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At the Magistrates Court in Jerusalem

CC 7646/95

In the matter of:

 Udwan
of Qalandiya Refugee Camp
represented by attorney Badrah G. Huri
of HaMoked: Center for the Defence of the Individual
4 Abu Obeidah Street, Jerusalem
Tel. 02-283555; Fax 02-276317

The Plaintiff

v.

- 1. The Israel Defense Forces**
- 2. Mr. Yitzhak Rabin, Minister of Defense**

represented by the Tel Aviv District Attorney's
Office, Civil Department
1 Henrietta Szold Street, Tel Aviv

The Defendants

Nature of the claim: **Tortious**

Amount of the claim: **NIS 38,000**

Complaint

1. The Plaintiff hereby respectfully submits his complaint to the Honorable Court, while stating that all of his arguments are asserted severally and/or alternatively and/or cumulatively, all as the context prescribes, and that all of the exhibits attached to the complaint constitute an integral part hereof.
2. The Plaintiff was born in 1957 and resides in the refugee camp Qalandiya. At the time of the event, he was working for UNRWA, the UN refugee welfare agency.
3. Defendant 1 is the state army, which is subject to the government's authority and comprises land, navy and air forces. The minister in charge of the army on behalf of the government is the Minister of Defense, namely Defendant 2.
4. a. The Plaintiff shall claim that on 17 May 1988 (hereinafter: the day of the event), at around 08:30, while he was in his car on a street close to his home

in the refugee camp Qalandiya, he was approached by six soldiers (the Defendants' agents), who ordered him to get out of the car. The soldiers asked the Plaintiff for an ID. He handed them his ID and presented them with an UNRWA employee ID.

- b. The soldiers claimed that the Plaintiff had violated the curfew that was imposed on the camp. The Plaintiff, however, replied that no curfew had been declared and that, in addition, UNRWA employees were authorized to move around during curfews, and that he was an UNRWA employee.
 - c. Thereafter, the soldiers asked the Plaintiff to call the muezzin of the mosque, and when he arrived, they asked the muezzin to declare a curfew, which he did.
5. After the curfew was declared, three of the soldiers took the Plaintiff aside near his car. They gave him a hand grenade and, after teaching him how to use it, asked him to throw it into the house of a camp resident. The Plaintiff refused and put the grenade down on the ground. Then, the three soldiers started beating him up. The other soldiers joined the Plaintiff [*sic*] and beat him up too. The blows received by the Plaintiff were very severe. He was beaten over all parts of his body by the soldiers' hands and rifle butts. The soldiers shot into the air and then fired rubber bullets at the Plaintiff. One of the soldiers placed his gun against the right side of the Plaintiff's waist and fired. The Plaintiff fell to the ground. The soldiers left him and fled.
 6. The Plaintiff was rushed to the hospital by his neighbor in a severe medical condition. He had lost a lot of blood and his consciousness. After receiving preliminary medical treatment at the hospital in Ramallah, he was moved to Al-Muqased Hospital in Jerusalem, where he was hospitalized for 43 days and released with orders to rest for 15 days.

Medical reports are attached hereto as Exhibits A and B.

7. The Plaintiff filed a complaint on the event with the Red Cross, but did not file a complaint with the army authorities and/or the police, not having known that there were entities which handled such complaints. The Plaintiff learned that the Red Cross authorities had handled the matter in their own confidential way, but was given no findings therefrom.
8. Several years later, on 4 January 1993, the Plaintiff arrived at the Allenby Bridge on his way to Jordan. He was detained at the bridge, underwent a thorough and meticulous examination, and was arrested for four days. During his detention, the

Plaintiff was questioned about the event which is the subject matter of the Complaint. The Plaintiff was asked whether he had filed any complaint, and answered that he had filed a complaint with the Red Cross. One of the interrogators told him he had to file a complaint with other entities, but did not specify which.

9. On 8 January 1993 the Plaintiff was brought before a judge and released on bail of NIS 1,000. The Plaintiff paid the said sum and was released. Since then, he has not been summoned to trial.

A copy of the receipt for the bail payment is attached hereto as Exhibit C.

10. In April 1994, the Plaintiff turned to HaMoked: Center for the Defence of the Individual and requested assistance in recovering his bail money and in filing a claim for damages for the gunshot injury.

11. Following the Center's actions, the Plaintiff recovered his bail payment. However, in response to his request to receive the investigation material in the file opened following his arrest, the Center was informed that the case, number 2184/88, was closed due to lack of public interest, and that the Ramallah Police had destroyed it in accordance with the directives of [the Investigation Department] on file destruction.

A copy of the letter from the Ramallah Police is attached hereto as Exhibit D.

12. On 15 January 1995 the Plaintiff turned to the Ministry of Defense, through his attorney, demanding compensation for the injuries he suffered due to the gunshot, but his demand was summarily dismissed by the Ministry of Defense on 10 April 1995.

Copies of the two letters are attached hereto as Exhibits E and F.

13. As a result of the gunshot, the Plaintiff suffered severe mental, physical and financial damages. In addition to pain and suffering, he is suffering from a permanent disability. He has suffered and is suffering severe pain, without having been accused of committing any offense.

14. The Plaintiff shall claim that the Defendants are liable for his compensation through their vicarious liability, and due to the fact that the shooting was illegal and unjustified, or without the Defendants' agents having been in mortal danger.

15. The Plaintiff shall claim that the Defendants' agents acted unlawfully when shooting at him from point blank range and injuring him with gunshot wounds, and due to harassments having no justification or explanation.

16. The Plaintiff shall claim that the Defendants' agents were negligent when they shot the Plaintiff, and unlawfully hit him, and that the Defendants are therefore liable for their actions.
17. The Plaintiff shall claim that he was not tried for any offense, including due to the arguments raised in the letter of the Defendants' representative (Exhibit F), and that this fact proves that the Plaintiff was innocent and that the shooting was illegal and unjustified.
18. The Plaintiff shall claim that his damages amount to NIS 8,000 for specific damages, loss of earnings, medical treatment, travel and medication, plus NIS 15,000 for pain and suffering and another NIS 15,000 due to his disability and future loss of earnings. The total sum amounts to NIS 38,000.
19. In view of all of the aforesaid, the Honorable Court is moved to summon the Defendants and to charge them with payment to the Plaintiff of the sum of NIS 38,000 plus indexation and interest from the date of filing of the Complaint until the date of actual payment.

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Badrah G. Huri, Att.

Counsel for the Plaintiffs

[Opening date: 17 May 1995]