



Immediately following the 1967 War Israel’s leaders took a conscious decision to retain Control of the West Bank and Gaza using “security” as justification. That decision – illegal under international law – was taken despite advice from Israeli Foreign Ministry legal counsel, Theodor Meron, that “Civilian settlement in the administered territories contravenes the explicit provisions of the Fourth Geneva... The prohibition is categorical and is not conditioned on the motives or purposes of the transfer and is aimed at preventing colonization of conquered territory by citizens of the conquering state.”¹

Ongoing Israeli colonization of the West Bank and Gaza, flowing from that initial illegal decision, has been a major contributing factor to friction and violence between Israelis and Palestinians. The failure by Israel, the occupying power, to assume its legal responsibilities for the indigenous people of the West Bank and Gaza, as required by international law, has spawned a range of abuses justified in the name of security or public safety.²

What “Public Safety” abuses are committed by Israeli security forces?

The Israeli human rights organization, B’Tselem, tracks Israeli human rights abuses in the West Bank and Gaza. Its security-related catalogue for 2007 includes inter alia³:

- Reckless, illicit and unsafe rules of engagement used by Israeli ground forces. Killing by Israeli forces of 36 civilians in the West Bank and 96 in Gaza (in 2007 alone.) None were taking part in hostilities and much of the loss of life according to B’Tselem resulted directly from policies instituted by the military leadership such as illegal relaxation of rules of engagement and approval of disproportionate attacks which put civilians at risk.
- Ill-treatment and torture of Palestinian detainees. Over 6000 Palestinians in the West Bank were detained in 2007 by Israel’s various security forces. A significant majority of these detainees were interrogated by the Israel Security Agency (ISA.) In these interrogations, “the ISA, together with the Prison Service and Israel Police, routinely use prison conditions and interrogation methods that individually constitute forbidden ill-treatment.”⁴ Torture was used in the case of individuals suspected of having information about an immediate terrorist threat. Common interrogation practices documented by B’Tselem – an Israeli human rights organization – include:
 - Isolation from the outside world
 - The use of subhuman conditions of confinement as a means of psychological pressure
 - Weakening the detainee’s physical state
 - Tying up the detainee in painful postures
 - Beatings and degradation, often of a sexual nature
 - Threats, often pertaining to the safety and well-being of the detainees relatives
- Extensive illegal use of administrative detention. In late 2007 Israel held 858 Palestinians without charges including 13 minors and two women solely as a result of administrative decision. The Fourth Geneva Convention allows administrative detention but strict limits are put on its use. B’Tselem believes that Israel violates these restrictions by, for example, using administrative detention to punish individuals when Israel does not have sufficient information to bring charges. Detainees are given only the briefest description of suspicions against them and insufficient information to mount a defence against the detention order. In addition most administrative detainees are transferred to prisons in Israel in violation of the Fourth Geneva Convention.
- Use of Palestinian civilians as human shields during Israeli “security” operations. An Israeli human rights group documented ten cases of Israeli soldiers using Palestinian civilians as human shields in 2007. In such cases, Palestinian civilians are coerced into dangerous military tasks to protect Israeli soldiers from potential danger, e.g. to enter buildings suspected of being booby-trapped, to walk in front of Israeli soldiers during exchanges of gunfire, to remove suspicious objects from the road.

- Racially-based restrictions on movement. Severe restrictions on Palestinian freedom of movement in the West Bank is imposed through: a) a system of some 100 permanent checkpoints, frequent flying checkpoints and over 400 roadblocks combined, b) the requirement that Palestinians obtain permits for movement within the West Bank, and c) a system of roads linking Israeli colonies to Israel from which Palestinians are banned. These measures are imposed to ensure the security and convenience of Israeli colonists. These measures, based solely on racial origin, constitutes racial discrimination, in violation of the Convention for the Elimination of Racial Discrimination

What legal abuses does Israel impose in the Occupied Territories?

Israel has gone to enormous lengths to protect Israeli colonists (a.k.a “settlers”) from Palestinians but it has done little to protect Palestinians. For example, between 1988 and 1992 colonists were suspected of being responsible for the violent death of 48 Palestinians. In 12 cases indictments were filed against the Israeli suspects. They resulted in only one murder conviction for which the perpetrator was sentenced to a mere three years imprisonment.⁵

Palestinian farmers, especially when they are in close proximity to Israeli colonies frequently have their greenhouses and crops destroyed. The annual Palestinian olive harvest is routinely disrupted by colonists. The Israeli human rights group “Yesh Din” studied a series of incidents in 2006 between settlers and Palestinian harvesters, finding that not a single indictment was filed from police investigations of the attacks.⁶ Almost all colonist crimes⁷ – e.g. assault, destruction of property, murder – remain unsolved and usually uninvestigated, as do crimes committed by the Israeli Army. In the latter, B’Tselem notes that Israel almost never launches an investigation when Palestinian civilians are killed by its Army. Even in the rare occasions when Israel does investigate Palestinian civilian deaths, the investigations are tainted by conflict-of-interest, as they rely on operational debriefings prepared by commanders who themselves are liable for any crimes that may have occurred.⁸

It is also extremely important to note that Palestinians and Israeli colonists who live in the West Bank are processed under different judicial frameworks, something that is explicitly prohibited under international and Israeli law. Palestinians are tried under Jordanian and military law, while Israelis are tried under Israeli civil law. Thus, Palestinians stand trial in military courts, while colonists are tried in civil courts in Israel.⁹ Under this dual framework, Palestinians and Israeli colonists are granted different rights and face different legal consequences for the same crime. Naturally, Palestinians are granted fewer rights and face more serious legal consequences. For example, under this framework, Palestinians enjoy less rights with respect to 1) detention periods prior to being brought before a judge, 2) rights to a lawyer and legal defence, 3) the maximum possible sentence for a crime, and 4) the probability of release before completion of the sentence.¹⁰

¹ Henry Siegman, “Grab more hills, expand the territory,” April 10, 2008, London Review of Books

² For example, in July, 2002 Israel assassinated the leader of Hamas’ military wing, Salah Shehada, by dropping a one ton bomb in a densely populated area of Gaza City killing Shehada and at least 14 others, including 9 children while wounding over 100.

³ All examples drawn from “*Human Rights in the Occupied Territories: 2007 Annual Report*,” B’Tselem (The Israeli Information Center for Human Rights in the Occupied Territories), Jan., 2008.

⁴ “*Human Rights in the Occupied Territories: 2007 Annual Report*,” p. 28.

⁵ See Siegman

⁶ “*Ahead of 2007 Olive Harvest, Yesh Din demands from security forces*,” Yesh Din, 2007, p. 4. <http://www.yesh-din.org/site/images/YDreportEngOct.pdf>, accessed May 11, 2008

⁷ See Ahmad Jaradat, “*Settler Violence report for March-April 2008*,” Alternative Information Center (Israel), May 8, 2008, www.alternativenews.org/news/english/settler-violence-report-for-march-april-2008-20080508.html, retrieved May 11, 2008

⁸ “*Human Rights in the Occupied Territories: 2007 Annual Report*,” B’Tselem (The Israeli Information Center for Human Rights in the Occupied Territories), Jan., 2008, pp. 10-11

⁹ “*Occupation in Hebron*,” Patrick Muller, Alternative Information Center (Israel), June, 2004, pp. 30-31

¹⁰ Ibid. p. 33