

Israel and the Occupied Territories: Shielded from scrutiny: IDF violations in Jenin and Nablus: Executive Summary.

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Nablus**

November 2002

Executive Summary

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Introduction

"IDF soldiers and officers have been given clear orders: to enter cities and villages which have become havens for terrorists; to catch and arrest terrorists and, primarily, their dispatchers and those who finance and support them; to confiscate weapons intended to be used against Israeli citizens; to expose and destroy terrorist facilities and explosives, laboratories, weapons production factories and secret installations."

Ariel Sharon, Israel's Prime Minister, before the Knesset, 8 April 2002

"When I returned to my house there was nothing left. It was completely destroyed; my neighbourhood is completely destroyed."

A 40-year-old resident of Jenin refugee camp, speaking to Amnesty International about the April siege by the IDF of the camp

On 29 March 2002 the Israeli Defence Forces (IDF) launched a new offensive, Operation Defensive Shield, in Palestinian residential areas. This followed a spate of killings of Israeli civilians by Palestinian armed groups during March. According to the IDF, the purpose of the offensive -- like the incursions into refugee camps which preceded it in March and the

occupation of the West Bank which followed in June -- was to eradicate the infrastructure of "terrorism".

The offensive began with an attack on President Yasser Arafat's headquarters in Ramallah. The IDF then entered Bethlehem, Tulkarem and Qalqiliya from 1 April, followed by Jenin and Nablus from the nights of 3 and 4 April. They declared "closed military areas", barring access to the outside world, including medical aid and humanitarian relief services. Jenin was cut off from 4-15 April; the old city area of Nablus for almost all the time between 3 and 22 April. The IDF cut water and electricity in most areas, and imposed strict curfews on residents within the towns.

In Jenin refugee camp and Nablus old city a tight cordon of tanks, armoured personnel carriers and soldiers was thrown around the areas where the IDF carried out operations. Houses were intensively attacked by missiles from Apache helicopters.

From the first day, those killed or wounded in Jenin and Nablus could not be buried or receive medical treatment. Bodies remained in the street as residents who ventured outside to attend to the dead or injured were fired on. Tanks travelling through narrow streets ruthlessly sliced off the outer walls of houses; much destruction of property by tanks was wanton and unnecessary. In one appalling and extensive operation, the IDF demolished, destroyed by explosives or flattened by army bulldozers a large residential area of Jenin refugee camp, much of it after the fighting had apparently ended.

In the four months between 27 February and the end of June 2002 - the period of the two major IDF offensives and the reoccupation of the West Bank - the IDF killed nearly 500 Palestinians. Although many Palestinians died during armed confrontations, many of these IDF killings appeared to be unlawful and more than 70 of the victims were children. Over 8,000 Palestinians detained in mass round-ups during the same period were routinely ill-treated and more than 3,000 Palestinian homes were demolished.

The number of Israelis killed by Palestinian armed groups and individuals also increased: in the four months up to the end of June more than 250 Israelis were killed, including 164 civilians; 32 of those killed were children.

This document is a summary of a report specifically looking at the actions of the IDF in Jenin and Nablus between April and June 2002. The report examines allegations of unlawful killings; the use of Palestinians as "human shields" during military operations; torture and other cruel, inhuman or degrading treatment of people detained; blocking of medical assistance, food and water; and the destruction of property, including damage or destruction of the civil infrastructure, commercial, historic and religious buildings, and homes.

Amnesty International acknowledges that Israel has the right and responsibility to take measures to prevent unlawful violence. The Israeli government equally has an obligation to ensure that the measures it takes to protect Israelis are carried out in accordance with international human rights and humanitarian law. As the occupying power of the West Bank, including East Jerusalem, and the Gaza Strip, Israel has an obligation to respect and protect the human rights of all people in these areas.

Amnesty International's extensive research before, during and after the period in question led it to conclude that in Jenin and Nablus the IDF carried out actions which violated international human rights and humanitarian law, and that some of the actions amounted to

grave breaches of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949 (the Fourth Geneva Convention) and were war crimes.

