



The Palestinian Independent Commission for Citizens' Rights

Newsletter 54

June 2002

PICCR was established in 1993 on the initiative of a number of independent Palestinian public figures. The initiative was translated into a Presidential Decree specifying the creation of an independent institution charged with "monitoring and working toward the integration of human rights into Palestinian legislation and institutions". This was further consolidated in the Draft Basic Law that reaffirms PICCR's role and independence. As such, PICCR assumes the role of an Ombudsman, making it a state institution rather than an NGO.

PICCR's main work revolves around receiving and pursuing citizens' complaints with the aim of ensuring the proper application of the law. In addition, PICCR's work includes raising public awareness of citizens' rights.

President Arafat Ratifies the Judicial Authority Law

On 12 May 2001, the President of the Palestinian National Authority took an important step towards the unification of the judicial system in the West Bank and Gaza Strip by ratifying three key pieces of legislation: the Penal Procedures Law No. 3 of 2001, the Evidence in Civil and Commercial Articles Law No. 4 of 2001, and the Formation of the Regular Courts Law No. 5 of 2001. These three laws came into force on 5 October 2001. The Civil and Commercial Procedures Code Law No. 2 of 2001, which was also approved by the President on 12 May, did not become operative until 5 December. All of these laws were published in Volume 38 of *The Palestinian Gazette*, issued on 5 September 2001.

Crowning this achievement, on 14 May 2002, the President ratified the Judicial Authority Law. It was published in *The Palestinian Gazette* on 18 May 2002 and came into force on 18 June 2002. It is worth noting that the PLC had passed the law on its third and final reading on 25 November 1998.

The significance of the Judicial Authority Law lies in its affirmation of citizens' rights and freedoms, its emphasis on the independence of the judiciary, and its prohibition on interference in judicial affairs. The law gives the Judicial Authority a special budget, which the High Judiciary Council is commissioned with administering. The law identifies various types of courts, as well as their jurisdiction and rank. It includes stipulations regarding judicial appointment, promotion, deputation, alternations, and salaries, and addresses the issues of judicial inspection and the investigation of judges' conduct. Moreover, the law regulates various issues related to the structure of the Office of the Attorney General and its powers.

In addition to its treatment of important matters related to the structures and authority of the Judicial Branch, be it the courts or the Attorney General, the Judicial Authority Law also deals with the formation and powers of the High Judiciary Council. With the ratification of this law, and subsequently the ratification of the Palestinian Basic Law, it can be said that the judicial system's duplicity in the West Bank and the Gaza Strip has ceased to exist.

The enactment of a package of judicial legislation makes an important contribution to the reorganization of the judiciary and the resolution of many of its outstanding difficulties. Nevertheless, a number of questions remain to be answered. Among them are the following: 1.) Will the Executive Branch continue to transfer power from the regular courts to the state security courts? 2.) Is the Executive Branch genuinely committed to respect court rulings and enforce them without hesitation or negotiation? 3.) Will the High Judiciary Council do that which is necessary to improve the status of the judicial system and resolve its complex internal problems? 4.) Will the Ministry of Justice fulfill its duties in the realm of administrative supervision?

Ratification of the Basic Law on the one hand, and the package of judicial legislation (at its head the Judicial Authority Law) on the other hand, represent a necessary condition for the reconstruction of the Judicial Branch on a solid foundation. It is a necessary condition, but not a sufficient one. In order to be both fair and effective, the judiciary requires not only good laws, but also a cooperative Executive Branch and an active Legislative Council. There is hence an urgent need to rebuild the ministries and the security apparatus, as well as to convene both presidential and parliamentary elections. Any rational person, however, knows that the process of reform and reconstruction of any of the three main branches of government cannot blossom and reach fruition under a brutal occupation. Not only does the occupation run counter to reform, but its oppressive measures also negate the most cherished values of democracy and human rights.

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Cases

As part of its handling of the citizens' complaints during the month of June, PICCR received 30 complaints, distributed as follows:

According to the parties involved:

1. Cases related to Ministries and Civil Institutions: A total of 13 cases (10 in the West Bank and 3 in Gaza).
2. Cases related to Security Forces: A total of 17 cases (12 in the West Bank and 5 in Gaza).

