the CPJ has received a response from the Israeli government.

<sup>4</sup> See Ihsan Hijazi, "Hostage's Fate Linked to 4 Missing Iranians," *New York Times*, November 23, 1990. The seizure of the four Iranians has been described by political analysts as having led directly to the Western "hostage crisis" that followed; within a short time, Western journalists, academics, diplomats and others were seized and sometimes executed. See, e.g., Brian Jenkins and Robin Wright, "Why Taking Hostages Is a Winning Terror Tactic," *Washington Post*, July 12, 1987.

Two recent cases illustrate this practice. On June 18, 1996, an IDF spokesperson acknowledged that Ali Diya, a Lebanese Agence France-Presse correspondent, was under interrogation in Israel. Diya was arrested by the SLA after being summoned to their headquarters in Marjayoun on June 13, 1996. The SLA then handed Diya over to Israeli soldiers who took him to Israel. The spokesperson added that Diya "is suspected of aiding the [Lebanese] Shi'ite militia Hizbullah and may be charged with serious crimes." Diya was held for over a month without charge or trial and then released.<sup>5</sup> Similarly, in November 1996 Israel acknowledged its early October transfer to Israel of Mansur Husam Azzam, a resident of the village of Fardis in south Lebanon. Azzam had been accused of carrying out attacks against the IDF and SLA in occupied south Lebanon and charged with membership in Hizbullah.<sup>6</sup>

While both have since been released, four other detainees—Bassam al-Hasbani of Qlei'a village, Maher Touma from Sidon, and Salim Salamah and Ramzi Nahara, both from Ibl al-Saqi—arrested in the occupation zone on February 22, 1996, and transferred to Israel on March 17, 1996, remain in custody inside Israel. The Israelis arrested these persons on suspicion of their participation in the capture of Ahmad Hallaq, a Lebanese citizen sentenced to death by a Lebanese court for collaboration with the Israeli occupation authorities and subsequently executed.<sup>7</sup>

The Israeli procedures for detentions inside Lebanon and transfers to Israel, sometimes constituting forced "disappearance," are to an extent paralleled by the practices of Syrian forces in Lebanon who in their case acted with the acquiescence of Lebanese authorities. The issue of Lebanese citizens and Palestinian refugees "disappeared" by Syrian intelligence forces operating in Lebanon and their Lebanese accomplices, and their unacknowledged transfer to Syria, is addressed in a Human Rights Watch/Middle East report released in May 1997.<sup>8</sup>

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<sup>5</sup> See Reporters sans frontières, "Israel: Authorities Arrest Lebanese Journalist Ali Diya," June 19, 1996; Amnesty International, "Urgent Action: Israel/South Lebanon: Ali Diya, aged 44, dentist and journalist," (AI Index: MDE 15/47/96), July 4, 1996. In addition to his employment with AFP, Ali Diya was also a correspondent for Beirut's *Al-Safir* newspaper and for Beirut-based Future Television, and in the course of his work reported on clashes between Israeli soldiers and Hizbullah-affiliated Islamic Resistance guerrillas in southern Lebanon. The Committee to Protect Journalists expressed in a letter to the Israeli government its concern that Diya "may have been detained because of his journalistic work." Letter from the Committee to Protect Journalists to Prime Minister Benjamin Netanyahu, June 19, 1996.

<sup>6</sup> "Israel Reveals Capture and Transfer of Lebanese," Agence France-Presse, November 11, 1996.

<sup>7</sup> Human Rights Watch/Middle East telephone interview with Muhammad Safa, Secretary, Follow-Up Committee for the Support of Lebanese Detainees in Israeli Prisons, Beirut, January 30, 1997; see also *Anonymous v. State of Israel* (Israel High Court, July 7, 1996) ("From information which was presented to the minister [of defence] and before the court, it arises that the four appellants took part, each in his own way, in the kidnaping of a Lebanese citizen.").

Hallaq was suspected of having exploded a car bomb in Sfeir district in southern Beirut on December 21, 1994 on behalf of the Mossad, Israel's external intelligence agency. Three persons died in the blast, including Hallaq's intended target, Fuad Moughniyyeh, a local Hizbullah security official and the brother of Imad Moughniyyeh, the alleged planner of many kidnappings of Westerners in Beirut in the 1980s. A Lebanese court tried Hallaq *in absentia* in April 1995 and sentenced him to death in June of that year. The four presently in Israeli custody are believed by the Israeli government to have seized Hallaq in the occupation zone in February 1996 and to have handed him over to Lebanese army intelligence. A Lebanese court retried him in May of 1996 and sentenced him to death for the second time in June 1996 (under Lebanese law, a person sentenced *in absentia* has the right to retrial). President Elias Hrawi refused an amnesty appeal in July 1996, and Hallaq was executed on September 24, 1996. "Lebanon: Lebanese Mossad Agent Executed by Firing Squad," Reuter, September 21, 1996; "Lebanon: Beirut Blast Suspect Said to be Israeli Agent," Reuter, December 28, 1994.

<sup>8</sup> Human Rights Watch/Middle East, "Syria/Lebanon: An Alliance Beyond the Law: Enforced Disappearances in Lebanon," *A Human Rights Watch Short Report*, vol. 9, no. 6, May 1997.

## THE DETAINEES

The group of twenty-one Lebanese detainees inside Israel is almost evenly divided between those who were convicted in a criminal court and served sentences and those who were never tried. Eleven of the Lebanese detainees were tried before Israel's Lod Military Court on criminal charges after their arrest in 1986 and 1987. Sentenced to between one and-a-half and eight years' imprisonment, they served their full sentences. Bilal Dakrub and Husein Daqduq, detained respectively in February 1986 and April 1987, completed their sentences over eight years ago: no detailed reason for their continued detention has been made public.

At least ten of the eleven were initially served with deportation orders that were to be implemented on the completion of their sentences but were then canceled. For example, the deportation orders against Bilal Dakrub, Husein Daqduq, Hasan al-Hijazi, and Kamal Riziq all remained pending since the completion of their sentences on August 16, 1988 (Dakrub), October 14, 1988 (Daqduq), and August 31, 1989 (al-Hijazi and Riziq) until May 1991, when Israeli authorities canceled them and replaced them with administrative detention orders. All are currently held in Ayalon prison in Ramleh.

While all of these ten persons have now been in extended periods of administrative detention, Israel has never publicly divulged why the standard deportation orders for prisoners were not carried out in their cases. For example, in response to questions posed in the Knesset about the non-implementation of the deportation orders against Dakrub, Daqduq, al-Hijazi, and Riziq, the Israeli Minister of Police responded, in letters dated January 21, 1991, that the detainees would be refused deportation but gave no reasons. When Dakrub filed a High Court petition in December 1989 demanding implementation of his deportation order, the court deferred to the authorities' decision to continue detaining Dakrub, which was based on undisclosed security considerations.<sup>9</sup>

According to the Mandela Institute, the eleven administrative detainees who served prison terms had been sentenced on a variety of charges including military training, participation in attacks against Israeli forces in Lebanon, membership in banned organizations (such as Hizballah and the Faithful Resistance), and weapons possession.<sup>10</sup> The prosecution and trial of these detainees, for offenses committed in Lebanon, was on the basis of domestic Israeli criminal law. Typically, charges were brought under provisions prohibiting membership in "unlawful associations," "unauthorized [military] drilling," or attacks against Israeli military or security personnel and state security.

- **Ali Ammar (age 31), Ahmad Ammar (30), Hasan al-Hijazi (27), Kamal Riziq (27)**<sup>11</sup>  
IDF and SLA soldiers arrested the four from their home village of Mays al-Jabal in occupied south Lebanon in September 1986 and took them to Khiyam, where they were accused of military training and membership in Hizballah. They were transferred to Israel on January 27 of the following year where the Lod Military Court convicted them and handed down sentences ranging between three and four and-a-half years in length. The deportation orders issued at the expiry of their sentences were never executed, ultimately being replaced by a series of administrative detention orders that continue to this day.

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<sup>9</sup> Arab Association for Human Rights, "Update on Prisoners Held Beyond Sentence in Israel," June 15, 1991.

<sup>10</sup> Many of the other convicted prisoners in Israeli custody attempted or carried out armed attacks against Israeli targets both in occupied south Lebanon and Israel as well. See Robert Fisk, "A Snapshot of Life Inside the Secret World of Israel's Palestinian Prisons," *The Independent*, May 23, 1997, p. 15.

<sup>11</sup> The following paragraphs on the detainees and the table is based on information from the Ramallah-based Mandela Institute's "Fact Sheet: Administrative Detention under the Israeli Military Occupation," April 17, 1997 and on a Human Rights Watch/Middle East interview with Najah Duqman, Mandela Institute, Ramallah, December 30, 1996. The ages given are the ages at the time of publication of this report. The data in this list correspond substantially to data appearing in the Follow-Up Committee for the Support of the Lebanese Prisoners in the Israeli Prisons' "Memorandum Regarding the Hostages Held in Administrative Detention in Ramleh Prison," January 30, 1997. Human Rights Watch/Middle East wrote to the office of Israeli Prime Minister Binyamin Netanyahu on February 7, 1997 requesting the legal grounds for the detention of these individuals. The government's response did not contain any details on any individual Lebanese detainee.

- Bilal Dakrub (33)**  
Seized from his home village of Tibnin by the IDF in February 1986 and taken to Israel, he was tried in Lod Military court for membership in Faithful Resistance<sup>12</sup> and for participating in military attacks against Israeli occupation forces. After completing a two and-a-half-year sentence he was transferred to Kishon detention center. A deportation order was not implemented, and Dakrub's detention was extended under an administrative order.
- Abbas Srur (35)**  
Arrested by the SLA in Aita al-Sha'ab in south Lebanon in March 1987 and taken to Israel, he was presented to the Lod Military Court on charges of transporting weapons into the occupation zone from unoccupied Lebanon and possessing weapons. He served a three-year sentence. A deportation order was not implemented, and he was placed in administrative detention.
- Ahmad Srur (30), Abd al-Hasan Srur (28), Yusif Srur (28), Husein Daqduq (28)**  
SLA forces arrested the four in the first half of April 1987 and took them first to Khiyam detention center in south Lebanon, where they were held for twenty-four days. They were then taken to Israel where the Lod Military Court found them guilty of membership in Hizballah and sentenced them to terms of imprisonment ranging between one and-a-half and three years. The subsequent deportation orders were never implemented, and they were ultimately served with administrative detention orders.
- Muhammad Yasin (34)**  
Though seized in the same period as the others in this group, Yasin received the longest sentence and thus was the last to be placed under administrative detention. Arrested in February 1986 by IDF and SLA forces in Barashit village in south Lebanon, he was taken to Israel and sentenced in the Lod Military Court to eight years for membership in Hizballah and for participating in military operations against Israeli forces in south Lebanon.

