

Ahead of 2007 olive harvest Yesh Din demands from the security forces

Summary

According to international law and HCJ rulings, it is incumbent upon the security forces to take action to allow the Palestinian olive harvest to take place in the West Bank. In 2006 the IDF and the Israel Police failed to fulfill that duty in a number of key areas.

The most serious defects were found in the enforcement of the law upon Israeli civilians who disrupted the harvest. In all of the cases documented by Yesh Din, in which Israeli civilians used violence against Palestinian harvesters, IDF soldiers stood by and did nothing. That behavior is part of a larger pattern of defective enforcement, which includes refraining from carrying out searches and arrests in "real time" and failing to execute criminal investigations after the event.

Additional defects that were found include preventing the access of harvesters to their land, delays in ruling on land disputes pertaining to the harvest (the "freezing status" procedure) and the active participation of IDF soldiers in disrupting the harvest.

In light of those findings, Yesh Din demands, ahead of the upcoming harvest, which will begin in the coming weeks, that the security forces:

1. Strictly enforce the law on Israeli civilians who disrupt the harvest. That includes IDF soldiers intervening to stop such incidents, especially violent incidents. Israeli civilians who break the law must be arrested and prosecuted. Police must investigate the offenses quickly and effectively, so that their perpetrators can be prosecuted.
2. IDF deployment must be planned in advance to allow maximum access to the areas where the harvest takes place, including lifting or opening internal checkpoints and obstacles as needed.
3. Increase the assimilation of the army's duties at the field level. This includes oral briefings, which must also address the obligation to arrest Israeli civilians suspected of offenses, especially in cases of violence.
4. Rule in land disputes ("freezing status" procedure) within the planned timeframe and based on the rules, to prevent the disruption of the harvest.
5. Draft a detailed plan for the deployment of the SJ district police as well, including an element of instant and quick response to complaints in real-time, including conducting searches.

Background

The Palestinian olive harvest in the West Bank takes place every year in the fall, especially in October and November. Some 800,000 dunams in the West Bank are covered with olive trees, and their yields change according to weather conditions. The production of olive oil has great economic, historic and cultural importance for the Palestinian population in general and the harvesters in particular.

For years, and especially since the beginning of the second intifada, the Palestinian residents faced many problems in carrying out the harvest. Two of the most serious problems are the prevention of access to their lands by the security forces, by blockades, checkpoints or barring the entrance of residents into the area, and repeated harassment by Israeli civilians, including cases of assault, threats, theft and sabotage.

In general, the security forces and the police have stood by and not prevented this harassment, and in certain cases even use them to justify stopping the harvest at the site.

On June 26, 2006 the HCJ issued a ruling clarifying the security forces' duties and restrictions regarding Palestinian residents' access to their land, especially during the harvest season (HCJ 9593/04 Rashed Murad V Commander of IDF forces in Judea and Samaria). The ruling requires the military commander allow the harvest to take place, both by refraining from measures that could disrupt it and by taking actions to prevent its being disrupted by other parties. The ruling clarifies that restricting the access of harvesters to their land in order to protect Israeli civilians may take place only in accordance with concrete needs, and with as little harm as possible to the harvest.

The purpose of this document is to briefly review how the IDF and the police met their legal duties in the 2006 harvest. Based on the conclusions of the examination, the document will clarify Yesh Din's position as to the IDF and police's deployment and actions regarding the upcoming harvest, which should begin in the middle of October 2007. The document will also raise concrete demands to rectify the defects that arose in the last harvest.

2006 Harvest: How the IDF and Israel Police functioned

Ensuring access

The IDF only partially fulfilled its legal duty to allow the farmers access to their land during the harvest. On September 28, 2006 the OC central command issued at least six **orders to close areas** in the areas of the villages of Beit Fourik, Sinjil and Burin, including four orders forbidding the entrance of any person to the marked areas and two forbidding the entrance of Israeli and foreign civilians into the marked areas. **The areas that were the subject of the orders included 200 dunams for each order.** Following a request by the Association for Civil Rights in Israel to cancel or amend those orders, the defense minister's office answered on October 19 that according to the defense establishment the signed closure orders did not contradict the HCJ ruling.

In contrast, on the subject of checkpoints, following repeated requests by Yesh Din, the IDF finally removed five piles of dirt and rocks on roads leading from the village of **Qaddum** to the village's olive groves. Those obstacles were placed in such a way that prevented vehicular access to the olive groves.

During the harvest itself, Yesh Din's situation room received reports of nine cases in which the access of harvesters to their land was delayed or prevented by IDF soldiers, road blocks or refraining from opening gates in the separation barrier.

