

Handout 4a

Case Study: Anat Kamm and Uri Blau (2009)

Anat Kamm was born in Jerusalem on April 18, 1987. In 2005, she was inducted into the Israel Defense Forces (IDF) and assigned to a clerking position at the office of the OC Central Command (responsible for all IDF activity in Central Israel, Jerusalem and Judea and Samaria/The West Bank). The following year, she began an officers' training course but did not complete the program. Subsequently, she was assigned to serve as assistant to the Director of the OC Central Command's office.

After her discharge from the IDF, Kamm began studying history and philosophy at Tel Aviv University and working as a reporter for *Wallat*, a major Hebrew news website. In December 2009, she was arrested on suspicion of having passed about 2,000 IDF documents, including some classified as "top secret," to Uri Blau, a reporter for *Haaretz*, one of Israel's four major daily newspapers.

Kamm's Leak

During Kamm's interrogation, it emerged that while serving at the OC Central Command's office, she copied about 2,000 classified documents, without permission, to two CDs that she then copied to her home computer, taking advantage of the lax document security procedures at the office. Kamm passed some of the documents to Blau but claimed the original CDs were lost. In June 2007, Blau published the content of some of the documents in *Haaretz*, arousing the suspicions of security officials, who initiated an investigation to find the source of the security leak.

Kamm was placed under house arrest. Her motives are clearly stated in the protocols of one of the relevant judicial deliberations, released in April 2010:

There were some aspects of the IDF's conduct in the West Bank that I thought were of interest to the public. When I burned the material [onto a CD], I thought that judging by the test of history, people who warned of war crimes were forgiven... I didn't have the opportunity to change some of the things that I found important to change during my military service and I thought that by exposing these [materials], I would make a change. That is why it was important for me to inform the public about the IDF's policy in the West Bank.

Judge Ze'ev Hammer addressed the flaws in the system that made Kamm's actions possible, expressing his shock at "learning of these incomprehensible failures and negligent data protection [protocols]." Relating to Kamm's motives, Judge Hammer said she "failed to explain her sudden expertise in international law and the highly complex definition it offers for war crimes." Furthermore, he continued, "to inform the public of several aspects of IDF action in the West Bank, or to investigate war crimes in the West Bank, there is no need to gather and steal thousands of

classified documents from the IDF that deal with various military plans and actions that have no connection with those acts.”

On January 14, 2010, Kamm was indicted on charges of aggravated espionage, comprised of the gathering, possessing and passing of secret information with the intention of damaging national security. Addressing the severity of Kamm’s imprisonment, Supreme Court Justice Ayala Procaccia wrote:

The acts ascribed to the respondent are of particular severity in several respects: First and foremost, they are likely to cause palpable damage to vital national security and military interests. Second, they contravene fundamental legal norms concerning the mandatory confidentiality applying to all persons employed in the public service system and especially to those serving in the security forces, in which such obligations have special status and meaning. Third, certain acts attributed to the respondent constitute a substantive violation of military discipline and deal an intense blow to the basic trust that is obligatory in commander-soldier relations, without which the functioning of the military and security system would be severely impaired.

In early 2011, Kamm was convicted by the Tel Aviv District Court and subsequently sentenced to 4½ years in prison (later reduced to 3 1/2 years on appeal.) In their verdict, the judges noted the severity of her actions:

The very nature of the offenses of which the defendant has been convicted bespeaks their severity, as does the punishment imposed. Her acts constitute violation and cynical exploitation of that same trust that made it so easy to take the documents unlawfully. These acts violate the norms of a system founded on trust and are thus to be condemned. If the IDF cannot fully trust its soldiers, who serve in the various units and are exposed to sensitive issues by virtue of their duties, it will not be able to function as a regular army.

Concerning Kamm’s motives, the judges wrote:

“The defendant confirmed that her motive for taking the documents was essentially ideological ... This is not a case of a random, one-time blunder, a kind of momentary lapse of sound thinking, but a chain of actions that the defendant could have ceased performing at any stage... Again, it suffices to enumerate the series of actions to attest to their character and to demonstrate her determination to continue towards fulfillment of her objective, namely dissemination of the information.”

Public Discussion of the Case

After the lifting of a gag-order that prevented them from discussing the case, Israeli media conducted an extensive discussion of Kamm's actions. The dominant approach maintained that what she did endangered human lives without any substantial justification. There were certain opinions, however, especially those expressed by *Haaretz* journalists, that justified her behavior, contending that it pales in comparison to the severity of the military acts she uncovered.

Originally, Anat Kamm was to be tried for aggravated espionage, according to Sections 113 (B) and 113 (C) of Israel's Penal Law. However, the parties agreed to a plea bargain, and the charges were changed to aggravated espionage (prohibition of keeping secret information) according to Section 113 (C) and passing secret information according to Section 113 (A). Kamm admitted to the amended charges and was convicted of those offenses on the basis of her confession.

Who is Uri Blau?

Uri Blau, born in 1977, is an Israeli investigative journalist who has covered numerous problematic cases involving the behavior of the IDF and its individual soldiers. He refuses to join the Military Correspondents' Union and maintains no ties with senior officers, preferring to draw his information from enlisted soldiers and junior officers in the field. Some of his previous exposés were based on classified documents that he obtained unlawfully; in one such case, a soldier was court-martialed for breach of discipline and sentenced to 35 days in prison, having been convicted of leaking classified documents to Blau.

The ISA began investigating Blau after his article was published in December 2008, suspecting that he had received classified IDF documents. In September 2009, an agreement was signed between Blau's attorney and the ISA, according to which Blau was ordered to return dozens of documents and allow his personal computer to be destroyed. After the investigation of Anat Kamm, the ISA suspected that Blau had hundreds more classified documents that he did not tell them about and did not hand over as required.

In early December 2009, Blau traveled to China. At the advice of his attorney, he decided not to return to Israel for the time being, fearing that he might be arrested, opting instead for an extended stay in London. The editor in chief of *Haaretz*, in which his articles were published, said that Blau would "remain there as long as necessary," while Blau himself wrote: "When I was informed that if I return to Israel, I am liable to be silenced forever by being charged with espionage-related offenses, I decided to fight. Pardon the comparison, but this is not only a battle for my personal freedom, but for the face of the country." The Israel Police issued an arrest warrant, defining Blau as a "criminal fugitive wanted for investigation."

Following a heated discussion of the classified documents affair, the Israel Press Council, a self-regulating body to which most of Israel's media agencies belong, announced that "it is inappropriate to indict a journalist who had a classified document in his possession during fulfillment of his journalistic duties."

On May 3, 2010, after Kamm waived her journalistic privilege, *Haaretz's* attorneys met with the prosecution and handed over the documents that Blau had received from Kamm. On October 24 of that year, Blau returned to Israel after having signed an agreement with the prosecution. In July 2011, the State Prosecutor's Office reached a plea bargain with Blau, after his indictment for possessing classified Israel Defense Forces documents. As part of the plea bargain deal, Blau admitted to possessing secret intelligence without intent to harm national security. In turn, Blau was sentenced to four months of community service.

Questions:

- What values in *Megillat Ha'Atzmaut* motivated Anat Kamm and Uri Blau? What values motivated the state prosecution?
- Have you ever experienced a similar conflict of values in your own life?