



A Semblance of Law

Law Enforcement upon Israeli Civilians
in the West Bank

Report's Summary

June 2006

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Since the 1980's many reports have been published on law enforcement upon Israelis in the Occupied Palestinian Territory. All of the reports – whether published by official government bodies or produced by human rights organizations – warned against the failure of the authorities to enforce the law effectively upon Israeli offenders, especially those who committed offenses against Palestinian civilians. The conclusion that arises from all the reports is serious: Israel is abusing its obligation to defend the Palestinian civilian population in the OPT against the criminality of Israeli civilians. Years have gone by, committees have been established, recommendations have been made, and governments have come and gone – yet the problem of attacks against Palestinian people and property by Israelis has only grown worse, becoming a daily occurrence.

In March 2005 **Yesh Din - Volunteers for Human Rights** was established. Yesh Din (Hebrew for “There is Law”) volunteers decided upon its foundation that the organization's first project would be an examination of law enforcement procedures upon Israelis who harass Palestinians in

the West Bank. The main goal of the project is “**to strengthen law enforcement proceedings relating to Israelis in the West Bank.**” As part of the project, the Yesh Din volunteers are attempting to help bring those responsible for attacks to justice, while at the same time examining the actions of the authorities and seeking to identify the reason for the failings in this field, as pointed out by the aforementioned governmental and non-governmental reports. Yesh Din adopted a unique method. Teams of specially-trained volunteers visit Palestinian communities that report criminal behavior by Israeli civilians. The teams record testimonies from victims and witnesses, gather documents, photograph the places where incidents occurred, and, after completing their investigation, accompany victims to the police to file complaints and give evidence. Complainants who wish to do so authorize the legal advisor of Yesh Din to monitor the investigation of their case and, when necessary, to appeal against the closure of the investigation file.

Yesh Din's law enforcement project began in April 2005.

This report is based on the data base created by Yesh Din's work and its volunteers over the past year. The report is based on the investigations conducted by Yesh Din's volunteers and the organization's monitoring of the investigation files in the police's Samaria and Judea (hereinafter - SJ) District. The report's findings indicate a general phenomenon of absence of adequate law enforcement by the authorities upon settlers who commit offenses against Palestinians. The report documents serious faults in all stages of the law enforcement process. In the committing of offenses, IDF soldiers present on the scene show a grave tendency to ignore offenses (Chapter 3); in filing complaints, Palestinian complainants face physical and bureaucratic difficulties (Chapter 4); above all, the investigation stage shows faults in the examination of incidents, failure to implement the required investigatory steps, and sometimes an unwillingness to undertake even a cursory investigation (Chapter 5).

The report's findings are based on Yesh Din's monitoring of 92 investigation files opened at the SJ District of the Israel Police, the vast majority in 2005 and 2006, and a smaller number in the three preceding years. From January to November 2005, 299 investigation files were opened by the SJ District relating to offenses committed by Israeli civilians

against Palestinians. Accordingly, the sample forming the basis of this report is extensive, and enables the drawing of valid conclusions regarding the overall response of the SJ District to this type of offense.

- **More than 90% of the complaints and files in which the investigation was completed were closed without indictments being submitted.**
- **96% of the files on trespassing (including all the cases of harming trees) in which the investigation was completed were closed without indictments being submitted.**
- **100% of the property offenses in which the investigation was completed were closed without indictments being submitted.**
- **79% of the assault files in which the investigation was completed were closed without indictments being submitted.**
- **About 5% of the complaints filed were lost and apparently were never investigated.**

In addition to collecting data and producing statistical findings, Yesh Din closely studied 42 investigation files that were closed. In more than half of the cases Yesh Din identified failures and faults in the investigation, for which the organization submitted appeals against the decision to close the files.

The main failures found are:

- The complaints and testimonies were written in Hebrew rather than Arabic – the language in which they were given.
- The police investigators rarely went out to the scene of the offense, and in cases when they did arrive at the scene, there were failures in documenting the scene.
- In many cases testimony was not taken from key witnesses, including suspects and Palestinian and Israeli eyewitnesses of the incident.
- Live identification lineups with Israeli civilian suspects were hardly conducted in the SJ District.
- There were hardly any confrontations between complainants and suspects: of the investigation files examined by Yesh Din, such a confrontation was carried out by police investigators in only one file.
- In none of the files examined by Yesh Din, in which the suspects made alibi claims, were the claims checked before the investigation file was closed.
- The contents of about one third of the investigation files were very thin, and indicated a hasty closure of the file, shortly after the complaint was received.
- In several cases it was decided to close an investigation file, even though the material that accumulated in the file apparently indicated sufficient evidence for

indicting suspects.

- An examination of files that were closed for reasons of “No Criminal Culpability” raised doubts as to the decision to close those files for that reason, considering they were subject to insufficient investigations.

Elaboration of the findings as to faults in investigations appears in Chapter 5 of the report.

The report also includes figures derived from a cross-checking of reports Yesh Din conducted from various sources. It did so in order to arrive at a realistic evaluation of the extent of criminality by settlers against Palestinians during 2005. The examination showed that in 2005 human rights organizations operating in the West Bank received reports of at least 522 separate incidents of abuse by Israeli civilians. In two of the events five Palestinians were killed, and in 89 of them the injury of one person or more was reported. The reported incidents can be divided into three main categories: property damage, incidents on the background of trespassing and land disputes, and various assault incidents.

The report indicates the structural difficulties in the SJ District’s work, which is responsible for investigating offenses by Israelis in the West Bank. Geographically, it is the biggest district

in the Israel Police, whose jurisdiction covers 5,500 km/sq. 1,100 policemen serve at SJ District in operational and administrative positions: 0.48 police per 1,000 residents. Only 5.67% of the Israeli police force serves in the district, and its budget is only 2.5% of the overall budget of the Israel Police. Besides the shortage of human resources and budget, the report reveals several other structural problems in the district's functioning, when it comes to the investigation of complaints filed by Palestinians against Israeli civilians.