Unlawful killings

"My family was at home on Friday 5 April. It was about 3 or 3.15 in the afternoon. We heard the knocking and calling for us to open the door. My sister 'Afaf said 'Just a moment'. She said this right away "When she reached the door, she had just put her hand out to touch the handle of the door and it exploded. The door exploded in on her and the right side of her face was blown off. I think she must have died instantly. We started shouting. The soldiers were just outside that door. The IDF began to shoot at the walls as if to try and scare us. We yelled at them to get an ambulance but they did not answer us."

'Afaf 'Ali Hassan al-Desuqi, a 59-year-old woman, was one of several people killed when the IDF used explosives to open doors of homes and buildings without adequate warning. The case was just one of many documented by Amnesty International in Jenin and Nablus where people were killed or injured in circumstances suggesting that they were unlawfully killed, deliberately targeted, or were killed as a result of disproportionate use of force or gross negligence in protecting those not involved in the fighting.

In several cases the IDF caused the deaths of Palestinians by demolishing homes while residents were still inside. IDF soldiers frequently failed to give adequate warnings before demolishing houses, refused to allow family and neighbours to warn residents, failed to offer help themselves or to call rescue units or ambulances, and sometimes shot at those who tried to help.

In Jenin refugee camp and Jenin city, 54 Palestinians died as a result of the incursion and subsequent fighting between 3 and 17 April, according to hospital lists. Among them were seven women, four children and six men aged over 55. Six had been crushed in houses.

Mundher Muhammad Amin al-Hajj, aged 21 and reportedly a member of a Palestinian armed group, was shot and injured, apparently by Israeli tank fire, on 3 April. Medical staff made three attempts to rescue him carrying white flags, but were fired on by tanks. They could hear his cries for help, but by the time they reached him he was dead.

Jamal al-Sabbagh, 33, was shot by the IDF after he had been taken into their custody on 6 April. According to a witness, he was unarmed and had posed no threat to the soldiers.

'Abd al-Karim Yusuf Sa'adi, 27, and Wadah Fathi Shalabi, 37, were shot dead by the IDF on 6 April in an alleyway. Fathi Shalabi, Wadah Shalabi's father, described what happened after soldiers ordered the group of men into the narrow alleyway:

"I heard [one soldier] say in Hebrew 'Kill them, kill them', then the other soldier took his gun and sprayed us with bullets. He shot from left to right, so 'Abd al-Karim was hit first and then Wadah. I don't know how I wasn't shot except that when I heard the shots, I fell to the ground. My son's body was resting on mine. I could feel something wet underneath and I could see it was blood. I could see that my son was shot. I kept very quiet and pretended to be dead".

The bodies of the two men remained in the alley for nine days. The IDF claim that one of the victims had a suicide bomb belt did not match the evidence.

Jamal Fayed, 38 and severely disabled, was killed on 11 April when the bulldozing of his home caused a wall to collapse on him. The family had shown the soldiers preparing to demolish the house Jamal Fayed's ID to prove that he was paralysed and could not get out of the home without their help. The soldiers refused to help and soon after a bulldozer approached the house. The family yelled at the driver to stop. He did not, and Jamal Fayed, still trapped inside the house, was killed.

Brothers **Ahmad and Jamil Yusuf Ghazawi**, aged six and 12 respectively, were killed by IDF tank fire on 21 June as they went to buy sweets after the IDF announced that the curfew was lifted. There was no warning. Part of the incident was captured on videotape. The IDF said it would investigate the killings, but no results are known.

In **Nablus**, at least 80 Palestinians were killed by the IDF between 29 March and 22 April. Among the victims were seven women and nine children.

Sisters **Rasha and Zaha Fayez Fraitekh**, aged 47 and 37 respectively, were killed when a missile hit their house on 3 April.

Mahmud Rawhi al-'Ukkeh, 42, was killed on 4 April by an IDF sniper when he looked out from behind some curtains in his home.

On 6 April, a house in the Qasbah of Nablus was bulldozed by the IDF on top of 10 members of a family. **Eight members of the al-Shu'bi family** were killed, including three children, their pregnant mother and 85-year-old grandfather. The IDF clearly failed to ensure that there were no people in the house when they destroyed it.