According to geographical distribution:

1. West Bank governorates: 22 complaints.
2. Gaza governorates: 8 complaints.

In June, PICCR received 12 responses from the various ministries and agencies: 3 of these were in reply to complaints from the West Bank and 9 were in reply to complaints from Gaza.

Pursuing citizens' complaints represents the main aspect of PICCR's *Ombudsman* work. Complaints are usually submitted by citizens directly to PICCR's offices or to its fieldworkers who cover the whole of the West Bank and Gaza Strip. Sometimes, PICCR initiates cases on its own where an issue of public interest is concerned. PICCR deals with any case where there is an alleged breach of applicable law by official Palestinian bodies.

Cases are pursued by the Grievances Department which consists of two lawyers and 6 fieldworkers, covering the whole of the West Bank and Gaza Strip.

The fieldworkers can be contacted during official working hours (Saturday to Wednesday, 8:00am to 4:00pm) on the following numbers:

- Northern West Bank:
Mr. Ma'moun Al-Atteili 052 662-547
- Nablus and Salfeet
Mr. Yasser A'lawneh 059782581
- Southern West Bank:
Mr. Yousef Warasneh 050 585-748
- Central West Bank:
Mr. Majed Al-'Abadi 054 341 364
- Gaza Strip
Mr. Adnan Abu-Amer 059 791-945
Mr. Mustafa Ibrahim 059 401-434

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Prison Visits

As part of their regular activities, PICCR representatives visited the following prisons and detention centers during June 2002:

1. Gaza Rehabilitation and Reform Center: 5/6/2002, 10/6/2002, 19/6/2001
2. Interrogation Center, Preventive Security, Gaza: 19/6/2002

Public Awareness Activities During June 2002

I. Training Courses

1. Training course for lawyers-in-training in Gaza on “Judicial Independence and Fair Trial Guarantees”

PICCR held a training course at the Bar Association’s Gaza headquarters, entitled “Judicial Independence and Fair Trial Guarantees” during the period June 16-20, 2002. The course was attended by 18 lawyers-in-training in Gaza. It included lectures on the following topics:

- A. PICCR and its Role in Protecting Rights and Freedoms: Basem Bushnaq
- B. The Palestinian Judicial Authority Law: Ali Na’uq
- C. The Palestinian Basic Law: Abdel Rahman Abu Nasr
- D. Basic United Nations Principles on Judicial Independence: Basem Bushnaq
- E. Rights of the Accused during Interrogation, according to International Principles and Palestinian Law: Tareq Al-Dirawi
- F. Rights of the Accused during Trials, according to International Principles and Palestinian Law: Adnan Al-Hajjar

2. Training course for lawyers-in-training in Gaza on “Judicial Independence and Fair Trial Guarantees”

PICCR held a training course at the Bar Association’s Gaza headquarters, entitled “Judicial Independence and Fair Trial Guarantees” during the period 23-27 June 2002. The course was attended by 21 lawyers-in-training in Gaza. It included lectures on the following topics:

- A. PICCR and its Role in Protecting Rights and Freedoms: Basem Bushnaq
- B. International Human Rights Law: Saber Al-Nayrab
- C. Basic United Nations Principles on Judicial Independence: Subhiyeh Jum’a
- D. The Palestinian Judicial Authority Law: Ali Na’uq
- E. Rights of the Accused during Interrogation, according to International Principles and Palestinian Law: Ayman Bushnaq
- F. Rights of the Accused during Trials, according to International Principles and Palestinian Law: Munir Al-Uqbi

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3. Training course in the new Al-Askar Refugee Camp/Nablus on "Democracy and Human Rights"

PICCR held a training course at the headquarters of the Local Committee for Disabled Persons' Rehabilitation at the old Al-Askar Refugee Camp during the period 10-18 June 2002. The course was attended by 25 participants. It included lectures on the following topics:

- A. PICCR and its Role in Protecting Rights and Freedoms: Yasser Alawneh.
- B. Basic Concepts in Human Rights: the Universal Declaration of Human Rights: Iyad Dweikat.
- C. Disabled Persons' Rights Law: Fares Abu Hassan
- D. The Convention on the Rights of the Child: Mahir Al-Rishah
- E. The Rule of Law and Separation of Powers: Murad Al-Fares
- F. International Humanitarian Law: Husam Shaksheer
- G. The Convention on the Elimination of All Forms of Discrimination against Women: Subhiyeh Daraghmeh
- H. Freedom of Opinion and Expression: Amin Abu Wardah
- I. Citizenship and the Transition to Democracy in Palestine: Ziad Othman

