

# Human Rights in the Occupied Territories



» 2008 Annual Report



# » Introduction

**This year, B'Tselem has chosen to organize its annual review of human rights into three broad themes: equality, accountability, and genuine security. These themes represent three bedrock, interrelated principles of the entire human rights system: the idea that rights apply equally to all, the idea that rights are meaningless without redress, and the recognition that the right to life is the starting point for all other rights.**

Unfortunately, examination of the human rights reality in the West Bank and Gaza Strip leads to the inevitable conclusion that discrimination, impunity and a manipulation of security concerns are endemic to virtually all aspects of Israel's treatment of the Palestinians in these areas.

Discrimination between Israelis and Palestinians is pervasive in all Israeli policies, be it the criminal justice system or the allocation of land and water. There is little accountability, whether on the individual or the collective levels; from the soldier standing at the checkpoint to the highest levels of the army and government, it is extremely rare for anyone to be held accountable for harming Palestinians. Moreover, security considerations – in some cases genuine and in other cases not – justify widespread harm to three million people. The government uses the Israeli public's legitimate security fears to create a dangerous blank check for security forces to act with little real scrutiny.

There were a few positive developments in the human rights situation in 2008. There was a welcome decrease in casualties in the West Bank, and a six-month ceasefire in the Gaza Strip and southern Israel. The number of Palestinians in administrative detention continued to decline.

In other areas, however, the situation remained bad and even deteriorated. The number of casualties in the Gaza Strip increased dramatically, as did the harm caused by Israel's prolonged siege on the Gaza Strip. In the West Bank,

» A fence preventing Palestinian access to grazing land near the Ro'i settlement in the Jordan Valley. Keren Manor/Activestills.org, July 3, 2008.



settler violence increased, as did the expansion of settlements. Israel increased demolition of houses built without the necessary permits, particularly in East Jerusalem. There was also a marked rise in the number of Israelis killed, compared to 2007.

Human rights of minors are of particular concern. Israel detained more minors in administrative detention, including two girls for the first time. Minors are a larger proportion of Palestinian casualties. In addition, the percentage of minors killed while taking part in the hostilities also rose.

In the last days of 2008, Israel launched a massive military operation in the Gaza Strip dubbed “Operation Cast Lead.” This operation and the extensive rocket fire at communities throughout southern Israel cast a heavy shadow over any analysis of human rights in 2008. The report does not address this operation.

Also, the report does not address actions taken by Palestinian authorities towards residents of the Occupied Territories. Palestinian and international human rights organizations have documented grave human rights violations carried out both by the Palestinian Authority in the West Bank and by the de facto Hamas government in the Gaza Strip. Throughout 2008, B’Tselem repeatedly condemned these actions. However, as an Israeli organization, B’Tselem’s primary mission is to ensure that Israeli authorities respect human rights and international law.



# » Accountability

**Since 2000, Israeli security forces in the Occupied Territories have killed more than 2,200 Palestinians who were not taking part in the hostilities and have wounded thousands more. Also, policemen and soldiers have beaten and abused many Palestinians and have extensively damaged Palestinian property.**

International law requires the authorities to deal with such matters in two ways: one, to conduct a comprehensive investigation into each incident and, if it is found that an offense has been committed, prosecute the persons responsible, and two, to compensate the victims of such offenses for the injury and damage they have suffered.

At the beginning of the second intifada, however, the Judge Advocate General's Office stopped automatically opening investigations into cases of death and injury of Palestinians who were not involved in the hostilities, other than in exceptional cases. Between 2000 and the end of 2008, only 287 Military Police investigations were opened into cases of firing in the Occupied Territories, including cases that did not result in death or injury. In addition, in 2002, the Knesset passed a law denying Palestinians the possibility of obtaining compensation in most cases in which they have suffered injury as a result of illegal acts by security forces. Thus, Israel has almost completely blocked the two principal ways to ensure accountability.