The eleven Lebanese currently held long beyond the completion of their sentences are named in the chart below, which, based on the information we have received, lists their dates of arrest, dates of completion of their sentences, and the initial charges against them.

Name	Arrest Date	Expiration of Sentence	Charges
Bilal Abd al-Hasan Dakrub	Feb. 17, 1986	Aug. 16, 1988	<ul style="list-style-type: none"> <li>• Membership in Faithful Resistance</li> <li>• Military attacks</li> </ul>
Husein Fahd Daqduq	Apr. 15, 1987	Oct. 14, 1988	<ul style="list-style-type: none"> <li>• Membership in Hizballah</li> </ul>
Hasan Sadr al-Din al-Hijazi	Sept. 1, 1986	Aug. 31, 1989	<ul style="list-style-type: none"> <li>• Membership in Hizballah</li> <li>• Unauthorized military training</li> </ul>
Kamal Muhammad Riziq	Sept. 1, 1986	Aug. 31, 1989	<ul style="list-style-type: none"> <li>• Membership in Hizballah</li> <li>• Unauthorized military training</li> </ul>
Abbas Hasan Srur	Mar. 31, 1987	Mar. 30, 1990	<ul style="list-style-type: none"> <li>• Transporting and possessing weapons</li> </ul>

<sup>12</sup> Faithful Resistance, organized by Mustafa al-Dirani, was a breakaway faction of Amal.

Ahmad Hasan Srur	Apr. 4, 1987	Apr. 3, 1990	• Membership in Hizballah
Abd al-Hasan Hasan Srur	Apr. 4, 1987	Apr. 3, 1990	• Membership in Hizballah
Yusif Yaqub Srur	Apr. 11, 1987	Apr. 10, 1990	• Membership in Hizballah
Ali Husein Ammar	Sept. 1, 1986	Feb. 28, 1991	• Membership in Hizballah • Unauthorized military training
Ahmad Muhsin Ammar	Sept. 1, 1986	Feb. 28, 1991	• Membership in Hizballah • Unauthorized military training
Muhammad Abd al-Hadi Yasin	Feb. 17, 1986	Feb. 16, 1994	• Membership in Hizballah • Military attacks

Ten others have been held in administrative detention their entire time in Israeli custody; they have never been charged or tried. Four of these prisoners were arrested in the operations to detain Sheikh Abd al-Karim Obeid and Mustafa al-Dirani, and the remaining six were arrested by a Lebanese militia in November and December 1987 and handed over to Israel sometime in 1990. Seven of the administrative detainees are currently in Ayalon prison; two others, Sheikh Obeid and Mustafa al-Dirani, are in undisclosed detention centers; and one, Ghassan al-Dirani, is reportedly held in the Ayalon prison medical center after having suffered an emotional breakdown. The ten were forcibly brought to Israel in three separate incidents.

#### **The operation to capture Sheikh Abd al-Karim Obeid (age 44)**

Israel launched its raid to capture Sheikh Obeid under the cover of a mock jet attack in the early morning hours of July 28, 1989. Helicopters carrying twenty-five Israeli commandos equipped with weapons fitted with silencers landed near Jibchit, Obeid's home village located ten miles northwest of the Israeli border. "They stormed our house and pointed a gun at me and my mother and tied us up. Then they blindfolded my father and the two others [Hashim Fahs and Ahmad Obeid] and took them away," recalled Saged, one of Obeid's five children. A villager who came out of a nearby house to observe the operation was shot and killed.<sup>13</sup> During the same operation Israeli commandos also captured Hashim Ahmad Fahs (age 30) and Ahmad Hikmat Obeid (30), his bodyguards.<sup>14</sup>

#### **The "disappearance" of six detainees**

Six others who have been held continuously in administrative detention were captured in Lebanon and brought to Israel sometime in 1990 and have been held without a public hearing since then. The Lebanese Forces captured these six in two separate incidents in late 1987. Two—Husein Bahij Ahmad (age 30) and Husein Rumeiti (34)—were arrested on November 16, 1987 outside of Beirut, while the other four—Ghassan al-Dirani (who is from the same extended family and village as Mustafa), Ahmad Jalloul (32), Ahmad Talib (31), and Husein Tlayis (38)—were seized on December 18, 1987 from the *Gardenia* while it was moored in Beirut harbor. They were accused of belonging to Hizballah and held in the Lebanese Forces intelligence center in Adonis in central Lebanon. Family visits to this group ended in mid-1990 when the Lebanese Forces informed the family members that the detainees had been transferred to an undisclosed location.

<sup>13</sup> "Raid into Lebanon Defended by Israel; Leader of Iran-Backed Hezbollah Accused of Role in Terrorist Attacks," *Los Angeles Times*, July 30, 1989, p. 1.

<sup>14</sup> Amnesty International, *Israel/South Lebanon: Israel's Forgotten Hostages: Lebanese Detainees in Israel and Khiam Detention Centre*, (AI Index: MDE 15/18/97), July 1997, p. 11.

The six prisoners “disappeared” for over two years. “Requests for information from the families about the six detainees to the Israeli Government were met with a firm denial that they were being held,” Amnesty International reported.<sup>15</sup> Only after their discovery by the ICRC and pressure from Amnesty International, did an IDF spokesperson admit their presence.<sup>16</sup> All are currently in Ayalon detention center.<sup>17</sup>

#### **The operation to capture Mustafa al-Dirani (age 44)**

Mustafa al-Dirani was seized from his home in Qasernaba in the Lebanese Beqa` Valley, fifty miles from Israeli-occupied south Lebanon, by Israeli commandos on May 21, 1994. An eyewitness, who lives in the flat directly across the hall from Mustafa al-Dirani’s apartment, described to Human Rights Watch how the house was stormed by Israeli commandos that night, sometime between 2:30 and 2:45 a.m. He said that he was awakened by what he termed “a noisy crowd.” He continued:

I tried to get out of the bedroom. They had already opened all the doors. They spoke with Lebanese-Palestinian accents and told us to go back to our rooms. They had masks and were wearing night-vision goggles. About fifty of them spread out in the rooms and [Dirani’s] apartment. There were more of them outside, surrounding the house. About five to ten minutes later, I heard [Dirani’s] wife scream that her husband had been kidnaped by Israelis.<sup>18</sup>

Zeinab Amin, the wife of Mustafa al-Dirani, told Human Rights Watch that at approximately 2:30 a.m. she was awakened by “loud voices” over the bed in which she was sleeping with her husband. “They were speaking to each other in Hebrew,” she added. She said that the uniformed soldiers immediately removed her from the bedroom and brought her to her daughters’ bedroom. When she asked that they identify themselves, Ms. Amin said that they told her: “We are Israelis. Do not be afraid. We will not kill your husband. Do not cry.”

She said that there were scores of men inside the house, all of them dressed in military uniforms except one man who was dressed in civilian clothes. “He stood and watched me—this was his only role. The rest were soldiers,” she said. She watched as five men wrestled her husband to the floor. After a few minutes, Mustafa al-Dirani made no sound or movement, leading Ms. Amin to believe that he had been given an injection. The commandos questioned Ms. Amin about the location of files, papers and weapons in the house, but she did not answer. The soldiers, carrying flashlights, divided themselves into groups and thoroughly searched the house. Ms. Amin said she was bound at the wrists and ankles with metal handcuffs that were “very tight and ate at her flesh,” and that one of her daughters was hit on the head with a gun butt.

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<sup>15</sup> *Ibid.*, p. 9.

<sup>16</sup> Ori Levi, “Detention of Six Lebanese Confirmed,” *Davar*, January 24, 1992, as reported in Foreign Broadcast Information Service (FBIS), Near East and South Asia, January 24, 1992.

<sup>17</sup> Follow-Up Committee, “Memorandum Regarding the Hostages Held in Administrative Detention in Ramleh Prison”; Follow-Up Committee for the Support of Lebanese Detainees in Israeli Prisons, *Lebanese Hostages in Israeli Prisons* (Beirut: Follow-Up Committee for the Support of Lebanese Detainees in Israeli Prisons, 1996), p. 76.

<sup>18</sup> Human Rights Watch/Middle East interview, Qasernaba, Lebanon, August 8, 1996.



As the force left with al-Dirani, they told her that they would blow up the house. As a result, the family fled in fear, and Ms. Amin had to roll herself away from the building because her ankles were bound. She said that at the entrance to the village, her husband was placed in a Mercedes, which was accompanied by four Range Rovers. The caravan took the road toward Tammine, which then leads into the nearby mountains. Ms. Amin also noted that there were no working telephones in the village because the lines from nearby Zahle had gone out twenty-four hours earlier.<sup>19</sup>

The chart that follows provides basic information concerning the ten administrative detainees who have never been charged or tried:

<b>Name</b>	<b>Date of capture</b>	<b>Circumstances of capture</b>
Husein Bahij Ahmad	Nov. 16, 1987	Arrested outside Beirut by Lebanese Forces; transferred to Israel in 1990
Husein Rumeiti	Nov. 16, 1987	Arrested outside Beirut by Lebanese Forces; transferred to Israel in 1990
Ghassan al-Dirani	Dec. 18, 1987	Arrested in Beirut harbor by Lebanese Forces; transferred to Israel in 1990
Ahmad Bahij Jalloul	Dec. 18, 1987	Arrested in Beirut harbor by Lebanese Forces; transferred to Israel in 1990
Ahmad Muhammad Talib	Dec. 18, 1987	Arrested in Beirut harbor by Lebanese Forces; transferred to Israel in 1990
Husein Muhammad Tlayis	Dec. 18, 1987	Arrested in Beirut harbor by Lebanese Forces; transferred to Israel in 1990
Abd al-Karim Obeid	July 28, 1989	Seized from home village of Jibchit in IDF raid
Hashim Ahmad Fahs	July 28, 1989	Seized in operation to capture Sheikh Obeid
Ahmad Hikmat Obeid	July 28, 1989	Seized in operation to capture Sheikh Obeid
Mustafa al-Dirani	May 21, 1994	Seized from home village of Qasernaba in IDF raid

Various factors have kept the status of these twenty-one individuals and the developments in their cases largely unknown. The temporary “disappearance” and secret transfer of six detainees from the Lebanese Forces and the abiding secrecy with which the situations of Sheikh Obeid and Mustafa al-Dirani have been treated are only the most extreme cases. The proceedings in which detention orders and renewals are handed down to administrative detainees are always conducted in closed hearings, the record sealed and disclosure of details of the hearings punishable by law.