II. Meetings and Workshops

1. Open Meeting at the Nusseirat Refugee Camp/Gaza on "Change and Reform, Where To?"

On 30 May 2002, PICCR held an open meeting at the Nusseirat Services Club, entitled "Change and Reform, Where To?" Speakers at the meeting included Jamila Saidam, PLC member; Mahmoud Muslih, Director of Preventative Security for the Central Governorate; and Mazen Shaqoura, Director of the PICCR branch office in Gaza. 150 people attended.

2. Study Day for Employees of the Medical Sector in Gaza on "Protection of Medical and Health Crews"

On 13 June 2002, PICCR organized a study day on the topic "Protection of Medical and Health Crews." 25 employees in the health and medical sectors attended. The study day, held at PICCR's Gaza branch office, focused on two main issues: 1.) International agreements on the protection of health and medical workers, and 2.) The role of the International Red Cross in protecting medical crews. Jim Backwell, representative of the International Committee of the Red Cross, participated in the study day.

3. Workshop in Nablus on "The Role of the Media in Protecting Human Rights"

On 10 June 2002, PICCR held a workshop at the Al-Najah National University conference room, entitled "The Role of the Media in Protecting Human Rights." 20 journalists attended. The following topics were discussed at the workshop:

- 1) The general framework for the role of the media in protecting human rights: Farid Abu Dheir
- 2) Human rights groups' media role in the protection of human rights: Yasir 'Alawneh
- 3) The role of media images in conveying human rights messages: Ja'far Ishtayyah

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4. Workshop in Nablus on “Women and Elections”

On 11 June 2002, PICCR held a workshop at the Palestinian National Council auditorium in Nablus, entitled “Women and Elections.” 40 activists in the women’s movement in Nablus attended. The following topics were discussed at the workshop:

- 1) Assessment of the experience of women during the previous general elections: Yasir Alawneh
- 2) The women’s quota: PLC member Dalal Salameh
- 3) The chances of women becoming members of Local Authorities and the Legislative Council: Rima Nazzal.

III. Announcements and Television Appearances

During the month of June, PICCR continued to publish educational announcements in the newspaper *Al-Hayat Al-Jadidah* on various issues related to citizens’ and human rights. It published 13 such announcements in June, 2002.

Television Program on Watan TV, Al-Quds Educational TV, and other Local TV Channels

PICCR prepared a series of television discussion programs focusing on the subjects of the special and legal reports it has published recently. These programs were aired on Watan TV and Al-Quds Educational TV in Ramallah, as well as other local TV channels:

- 1) 3/6/2002: Discussion Program on Watan TV, entitled “Elections for Local Authorities,” with the participation of Ghassan Shak’a, Mayor of Nablus; Hussein Al-‘Araj, Deputy Minister of Local Authority; Arafat Khalaf, Mayor of Beitunya; Nader Said, Director of Birzeit University Development Program.
- 2) 16/6/2002: Televised Seminar on Al-Quds Educational TV, entitled “The Role and Mandate of National Human Rights Institutions.” The seminar was held at the auditorium of the Tourist Hotel in Al-Bireh, featuring the participation of Orest Nowosad, member of the National Institutions Team in the Office of the UN High Commissioner for Human Rights in Geneva.

IV. Miscellaneous

1. Participation in Television Program

On 11 June 2002, Advocate Subhiyeh Jum'a participated in a program organized by Palestine TV in Gaza on "Children’s Rights and the Laws related to Juveniles Operative in Palestine.”

2. PICCR Opens Branch Office in Nablus

On 1 June 2002, PICCR opened a branch office in Nablus on the second floor of the Anwar Building on Sufian Street. Nida Jarrar was hired to handle citizens’ complaints in the northern governorates of the West Bank. The

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Nablus office is expected to contribute to the strengthening of the relationship between PICCR and civil society organizations in the northern West Bank.