The official justification given for this policy is that an "armed conflict" is being waged in the Occupied Territories and that no state in the world investigates and prosecutes its soldiers during wartime, and all the more so does not pay compensation to its enemies. However, this argument is indefensible on legal grounds. First, a significant portion of the events in the Occupied Territories in recent years, and certainly in the past year, does not come within the rubric of an "armed conflict." In most of their actions, security forces engage in ordinary policing, such as supervising crossing at checkpoints, arresting suspects, and dealing with stone throwers. These actions cannot be deemed combat actions. Second, even in an "armed conflict," security forces are subject to rules that regulate the use of force and treatment of the civilian population. Exemption from investigations and from payment of compensation is comparable to sanctioning, in advance, sweeping violation of these rules.

In the isolated cases in which the Judge Advocate General's Office ordered a Military Police investigation, the investigation was usually opened months after the event took place, making it difficult to collect evidence from the scene of the incident and to locate witnesses who remembered the details to the extent needed to file charges against offenders. As a result, many investigative files were closed with no action being taken, and only 6 percent led to the filing of an indictment, according to "Yesh Din". In the rare cases in which charges were filed, they did not reflect the severity of the acts committed, and when the defendant was convicted, only light sentences were imposed.

» A soldier fires a rubber-coated steel bullet during a protest against the Separation Barrier. Mahfouz Abu Turk, Reuters, Feb. 8, 2008.

# Palestinians killed by Israeli security forces

This section does not include statistics on Palestinians killed in the Gaza Strip since the beginning of "Operation Cast Lead" on 27 December.

Throughout 2008, until 26 December, Israeli security forces killed 455 Palestinians, 87 of them minors. Of the total, 413 (more than 90 percent) were residents of the Gaza Strip; the other 42 (less than 10 percent) were residents of the West Bank. By comparison, in 2007, the figure for the West Bank was more than 20 percent and in the first years of the second intifada, it was approximately 60 percent.

## The percentage of minors among the Palestinian fatalities also rose this year, reaching some 20 percent, compared to 14 percent the previous year.

In the first months of 2008, Palestinians continued to fire rockets at Israel and Israeli security forces continued to attack sites in the Gaza Strip. The hostilities in this period peaked with "Operation Hot Winter", at the end of February, in which the army operated in the Jabalya refugee camp and the a-Sheja'iyeh neighborhood of Gaza City. The scope of firing decreased from that point, until a half-year truce between Israel and Hamas was declared on 19 June.

When the truce ended, both sides resumed hostilities. On 27 December, Israel commenced "Operation Cast Lead" in the Gaza Strip. During the first four days of the operation, until the end of 2008, the air force bombed tens of locations in the Gaza Strip and hundreds of Palestinians were killed or wounded. The current report does not address this operation.

At least 175 of the Palestinians killed in 2008 (approximately 38 percent) did not take part in the hostilities, representing a slight percentage increase over 2007 (approximately 33 percent). In the first years of the second intifada, about half of all Palestinians killed by Israeli security forces did not take part in the hostilities.

The percentage of minors among the Palestinian fatalities also rose this year, reaching some 20 percent, compared to 14 percent the previous year. The percentage of minors killed while taking part in the hostilities also rose, to 21 percent of all minors killed this year – the highest percentage to date. Four Palestinians were killed inside Israel – three by security forces and one by an Israeli civilian, all while carrying out attacks against Israeli civilians.

	West Bank	Gaza Strip	Total
Did not take part in the hostilities	17 (36)	158 (89)	175 (125)
Took part in the hostilities	16 (31)	233 (165)	249 (196)
Unknown	9 (17)	22 (46)	31 (63)
<b>Total</b>	<b>42 (84)</b>	<b>413 (300)</b>	<b>455 (384)</b>

\* The figures for 2007 appear in the parentheses

## » Policeman who killed Palestinian in Tel Aviv sentenced to one year in jail

On 4 October 2006, Border Police officers detained three Palestinians at a construction site in Jaffa on suspicion of staying illegally in Israel. One of the three Palestinians was Iyad Abu Ra'iyeh, 33, a resident of Tarqumya and father of five. One of the policemen, Avraham Tomer, shot and killed him. Subsequently, the state convicted Tomer of manslaughter. On 9 November 2008, Judge Oded Mudrik of the Tel Aviv District Court sentenced the defendant to one year in jail, expressing sympathy for his personal circumstances. In a reality in which light sentences are given for crimes of this kind, it is clear to security forces that even if they disobey the regulations, whether intentionally or accidentally, the chance that they will be brought to justice and pay the price for their act is almost nonexistent. This policy transmits a clear message that Palestinian lives are of little value and encourages trigger-happy conduct.