<sup>19</sup> *Ibid.*

The government of Israel's response to Human Rights Watch's request for detailed information on the twenty-one Lebanese reflects the secrecy that has been the norm in these cases. No individual information was provided on any of the cases, and only information provided by the security services, rather than the courts, was released.<sup>20</sup>

## WITHOUT STATUS OR PROTECTION

Israel has denied its Lebanese detainees protection under the laws of war either as prisoners of war or as civilians, refusing to meet even those minimum humane standards of protection common to the four Geneva Conventions (standards that largely coincide with the nonderogable standards at the core of human rights law and are generally considered customary international law). Rather, Israel has denied the Lebanese detainees any clear status—as if they were outside the protection of international law.

Without status or protection, some among these detainees have suffered forced “disappearance”; torture; incommunicado detention without limit; and denial of access to families and legal counsel. All have endured the prolongation of their detention indefinitely seemingly for reasons unrelated to the original cause of their detention.

### **The applicable standards**

International human rights law and international humanitarian law provide standards limiting the application of administrative detention. The latter provide the standards most relevant to the cases of Arab detainees transferred to Israel and subject to administrative detention orders. As the twenty-one Lebanese were detained in the context of an international armed conflict, in territory under partial occupation by Israel, humanitarian law provides binding normative standards governing their treatment.

Israel is a party to the four Geneva Conventions of 1949, but has not ratified the 1977 optional protocols to them. Lebanese territory is under partial occupation by Israel and so Israel must be held to its binding obligations as a state party to the four 1949 conventions.

### **“Every person in enemy hands must have some status”**

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<sup>20</sup> See Appendix B. As noted above, Israel has characterized the Lebanese detainees as “terrorists.” It should be noted that Israel systematically uses this term to describe Hizballah fighters, even when referring to attacks on Israeli military targets located inside Lebanon. For example, during Operation Grapes of Wrath, the IDF spokesman issued a statement announcing: “This morning (Thursday), 18 April 1996, Hizballah terrorists attacked an IDF post at Ali Taher range, in the central sector of south Lebanon.” Human Rights Watch/Middle East 18 October 1997, Vol. 9, No.11 (E)

Israel appears to accord the Lebanese detainees no particular status under the laws of war. It is as if the detainees are without status of any kind—imprisoned beyond the protection of international standards. Such situations were contemplated in the ICRC's *Commentary* on Article 4 of the Fourth Geneva Convention, on its field of application, in which it was explained that the body of humanitarian law was devised so that this would never occur.<sup>21</sup>

The terms of the Third Geneva Convention, which protect combatants who fall into the hands of the enemy as prisoners of war, have not generally been considered to apply to the cases of detainees in Lebanon who did not form part of a conventional armed force. Israel has refused to consider the detainees allegedly associated with Hizballah or Lebanese militia groups to be prisoners of war (and thus protected by the Third Geneva Convention), and Lebanon has not formally declared them to have been a part of that state party's armed forces.

### **Derogation from the Fourth Geneva Convention and "state expediency"**

The normative standards that apply expressly to the case at hand are those set out in the Fourth Geneva Convention. Israel identifies all of the detainees as "terrorists," and alleges they are members of forces which do in fact continue to fight Israeli forces in Lebanon under a situation of occupation as well as through cross-border raids. That such active fighting by organized forces continues is clear, even though the Lebanese state and its regular forces have only occasionally carried out military resistance to Israel's continued occupation. International humanitarian law provides a protective regime for real or presumed fighters who are neither regular combatants nor protected civilians when they fall into the power of a party to the conflict.

Article 5 of the Fourth Geneva Convention, on derogations, outlines the exceptions under which persons protected under the convention "shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State." The test of such derogation is "that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State . . ." Article 5's paragraph 3 requires that "such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived by the rights of fair and regular trial prescribed by the present Convention."

The ICRC *Commentary* on paragraph 3 of Article 5 explains that the requirement of a fair and regular trial will be ensured,

in occupied territory, by applying the provisions of articles 64 to 75. While there are no special provisions applying to the territory of the Parties to the conflict, the rule contained in article 3 common to the four Geneva Conventions would apply: the court must afford "all the judicial guarantees recognized as indispensable by civilized peoples."

While noting that Article 5 allows restrictions in exceptional cases even to the right of communication, the *Commentary* stresses that "restrictions are to be raised as soon as possible; there can be no doubt that the reasons which may exist for keeping certain people in solitary confinement are, in most cases, of a temporary nature."

The ICRC's comment on Article 5 stresses its exceptional and regrettable nature, while reaffirming the limits to its concession to state expediency:

[The Article] is an important and regrettable concession to State expediency. What is most to be feared is that widespread application of the Article may eventually lead to the existence of a category of civilian internees who do not receive the normal treatment laid down by the Convention but are detained under conditions which are almost impossible to check. It must be emphasized most strongly, therefore, that Article 5 can only be applied in individual cases of an exceptional nature, when the existence of specific charges makes it almost certain that penal proceedings will follow. This Article should never be applied as a result of mere suspicion.

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<sup>21</sup> Jean Pictet, ed., *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958), p. 51 (hereinafter *Commentary to the Fourth Geneva Convention*).

Israel, in the cases cited here, has taken the principle of state expediency to the extreme, and in doing so has violated the spirit and the letter of international humanitarian law. The treatment accorded some of the Lebanese prisoners reflects a de facto denial of even the minimal protection required in such exceptional cases.

### EMERGENCY POWERS AND ADMINISTRATIVE DETENTION

Minimum humanitarian standards, which must apply even under Article 5 of the Fourth Geneva Convention, require that “no sentence may be passed . . . except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure.” Article 75 of Protocol I, “Fundamental Guarantees,” provides authoritative guidance as to the due process guarantees that cannot be derogated under international humanitarian law. Section 4 of Article 75, concerning the prosecution of penal offenses related to the armed conflict, requires respect for the following generally recognized principles of judicial procedure:

No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure, which include the following:

- (a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;
- . . . .
- (f) no one shall be compelled to testify against himself or to confess guilt;
- (g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- . . . .
- (i) anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly. . . .

The requirements that defendants not be forced to testify against themselves and that they have the right to cross-examine witnesses against them are regularly breached by Israel’s trials of non-Palestinian Arab detainees transferred to Israel from Lebanon as well as by the administrative detention regime.

The Lebanese detainees have been held under administrative detention orders under Israel’s Emergency Powers (Detention) Law of 1979. This regulates the use of this form of detention, and provides for renewable detention orders of up to six months. Only the Minister of Defense can issue such orders, and the law requires the presiding judge of the local District Court to review the order within forty-eight hours of the arrest.<sup>22</sup>

The 1979 law requires all proceedings under it to be *in camera*, whereby hearings in which detention orders are considered, handed down, or reviewed are secret. This provision has meant in the first instance that the hearings themselves are closed to outside observers. Furthermore, the injunction prevented Zvi Rish, the lawyer currently

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<sup>22</sup> In contrast, administrative detention orders in the West Bank and Gaza Strip, which are regulated not by domestic Israeli law but by local military orders, are issued by military officers; are not subject to automatic review; and are appealed to a military, as opposed to a civil, judge.

defending eighteen of the administrative detainees who are the subject of this report, from providing Human Rights Watch with the details of court sessions or with copies of the court orders in those cases.<sup>23</sup>

### **Closed hearings and non-disclosure of the basis for detention**

Those held in administrative detention are usually detained on the basis of information which is disclosed only to the presiding judge. The usual justification for withholding the evidence is to protect intelligence sources that would be revealed if the case were prosecuted in a court where regular rules of evidence obtain. The law regulating administrative detention itself states that in judicial hearings to review the legality of the detention order, "it shall be lawful to deviate from the rules of evidence if the President of the District Court is satisfied that this will be conducive to the discovery of the truth." It explicitly permits the President of the District Court, who is the authority entrusted by law with reviewing the legality of the detention orders, to:

accept evidence without the detainee or his representative being present and without disclosing the evidence to them if, after studying the evidence or hearing submissions, even in their absence, he is satisfied that disclosure of the evidence to either of them may impair state security or public security.<sup>24</sup>

The effect on due process of the requirement that all administrative detention proceedings be *in camera* has been exacerbated by the Israeli government's refusal to supply specific information regarding the basis for each detention, while preventing anyone involved in administrative proceedings—including defense counsel—from revealing even those limited statements that may find expression in a closed hearing.

The blackout on information concerning these cases is more extreme than the general practice concerning Palestinian administrative detainees from the Occupied Territories—in whose cases Israeli authorities occasionally release "fact sheets" setting out in general terms the detainees' supposed political affiliations and activities upon which the detention is based.

### **Administrative detention and international standards**

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<sup>23</sup> Human Rights Watch/Middle East telephone interview with Zvi Rish, December 22, 1996.

<sup>24</sup> See *Emergency Powers (Detention) Law*, art. 6.

In all circumstances, minimum humanitarian standards require that all persons detained or interned in connection with an international armed conflict “shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the . . . detention or internment have ceased to exist.”<sup>25</sup>

Israel's practice of routine extensions of administrative detention, particularly in those cases in which detainees have been held for many years after the completion of prison sentences, also appears to violate the terms of the Fourth Geneva Convention's provision by which this measure is to be strictly exceptional. Article 78 of the convention permits the occupying power to order the detention of an individual “for *imperative* reasons of security” (emphasis added). The ICRC's *Commentary* to Article 78 stresses that “such measures can only be ordered for real and imperative reasons of security; their exceptional character must be preserved.” Even if detained under the terms of Article 5 of the Fourth Geneva Convention—which the ICRC has condemned as a “regrettable concession to State expediency”—the government's practices have violated the requirement that administrative detention be a measure that is strictly exceptional. Rather, the routine extension of detention in these cases appears to obey strictly political imperatives. Consideration of the merits of the cases of individual detainees appears to have been subordinated to larger reasons of state in disregard to the norms of humanitarian law.

### **Release “with the minimum delay possible”**

In all circumstances, minimum humanitarian standards require that all persons detained or interned in connection with an international armed conflict, with the exception of cases of arrest or detention for penal offenses, “shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist.”<sup>26</sup> The requirement that all administrative detention proceedings be *in camera*, as well as the Israeli government's refusal to divulge the substance of these hearings, in themselves reflect the lack of safeguards against the arbitrary application of Israel's system of administrative detention. More strikingly, the very existence of cases of administrative detainees who, having served prison terms, remain in detention nine years after their sentences ended without ever having been the object of a fair and public hearing, illustrates the arbitrary nature of these measures.

### **The right to counsel**

The right to be afforded “all necessary rights and means of defence,” includes the right to counsel of one's choosing.<sup>27</sup>

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<sup>25</sup> Protocol I, art. 75(3).

<sup>26</sup> *Ibid.*

<sup>27</sup> Protocol I, art. 75(4)(a).