Virtually none of these killings has been thoroughly and impartially investigated. The failure to properly investigate killings in disputed circumstances and those that were clearly unlawful has created a climate where members of the IDF believe that they may carry out such killings with impunity.

Unlawful killings violate the "right to life" laid down in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which Israel is a party. Amnesty International considers that some of these abuses of the right to life would amount to "wilful killings" and "wilfully causing great suffering or serious injury to body or health" within the meaning of Article 147 of the Fourth Geneva Convention dealing with grave breaches of the Convention. "Grave breaches" of the Geneva Convention are war crimes.

The use of Palestinians for military operations or as "human shields"

In both Jenin and Nablus, the IDF systematically compelled Palestinians to take part in military operations or to act as "human shields". Women as well as men were used in this way. Typically, the IDF would hold a Palestinian for several days and compel them to search property in the camp, thus putting them at serious risk of injury.

Faisal Abu Sariya, a 42-year-old teacher, told Amnesty International that he was forced to accompany the IDF on military operations in Jenin for two days and was used as a "human shield". He said that he was beaten and otherwise ill-treated by the IDF, and sustained a gunshot wound to his knee when acting as a "human shield", for which he was denied medical care.

The use of Palestinians as "human shields" and to conduct military operations was the subject of a petition in the Israeli High Court in May 2002. Seven human rights organizations submitted a petition seeking to prevent the IDF from using Palestinian civilians as "human

shields". The State response was to indicate that the army had issued a ban on all forces from using "human shields" (although it did not admit or deny that such a practice, known by the IDF as the "neighbour procedure", was employed) and that it was to begin an internal investigation on the issues raised in the petition. In light of the State response, the Court decided not to issue an injunction but requested that the State submit a written copy of its orders. This has not yet been done. Meanwhile, the practice of compelling Palestinians to act as "human shields" in military operations has continued.

Article 51 of the Fourth Geneva Convention prohibits the Occupying Power from compelling protected persons to assist in military operations. Article 28 prohibits the use of protected persons as "human shields". Article 147 lists "wilfully causing great suffering or serious injury to body or health" as a "grave breach". It is therefore also a war crime.

Torture or other cruel, inhuman or degrading treatment in arbitrary detention

The IDF routinely ill-treated and sometimes reportedly tortured Palestinians detained in mass round-ups of males aged 15-55 during the occupation of towns and refugee camps. Most detainees were humiliated and many were insulted. Many described treatment amounting to torture, mostly in the form of random beatings with rifle butts.

In Jenin, men who had been rounded up and separated from women, children and men aged over 55 were stripped to their underwear, blindfolded and handcuffed. Many said they were ill-treated, some said they were beaten. One detainee died as a result of beatings.

The detainees were taken to Bir Sa'adeh where they said they were forced to squat, with their heads lowered, for prolonged periods. For the first 24 hours no food was reportedly supplied and water distribution was not systematic. Most detainees said that no blankets were provided despite the cool temperatures at night and that there was limited or no access to toilet facilities. On release, detainees were made to walk several kilometres, frequently without clothing and shoes.

'Amer Muhammad 'Abd al-Karim, 24, was arrested in Jenin refugee camp on 9 April 2002. He said:

"They started to beat us on the body and chest with rifle butts... We were all gathered there in our underwear. It was cold. When we asked for blankets, we were beaten. We were not given any water."

In Nablus a similar pattern of torture and ill-treatment of people detained in mass round-ups was recorded. Immediately after arrest, detainees were taken to Shomron temporary detention centre. Those interviewed by Amnesty International said the centre was overcrowded and that they were given insufficient water, little food and were sometimes denied access to toilet facilities. They also said beatings took place during and after arrest.

Maher Musa Hussain al-Naqib, 25 and paralysed from the waist down, described how IDF soldiers treated him after they entered his home on 16 April:

"[The soldiers] tried to lift me up under the arms. At the same time... they were hitting me on the lower legs, hands, chest and back of my head using their hands and feet, as well as their rifles. During this entire time, they kept telling me to stand and when I could not they would hit me. They finally flipped me over on to the floor and then began to kick

me around the head and all over my body... The soldier pushed me down the stairs. I was unconscious."