3. PICCR Director-General Delivers Testimony Before the Special UN Committee to Investigate Israeli Practices Affecting the Human Rights of Palestinian People and Other Arabs of the Occupied Territories

Dr. Said Zeedani, PICCR Director-General, traveled to Cairo, 24-26 June 2002, to testify before the Special UN Committee investigating Israeli practices in the occupied territories since 1967.

4. On 2/6/2002, PICCR, with the coordination of the Taghrid Cultural Association, organized a meeting at the Beit Hanoun Sports Services Club on the topic "Reform and Change." 200 residents of Beit Hanoun attended. PLC member Rawya Shawwa, and Kayed Ghoul, member of the PFLP Political Office, spoke at the meeting.

5. On 18/6/2002, Advocate Subhiyeh Jum'a participated in a seminar organized by the human rights association **Al-Dameer** in Gaza, on "the Palestinian Basic Law."

6. On 26/6/2002, Advocate Subhiyeh Jum'a participated in a seminar organized by the Palestinian Non-Governmental Organizations Network. The seminar took place at the Family Affairs office in Gaza on the occasion of the International Day against Torture. Jum'a made a presentation on the topic the Prohibition of Torture according to international and Palestinian law."

7. On 24/6/2002, Fayez Fafous delivered a lecture on "Education for Democracy" at the Childhood Development Center in Hebron. PICCR covered expenses for the lecture. 24 people attended.

Specialized Seminars and Workshops

1. PICCR Organizes Two Seminars on The Role and Mandate of National Human Rights Institutions

On 15/6/2002, PICCR organized a seminar in Gaza on "**The Role and Mandate of National Human Rights Institutions.**" On 16/6/2002, PICCR organized a comparable seminar on the same subject at the Al-Bireh Tourist Hotel in Al-Bireh. **Orest Nowosad**, member of the National Institutions Team in the Office of the United Nations High Commissioner for Human Rights in Geneva, spoke at both seminars. A number of PLC members, representatives of Palestinian human rights groups, and journalists, attended.

At the seminars, Nowosad spoke about the nature, kinds, mandate, and composition of national human rights institutions. He also discussed the 1991 Paris Principles, approved by the UN General Assembly in 1993, which define the work of such institutions. According to Nowosad: "national human rights institutions are intended to protect individuals against all kinds of discrimination, to safeguard civil, political, economic, social, and cultural rights, and to process individuals' and groups' complaints related to violations of their rights." Nowosad pointed out that "national human rights institutions can encourage states to ratify

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international conventions related to human rights. They can also contribute to the protection of marginalized and disadvantaged groups by offering counsel, raising awareness, and helping to bring their cases to courts of law.” Nowosad considers the **Palestinian Independent Commission for Citizens’ Rights** to be one of the most important human rights associations in Palestine.

At the seminar held in Gaza, PLC member and member of the PICCR Board of Commissioners, Rawya Shawwa, spoke on the idea behind the founding of PICCR and the guarantees provided in the Basic Law regarding its role as a monitoring body.

Before the convocation of the two seminars, Mr. Nowosad met with PICCR Commissioners and Staff in both the West Bank and the Gaza Strip. Also in attendance at these two meetings were representatives of the Office of the United Nations High Commissioner for Human Rights in the Palestinian territories.

2. PICCR Organizes Workshops in Ramallah and Tulkarem on the Implementation of Court Rulings

In order to shed light on the difficulties that the Judicial Branch experiences in carrying out its duties, PICCR organized two workshops, one in Ramallah, the other in Tulkarem, on 4/6/2002, on the execution of court rulings. In attendance were governors, prosecutors, and representatives of human rights associations.

A) At the workshop held in Ramallah, the governorate’s Director-General of Police mentioned that he had carried out changes in the Police Execution Department with the objective of activating the police’s role in implementing court decisions. Among these changes was the appointment of a new cadre to the department. The Director of Police in Ramallah also remarked that non - implementation of court decisions is due to both humanitarian considerations and concerns related to public security.

The Court Execution Officer in Ramallah disclosed that during the past ten months, the Ramallah police executed only 24 of 124 detention orders. He added: “there is a real problem in the execution of court rulings outside Ramallah and Al-Bireh due to the occupation policies that prohibit the movement of the police. However, 70% of detention orders issued by the Ramallah Court Execution Department also went unexecuted within the Ramallah and Al-Bireh municipal limits”.