Under Israeli law, non-security detainees have a right to access to a lawyer “without delay” under normal circumstances.<sup>28</sup> However, for detainees facing certain kinds of charges including those under the Defence (Emergency) Regulations of 1945 (DER),<sup>29</sup> a judge may deny access to a lawyer for fifteen days. This exception is relevant to the Lebanese detainees in Israel, as many of these persons are charged under provisions of the DER relating to membership in “unlawful associations”<sup>30</sup> and “unauthorized [military] drilling.”<sup>31</sup>

Lebanese administrative detainees may be represented only by those attorneys who have received top security clearance. Under Article 8(b) of the Emergency Powers (Detention) Law of 1979, which is the statute regulating the use of administrative detention in Israel, the minister of justice is empowered to limit the right to representation, and until 1988 only lawyers with top security clearance could represent administrative detainees.<sup>32</sup> Most Jewish Israeli lawyers who apply are given this level of clearance; however, some of the lawyers most active in the representation of Palestinian and Arab security detainees, such as Tamar Pelleg-Sryck, Andre Rosenthal, and Lea Tsemel, were refused it. For Palestinian lawyers with Israeli citizenship, obtaining this clearance is the exception rather than the rule. Thus, this legal hurdle prevents many of the Israeli lawyers who would be inclined to defend Arab administrative detainees, as well as the great majority of lawyers who share a common language with these detainees, from representing them. In 1988, the Israeli government narrowed the scope of the requirement so that it applied only to administrative detainees who are not residents of Israel or the West Bank and Gaza Strip.<sup>33</sup>

By comparison, administrative detainees in the Occupied Territories may be represented by any lawyer admitted to practice locally or in Israel.<sup>34</sup>

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<sup>28</sup> In May 1997, a new law came into force that requires a common criminal defendant to be allowed to meet with a lawyer “without delay.” A police officer may prevent a meeting for up to forty-eight hours, but may exercise this power only to save lives or to prevent the commission of a crime. Criminal Procedure Law (Enforcement and Detention Powers) 1996.

<sup>29</sup> The DER were imposed on Palestine by the British Mandate. Many of its provisions restrict many basic human rights such as the freedom of association, freedom from arbitrary detention, freedom of expression, freedom from arbitrary search and seizure. Many of the provisions of the DER remain in force in Israel, although in recent years they have been used relatively infrequently to prosecute Israeli citizens.

<sup>30</sup> Article 85(1)(a). Hizballah’s military wing, the Islamic Resistance, is engaged in armed resistance to Israel’s occupation in Lebanon as well as attacks, often indiscriminate, inside Israel itself. According to Israel’s security services, “Hizballah’s stated objectives include eliminating the State of Israel.” See Appendix B.

<sup>31</sup> According to Article 62 of the DER,  
No person shall

- (a) train or drill any other person to the use of arms or the practice of military exercises, movements or evolutions, or
- (b) receive any such training or drilling, or
- (c) be present at any such training or drilling.

<sup>32</sup> Articles 316–18 of the Law of Military Judgments 1955 regulate the right to represent defendants in military courts, and authorize a special committee to grant attorneys two levels of security clearance. A High Court Justice, two attorneys chosen by the Israeli Bar Association, the Director of the Ministry of Justice, and the Military Attorney General sit on this special committee. Unlike the highest-level security clearance, which allows representation in any trial, a mid-level clearance does not allow an attorney to represent a detainee tried *in camera*. Since by law administrative detention proceedings are held *in camera*, only attorneys with the highest-level clearance may participate in those proceedings.

<sup>33</sup> Order Concerning Emergency Powers (Detention) (Restrictions on the Right to Representation) 1988, art. 1.

<sup>34</sup> Al-Haq, *A Nation Under Siege* (Ramallah: Al-Haq, 1990), p. 296; Human Rights Watch/Middle East telephone interview with Eliahu Abram, HaMoked, Jerusalem, April 16, 1997.

The requirement that counsel have high-level security clearance has interfered with the right of the detainees to be represented by counsel of their own choosing. This was made clear in 1991, when a number of prisoners whose sentences had expired, including Hasan al-Hijazi, Kamal Riziq, and Husein Daqduq, appealed to the Israeli High Court of Justice to secure the implementation of their deportation orders. At the date of the hearing, the Israeli authorities announced the replacement of the deportation orders with administrative detention orders. Their lawyers in the case, Lea Tsemel and Jawad Boulos, were then prevented from representing their clients in the appeals against the new orders because the lawyers did not have the required level of security clearance.<sup>35</sup>

The requirement that court sessions in administrative detention cases be held *in camera* prohibits lawyers from publicizing the details of the cases, and shields the proceedings from public scrutiny.<sup>36</sup> As noted above, Zvi Rish, the lawyer who represents eighteen of the Lebanese administrative detainees in court, declined to provide Human Rights Watch with any details regarding the case. Rish was able, however, to comment on his inability to share the details of the case with others as a means of galvanizing support for his clients. "I have my own interest in publicizing this information. What is happening in this case should not be happening in a civilized society."<sup>37</sup>

Israel claims that Sheikh Abd al-Karim Obeid or Mustafa al-Dirani have legal representation (see Appendix B), but the secrecy concerning their cases has made this impossible to verify. Concerned about al-Dirani's continuing incommunicado detention and his medical condition, his family agreed in August 1996 that the assistance of an Israeli human rights lawyer should be sought in pursuing the case with Israeli authorities. Human Rights Watch then contacted Avigdor Feldman, a leading Israeli human rights lawyer. Feldman requested from the office of the Israeli military prosecutor permission to represent al-Dirani. Yaron Herman, a military prosecutor, subsequently responded that al-Dirani had refused Feldman's offer of representation and had stated that he did not wish to be represented by any lawyer. Feldman, who had no way to ascertain the veracity of this response, wrote to Herman requesting an Arabic-language refusal handwritten or signed by al-Dirani.<sup>38</sup>

Feldman subsequently received an Arabic-language letter from al-Dirani stating that, while not interested in legal representation, he was prepared to meet with Feldman.<sup>39</sup> A meeting occurred on July 31, which was arranged on condition that Feldman not speak to the press about it. In addition, Feldman declined to inform Human Rights Watch about any of the details of the meeting, including the location of the encounter, in the absence of instructions from the Military Advocate General's office regarding what information could and could not be discussed. According to Feldman, several days later, a representative from that office told Feldman that he could say nothing about the meeting, except to say that it had occurred. In a further illustration of the secrecy surrounding the detainees who are the subject of this report, Feldman could not confirm or deny whether he formally served as al-Dirani's legal counsel. The representative even reprimanded Feldman for sharing with Human Rights Watch his general assessment of al-Dirani's state of health.<sup>40</sup>

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<sup>35</sup> "Nazareth's HRA says Israel keeping Arabs in prison beyond sentence to trade them later," *Al-Fajr*, July 1, 1991, p. 9.

<sup>36</sup> Article 9 of the Emergency Powers (Detention) Law requires that "[h]earings in proceedings under this Law shall be held *in camera*." In some cases, judges have permitted disclosure of a few details of administrative detention cases. For example, in the case of a petition by this group of eighteen against the conditions of their detention, the Israeli High Court permitted disclosure of the filing of the appeal, though not of the contents of the appeal nor of the prisoners' identity or place of detention. "Lebanese Prisoners Demand Better Conditions," *Agence France-Presse*, January 23, 1997.

<sup>37</sup> Human Rights Watch/Middle East telephone interview with Zvi Rish, December 22, 1996.

<sup>38</sup> Human Rights Watch/Middle East telephone interview with Avigdor Feldman, Tel Aviv, March 10, 1997.

<sup>39</sup> Letter from Avigdor Feldman to Human Rights Watch/Middle East, July 30, 1997.

<sup>40</sup> Human Rights Watch/Middle East telephone interviews, July 31, 1997; August 4, 1997; August 21, 1997.



## CONDITIONS OF DETENTION

Interrogation of Arab detainees from outside the West Bank and Gaza Strip generally occurs in three detention centers: Kishon, east of Haifa; Ashkelon, north of the Gaza Strip; and Khiyam in Israeli-occupied south Lebanon.<sup>41</sup> Interrogations in these centers are usually conducted by the General Security Service (GSS) and by the IDF, according to Israeli lawyer Lea Tsemel. Some persons captured by the SLA, such as Musa Hasan Zein, who was arrested by the SLA on July 21, 1992 and handed over to the IDF on August 11 of that year,<sup>42</sup> undergo interrogation at the hands of the SLA before being handed over to the Israeli authorities. Lebanese detainees, in addition, have been reported held in Israeli military facilities identified to them only as "Sarafand."

### **The interrogation center called "Sarafand"**

Former detainees, lawyers, and prisoner support groups often speak of the detention of Arab detainees in a secret military detention center located inside Israel called "Sarafand." The identity of the place or places to which they are referring is not clear. Tsarafin—the Hebrew version of the Arabic "Sarafand"—is the name of an Israeli army base near Tel Aviv. The base contains a prison called Prison 4 which holds Israeli soldiers convicted in courts martial. *Ha'aretz* reported that al-Dirani is held in an area of Sarafand called the "Lebanese cabins." Yossi Melman, the author of the article and a regular writer on security affairs for the daily, explained in an interview with Human Rights Watch that the "Lebanese cabins" is an area in Sarafand where detainees are held in isolation and that it acquired its unofficial designation because a number of Lebanese have been held there.<sup>43</sup> Defense attorneys told Human Rights Watch that Arab detainees who describe being in "Sarafand" recount that they are held there incommunicado, in solitary confinement, and without access either to a lawyer or to the ICRC, usually during the initial stages of their confinement. However, the Government of Israel did not respond to Human Rights Watch's request for information regarding the existence of such a detention center.

The appearance of the name "Sarafand" in testimony collected from detainees interrogated in 1986 (such as that of Bilal Dakrub) as well as a decade later (such as that of Ali Banjak) would indicate either that a detention center holding Arab security detainees called Sarafand actually exists, or that there has been a long-standing policy by the Israeli GSS to tell detainees in the first stage of interrogation that they are being held in "Sarafand."

### **The torture and ill-treatment of Lebanese detainees**

In addition to the exceptional abuse of long-term incommunicado detention and, in some of the cases under examination, "disappearance" for up to two years, at least some of the detainees are believed to have undergone ill-treatment or torture by their interrogators.

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<sup>41</sup> For a report on conditions in Khiyam, see Amnesty International, *Israel/South Lebanon: The Khiyam Detainees: Torture and Ill-Treatment* (London: Amnesty International, 1992). According to Lebanese sources, Khiyam presently holds approximately 150 detainees.

Other interrogation sections of detention centers, such as that of Megiddo in northern Israel, once were used to interrogate Lebanese detainees but have been closed.

<sup>42</sup> Human Rights Watch/Middle East interview with Lea Tsemel, Jerusalem, December 27, 1996.