Article 7 of the ICCPR prohibits torture and cruel, inhuman or degrading treatment or punishment; this article is non-derogable. Israel has also ratified the Convention against Torture which states that "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture" (Article 2(b)) and requires investigations into every allegation of torture or ill-treatment (Article 12).

Under Article 147 of the Fourth Geneva Convention "torture or inhuman treatment... unlawful confinement of a protected person" and "wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention" are all grave breaches of the Convention and therefore war crimes.

Blocking medical and humanitarian relief

In both Jenin and Nablus, the IDF denied medical and humanitarian relief organizations access to the affected areas even after the fighting had reportedly stopped.

Medical relief services had no access to Jenin refugee camp for nearly 11 days, from 4-15 April 2002. From 9-14 April there were up to five International Committee of the Red Cross (ICRC) ambulances and doctors and about six Palestine Red Crescent Society (PRCS) ambulances waiting to be allowed to enter the camp.

The IDF shot at ambulances or fired warning shots around them. Ambulance drivers were harassed or arrested. As a result, the wounded lay for hours untended or were treated in homes, and the dead remained in the street or in houses for days. In several cases, people reportedly died in circumstances where lack of access to medical care may have caused or hastened their death. In two cases investigated by Amnesty International, the delay in obtaining medical treatment will have long term consequences for those injured.

'Atiya Hassan Abu Irmalla, 44, was shot in the head by the IDF while in his home on 5 April. Desperate attempts by his family to call an ambulance failed. The family was even unable to leave their home to tell relatives that he had died, and 'Atiya Hassan Abu Irmalla's body remained in the house for seven days.

In the Nablus area no ambulances were allowed to move from 3-8 April and medical services were severely restricted until 19 April. Sometimes the IDF did not allow ambulances to respond to calls at all; even after authorization was given, checkpoints often held ambulances up for hours, even when the patients inside were critically ill. The IDF shot at ambulances responding to calls many times between 3-21 April. On at least four occasions, the IDF stopped ambulances and made the ambulance workers remove their clothes. Meanwhile, Palestinians died without receiving medical attention and bodies lay decomposing for days.

Muhammad Ramadan Mahmud Saqa, an ambulance driver with the PRCS, said that on 8 April his ambulance was fired upon when responding to a call near the Kan'an soap factory.

Suna Hafez Sabreh, 35, was shot and seriously injured on 7 April while closing the door to her house. The family called an ambulance, but it failed to reach them, on at least one occasion because it had come under fire. An ambulance finally arrived two days later, after Suna Hafez Sabreh's condition had seriously deteriorated. She has since had five operations.

On 12 April 2002 the Israeli organization *HaMoked*, the Centre for the Defence of the Individual, petitioned the High Court to know why the Minister of Defence did not send the special rescue unit to "search for and locate all persons buried alive under the ruins in the Jenin refugee camp and rescue them." In its judgment the court stated: "Law and morality both justify the entry of the rescue unit". However the petition was rejected by the court after the Counsel for the Ministry of Defence said that "the unit will attempt to locate people". Amnesty International has received no information that indicates that after the 14 April judgment the IDF rescue unit entered Jenin refugee camp.

Under the Fourth Geneva Convention, States are obliged to respect and protect the wounded (Article 16), to allow the removal from besieged areas of the wounded or sick, and the passage of medical personnel to such areas (Article 17), and for the distribution of medical and humanitarian supplies to besieged areas (Article 55). The obstruction and targeting of medical personnel contravene the prohibition against "willfully causing great suffering or serious injury to body or health" under Article 147 and as such are a grave breach of the Convention and are therefore war crimes.

Demolition of houses and property

"There is total devastation, no whole standing house, as though someone has bulldozed a whole community. If anyone was in a house they could not have survived... There is nothing but rubble and people walking around looking dazed. There is a smell of death under the rubble."

These are the words of an Amnesty International delegate who entered Jenin refugee camp minutes after the IDF lifted the blockade on 17 April 2002.

