



ISRAEL/PALESTINE: HUMAN RIGHTS UPDATE

From B'Tselem, the Israeli Information Center for Human Rights in the Occupied Territories (August 2005)

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Gaza: What Now?

B'Tselem commends Israel on the dismantling of settlements and the military withdrawal from Gaza. These are important steps that will reduce human rights violations in the Occupied Territories. Yet there is much left to be done. Unless Israel takes further steps, Gaza will remain a prison. The Gaza Strip is a tiny area, heavily dependent on contact with the outside world. Some 80 percent of the population lives below the poverty level, over 20 percent in "deep poverty." This dire situation will not change unless Israel allows Gaza to import and export freely. Palestinian movement between the Gaza Strip and the West Bank is almost impossible, and Gazans face great difficulty traveling abroad. To the extent that Israel retains control over movement in and out of Gaza, it remains responsible for the implications of its restrictions.

For the past four and a half years Israel has severely restricted freedom of movement to and from the Gaza Strip. These restrictions further strangled the Gaza Strip, so much so that the area resembles one gigantic prison. Israel's policies have reduced many human rights—among them the right to freedom of movement, family life, health, education, and work—to "humanitarian gestures" that Israel sparingly provides.

Detachment of the Gaza Strip from the rest of the world has exacted a price from each and every Palestinian living there. The restrictions have created a deep recession, the loss of work, and a dramatic deterioration in living conditions. The poverty rate has increased by more than 40 percent since 2000. Severance of the Gaza Strip from the West Bank and Israel results in painful separation from loved ones, and in some cases the separation of children from one of their parents.

Israel's policy did not come out of the blue, but was a response to the wave of attacks that has struck Israel and the Occupied Territories since the outbreak of the *Intifada*. Israel is entitled, and required, to protect its citizens from such attacks. However, Israel does not have the right to trample on the human rights of an entire population.

Israel implements its separation policy in a patently arbitrary and indiscriminate manner. Almost all restrictions

are imposed on entire groups of people, based on sweeping criteria, without examining the threat that the individual person poses. Most elements of Israel's policy are illegal under international law and Israeli law.

B'Tselem urges the government of Israel to end its siege policy on the Gaza Strip and to respect the right of Palestinians to freedom of movement and those rights dependent on freedom of movement.

All information in this update is excerpted with permission from the B'Tselem Web site.

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"...in the image of God..."

B'Tselem was established in 1989 by a group of prominent academics, attorneys, journalists, and Knesset members. It endeavors to document and educate the Israeli public and policymakers about human rights violations in the Occupied Territories, combat the phenomenon of denial prevalent among the Israeli public, and help create a human rights culture in Israel.

"B'Tselem" in Hebrew means "in the image of" and comes from Genesis 1:27: "God created humankind in his image, in the image of God he created them; male and female he created them." As the Universal Declaration of Human Rights states, in the same spirit, "all human beings are born equal in dignity and rights."

B'Tselem has attained a prominent place among human rights organizations. Its reports have gained B'Tselem a reputation for accuracy, and the Israeli authorities relate to them seriously. B'Tselem ensures the reliability of information it publishes by conducting its own fieldwork and research, whose results are thoroughly cross-checked with relevant documents, official government sources, and information from other sources, among them Israeli, Palestinian, and other human rights organizations.





Palestinian Violence

Since the beginning of the *al-Aqsa Intifada* there has been a sharp increase in the number of attacks perpetrated by Palestinian organizations against Israeli civilians. From the beginning of the *Intifada*, on September 29, 2000, until August 21, 2005, these attacks have killed 972 Israelis (including 667 civilians) and wounded thousands, including many minors, inside Israel and in the Occupied Territories.

Fatalities (September 29, 2000 – August 21, 2005)		
	In the Occupied Territories	In Israel
Israeli civilians killed by Palestinians	223	444
Israeli security force personnel killed by Palestinians	221	84
Foreign citizens killed by Palestinians	11	32
Palestinians killed by Palestinians	157	
Additional Data (Included in Previous Table)		
	In the Occupied Territories	In Israel
Israeli minors killed by Palestinians	36	81
Palestinians killed by Palestinians for suspected collaboration with Israel	112	

Attacks aimed at civilians undermine all rules of morality and law. Specifically, the intentional killing of civilians is considered a “grave breach” of international humanitarian law and a war crime. Whatever the circumstances, such acts are unjustifiable.