<sup>43</sup> Yossi Melman, "A Little Less Alone," *Ha'aretz*, August 3, 1997; Human Rights Watch telephone interview, September 9, 1997.  
Human Rights Watch/Middle East 25 October 1997, Vol. 9, No.11 (E)

Israeli torture and ill-treatment of security detainees from the West Bank and Gaza Strip has been systematic for many years. In 1987, the Israeli cabinet approved the report of the Landau Commission, a government-appointed committee mandated to review GSS interrogation methods. The commission recommended that the GSS be allowed to use “moderate physical pressure” to obtain information and confessions from security detainees. Israel has never released the guidelines specifying the methods of moderate pressure but maintains that the guidelines prohibit acts that amount to torture. However, Human Rights Watch and other organizations that have investigated the issue have determined that the combination of methods used on a regular basis on detainees brought in for interrogation—including prolonged and painful position abuse, confinement in closet-like spaces and sleep deprivation, hooding, subjection to extremes of noise and to uncomfortable temperatures, and violent shaking—amount, when used in combination with one another and for long periods, to acts of torture.<sup>44</sup>

Israel's High Court of Justice has not outlawed these practices. For example, on November 14, 1996, the Israeli High Court of Justice declined to bar the GSS's use of “physical force” in the interrogation of Palestinian security detainee Muhammad Hamdan. Hamdan had, two days before the ruling, requested an interim injunction against the use of physical force during the interrogation, which he alleged included the use of violent shaking, sleep deprivation, and position abuse.<sup>45</sup>

In the extreme conditions of secret detention and “disappearance” experienced by some of the detainees during the first years of their captivity, and the prolonged incommunicado detention still suffered by Obeid and al-Dirani, the psychological conditions of their imprisonment alone may constitute cruel, inhuman or degrading treatment or punishment (see below). Allegations of torture have also been made in some of the cases of the twenty-one administrative detainees.

A recent Amnesty International report on Lebanese detainees in Israeli custody reports the use of torture against the eleven detainees who were tried and convicted of penal offenses. According to sources cited in the report, after Bilal Dakrub's arrest in February 1986, the IDF and SLA soldiers who captured him first used him as a human shield, tying him to the hood of cars in order to deter suicide bombers. He was interrogated at Bra'shit camp where SLA soldiers kicked and beat him. He then spent ten days in Center 17 Camp, near Bint Jbeil, which is reportedly run by SLA and Israeli security services. While there, he claimed that he was tortured with electric shocks administered by SLA soldiers in the presence of Israelis who gave orders. After that, he was transferred to “Sarafand,” where he spent three months in solitary confinement. There, during his interrogation, he was deprived of sleep for long periods and was forced to stand for several nights in a row while hooded.

Ali Ammar, Ahmad Ammar, Kamal Riziq, and Hasan al-Hijazi, all arrested in Mays al-Jabal in September 1986, were detained in Khiyam for about five months and then transferred to “Sarafand.” They claim to have been tortured in both places. Al-Hijazi, whose leg was broken and in a cast at the time of arrest, claimed that while in Khiyam he was forced to stand for hours and was beaten on his broken leg. The other three claimed to have been beaten repeatedly, tortured with electric shocks, kept for long periods in contorted positions while shackled to a chair or to pipes, hooded, exposed to continuous, loud music, and denied sleep for extended periods of time.

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<sup>44</sup> See, e.g., Human Rights Watch/Middle East, *Torture and Ill-treatment: Israel's Interrogation of Palestinians from the Occupied Territories* (New York: Human Rights Watch, 1994).

<sup>45</sup> See B'Tselem, “Legitimizing Torture: The Israeli High Court of Justice Rulings in the Bilbeisi, Hamdan, and Mubarak Cases,” January 1991, pp. 14–19. See also Serge Schmemmann, “In Israel, Coercing Prisoners is Becoming the Law of the Land,” *New York Times*, May 8, 1997, p. A1; Letter from Human Rights Watch/Middle East to Prime Minister Binyamin Netanyahu, November 27, 1996.

After the arrest of Abd al-Hasan Srur, Abbas Srur, Ahmad Srur, Yusif Srur, and Hasan Daqduq in March and April 1987, they were detained in Center 17 Camp and Khiyam. While in Khiyam they were reportedly tortured by methods including electric shock to the genitals and fingers. Their torture continued after their transfer to "Sarafand": there, Israeli soldiers beat them and subjected them to other forms of abuse between interrogation sessions.<sup>46</sup>

A recent case illustrates the continued practice of kidnap-style detentions inside Lebanon, and the secret transfer of detainees to Israel where safeguards against ill-treatment or torture are largely absent. Ali Ahmad Banjak, a Lebanese citizen, was allegedly seized by SLA intelligence operatives near Sidon, on August 15, 1996. According to Hasan Abu Ahmad, a Nazareth-based attorney who represented Banjak in Israeli court, Banjak stated that he was rendered unconscious when undercover SLA agents posing as the driver and passengers in a taxi in which he was riding covered his mouth with a cloth drenched with an unspecified drug. When he awoke, he found himself in what Banjak believed to be an SLA camp in south Lebanon, where he was informed by an Israeli officer that he would be taken to Israel.

In a sworn affidavit recorded by his lawyer, Banjak described systematic torture during the period of prolonged incommunicado detention after his arrest. He said that during thirty days of military interrogation at an IDF base inside Israel, identified to him as "Sarafand," he had been submitted to a routine of beatings, slappings, threats, and being forced to straddle a wooden pole on which he was raised and dropped. A doctor in attendance is alleged to have authorized further torture even after the detainee was vomiting blood. Although Tamar Pelleg-Sryck, the Israeli lawyer who took the testimony, demanded an independent inquiry into the treatment described to her, the military prosecutor turned down this request, saying that the complaint would be addressed adequately during Banjak's trial. (See Appendix A.)

Torture is a grave breach of the Fourth Geneva Convention and a war crime. All parties to that convention have an obligation to try persons responsible for acts of torture and ill-treatment. Torture is also among the acts prohibited by Article 3, common to the four Geneva Conventions, in non-international armed conflicts.

### **Access to family visits and correspondence**

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<sup>46</sup> See Amnesty International, *Israel / South Lebanon: Israel's Forgotten Hostages: Lebanese Detainees in Israel and Khiam Detention Centre* (MDE 15/18/97, July 1997), pp. 6-8.

International human rights and humanitarian law guarantees all detainees and prisoners the general right to correspond with and receive visits from family members.<sup>47</sup> The ICRC delivers correspondence to and from relatives of Lebanese detainees other than Obeid and al-Dirani. Israeli authorities generally allow visits to security prisoners (i.e., those convicted under the DER and provisions of the Penal Code prohibiting attacks against the state and state security) and administrative detainees once every fifteen days. The Israel Prison Service normally permits visits to security prisoners and detainees only from parents and from siblings and children under sixteen years of age. Through ad hoc arrangements with prison authorities, these limitations on eligible family members are sometimes relaxed.

Although most of the non-Palestinian Arab detainees other than the twenty-one who are the focus of this report are now allowed visits, the travel restrictions between Israel and many of the states in which the detainees' families live often deprive them of direct contact with family members.

In many cases, in particular those of Lebanese and Syrian nationals, the existence of a de facto or formal state of war and the lack of diplomatic relations between Israel and many Arab states have deprived the prisoner and his family of regular direct contact, sometimes for periods lasting several years. On the other hand, the signing of the peace treaty between Israel and Jordan in 1994 and between Israel and Egypt in 1979 facilitated family visits for Jordanian and Egyptian prisoners. For example, in 1995, the ICRC arranged for ninety-seven Jordanians to visit twenty-four relatives in six places of detention.<sup>48</sup> Israel has also allowed family visits from Lebanese with Western passports, which in the past have been arranged through the ICRC, and from relatives and "adoptive" families residing in Israel and the West Bank and Gaza Strip. However, during closures of these areas, and in particular since the suicide bombings of February and March 1996, visits from West Bank and Gaza Strip "adoptive" families have not been allowed. Residents of occupied south Lebanon who are on good terms with the occupation authorities are allowed to visit their relatives in Israel on an ad hoc basis.

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<sup>47</sup> The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. Res. 173 (XLIII), December 9, 1988 (hereinafter Body of Principles), which were formulated "for the protection of all persons under any form of detention or imprisonment," stipulate that "[a] detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations." Principle 19.

The Third and Fourth Geneva conventions permit prisoners of war and internees "to send and receive letters and cards," subject to the detaining power's right to censor. Third Geneva Convention, arts. 71, 76; Fourth Geneva Convention, arts. 107, 112. Under both conventions, "[a]ny prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible." Third Geneva Convention, art. 76; Fourth Geneva Convention, art. 112.

Interned civilians from occupied territory and detainees and prisoners held for offenses not connected to an international armed conflict must be permitted visits from family members. Article 27 of the Fourth Geneva Convention requires "respect for the family rights of protected persons," while Article 116 states that "every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible."

Given the potential ease of travel within the countries involved in the Israel-Lebanon conflict, Israel's practice of allowing some family visits for most Lebanese detainees, and the standards enunciated in the 1988 Body of Principles cited above, Human Rights Watch calls on Israel to extend the general right to receive family visits to all Lebanese in its custody.

Under international humanitarian law, the right to correspond with and receive visits from family members is most circumscribed for civilians detained in occupied territory as spies, saboteurs, or persons under definite suspicion of activity hostile to the security of the occupying power. Under Article 5 of the Fourth Geneva Convention, these persons forfeit their rights to communication under that convention, but only in cases where "absolute military security so requires." Israel must restore these rights "at the earliest date consistent with the security of the . . . Occupying Power."

<sup>48</sup> International Committee of the Red Cross, *Annual Report 1995* (Geneva: International Committee of the Red Cross, 1996), p. 232.

Outside of these categories of persons, family visits occur only rarely. For example, after the Israeli government responded to an ICRC intervention and allowed four Syrian mothers to pay their sons three-hour visits in Israeli jails on February 12, 1997, an Israeli military official termed the authorization "exceptional."<sup>49</sup> In an effort to fill this gap, the Mandela Institute in Ramallah, the Society of the Friends of Detainees and Prisoners in Nazareth, and other support groups for security prisoners and detainees in Israeli detention centers frequently seek to visit some of the prisoners and detainees and deliver food and family correspondence, although prison authorities have in many instances suspended these visiting privileges.

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<sup>49</sup> "Syrian Mothers Allowed to Visit Sons Imprisoned in Israel," Agence France-Presse, February 13, 1997.