## » Policeman who threw Palestinian from moving jeep, killing him, sentenced to 6½ years in jail

On 30 December 2002, Border Policemen in Hebron abducted 'Imran Abu Hamdiya, 18, and abused him. One of the policemen, Yanai Lazla, was convicted in April 2008 of killing Abu Hamdiya by throwing him from the jeep in which they were traveling. It is questionable whether the sentence of 6½ years in jail, given by the Jerusalem District Court, is compatible with an offense as grave as manslaughter. However, bringing the policeman to justice, albeit partially, is a rare instance in which the system of justice in Israel has met its obligation to hold security forces accountable for illegally harming Palestinians. It is highly likely that the disastrous results of the incident, together with the high profile it was given by the media following its exposure by B'Tselem and al-Haq, are what led the authorities to deviate from their custom and prosecute the policemen.



## Israelis killed by Palestinians

This section does not include statistics on Israelis and foreign citizens killed by Palestinians since the beginning of "Operation Cast Lead" on 27 December. In 2008, until 26 December, Palestinians killed 21 Israelis. Eight of them (including four minors) were killed in the attack at Mercaz Harav Yeshiva, in Jerusalem, and three were killed in an attack



> The funeral of Segev Pniel Avihayil, 15, who was killed by Palestinians in an attack on Mercaz Harav Yeshiva in Jerusalem. Ronen Zvulun/Reuters, March 7, 2008.

by a tractor driver in the center of Jerusalem. Four others were killed in rocket and mortar attacks on Israel. Three were killed in the West Bank. One foreign citizen was killed from firing on the Ein Hashlosha kibbutz.

In addition, ten members of the Israeli security forces were killed, seven in the Occupied Territories and three inside Israel. The latter were killed during an exchange of gunfire with Palestinians who had approached the perimeter fence near the Kerem Shalom kibbutz.

## Palestinians killed by Palestinians

In 2008, 18 Palestinians were killed by Palestinians, in political violence, all in the Gaza Strip. 15 of them were killed in a single incident, in August, in an exchange of gunfire with police officers who had come to arrest wanted persons in the Hiles family. The number reflects a sharp decline in intra-Palestinian violence compared with 2007, when 353 Palestinians were killed by Palestinians, 349 of them in the Gaza Strip.

## Gilad Shalit

Throughout 2008, Hamas continued to hold Israeli soldier Gilad Shalit hostage in an unknown location, most likely within the Gaza Strip. Since Shalit was kidnapped in June 2006, his captors

have made it clear that he is being held hostage within the framework of the demand to release Palestinian prisoners from Israeli jails. Thus far, the captors have refused to permit the International Committee of the Red Cross, or anyone else, to visit Shalit. Hamas effectively controls the security apparatuses in the Gaza Strip and as such, is obliged to release Shalit immediately and unconditionally. Until then, his captors are obliged to accord him with humane treatment and to enable representatives of the International Committee of the Red Cross to visit him.

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### » Lenient indictment in Ni'lin

On 7 July, during one of the demonstrations that took place in Ni'lin this year, a soldier was filmed firing a rubber-coated metal bullet at the foot of a bound and blindfolded Palestinian, in the presence of a lieutenant colonel. The event became known as "the Ni'lin Incident" after B'Tselem published the footage and Judge Advocate General Avihai Mandelblit ordered a Military Police investigation, at the end of which he decided to charge the shooting soldier and the lieutenant colonel with the offense of "inappropriate conduct". This minor indictment does not reflect the severity of the act, and the Palestinian victim, along with Israeli human rights organizations, petitioned the Israeli Supreme Court against the decision. Despite the court's harsh criticism of the decision, Mandelblit announced that the indictment would not be changed. The petition awaits the court's ruling.