Palestinian organizations raise several arguments to justify attacks on Israeli civilians, all of which are baseless. Civilians are to be protected from the consequences of warfare. Israeli settlers, though living in illegal settlements, are a distinctly civilian population. Each party to the conflict must discriminate in selecting its targets and attack only military objects. This principle is part of international customary law; as such, it applies to every state, organization, and person, even those who are not party to any relevant convention. As such, these attacks constitute “war crimes.”

B’Tselem strongly opposes the attempts to justify attacks against Israeli civilians by using distorted interpretations of international law. Furthermore, B’Tselem demands that the Palestinian Authority do everything within its power to prevent future attacks and to prosecute the individuals involved in past attacks.

Israeli Violence

From the beginning of the *Intifada*, on September 29, 2000, until August 21, 2005, 3,210 Palestinians have been killed in the Occupied Territories, among them 654 minors (under the age of 18). At least 1,722 of those killed were not participating in fighting at the time. Thousands more have been wounded.

As the occupier, Israel is obligated to act in these areas in accordance with international humanitarian law. Israel’s legal use of force against Palestinian civilians is limited to law enforcement actions, similar to the authority given to the police in regard to Israeli citizens living within the state’s borders.

Fatalities (September 29, 2000 – August 21, 2005)		
	In the Occupied Territories	In Israel
Palestinians killed by Israeli security forces	3210	56
Palestinians killed by Israeli civilians	41	
Foreign citizens killed by Israeli security forces	10	
Additional Data (Included in Previous Table)		
	In the Occupied Territories	In Israel
Palestinian minors killed by Israeli security forces	653	1
Palestinians killed during the course of an assassination	296	
Palestinians who were the target of an assassination	187	

Israel defined the violence that has taken place during the *al-Aqsa Intifada* as war. This definition ignores the reality in the Occupied Territories, in which a substantial portion of the Israel Defense Force (IDF) activities in the Occupied Territories – dispersing demonstrators, making arrests, restricting freedom of movement – are policing and law enforcement actions. Changes in the Open-Fire Regulations led to the killing of hundreds of Palestinians who did not take part in the fighting. These killings violated international humanitarian law.

The principle of distinction requires the sides to direct their attacks only against persons taking part in the hostilities and against objects that are used for military purposes. The presence of non-civilians among a civilian population does not deny the civilians the protections to which they are entitled, and the fact that one side breaches these rules does not release the other side from complying with them.



Since the beginning of the *al-Aqsa Intifada* Israel has continuously violated the laws of warfare, primarily during its massive incursions into Palestinian cities. These violations include, *inter alia*, indiscriminate firing that has caused injury to bystanders, use of ammunition and means of warfare that are incapable of sufficiently distinguishing between persons taking part in the hostilities and those who are not, and extensive destruction of houses and other property, in violation of the principle of proportionality.

The change in classification to that of war has also led to a change in Israeli policy on investigating the killing of Palestinian civilians by IDF soldiers. Now a Military Police investigation is required only in exceptional cases. A very small percentage of cases in which Palestinians were killed have been investigated. This new policy sends a message to soldiers that Palestinian lives are cheap and creates an atmosphere of immunity from prosecution.

Settlements

Since 1967 Israel has established settlements in the West Bank (including East Jerusalem) and the Gaza Strip. One hundred thirty settlements that have been recognized by the Interior Ministry remain in the West Bank (including East Jerusalem). In addition, dozens of outposts of varying size have been established. Settlements in the West Bank have led to massive land confiscations, the formation of a “Jews only” road network, and the creation of two distinct and blatantly discriminatory legal systems governing Jews and Arabs in the West Bank. In many settlements, expansion continues unabated. Of most concern is the E1 plan, which will essentially cut the West Bank in half, making a viable Palestinian state virtually impossible.

Israel has established in the Occupied Territories a separation *cum* discrimination regime, in which it maintains two systems of laws, and a person’s rights are based on his or her national origin. This regime is the only one of its kind in the world.

As part of the regime, Israel has stolen thousands of dunams (1 acre=4 dunams) of land from the Palestinians, on which it established dozens of settlements in which hundreds of thousands of Israeli civilians now live. Israel forbids Palestinians to enter and use these lands, and uses the settlements to justify numerous violations of Palestinian rights, such as the right to housing, the right to gain a living, and freedom of movement. The sharp changes Israel made to the map of the West Bank make a viable Palestinian state impossible as part of the right of the Palestinian people to self-determination.