The unpredictable nature of family contact for Arab prisoners and detainees is exemplified by the situation of released prisoner Jamal Mahroum, a Lebanese citizen from Beirut who was arrested on May 19, 1983 in Ramallah as he was preparing to carry out an armed operation in Israel. He was tried and convicted for illegally entering into Israel and for planning to carry out a military operation. He spent eleven years in Israeli detention centers and prisons during which he reportedly received only three visits from family members. The ICRC facilitated a half-hour visit from Mahroum's mother in Ramleh detention center during his trial in 1983. The next visit came in 1986, after friends from Hebron arranged for the issuance of visit permits to his sister and mother, who were identified as their own relatives. After his mother and sister entered the West Bank, they traveled to Ashkelon prison and spent forty-five minutes with Mahroum. In the middle of 1988, the ICRC arranged to drive Mahroum's mother from the Lebanese border to Kfar Yona prison. He received no other visits from his family until his release in 1994.<sup>50</sup>

Human Rights Watch understands that a number of organizations, principal among them the ICRC, are willing to arrange and finance family visits for security detainees, including the Lebanese. In recent years, these visits have not taken place on a systematic basis for all security prisoners and detainees.

### **Denying access to families**

The ability of the twenty-one detainees who are the focus of this report to maintain contact with their families, whether through correspondence or visits, has been more constrained than that of other non-Palestinian Arab detainees. Of the eleven detainees who have served prison sentences, five are believed to have received family visits, although all such access appears to have been denied in recent years. The six detainees arrested in and around Beirut by the Lebanese Forces in late 1987—Husein Ahmad, Husein Rumeiti, Ahmad Jalloul, Ahmad Talib, Husein Tlayis, and Ghassan al-Dirani—have received no family visits in the seven years they have been in Israeli custody.<sup>51</sup>

The denial of family visits has been described by Israeli authorities as a means of putting pressure on entities in Lebanon to provide information about MIA Ron Arad. According to Amnesty International, when the mother of Ghassan al-Dirani, who had managed to gain entry into Israel, sought to visit her son at Ayalon prison, she was immediately expelled from the country. An IDF spokesman justified the refusal to allow al-Dirani to see his mother as follows:

The action was in line with Israeli army policy involving any detainee who is linked in any way to the Ron Arad affair. As long as there is no news of Ron Arad, there will be no meetings with [Lebanese] detainees in Israel and no information about the detainees will be released.<sup>52</sup>

At the same time, nineteen of the detainees who are the focus of this report have in the past been able to receive other visitors, including from local support groups. However, this access in turn has recently been restricted as well. Since September 1996, the Mandela Institute and the SFDP have not been able to visit the eighteen detainees currently in Ayalon.

In mid-January 1997, Azmi Beshara, a member of the Israeli Knesset and an advocate on behalf of security detainees in Israel, wrote to Minister of Internal Security Avigdor Kahalani to protest the conditions in which the Ramleh detainees were kept and to ask for permission to visit them. Kahalani postponed the request, stating that "security conditions established that meetings between members of the public and the Lebanese administrative

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<sup>50</sup> Human Rights Watch/Middle East telephone interview, Beirut, March 11, 1997.

<sup>51</sup> Amnesty International, "Israel's Forgotten Hostages," p. 10.

<sup>52</sup> *Ibid.*

detainees are likely to obstruct [the Ministry's] work, which is extremely sensitive."<sup>53</sup> In response, MK Beshara petitioned the High Court to secure permission to visit.<sup>54</sup> A hearing on the question has been set for October 8, 1997.

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<sup>53</sup> Moshe Reinfeld, "MK's Request to Visit 18 Lebanese Administrative Detainees Postponed," *Ha'aretz*, January 22, 1997.

<sup>54</sup> Moshe Reinfeld, "Today High Court of Justice Will Discuss the Petition of Lebanese Administrative Detainees in the Issue of Detention in Israel," *Ha'aretz*, February 17, 1997.

Israel's treatment of Sheikh Obeid and Mustafa al-Dirani with regard to family visits and correspondence has been more restrictive than toward other Lebanese detainees and prisoners. Their families have had no contact with the two detained men since their respective apprehensions in 1989 and 1994 with the exception of a short, three-line letter from each delivered in October 1996 by Bernd Schmidbauer, the German intermediary. Their families were in turn allowed to respond in letters of the same length.<sup>55</sup>

Zeinab Amin, the wife of Mustafa al-Dirani, expressed her frustration to Human Rights Watch in August 1996: "After over two years we know nothing. I've visited most of the embassies in Beirut, and when we ask about [my husband], they ask us about Ron Arad." She expressed particular concern about the lack of information about her husband's medical condition, noting that he has permanent neurological damage in his extremities caused by shrapnel injuries to his neck and back in 1984, and had been taking medication between February 1993 and the time of his capture.<sup>56</sup>

Israel's years-long prohibition of even censored correspondence between Sheikh Obeid and Mustafa al-Dirani and their families violates the guarantees of international human rights and humanitarian law, even under the most restrictive standards set forth in Article 5 of the Fourth Geneva Convention. At the very least, Israel must allow the exchange of correspondence containing personal and family news between these two detainees and their families.

### **Denying the ICRC access**

Persons detained in connection with an international armed conflict have the general right to be visited by delegates of the ICRC. According to the terms of an agreement concluded between the Israeli authorities and the ICRC in 1977, the ICRC must be notified of arrests within twelve days and have personal access to them within fourteen days. The ICRC's regular programs of visits to security detainees represent an important safeguard of a broad range of rights.

Normally, the ICRC receives notification of arrest on the twelfth day of detention, after which it notifies the family through its offices in Beirut, Damascus and other Arab cities. Thus, for most detainees currently in Israeli detention, the family had to wait for at least twelve days in order to receive formal notification of the arrest. As a result of a petition to the Israeli High Court of Justice, the State Attorney's representative announced new arrangements in February 1996 for notification upon arrest, without delay, to a telephone number given by the detained person.

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<sup>55</sup> Human Rights Watch/Middle East telephone interview with Zeinab Amin, wife of Mustafa al-Dirani, Beirut, March 14, 1997.

<sup>56</sup> Human Rights Watch/Middle East interview, Oasernaba, Lebanon, August 8, 1996.



Israel has in some cases refused ICRC access to security detainees. For ten years, until 1995, the Israeli authorities and the SLA refused to grant the ICRC access to the Khiyam detention center in south Lebanon,<sup>57</sup> in which many Lebanese detainees are interrogated before being taken to Israel. While the SLA formally runs the Khiyam center, Khiyam is in an area of south Lebanon under Israeli control and the SLA is a force financed and trained by the Israelis. Based on testimony gathered in the early 1990s, Israeli officials were involved in the supervision of the detention center.<sup>58</sup> The ICRC has not been granted access to Sheikh Obeid and Mustafa al-Dirani since their arrests. Other detainees inside Israel were also prevented from seeing ICRC delegates: The ICRC reported that in 1994 it visited for the first time nine Lebanese detainees held in Israel “who had been hidden from [it] for several years.”<sup>59</sup>

## DETAINEES IN THE CONDITION OF HOSTAGE

In correspondence with Human Rights Watch, the Government of Israel stated that the Lebanese in Israeli custody “were involved in terrorist activities in Lebanon” and “are being held lawfully.”<sup>60</sup> However, numerous past statements by Israeli government officials suggest strongly that it holds two detainees hostage.

Soon after the July 28, 1989 capture and transfer to Israel of Sheikh Abd al-Karim Obeid, Israeli authorities tied the operation directly to efforts to force Lebanese militia to resolve the fate of missing airman Ron Arad. Shortly after the pre-dawn raid, IDF spokesperson Col. Raanan Gissin publicly hinted at such a link: “Clearly, when you capture one of [Hizballah’s] top leaders, it can deter terrorism, and you also have a certain amount of leverage in your hands.”<sup>61</sup> Gissin accused Obeid of being a “preacher and instigator in carrying out attacks against Israel” as well as “the main figure in the [Hizballah] organization especially in southern Lebanon.”<sup>62</sup> The Israeli government also alleged Obeid’s involvement in the kidnaping of William Higgins, a United States Marine Lieutenant Colonel seconded to the United Nations Interim Force in Lebanon.<sup>63</sup> Hizballah would neither confirm nor deny to Human Rights Watch whether Sheikh Obeid was a member of that movement.<sup>64</sup>

In the same operation, Israeli forces also captured Hashim Ahmad Fahs and Ahmad Hikmat Obeid, Obeid’s bodyguards. Since that time, Sheikh Obeid has been held incommunicado in an undisclosed location or locations, while

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<sup>57</sup> International Committee of the Red Cross, *Annual Report 1995*, p. 233.

<sup>58</sup> Amnesty International, *The Kham Detainees: Torture and Ill-treatment*, pp. 9–17.

<sup>59</sup> International Committee of the Red Cross, “Annual Report 1994: Israel, the Occupied Territories and the Autonomous Territories,” May 30, 1995 (<http://www.icrc.org/icrcnews/23d2.htm>).

<sup>60</sup> See Appendix B.

<sup>61</sup> “Raid into Lebanon Defended by Israel; Leader of Iran-Backed Hezbollah Accused of Role in Terrorist Attacks,” *Los Angeles Times*, July 30, 1989, p. 1.

<sup>62</sup> “Raid into Lebanon Defended by Israel,” p. 1.

<sup>63</sup> Amnesty International, “Israel’s Forgotten Hostages,” p. 11. Higgins was captured in February 1988. Three days after Obeid’s arrest, the Oppressed of the Earth organization issued a statement stating that it had hanged Higgins to avenge the seizure of Obeid, and released a videotape showing a man dangling from a rope with his feet tied and his mouth gagged. “Lebanese Group Says U.S. Hostage Hanged; Threat Against Second,” *Reuter*, July 31, 1989.

<sup>64</sup> Letter from Mohammad al-Saad, Hizballah, to Human Rights Watch/Middle East, June 16, 1997. Hizballah would only state that “Sheikh Abd al-Karim Obeid is one of the eminent [religious] scholars engaged in struggle [*al-ulema’ al-afadhil al-mujahidin*] and is the Imam of Jibchit village.” *Ibid.*

Ahmad Hikmat Obeid and Hashim Ahmad Fahs have been held in various detention centers, most recently in Ayalon detention center in Ramleh.