> Salam 'Amirah/B'Tselem, July 7, 2008.



## Rocket fire from the Gaza Strip

In 2008, 2,048 rockets and more than 1,672 mortar shells were fired into Israel from the Gaza Strip (according to the Israel Security Agency). Five Israelis were killed by this fire (up to 26 December), and 464 were wounded. One Palestinian was killed by a rocket that landed within the Gaza Strip. During the truce, the fire diminished but did not cease – from 19 June to 27 December, 361 rockets and 303 mortar shells were fired at Israel from the Gaza Strip. Shooting rockets at civilian locations constitutes a grave breach of the principle of distinction, one of the pillars of international humanitarian law, and is defined a war crime for which the perpetrators bear personal criminal responsibility.



➤ Israeli police explosives experts stand near the remains of a rocket fired from the Gaza Strip, near Nir Am in southern Israel. Amir Cohen/Reuters, January 16, 2008.

## Refraining from investigating torture and abuse by the Israel Security Service (ISA)

Since 2001, hundreds of complaints have been filed with the State Attorney's Office alleging torture and abuse by ISA agents when interrogating Palestinians. The complaints are

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forwarded to the Inspector of Complaints by ISA Interrogees, who is a member of the ISA and subordinate to the head of the organization. In none of these cases, even in cases in which it was found that ISA interrogators abused an interrogee, did the State Attorney's Office order a criminal investigation. In each case, the "defense necessity" was found to apply, thus releasing the interrogators of criminal responsibility. In 2006-2008, no disciplinary measures were taken against ISA interrogators. This policy of settling for internal inspections to determine if an offense has been committed, and of refraining from conducting criminal investigations even when there is a suspicion that detainees were tortured during interrogation, is tantamount to granting legitimacy to ISA interrogators to continue abusing Palestinian interrogees.

## Firing of rubber-coated steel bullets

B'Tselem's data indicate that Israeli security forces have adopted a practice of reckless firing of rubber-coated steel bullets in the West Bank, killing two Palestinians and injuring many more throughout 2008. Since the second intifada began, 21 Palestinians have been killed by rubber-coated steel bullet- fire, a measure that is meant to be non-lethal. B'Tselem wrote to Attorney General Menachem Mazuz this year, requesting him to put a stop to the illegal firing and to prosecute both soldiers and policemen who violate the Open-Fire Regulations and commanders who condone the trigger-happy attitude.

➤ Ahmad Abu Hantash, 34, who was severely injured by a rubber-coated steel bullet shot at him by Border Police. Salma a-Deb'i/B'Tselem, January 5, 2008.





# » Security

**Israel justifies many of its actions in the Occupied Territories on grounds of security. Over the years, the army has demolished hundreds of houses "for imperative military needs," held thousands of Palestinians in administrative detention for allegedly "endangering the security of the region," and declared thousands of acres "special security areas" to which Palestinian entry is forbidden, claiming the measure is necessary to protect settlements.**

The extensive use of the claim of security is understandable, given its great persuasive value. The logic underlying it is that the infringement of human rights (of Palestinians) is always necessary to protect the right to life (of Israelis). In such cases, there is only one choice, since it is clear that the right to life prevails over other rights. Therefore, it is necessary to examine carefully whether the security justification underlying the policy or the use of the claim of security is intended to conceal objectives that are harder to justify.

The Separation Barrier, for example, was presented as crucial to reducing attacks inside Israel and as merely a temporary means. Examination of the route of the barrier, however, indicates that one of the main considerations that led to its planning was, in fact, to create conditions that will enable expansion and perpetuation of settlements. As a result, the route is long and winding, and its construction has taken longer and has entailed greater expense than planned. In some places, security considerations were set aside to enable expansion of settlements.