The workshop participants agreed that the execution of court orders and decisions should not be subject to caprice, as the general rule is that decisions should be implemented without hesitation or compromise.

B.) Similar discussions took place at the workshop held on the same date in Tulkarem. Major Izza –al-Deen Sharif, Governor of Tulkarem, remarked that the worst thing that the Palestinian people face today is the lapse in security. The Prosecutor for the Tulkarem governorate pointed out that, on many occasions, police officers commissioned with bringing wanted persons were prevented from doing so by the Israeli military presence. This disrupted the work of the police. Lieutenant Colonel Nimr Jayusi, Director of the Tulkarem Police, warned that the transgressions of security forces account for the non-implementation of 90% of court rulings and decisions.

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Workshop participants criticized the failure to implement court decisions and orders. Advocate Farid Abu 'Aqil criticized the interference of the security forces in the activities of the courts. Advocate Abdel Karim Hanoun called upon the police and the judicial apparatus to look for new means of guaranteeing that wanted persons be brought to court. Advocate Jasir Khalil called for the formation of a judicial police force to specialize in the implementation of court rulings.

In the two workshops, participants called attention to a number of problems encountered in the process of executing court rulings. The police fail to carry out many court decisions, especially detention orders issued by the executions departments, even when it is possible to do so. In addition, the police interfere in the substance of court decisions. Execution Departments also face multiple burdens. This is particularly the case for Department presidents, who essentially act in the capacities of judges. This has a negative impact on the execution of decisions and orders. To exacerbate matters, the court Execution Department suffers from a staff shortage. The workshop participants' recommendations can be summarized as follows:

- 1) The designated parties, particularly the police, must execute all court rulings and orders.
- 2) The police must execute court rulings without any interference in the content thereof. The police are not authorized to interpret or review court decisions. Decisions may only be reviewed or contested through the judiciary and in accordance with procedures stipulated by law.
- 3) The judiciary must commission officials to follow up the implementation of court rulings and hire a sufficient number of employees to staff the Execution Departments.
- 4) The relevant administrative bodies should carry out regular monitoring.

Publications

PICCR issued the following reports during the month of June:

1. The New Palestinian Labor Law: Working Papers :

By Ma'an D'eis, Fatin Bolifa, Ribhi Qatamesh, and Rasha Amarneh
95 pages; published as a part of the Legal Review Report Series

Consisting of four different working papers, this Report takes up the new Palestinian Labor Law No. 7 of 2000 from a number of angles. The first working paper discusses the stipulations contained in the law that relate to the rights of working women. The new law makes maternity leave fully-paid and increases its duration; it prohibits women from being hired to work extra hours during pregnancy or during the six months following childbirth; and it prevents working women from being fired during maternity leave. According to the working paper, the law still needs by-laws and regulations for implementation, particularly those specifying the night-time work that women are permitted to undertake and the dangerous work that they are forbidden from doing. The paper adds that the state must bear a part of the financial burden resulting from the provisions to increase benefits for working women.

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The second paper focuses on the topic of child labor. It discusses the Labor Law's stipulations in this realm, particularly that related to the issues of the work that minors are forbidden from doing, work hours, annual leave, and the employment of children by family members. It highlights the position of international conventions on the issue of child labor and the standards that must be adhered to in the employment of children. According to the paper, Palestinian law must address the issue of the training of children and put forth special stipulations on the employment of legal female minors. It must also impose criminal penalties, rather than mere monetary fines, for the hiring of children below the legal age.

The third and fourth papers address the requirements and mechanisms for implementation of the new Labor Law, with attention to the steps that must be taken in order to complete the package of legislation regulating labor. Of particular note in this regard is the Social Security Law and the Syndicate Organization Law. The two papers discuss the required other steps for the implementation of the Labor Law, with special emphases on the activation of the commission for labor inspection, the formation of labor courts, the activation of the role of conciliation judges, and the issuance of by-laws and regulations. The two papers also highlight the need to create a special fund to support and compensate victims of labor accidents, and also to create a social security fund to resolve the problem of the financial burden that the Labor Law puts completely upon the shoulders of employers and insurance companies.

