



# Exceptions

Prosecution of IDF soldiers  
during and after the Second Intifada, 2000-2007

## Report's Summary

The report "Exceptions" reveals for the first time full data on how the Israeli military law enforcement agencies (the Military Police Criminal Investigation Division (MPCID), the Military Prosecution and the Courts-Martial) process cases in which IDF soldiers commit offenses against Palestinians and their property. The report offers the first opportunity to examine the quality of the military criminal system's operations in relation to offenses by soldiers against Palestinian civilians, and it includes the details of each case heard by the Courts-Martial on offenses committed from the outbreak of the second Intifada on September 29, 2000 through the end of 2007.

When criminal offenses committed by IDF soldiers against Palestinians are exposed to the public and draw a public response, the IDF leadership and heads of the Israeli political system are quick to label such actions as "exceptional incidents," and to promise to hold the perpetrators fully accountable. Israel's official spokespeople go to great lengths to persuade the Israeli public and international community that such incidents are rare and that they are treated aggressively. But this report shows that the "exceptions" are actually those cases in which soldiers and officers who commit crimes against Palestinian civilians are investigated and prosecuted. Even more exceptional are the cases in which heavy sentences are imposed on the perpetrators for their crimes.

The figures presented in the report were derived, among other sources, from the indictments and judgments of the Courts-Martial during the seven years of the second Intifada. These materials were provided to Yesh Din by the IDF at the end of a prolonged process lasting a year and a half. A review of these documents allows us for the first time to present the magnitude of the IDF's failure to fulfill its duty to protect the population of the Occupied Territories (OT) from the crimes of its soldiers, a duty set forth in the provisions of international law regarding the management of occupied territories.

The first part of the report focuses on the criminal investigations conducted by the MPCID into offenses by IDF soldiers and officers against civilians in the OT. The report reveals that only in rare cases do Palestinian civilians file complaints directly to the MPCID, due greatly to the fact that the MPCID has no investigation base in the OT. In even fewer cases do commanders fulfill their duty to inform the MPCID of a suspicion that their soldiers have committed criminal offenses against Palestinians. The figures show that only in 40% of the complaints and notices that ultimately reached the MPCID in the last two years (usually through human rights organizations, the Military Prosecution or directly from the plaintiffs) were criminal investigations opened.

In the seven years between the outbreak of the second Intifada and the end of 2007, only 1,246 MPCID investigations were opened into suspected offenses by soldiers against Palestinian civilians, slightly less than the number of investigations opened in only three years of the first Intifada. Only 78 investigations – six percent of all investigations opened in the period covered by the report – led to the filing of indictments.

Figures collected by human rights organizations operating in the OT show that more than 2000 Palestinian civilians not involved in combat were killed during that period. However, from the beginning of the second Intifada to the end of 2007 only 13 investigation files led to indictments charging soldiers with responsibility for the killing of civilians. Until the publication of this report the Courts-Martial had convicted five soldiers for the deaths of only four civilians: three Palestinians and one British citizen. The first part of the report presents, among other things, one reason for the small number of investigations opened into shootings of Palestinian civilians: the use of the "operational debriefing" as a tool to evade criminal investigation.

The report also presents figures about the realization of the Palestinians' right to compensation for damage to body and property during recent years, and it shows an inherent conflict of interests in MPCID investigations, whose intention – as stated explicitly by the Chief Military Police Officer himself – is not only to uncover criminal offenses and bring those responsible to justice, but also to spare the State of Israel the payment of compensation to Palestinian civilians harmed by the actions of its soldiers.

The second part of the report presents for the first time the results of the legal proceedings in each of the 78 investigation files that produced indictments. Those indictments were served against 135 soldiers and officers, and the percentage of convictions of defendants in those cases is high: of 135 defendants thus far 113 have been convicted, mostly by means of plea bargains. Only four defendants were acquitted at the end of the legal proceedings from all of the offenses for which they were charged, and the indictments against eight defendants were canceled (some of which were replaced by disciplinary – rather than criminal – proceedings). Proceedings against ten other defendants are still pending. This part of the report details the results of the second Intifada trials, categorized by type of offense: illegal use of firearms (including shooting that led to the death or injury of Palestinians as well as shooting that did not cause bodily harm), offenses of abuse and violence, property and looting offenses, and other offenses. The figures presented in this report demonstrate the sizeable gap between the level of maximum punishment set forth by Israeli law for the offenses of which the soldiers were convicted and the sentences they were actually granted in these cases.