Amnesty International delegates witnessed the effects of the demolition of Palestinian homes, especially in Jenin, and concluded that had been no absolute military necessity in the wholesale destruction. IDF forces that entered Jenin and Nablus brought tanks or bulldozers through narrow roads, stripping off the fronts of houses. Sometimes the fronts of houses were stripped off in wider roads.

In Hawashin and neighbouring areas of Jenin refugee camp 169 houses with 374 apartment units were bulldozed, mostly after the fighting had ceased. As a result, more than 4,000 people were left homeless.

In both Jenin and in Nablus, there were instances when the IDF bulldozed houses while residents were still inside. The IDF either gave inadequate warnings or no warnings before houses were demolished, and subsequently failed to take measures to rescue those trapped in the rubble and prevented others from searching for them. Amnesty International documented three incidents leading to the deaths of 10 people. Six others on the hospital lists of those killed in Jenin were recorded as having been crushed by rubble.

A 40-year-old woman from the Saha neighbourhood in Jenin described how her house was destroyed some time between 10-13 April:

"When I heard the bulldozer, we put the children through a window, and then I left... When we left we were even without shoes; I didn't have a scarf or anything. We just ran...When I returned to my house there was nothing left. It was completely destroyed;

my neighbourhood is completely destroyed. There were about 60 houses, they are all gone... I have nothing left. Why our family?"

During the military operations, commercial, religious, cultural and civic buildings were also destroyed without absolute military necessity. Nablus suffered particularly from such destruction.

Amnesty International also documented incidents where personal property inside apartments or homes occupied by the IDF was intentionally damaged and sometimes looted. In September the Israeli government announced that it had prosecuted 35 soldiers for vandalising and looting. The numerous incidents of vandalism and looting by a number of IDF units in various towns raises concern that some of these actions, which violate international humanitarian law, may have been sanctioned or condoned by the Israeli authorities or IDF commanders.

Article 33 of the Fourth Geneva Convention prohibits collective punishment, such as the demolition of houses, stating that: "No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited." This same article also prohibits pillage and reprisals against protected persons and their property. Article 53 of the Fourth Geneva Convention states that: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations." In November 2001 the Committee against Torture, in its conclusions after its review of Israel's report, stated that Israel's policy of closures and its demolitions of Palestinian homes "may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment" in breach of Article 16 of the UN Convention against Torture.

Article 147 of the Fourth Geneva Convention lists "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" as a grave breach of the Convention. It is therefore a war crime.

Conclusions

For many years, Amnesty International has documented serious human rights violations by Israeli forces -- unlawful killings; torture and ill-treatment; arbitrary detention; unfair trials; collective punishments such as punitive closures of areas and destruction of homes; extensive and wanton destruction of property; deportations; and discriminatory treatment of Palestinians as compared to Israeli settlers. Many of these violations have been committed in a widespread and systematic manner, and in pursuit of government policy (some, such as targeted killings or deportations, were carried out in pursuit of a publicly declared policy). Such violations meet the definition of crimes against humanity under international law.

Amnesty International believes that some of the acts by the IDF described in this report amount to grave breaches of the Fourth Geneva Convention and are war crimes. These acts include some of the unlawful killings described in this report; the torture and ill-treatment of prisoners; wanton destruction of property after the end of military operations; the blocking of ambulances and denial of humanitarian assistance; and the use of Palestinian civilians to assist in military operations.

Amnesty International has also condemned attacks by Palestinians on Israeli civilians as crimes against humanity. The deliberate killings of civilians by members of Palestinian individuals or armed groups are both widespread and systematic, and are perpetrated as part of a publicly announced policy to target civilians. They therefore satisfy the definition of crimes against humanity under international law.

War crimes and crimes against humanity are among the most serious crimes under international law, and represent offences against humanity as a whole. Bringing the perpetrators of these crimes to justice is therefore the concern and the responsibility of the international community. This view is illustrated in the Preamble to the Rome Statute of the International Criminal Court, adopted in July 1998, which affirms that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation.