The connection between the apprehension and the MIAs was explicit when then-Prime Minister Yitzhak Shamir's government stated four days after the raid that Sheikh Obeid's release could only come as part of a comprehensive exchange of Shi'a prisoners held by Israel for Israelis held by Shi'a groups in Lebanon.<sup>65</sup> Similarly, after U.S. citizen Joseph Cicippio was freed after over five years of being held hostage in Lebanon, and in response to rumors of a comprehensive exchange of captives and remains held by Israel and Lebanese groups, Uri Lubrani, the Israeli Government Coordinator of Lebanon Affairs, stated: "We will release Obeid only after we receive our POWs and MIAs. We have also said that we will release all of the Lebanese prisoners after a deal."<sup>66</sup>

In another raid, on May 12, 1994, Israeli troops took Mustafa al-Dirani from his home outside Israel's occupation zone. Al-Dirani was head of security of Amal, a Lebanese political movement whose military wing in October 1986 captured Israeli Air Force navigator Captain Ron Arad after he bailed out of his plane over Sidon. Al-Dirani subsequently left Amal to form another group, known as "Faithful Resistance."<sup>67</sup> According to the Israeli government, al-Dirani transferred Arad into the new group's custody at that time, and later handed him to Iranian Revolutionary Guards stationed in Lebanon. The government also stated that Arad has never been visited by his family or the ICRC and is currently held in an unknown location; his fate remains unknown.<sup>68</sup> He was last heard from in October 1987 when his family received a photograph and a letter from him saying that he was in good health.<sup>69</sup>

Then-Foreign Minister Shimon Peres emphasized shortly after al-Dirani's capture that the raid was motivated by a desire to seek information about Arad. Then-Prime Minister Yitzhak Rabin was quoted by reporters in Tel Aviv as stating that Israel had ordered the raid because "we have to find every hint of a direction for acting that will give us information [on Arad]."<sup>70</sup>

Israeli officials have since then continued publicly to make the release of Sheikh Obeid and al-Dirani contingent on progress toward resolving the fate of Israel's remaining missing in action. In the course of a meeting with an Amnesty International delegation to Israel on February 9, 1996, Israeli Deputy Minister of Defense Ori Orr responded to the delegates' questions regarding Obeid and al-Dirani's legal status and their whereabouts, stating "We will release them when we have more information about Ron Arad."<sup>71</sup> Since seven and two years, respectively, had passed since the capture of the two persons in question, it may be concluded from Orr's comments that Israel was hoping to obtain such information not from the detainees themselves, but from other parties to the conflict interested in expediting their release.

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<sup>65</sup> Joel Brinkley, "Israel Adamant on Terms to Free Abducted Sheik," *New York Times*, August 2, 1989, p. A10.

<sup>66</sup> Alon Pinkas, "Freed Cicippio Arrives in Germany: US Deal with Iran Said Easing Hostage Release," *Jerusalem Post*, December 3, 1991.

<sup>67</sup> Clyde Haberman, "Israelis Abduct Guerilla Chief from Lebanon," *New York Times*, May 22, 1994, p. A1.

<sup>68</sup> See Appendix B.

<sup>69</sup> Amnesty International, "Israel's Forgotten Hostages," pp. 4-5.

<sup>70</sup> David Hoffman, "Israel Abducts Lebanese Guerrilla," *Washington Post*, May 21, 1994, A25.

<sup>71</sup> Amnesty International, "Israel and the Occupied Territories: Human Rights Should Not Be Sacrificed in the Name of Peace," February 12, 1996 (AI Index: MDE 15/11/96).

In this light, the harsh, arbitrary and unparalleled conditions of isolation in which Obeid and al-Dirani are being kept appear to be part of an Israeli strategy to increase its leverage with third parties. The two have been held for years without contact with the ICRC; they have had practically no correspondence with their families; and they are held apart from other detainees in undisclosed locations. To our knowledge, Israel has provided no justification for this regime of isolation, which appears harsher than that experienced by any of the other Lebanese detainees in Israeli custody.

The detention and treatment of Sheikh Obeid and al-Dirani must be viewed in the context of Israel's persistent efforts to secure the release of Arad and its other MIAs. In addition to carrying out the arrests described above and making direct and public exchange offers to parties it believed held their MIAs,<sup>72</sup> Israel has sought the intervention of different intermediaries, including then-United Nations Secretary-General Javier Perez de Cuellar, the ICRC, and more recently Bernd Schmidbauer, the German intermediary, seeking to promote a prisoner exchange between Israel and the party or parties holding Israeli MIAs or their remains. In some cases, these have resulted in the release of prisoners and the repatriation of remains by Israel, the SLA, and resistance groups based in Lebanon, such as one that occurred on July 21, 1996 between Israel, the SLA, and Hizballah.<sup>73</sup>

Hostage-taking is a serious violation of basic norms regulating international and internal armed conflict and is prohibited at any time and in any place whatsoever. It is a grave breach of the Fourth Geneva Convention, and as such constitutes a war crime. All parties to that convention have an obligation to try persons responsible for acts of hostage-

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<sup>72</sup> In January 1992, Israeli Defense Ministry spokesperson Danny Naveh stated to the press: "I can reiterate our position: We are ready to release the Lebanese prisoners we have in return for the release of the Israeli missing and captive soldiers." Naveh's statement was in response to contemporaneous offers from Hizballah and Amal to the SLA and Israel to exchange captives and remains. Naveh added that the lack of information on Arad was what had held up any exchanges thus far. "Lebanon: Shi'ite Leader Offers Prisoner Swap with Israel," *Reuter*, January 12, 1992.

On March 26, 1993, Uri Lubrani, the Israeli Government Coordinator of Lebanon Affairs, offered to exchange Lebanese Shi'a prisoners held by Israel and the SLA, including those held inside Israel, for Israel's missing and captive soldiers, according to Lebanese Foreign Minister Faris Bouez. Letter from Faris Bouez, Foreign Minister of Lebanon, to Boutros Boutros-Ghali, United Nations Secretary-General, November 26, 1993.

In a memo sent to Amnesty International in Dublin, an [Israeli government official] stated that "the answer to the problem of the Lebanese prisoners lies in a comprehensive solution to the security issues facing us along the Lebanese border. The cessation of terror attacks launched from Lebanese territory against Israel and a full accounting of missing soldiers on all sides (including six Israeli servicemen) would undoubtedly go a long way towards solving this situation." Memorandum from Israeli Embassy in Dublin to Sophie Magennis, Amnesty International Irish Section, April 18, 1997.

The most recent suggestions of the possibility of an exchange came in September 1997 in the aftermath of a failed Israeli raid thirty kilometers north of the Israeli-occupied zone in south Lebanon by an elite commando unit which left twelve Israelis dead. While Israeli forces were able to recover the remains of eleven soldiers who died in the ambush, those of a twelfth were not recovered. Sheikh Hasan Nasrallah, leader of Hizballah, told a press conference he was prepared to swap the missing soldier's remains captured by his group for prisoners held by Israel. When asked about the offer on Israeli television, Israeli Prime Minister Binyamin Netanyahu said, "We will not give up trying to find him and bring back his remains. . . . We are ready to study all possibilities. For us a missing soldier is what counts. But we have to see if there is substance to Hezbollah's proposition." "Netanyahu suggests Lebanese prisoners for soldier's remains," *Agence France-Presse*, September 5, 1997. Four days later Jean-Jacques Fresard, the head of the ICRC delegation in Beirut, delivered a message from Israel regarding a possible exchange to Lebanese Prime Minister Rafiq al-Hariri. Al-Hariri also responded via Fresard. "Red Cross Mediating Hezbollah-Israel Exchange," *Agence France-Presse*, September 9, 1997. *Al-Hayat*, a London-based Arabic daily, reported that the Lebanese government, in coordination with Hizballah, would lead the negotiations on the Lebanese side and would rely on the ICRC as the main intermediary for the exchange. "First Red Cross Step in Remains-Prisoner Exchange," *Al-Hayat*, September 11, 1997, p. 3.

<sup>73</sup> International Committee of the Red Cross, "Lebanon/Israel: mortal remains repatriated and prisoners released," Press Release 96/24, July 22, 1996.

taking. Hostage-taking also figures among the acts prohibited in Article 3, common to the four Geneva Conventions, in non-international armed conflicts: what is often described as “the Geneva Conventions in miniature.”

The ICRC *Commentary* on the Fourth Geneva Convention, Article 34, defines hostages “[g]enerally speaking,” as “nationals of a belligerent State who of their own free will or through compulsion are in the hands of the enemy and are answerable with their freedom or their life for the execution of his orders and the security of his armed forces.”<sup>74</sup> The ICRC’s authoritative *Commentary* on Protocol I, Article 34, in turn, provides an updated definition, describing hostages as “persons who find themselves, willingly or unwillingly, in the power of the enemy and who answer with their freedom or their life for compliance with the orders of the latter and for upholding the security of its armed forces.”<sup>75</sup> Protocol I, concerning the protection of victims of international armed conflict, includes the prohibition on hostage-taking as one of the minimum humanitarian standards required to protect persons who are in the power of a party to an international armed conflict.<sup>76</sup>

Under these standards, where a party to a conflict conditions the treatment or release of a detainee as a means to pressure a third party to act in a certain way, such as to release or provide information about a missing or captured soldier, that detainee is a hostage. International humanitarian law requires that the condition of being a hostage must cease immediately. The prohibition on the holding of hostages is absolute and stands even if the group whose behavior the party is attempting to affect is itself holding individuals hostage.

### THE UNITED STATES GOVERNMENT’S POSITION

While the Israeli violations detailed in this report—including hostage-taking, denials of ICRC and family visits, and long-term arbitrary detention—have been known for several years, the U.S. government has said or done practically nothing to prompt Israel to conform its treatment of Lebanese prisoners and detainees to international human rights and humanitarian law standards.

According to officials in the Department of State’s Bureau of Near Eastern Affairs interviewed by Human Rights Watch, the United States government has made no public demarches in recent years on the issue of Lebanese detainees held hostage, in extended periods of detention without charge or trial, or beyond expiration of their sentence, or on the issue of prolonged incommunicado detention or the denial of family visits.<sup>77</sup> The Israel chapter of the Department of State’s *Country Reports on Human Rights Practices for 1996* provides only the following terse summary of the problem:

The Government detains 140 non-Palestinian Arabs, who comprise a mixture of common prisoners, administrative detainees, and security detainees. It continues to deny the ICRC access to two Lebanese citizens, Sheikh [sic] Mustafa Dirani and Sheikh Obeid. The disposition of these two cases appears linked to government efforts to obtain information on Israeli military personnel believed to be prisoners of war or missing in Lebanon.

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<sup>74</sup> Pictet, ed., *Commentary to the Fourth Geneva Convention*, p. 229.

<sup>75</sup> International Committee of the Red Cross, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: Martinus Nijhoff Publishers, 1987), p. 874.

<sup>76</sup> Protocol I, art. 75(1)–(2)(c).

<sup>77</sup> Human Rights Watch/Middle East telephone interview, Washington, D.C., February 7, 1997.

Aside from the *Country Reports*, however, the United States has rarely, if ever, publicly criticized Israeli policies towards Lebanese detainees.

## ACKNOWLEDGMENTS

This report was written by Gamal Abouali, a Schell Fellow at Human Rights Watch, and is based primarily on information collected during his fact-finding mission in Israel and the West Bank from December 12, 1996 to January 8, 1997. Mr. Abouali interviewed lawyers who represented Arab prisoners and detainees in Israel, detainee rights advocates, and prisoner support groups, and received information from detainee rights advocates in Lebanon. These organizations' and individuals' assistance was invaluable to the preparation of this report. Virginia N. Sherry, associate director of Human Rights Watch/Middle East, took testimony from relatives of Mustafa al-Dirani in Qasernaba, Lebanon in August 1996.