Security

As far as securing the farmers against harassment, here too the IDF fulfilled its duties only partially. Even before the harvest began, Israeli volunteers received a chart distributed by the regional division Samaria stating the dates in which **military escort would be provided for the harvest** for each village. **This contradicted the HCJ ruling that military escort should be provided throughout the harvest season.**

In practice, the response to the harassment incidents that occurred during the harvest was inappropriate, especially as far as violent incidents. IDF soldiers were present in four cases of assault documented by the Yesh Din situation room. In all of the cases they refrained from responding to attacks on Palestinian harvesters by Israeli civilians. In at least one case the violence of Israeli civilians against the Palestinians began after a military force arrived in the area and in plain view of the soldiers. In at least three cases direct involvement of soldiers in assaulting harvesters was reported. In two cases soldiers ordered harvesters to leave the area because of a threat by Israeli civilians, instead of providing protection to the harvesters. As far as Yesh Din knows, in no case in which soldiers were present while harvesters were attacked was even one Israeli civilian arrested, in contrast with the army's orders.

The IDF response was more appropriate in nonviolent events, concerning harassment of harvesters, threats against them and/or preventing the access of harvesters to their farmlands by Israeli civilians. In three such cases documented by the situation room, security forces arrived on the scene and their response seems to have been appropriate. In one case a harvester was detained for questioning after entering a plot he claimed to own but which had been fenced off by a resident of a settlement.

"Freezing status"

The "freezing status" procedure was developed ahead of the 2006 harvest, to deal with cases in which Israeli civilians claim ownership of land where the harvest is taking place. According to the procedure, harvesting should stop while an initial inquiry is conducted by the Civil Administration. That inquiry

should last up to 72 hours, so that if it turns out the claims are unfounded the harvest can be resumed before the end of the season. Despite fears ahead of the harvest season that there would be a large number of ownership claims by Israeli civilians, only 10 such cases were noted. **Despite the small number of incidents, the initial inquiry was completed within the promised time frame in only one case, and then too in favor of the Israeli civilian who claimed ownership of the land.** To the best of Yesh Din's knowledge, in all the other cases in which the "freezing status" procedure was declared, ownership of the contested land was not determined by the end of the 2006 harvest season, and continued harvesting of those plots was thereby prevented. **Thus the use of the procedure as a quick mechanism to resolve conflicting ownership claims failed.**

Law enforcement

In general, law enforcement on Israeli civilians during the harvest appears to match the general pattern of fecklessness and refraining from thoroughly confronting the offenses. The instant response to the offenses committed by Israeli civilians against harvesters was very lame. As mentioned above, IDF soldiers did respond appropriately to events of harassment and threats, but did nothing in cases of violence, and refrained from arresting the perpetrators. In addition, in all the cases in which Palestinians complained of theft of olive crops, the SJ district police failed to search the nearby outposts and settlements in real time. In at least one of those cases attorney Michael Sfar sent a fax to the regional investigation officer demanding he conduct a search but was answered in the negative. Moreover, police stipulated that handling of the request, which was made in real time, would depend on filing a complaint with the police.

The police investigations of offenses committed during the harvest yielded no results. None of the nine cases Yesh Din is following ended with prosecution, let alone conviction. Six of the investigation files opened in the SJ district police were closed (five on the pretext of "unknown perpetrator" and one on the pretext of "lack of evidence.") Two files are still under investigation. In one case police claim they are not familiar with the event, and apparently no investigation was opened at all.

Disruption of the harvest by IDF officers and soldiers

Yesh Din documented two cases of preventing the harvest as a collective punishment. In one case the Samaria division commander prevented the residents of Kafr Salim from going out to the harvest, and his soldiers even forced a group of harvesters to return to their village, as collective punishment after firebombs were thrown on a road near the village. Vigorous action by Yesh Din brought the matter to the defense minister and the collective punishment was canceled that very day. Even before the harvest season began, Yesh Din volunteers learned in a preliminary tour of the village of Jamma'in that an IDF lieutenant colonel threatened the head of the village council he would prevent the harvest on the village's lands because firebombs had been thrown. As far as Yesh Din knows the threat was not carried out.

Likewise, during the harvest, the situation room received two reports of the participation of IDF soldiers in the assault and harassment of harvesters. On October 26, 2006 it was reported that soldiers prevented a harvester from the village of **Bil'in**, a prominent activist in the struggle against the separation barrier in the area, from going through the gate in the separation barrier to his land on the other side. The harvester said he was beaten by one of the soldiers. **On October 30, 2006** a report was received that armed settlers and soldiers were attacking harvesters near **Dier al 'Asal a-Tahta**, west of Dura (Hebron area). The harvesters left the area. **On November 4, 2006** it was reported that harvester residents of **Kafr Tell**, who were on their way home after the day's work, met a group of soldiers. The soldiers ripped open their olive sacks and spilled their contents on the ground. As far as Yesh Din knows no complaints were filed in those cases and no investigation files were opened.