Israeli authorities have prime responsibility for bringing to justice the perpetrators of serious violations, including war crimes and crimes against humanity. But all High Contracting Parties to the Geneva Conventions have a particular obligation, under Article 146 of the Fourth Geneva Convention, to search for persons alleged to have committed or to have ordered to be committed grave breaches, and to bring such persons, regardless of their nationality or the place where the act took place, to justice before its courts or to hand over such person for trial to another state party to the Convention. All proceedings against such persons must be conducted in accordance with international standards for fair trials. Amnesty International has urged that the death penalty not be imposed on anyone convicted of such crimes.

The international community, governments, organizations and individuals have all taken a keen interest in the situation in the Occupied Palestinian Territories. The relationship of the conflict to the deteriorating human rights situation has led to a growing understanding that there can be no peace or security for the region until human rights are respected. The failure to bring change has not been through a failure of awareness or even of will of most members of the international community.

In the UN, the European Union, the League of Arab States and in other intergovernmental organizations, statements have been made and resolutions passed. Delegations have been sent to the area and peace plans projected. But all attempts to end human rights violations and install a system of international protection in Israel and the Occupied Territories, in particular by introducing monitors with a clear human rights mandate, have been undermined by the refusal of the government of Israel. This refusal has frequently been supported by the USA, which, as a permanent member of the UN Security Council, is able to exercise its support for Israel by vetoing Security Council resolutions.

Amnesty International believes that it is imperative for the international community to stop being an ineffective witness of the grave violations that continue to take place in Israel and the Occupied Territories, and instead take meaningful, urgent and appropriate action.

Recommendations

Amnesty International calls on the Government of Israel to:

ensure that IDF operations are conducted in full respect of international human rights and humanitarian law;

initiate a full, thorough, transparent and impartial investigation into all allegations of violations of international human rights and humanitarian law, including those documented in this report, and to make the results public;
cooperate with UN investigations;
bring to justice those alleged to have committed serious violations of international human rights or humanitarian law in proceedings that meet international standards for fair trial;
ensure prompt and adequate reparation for victims of serious human rights or humanitarian law violations;
respect and protect the human rights of all persons living in the Occupied Territories without discrimination;
include the practices of Israeli authorities in the Occupied Territories in all reporting to UN human rights treaty bodies;
take immediate action to prevent the IDF from compelling Palestinians to take part in military operations or to act as "human shields" and to take measures against any soldier or military commander who undertakes or sanctions such practices;
fulfil its international legal obligations by ensuring that medical staff and ambulances are allowed to carry out duties without undue delays, and with safe passage;
ensure safe access for humanitarian and medical supplies;
immediately stop the use of lethal force to enforce curfews;
end collective punishments including house destruction, closures and curfews, cutting of water and electricity supplies;
end torture or other ill-treatment of those in custody;
end administrative detention and release all administrative detainees unless they are to be brought to trial for a recognizably criminal offence in a trial which is in accordance with UN fair trial standards;
accept an international monitoring presence in Israel's Occupied Territories with a strong human rights component.

Amnesty International calls on the Palestinian Authority to:

take all action possible to prevent anyone under its jurisdiction from attacking or otherwise endangering the safety of civilians.

Amnesty International calls on the Palestinian armed groups to:

respect fundamental principles of international law which prohibit the killing of civilians;
to end any use of children in any armed operations.

Amnesty International calls on the international community to:

immediately stop the sale or transfer of weaponry that are used to commit human rights violations to Israeli forces until such time as guarantees can be secured that equipment will not be used to commit violations of international human rights or humanitarian law;
ensure that Israel's human rights and humanitarian law obligations, most specifically its obligations as an occupying power under the Fourth Geneva Convention, are met;
ensure that human rights are central to all negotiations, interim accords and any final agreement;
bring to justice anyone suspected of war crimes, crimes against humanity, or torture who may be within their jurisdiction;
take steps to set up an international monitoring presence in Israel's Occupied Territories with a human rights component.

This report summarizes a 76 page document (36,580 words), : Israel and the Occupied Territories: Shielded from scrutiny: IDF violations in Jenin and Nablus (AI Index: MDE 15/143/2002) issued by Amnesty International in November 2002. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

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