The report was edited by Eric Goldstein, research director of Human Rights Watch/Middle East. Ms. Sherry provided helpful comments on the manuscript. Dalia Kerstein and Yossi Wolfson, respectively director and staffperson of HaMoked: Center for the Defense of the Individual in Jerusalem, assisted Human Rights Watch with research into Israeli law. Georgina Copt, Shira Robinson and Awali Samara, associates at Human Rights Watch/Middle East, and Sara Scalenghe, intern at Human Rights Watch/Middle East provided invaluable research assistance. Robby Peckerar, associate at Human Rights Watch, and Geoffroy Hartman provided skillful Hebrew-English translation.

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Coordinating Committee on South Lebanon  
coordinated by Search for Common Ground  
1601 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20009  
Telephone: 1-202-265-4300  
Facsimile: 1-202-232-6718  
e-mail: scgmideast@igc.apc.org

Mandela Institute  
PO Box 19543  
Jerusalem, via Israel  
Telephone: 972-2-995-5756  
Facsimile: 972-2-995-6468  
e-mail: samed@mandela.baraka.gn.apc.org

Follow-Up Committee for the Support of the Lebanese Prisoners  
in the Israeli Prisons  
c/o Mohammad Safa, Secretary  
Beirut, Lebanon  
Telephone: 961-3-379-612  
Facsimile: 961-3-340-150

Society of the Friends of the Prisoner and the Detainee  
PO Box 434  
Husni al-Fahoum Building  
Nazareth, Israel  
Telephone/Facsimile: 972-6-656-1766

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Its Middle East division was established in 1989 to monitor and promote the observance of internationally recognized human rights in the Middle East and North Africa. Hanny Megally is the executive director; Eric Goldstein is the research director, Joe Stork is the advocacy director; Virginia N. Sherry is associate director; Clarisa Bencomo, Elahé Sharifpour-Hicks, and Nejla Sammakia are research associates; Gamal Abouali is the Orville Schell fellow; Georgina Coptly and Awali Samara are associates. Gary Sick is the chair of the advisory committee and Lisa Anderson and Bruce Rabb are vice chairs.

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**APPENDIX A:  
Interrogation of Lebanese detainee Ali Banjak**

**Letter sent by Israeli Attorney Tamar Pelleg-Sryck to the Israeli Military Prosecutor after visiting Lebanese detainee Ali Banjak in Kishon detention center on November 4, 1996**

According to lawyer Hasan Abu Ahmad, Ali Ahmad Banjak, a Lebanese citizen, was abducted by SLA intelligence operatives near Sidon, on August 15, 1996. Two days later he was taken to Israel by the IDF. Mr. Banjak's trial for membership in Hizballah, illegal military training, and assisting the launching of explosives against Israel, began in January 1997. Lawyers Tamar Pelleg-Sryck and Abu Ahmad visited Mr. Banjak and took an affidavit in which Mr. Banjak detailed the conditions of his detention and his treatment at the hands of his captors and interrogators. Tamar Pelleg-Sryck was retained as the attorney by HaMoked: The Center for the Defense of the Individual.

On the basis of Mr. Banjak's affidavit, Pelleg-Sryck submitted a written complaint to Colonel Daniel Be'eri, the Chief Military Prosecutor in the Judge Advocate's Office, describing Mr. Banjak's ordeal and asking for an investigation into the abuse. This complaint, dated November 4, 1996, was translated by Human Rights Watch and reproduced below with Attorney Pelleg-Sryck's permission.

Col. Be'eri responded on January 7, 1997 that, as Mr. Banjak's trial had begun and since Mr. Banjak had raised the issue of his ill-treatment in connection with his confession, any violation would be adequately dealt with in that court. Pelleg-Sryck responded on January 26, 1997 emphasizing the need for an investigation, independent of the trial, of the treatment of Mr. Banjak.

November 5, 1996  
LB/209

To:  
Colonel Daniel Be'eri  
Chief Military Prosecutor  
Judge Advocate's Office  
David Alazar Street, #6  
Tel Aviv

Subject: Interrogation under torture in a military base  
Ali Ahmad Naim Banjak, Shatiyya village, Tyre region, Lebanon

The Mr. Banjak discussed herein, a resident of Lebanon, was kidnaped in Lebanon, transferred to the South Lebanon Army and then to the IDF. He also stated that he stayed for a period of thirty days in the military interrogation center in shameful conditions and was interrogated under torture there.

I recorded the testimony of Mr. Banjak in writing in an affidavit on November 4, 1996 in the Kishon detention center, at the request of HaMoked: The Center for the Defense of the Individual, in the framework of the program of this organization's struggle against torture.

Mr. Banjak authorized me to submit a complaint in his name regarding his interrogation. Attached is a photocopy of his signed power of attorney.

The following are the main points conveyed to me by the complainant:

1. Mr. Banjak was kidnaped on Thursday, August 15, 1996, and transferred to an SLA camp where on the following day he met an Israeli interrogator who identified himself as Yossi. On Saturday, August 17, 1996, Mr. Banjak was transferred to the interrogation center in an army camp in Israel, whose name—as told to him that day by an interrogator by the name of David—was Sarafand. David was his first interrogator. Also taking part in his first meeting with David were Eyal and George who identified himself as the “Director of the Mighty Torture Department [*rosh makhleket ha'inuyyim ha'azim*].” Later, Mr. Banjak met Abu Dani, who identified himself as the commander of the interrogation center. The interrogators wore civilian clothes. The guards wore army uniforms and were armed only with clubs.
2. After the first, above-mentioned meeting with the three interrogators, Mr. Banjak's head was covered with a sack and he was transferred, by a soldier, to a cell in which he was imprisoned alone.
3. The next day, on August 18, one of his interrogators informed him that his detention had been extended for fifteen days.
4. In the course of about ten days, the interrogation proceeded under threat of use of force and verbal insult, in addition to periodic slapping. In order to prevent the use of force he told partially fabricated stories about his past. After ten days he took a polygraph test and then he was transferred to George and Eyal.
5. His interrogation by George began with blows all over his body and spitting in his face. After this a soldier brought him to a tiny cell (about one meter by one-half meter) in which there was a bucket exuding a stench, inside of which was urine and excrement. Cockroaches, mice and dead mice were in the bucket and around it. They gave him a small blanket to cover himself. They would give him plates of unidentifiable food and four pieces of bread each day. At night, about every fifteen minutes (as he perceived it), a soldier wearing a gas mask would arrive. The soldier would put him in handcuffs and place a stinking sack on his head and bring him for a walk outside. During the day the soldier would bring him to be interrogated.
6. During this period they subjected him to what he refers to as “light torture,” that is, only slaps by his interrogators or blows with a club to different parts of his body, including his testicles and forehead.
7. On August 31, 1996 Mr. Banjak was brought before a court where the prosecutor, dressed in civilian clothes, requested a one-month extension of his detention to complete his interrogation.
8. The torture regime, he states, began with his return from the court to Sarafand. He was brought at noon to the interrogation room where he stayed continually for eleven days and nights.
9. Every day at about 10 am the active interrogation would begin. He was questioned by George and Eyal. Throughout the interrogation he was held bound, seated in a ten-centimeter-high [about four inches] chair, directly facing a blinding light. They demanded that he hold his head up and that he look into the light. In this condition, he was questioned.
10. In addition to the curses, spitting and blows, his interrogators would make use of a device which was essentially a stick attached to the wall and positioned vertically from the floor. Mr. Banjak was forcibly hoisted onto this stick by his interrogators and then raised and dropped repeatedly. This exercise was repeated three times and caused him terrible pain to his genitals.
11. One day George grabbed his nose until he bled.



12. One day, his interrogators, who drank coffee during the interrogation, collected the remains of their coffee into one cup, added cigarette ashes, and George spit in it. Then, after forcefully prying open his mouth, George forced him to drink the mixture in the cup.
13. During this period Mr. Banjak was told that his family had been killed in a bombardment by the Israeli Air Force, he was shown photographs of his destroyed home and that of his neighbors which he later realized had been fabricated.
14. Apparently this story and the bouncing on the stick broke him spiritually and physically.
15. In a period of three days they fed him just an onion and one cup of water.
16. One day they threatened to photograph him with the Israeli flag and send the photo to Lebanon.
17. Mr. Banjak bore visible signs on his upper nose and back from blows he received. He also sustained pains in his legs and lower back.
18. Active interrogation took place for most of each day except for weekends. He was not interrogated during the remaining hours or on Friday or Saturday. During these breaks, he was left in the interrogation room in the same position, chained to a short chair and guarded by soldiers. Very loud music was heard in the room and he was not allowed to sleep.
19. On the seventh or eighth day of this period, the soldiers killed a mouse and tried to feed it to him. There were three people in the room. This took place during the night in the absence of his interrogators. Mr. Banjak began to scream. An official bearing a high rank on his sleeve arrived and spoke to his guards in Hebrew; they began to laugh and all but one left.
20. After these eleven days, he began to throw up blood. The doctor who was brought to check him reported that he was fine.
21. In Sarafand, they made him sign papers the contents of which he did not know. In the middle of September they sent him to Kishon detention center.
22. In the detention center he was placed for about a week in a cell with Palestinians, Lebanese and a Syrian. In retrospect, he concluded that they were collaborators with the Israeli interrogators. The Palestinians identified themselves as Abu Musab, Khaled, Manhal, Abu Wael and Ibrahim; the Lebanese as Sheikh Adnan and Yousef Shehadeh; the Syrian as Mohamed al-Batal. Adnan told him to write down his "story," including among other things the organization to which he belonged. If he did not do this, they told him, they would know that he was a collaborator with the Israelis and that he had come to collect information about them. They threatened to murder him. One of the Lebanese urged him to write down the full truth because this would help him to prove that he was not a collaborator back in Lebanon. The Lebanese added that he had done the same. Banjak complied.
23. From the collaborators cell he was transferred for interrogation in the Kishon detention center. There, Mr. Banjak was questioned by the same military interrogators from the army camp, George and Eyal, for the next twenty days. IDF interrogators arrived and brought with them photographs of bombs, missiles and views from Lebanon. They questioned him about all types of bombs and katyushas that are used to shell Israel.
24. On September 30 Mr. Banjak was brought before a judge to extend his detention, apparently in Acre.
25. In the police station in Acre he delivered his confession to the police.

On the face of these facts, Mr. Banjak was the object of brutal and shameful behavior on the part of the soldiers who served as his guards. His interrogators questioned him among other things, using methods which on their face constitute criminal offenses.

**APPENDIX B:**

**Response of the government of Israel to Human Rights Watch's inquiries regarding Lebanese detainees in Israel and Israelis missing in Lebanon**