First of all, the district is located in an occupied territory, where the army represents the powers of the sovereign. The accountability of the SJ District to the IDF sometimes leads to the intervention of IDF officers or IDF Civil Administration officials in police investigations. Secondly, due to the security situation in the West Bank, the district investigators depend on military escorts when going to an incident scene. Sometimes an escort is not possible at all, and at other times it is provided too late. Thirdly, the complex relationship between the police and the Israeli civilians who live in the West Bank also raises problems. Moreover, the relationship between the police and the Palestinian population of the West Bank also makes effective police activity difficult.

The meager human resources in the SJ District and the limited financial resources at its disposal do not allow for permanent police presence in areas known for friction between settlers and Palestinians. IDF soldiers are often the ones present on the ground at the time of an incident, or arrive shortly after it occurs. However, it appears that the IDF soldiers do not even know the military orders that require them to intervene in cases when Israeli civilians attack Palestinian civilians, to detain the assailants or arrest them. In addition, the IDF does not monitor the cases in which soldiers did intervene, nor does it monitor disciplinary or criminal action against soldiers who operated against orders that obligate them to protect the Palestinian civilian population in the West Bank.

As noted, Yesh Din volunteers regularly accompany those complainants who are interested in filing a complaint with the SJ District police units in order to make sure their complaints are received. The report points to the difficulties confronted by Palestinians who wish to file a complaint in the SJ District including complainants who discover only when they arrive at the District Coordination Office that the policeman who is supposed to be there is absent; police who refuse to receive complaints; and pressures by elements in the Civil Administration to avoid filing complaints.

One of the troubling findings of the report is that at least five percent of the complaints which Yesh Din monitored were lost, and were apparently never investigated at all. Moreover, many complaints that were filed with the SJ District, and which should have been transferred to the treatment of the Military Police's Criminal Investigation Division, were also lost.

Report's Recommendations

Recommendations for the IDF

1. The IDF must define for its soldiers who serve in the West Bank the protection of the Palestinian civilians and their property against the violence of Israeli civilians as a permanent and key mission.
2. The IDF's regional divisions in the West Bank must define in their standing orders assistance to SJ District investigations as a permanent and key mission.
3. The IDF must regularly and frequently allocate forces for patrols in known areas of friction between settlers and Palestinians, with the purpose of ensuring the security of Palestinian civilians.
4. The IDF must brief its soldiers serving in the West Bank regularly on the rules of the "Law Enforcement Procedure" as

to their obligation to intervene in cases that settlers assault Palestinians and/or their property.

5. The IDF must clarify for its soldiers that they have the power to arrest Israeli civilians suspected of assaulting Palestinians, and if necessary take the suspects for continued processing to the nearest police station.
6. The IDF must conduct investigations of incidents in which IDF soldiers were present when Israeli civilians harmed Palestinians and/or their property, and ensure that the soldiers who were witnesses to such events give testimony to the police, and take measures against soldiers who don't comply with the Law Enforcement Procedure directives.
7. The IDF must set standards to examine the level of performance of the Law Enforcement Procedure, on a unit basis.
8. The Central Command should keep regular records and monitor cases when IDF soldiers detained Israelis suspected of assaulting Palestinians and their property, and in which they transferred them to the police.
9. The Military Police's Criminal Investigation Division should maintain constant contact with the

SJ District and receive permanent reports of incidents in which IDF soldiers stood by doing nothing during violent incidents on the part of soldiers and abused their obligation to defend Palestinian civilians. Following such reports the MPCID should initiate, shortly after the incidents, investigations of the behavior of the soldiers and commanders. The conclusions of the MPCID's investigations should lead to a decision by the Central Command prosecutor, for the purpose of criminal or disciplinary prosecution, depending on the circumstances of the matter.

Recommendations for the Police:

A: Recommendations for Recording Complaints

1. The police force at the DCOs should be reinforced, so that the needs of Palestinian complainants are met at all times.
2. The supervision and monitoring of complaints submitted at the DCOs should be reinforced, to ensure that every complaint filed at a DCO does reach the relevant investigation unit.
3. The SJ District patrol officers should be instructed to record complaints in the field from anyone interested, in accordance

with section 2 of the National Headquarters Order 14(1)(1), rather than directing complainants to the police station, except for the completion of their testimony, as needed.

4. Palestinian complainants who wish to should have direct access to the investigation units in the SJ District.
5. SJ District investigators should be instructed not to demand complainants produce land measurement maps, whose production involves a heavy financial expense, as a condition for recording their complaint and investigating it. In cases the Civil Administration does not have updated maps of contended land, it should be the Civil Administration's duty to conduct a current mapping, at its expense.

B: Recommendations on Faults in Investigations

1. Supervision of investigations in the SJ District should be tightened, to ensure the completion of investigations about Israeli civilians assaulting Palestinians and their property. Files that are closed without prosecution should be transferred to the audit of a District Attorney office.
2. It should be established that the

investigation of files of assault and other serious offenses be accompanied by a lawyer from a District Attorney office.

3. Policemen who receive complaints and SJ district investigators should be instructed to write the testimonies of the complainants and witnesses in the language in which they were given.
4. Strictly adhere to the use of

live identification line-ups for the identification of suspects by complainants. The use of photo line-ups as a main and almost exclusive tool for the identification of suspects should be stopped⁵.

5. Coordinatio between the SJ District and the IDF regional divisionsm should be tightened, to ensure military escorts to incident scenes shortly after the event.