2. Legal Protection of Consumers

By Khaled Al-Sabatin

54 pages; published as a part of the Legal Review Report Series

This Report discusses the legal protection of consumers in three chapters. The first chapter discusses the need to inform and enlighten consumers. This can be accomplished via professionals' providing consumers with specifications of the goods that they buy. The second chapter takes up the issue of consumers' economic well-being, which necessitates protection from deception and fraud, and the exclusion of arbitrary conditions in professionally-prepared contracts. It also entails protecting consumers from new methods of sale, such as sales door-to-door, on public roads, by mail, or by virtue of temptation and allurements. The third chapter treats consumer rights to safety, compensation and procedural protection.

The Report closes with a number of recommendations. The principal recommendation is that a Consumer Protection Law be issued that will guarantee Palestinian consumers the eight basic rights put forth in United Nations General Assembly Resolution 248/39, approved on 9/4/1985. These are: the rights to information, to education, to free choice, to have one's opinion be heard, to have one's basic needs met, to safety, to compensation, and to live in a healthy environment. Palestinian goods and services should comply with international standards and specifications, and consumers should be guaranteed the right to compensation for damages incurred during their use of goods and services. A Consumer Protection Law can strengthen procedural protection by facilitating adjudication and reducing the cost of raising suits. Institutional safeguards can be strengthened by establishing a Palestinian Consumer Protection Council.

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3. Special Report: *Establishment of Associations in the Areas of the Palestinian National Authority: Law and Practice*

This Report sheds light on the right to form associations in the areas of the Palestinian National Authority before and after the coming into force of the Non-Governmental Organizations Law No. 1 of 2000. It discusses the principal problems related to the exercise of this right, the most critical of which is the multiplicity of sources of authority regarding both registration and financial and administrative monitoring.

The Report concludes with the following recommendations:

- 1) The Ministry of Interior must issue by-laws for the implementation of the Non-Governmental Organizations Law. These must be compatible with the law's stipulations.
- 2) There must be an end to the multiplicity of sources of authority related to the registration and supervision of associations. Serious consideration should be given to abolishing the Ministry of Non-Governmental Organizations.
- 3) The opening of branch offices for existing associations should not be subject to the same registration procedures as new associations.
- 4) The police and the other security forces should not close any association on the basis of administrative decisions. Associations can be closed only by judicial rulings, and according to applicable laws.
- 5) The Ministry of Finance should exempt associations from VAT and customs on their purchases, in accord with the law.
- 6) Serious consideration should be given to amending the Palestinian Non-Governmental Organizations Law in order to prohibit high-ranking members of governmental bodies from assuming places in NGO boards and councils.

4. Special Report: *Israeli Violations of the Rights of Palestinian Citizens During April and May*

This Report covers Israeli violations of the rights of Palestinian citizens from 29/3 to 31/5/2002.

The Report documents the escalation of the Occupation forces' aggression against Palestinian civilians. This intensified aggression was manifested by the use of excessive military force, house-demolitions, the use of civilians as human shields, and arbitrary arrests. As a result, there has been an increase in both the number of Palestinians killed, and in the damages that Palestinians have incurred to their property. No less than 338 Palestinians were killed in the aforementioned period, 48 of whom were children, 21 of whom were women, and 23 of whom were assassinated. In addition, seven people have died at military checkpoints, 4 of whom were sick persons prevented from reaching hospital.

The Report also details the Occupation forces' attacks on ambulances, ambulance drivers, and medical teams. Ambulances and medical personnel have come under gunfire, their work has been obstructed, and they have been prevented from transporting injured persons to hospital. The Report also discusses aggression against members of the press corps. Journalists have been arrested, and their offices have been stormed and trashed.

The Report also focuses on the Occupation forces' storming and destruction of citizens' homes. During the period covered in this report, 650 houses were demolished. The most barbarous of these cases were the 600

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houses destroyed in the Jenin Refugee Camp and the dozens of houses destroyed in the old quarter of the city of Nablus, including three houses destroyed while their residents were still inside. Hundreds of other civilian sites, including houses, offices of public institutions, security force headquarters, prisons, and detention centers, were also damaged when they were shelled or bombed.

The Occupation forces' arrest campaign, meanwhile, has resulted in the detention of no less than 9,500 Palestinians for varied periods of time.

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