2007 Harvest: the security forces' deployment

In September 2007 representatives of several human rights organizations were invited to meetings with the Judea and Samaria division's legal advisor to discuss the deployment for the 2007 harvest. At that meeting the IDF representatives stressed its commitment to act in accordance with the Murad ruling. They expressed satisfaction with the army's functioning in the 2006 harvest, but also the intention to improve it in 2007.

They said the IDF was preparing for the harvest in advance, in coordination with the police. In that framework the harvest needs in all areas were mapped out, partly on the basis of contacts with the Palestinian liaison officers and information provided by Palestinian farmers. Based on that mapping, the IDF plans to increase the deployment of its forces to protect the harvesters, and even to recruit reserve soldiers for that purpose.

In areas where there was no friction in the past, but there is still concern over potential conflicts surrounding the harvest, the IDF recommends the harvesters coordinate their excursion into the fields in advance and inform them of it. In cases when the excursion is coordinated the IDF intends to provide the harvesters with military escorts.

In areas where there has been friction surrounding the harvest in the past, the IDF has issued orders declaring "closed military area to Israelis only." Israeli civilians will be allowed to enter those areas only with a permit from the DCO. In the areas close to Jewish settlements, comprehensive "closed military area" orders will be issued, allowing entrance only with the division commander's permission. According to IDF representatives, the total number of orders is expected to grow in 2007 to 40, compared with 32 in 2006. Half of the 40 orders will forbid the entrance of Israelis only, and half will forbid all entrance.

In addition, information pages were prepared to be distributed to the soldiers participating in the harvest, explaining their duties in the matter; a meeting was held with the settlement security officers, to explain to them the restrictions imposed on settler activity.

Yesh Din's demands ahead of the 2007 harvest

On the issue of **guaranteeing access**, following the intention to issue 20 "closed military area" orders barring all entry, **the IDF must guarantee that every order of that kind fulfills a concrete military need and that the order is limited to the minimum area required to protect the residents. During the harvest the IDF must guarantee its soldiers will allow access to all areas not restricted by orders, including opening checkpoints and gates in the separation barrier.**

On the issue of **security**, **the IDF must provide military escort wherever it is needed, throughout the harvest season, and explain that to the Palestinian farmers. But the military escort is effective only if the IDF soldiers fulfill their duty to protect the harvesters**, especially in cases when the farmers are subject to violent assault. **That protection includes the arrest of Israeli civilians involved in violence.**

Enforcing the law upon Israeli civilians is an important plank in the IDF and the police's duties surrounding the harvest. It applies both to the immediate response to the incident, including the arrest of suspects, collecting testimonies and conducting searches; as well as conducting an exhaustive and thorough investigation of any complaint filed.

The prevention of the olive harvest must not be used as collective punishment, especially by senior officers, who are supposed to be in charge of assimilating the rules and responsibilities at the lower levels. Cases of soldiers who participate in the harassment of harvesters must be processed severely.

In order to rectify the defects that emerged in the 2006 harvest, Yesh Din demands:

1. Strictly enforcing the law on Israeli civilians who disrupt the harvest. That includes IDF soldiers intervening to stop such incidents, especially violent incidents, and arresting Israeli civilians who break the law. Police must investigate the offenses quickly and effectively, so that their perpetrators can be prosecuted.

2. IDF deployment must be planned in advance to allow maximum access to the areas where the harvest takes place. Based on the discussion with the Judea and Samaria region's legal advisor, such a plan is indeed being developed presently. It must include lifting or opening internal checkpoints and obstacles as needed.

3. Increase the assimilation of the army's duties at the field level. According to the aforementioned discussion, the soldiers participating in the harvest will be given pages explaining their duties in detail. **That explanation must also be given orally, with the necessary emphases,** including the obligation to arrest Israeli civilians suspected of offenses, especially in cases of violence.

4. Initial inquiries using the "freezing status" procedure must be concluded within 72 hours, so that the delay in the harvest work is minimal. The IDF must apply the procedure only in cases where there is a founded claim to ownership of the land, namely, harvest activity must be stopped only if the Israeli civilian claiming ownership of the land identifies himself and brings some documentation substantiating the claim of ownership.

5. A detailed plan for the deployment of the SJ district police must also be drafted, identifying in advance areas with problematic potential. In particular, **the plan must include an element of instant and quick response to complaints in real-time, including conducting searches.**