The settlers, on the other hand, benefit from all rights given to citizens of Israel who live inside the Green Line, and in some instances, even additional rights. The great effort

Israel has expended in the settlement enterprise—financially, legally, and bureaucratically—has turned the settlements into civilian enclaves within an area under military rule, and has given the settlers a preferred status. To perpetuate this unlawful situation Israel has continuously violated the Palestinians’ human rights.

In that the very establishment of the settlements is illegal, and in light of the human rights violations resulting from the existence of the settlements, B’Tselem demands that Israel evacuate the settlements. The action must be done in a way that respects the settlers’ human rights, including the payment of compensation.

The government should cease new construction in the settlements, whether to build new settlements or to expand existing settlements. It must also freeze the planning and building of new bypass roads and must cease expropriating and seizing land intended for the bypass roads. Also, the government must cease the granting of incentives to encourage Israeli citizens to move to settlements, and make resources available to encourage settlers to move inside Israel’s borders.

**West Bank Settlement Population
(excludes East Jerusalem)**

Year	Population
1996	139,603
1997	152,334
1998	163,400
1999	180,437
2000	190,723
2001	199,485
2003	210,499
2004	232,718





The Separation Barrier

In June 2002 the government of Israel decided to erect a physical barrier to separate Israel and the West Bank in order to prevent the uncontrolled entry of Palestinians into Israel. In most areas the Barrier is comprised of an electronic fence with dirt paths, barbed-wire fences, and trenches on both sides, at an average width of 60 meters. In some areas a wall six to eight meters high has been erected in place of the barrier system.

The Cabinet approved an amended route in February 2005. Most of the newly proposed route runs through the West Bank, and not along the Green Line. In areas where the Barrier has already been built, the extensive violations of human rights of Palestinians living nearby are evident. Further construction inside the West Bank, in accordance with the Cabinet's decision, will bring about additional human rights violations affecting hundreds of thousands of local residents.

Israel is rapidly completing the Separation Barrier along a route dictated, not by security concerns, but by existing settlements and plans for their expansion. The Barrier extends deep into the West Bank in order to encompass some 323,000 settlers in 55 settlements. The Barrier isolates 9.5 percent of the West Bank (536.1 sq. km.). Of most concern are the deep incursions into the West Bank around three settlement blocks: Ariel, Ma'ale Adummim and Gush Etzion. Over 30,000 people in 21 Palestinian villages will live in isolated enclaves.

Another 50 villages (244,000 people) will be surrounded on at least three sides by the barrier. This will severely harm all aspects of daily life, including access to farmlands and medical care, and urban development in these communities. In setting the Barrier's route Israeli officials almost totally ignored the severe violations of Palestinian human rights. The route was based on extraneous considerations completely unrelated to the security of Israeli citizens. A major aim was to build the Barrier east of as many settlements as possible, to make it easier to annex them into Israel. Another reason for building the Barrier inside the West Bank was to avoid the political price to be paid if the Green Line were set as Israel's border.

In the past, Israel used "imperative military needs" to justify expropriation of land to establish settlements and argued that the action was temporary. It is reasonable to assume that, as in the case of the settlements, the Separation Barrier will become a permanent fact to support Israel's future claim to annex additional land.

The construction of the Barrier has brought new restrictions on movement for Palestinians living near the Barrier's route, in addition to the widespread restrictions that have been in place since the outbreak of the current *Intifada*. Thousands of Palestinians have difficulty going to their fields and marketing their produce in other areas of the West Bank. Farming is a primary source of income in the Palestinian communities situated along the Barrier's route, an area that constitutes one of the most fertile areas in the West Bank. The difficulty and expense in gaining access to their land have turned farming into an unfeasible venture, and many residents do not exercise their right to go to their land and work their primary source of livelihood. The harm to the farming sector is liable to have drastic economic effects on the residents—whose economic situation is already very difficult—and drive many families into poverty.

The Barrier around Jerusalem is proving disastrous for tens of thousands of people. A 25-foot high wall runs through the heart of residential neighborhoods around Jerusalem. The 220,000 Palestinian residents of East Jerusalem will be separated from the rest of the West Bank. Some 100,000 people in West Bank suburbs will be cut off from jobs, hospitals, schools and family in the city.

Israel has the right and duty to protect its citizens from attacks. However, the building of the Separation Barrier as a means to prevent attacks inside Israel is the most extreme solution that causes the greatest harm to the local population. Israel preferred this solution over alternate options that would cause less harm to the Palestinians. Even if we accept Israel's claim that the only way to prevent attacks is to erect a barrier, it must be built along the Green Line or on Israeli territory.