Another example is the statute forbidding Israelis married to residents of the Occupied Territories to live with their spouses inside Israel. The state argued before the High Court of Justice that the statute is a "security necessity," in that relocation of spouses living in the Occupied Territories to Israel is liable "to threaten, in the most tangible way, the well-being and security of citizens and residents of the state." However, this argument was only raised during the legal proceedings held on the subject. Until then, the state justified the statute on various demographic grounds, such as "the threat to the Jewish character of the state" and the claim that residents of the Occupied Territories take advantage of family unification to gradually realize the right of return.

Similarly, the ISA uses special interrogation methods in cases it defines as "ticking bombs," arguing that they are necessary to prevent terror attacks and save lives. On these grounds, in the past, the ISA routinely tortured thousands of Palestinian interrogees. In 1999, the Israeli High Court of Justice held that, as a rule, it is forbidden for ISA interrogators to use physical means of interrogation, but in "ticking-bomb" cases, the use of such means might not constitute a criminal offense. Following the court's ruling, the number of Palestinians who were tortured dropped sharply, but the use of forbidden interrogation methods that constitute abuse and even torture continues.

Israel must protect its citizens against injury to their lives and property. However, it must not use "security" as a magic word to justify every infringement of human rights. This is unacceptable both because it has been shown that Israel uses the word to conceal its real objectives and because, even if security considerations do underlie its policy, restrictions apply to Israeli actions. International humanitarian law recognizes security needs of sides engaged in hostilities and has defined the special cases in which harm to the civilian population is inevitable. In many cases, Israel chooses to rely on these narrow exceptions to establish a sweeping policy. In doing so, Israel makes cynical use of international humanitarian law, whose purpose is to protect civilians and remove them from the hostilities.

## The siege on the Gaza Strip

In 2008, Israel continued its closure on the Gaza Strip, placing extreme restrictions on the Strip's foreign trade. The closure began in June 2007, following Hamas' takeover of the area. At the time, Israel closed the crossings into Gaza and placed major restrictions on the entry of goods into it, including fuel, medical equipment, and replacement parts. Israel allowed only import of goods it deemed "humanitarian," such as flour, sugar, cooking oil, rice, and salt. In November 2007, the government of Israel declared Gaza a "hostile entity" and intensified its siege policy. Israel prevented all exports throughout 2008.

The siege has had horrendous effects on Gazans, who are totally dependent on basic commodities and services from outside the area. During the year, Rafah Crossing, the residents' sole option for exiting Gaza, was open for only 30 days, so that the ill, pilgrims, members of Hamas, and others could enter and leave.

In 2008, the tunnel economy between southern Gaza and Egyptian Rafah greatly expanded. Many goods of various kinds were brought into Gaza through the tunnels, with Hamas supervising the movement and collecting taxes from tunnel operators. In addition to consumption goods, Palestinians smuggled in weapons, including rockets. As a result of the expansion of the tunnel activity, it was reported that various products again became available in Gaza's markets and prices decreased due to the increase in supply. However, entry of merchandise through the tunnels is not a proper substitute for Gaza's regular trade activity, which is carried out almost completely at crossings under total Israeli control.

**Unemployment in the Gaza Strip continued to rise in 2008. In the second quarter of the year, it reached 50 percent. 79 percent of Gazan households live under the poverty line and 70 percent live in deep poverty. 34,000 workers were dismissed from work as a result of factory closings, and 40,000 lost their jobs in the fishing and agricultural sectors.**

► Hamdan Hasuna's pita stand in Gaza City, empty following Israel's extreme limitation on goods entering Gaza. Muhammad Sabah/B'Tselem, November 24, 2008.



Unemployment in the Gaza Strip continued to rise in 2008. In the second quarter of the year, it reached 50 percent. 79 percent of Gazan families live under the poverty line and 70 percent live in deep poverty. 34,000 workers were dismissed from work as a result of factory closings, and 40,000 lost their jobs in the fishing and agricultural sectors, in part because of the prohibition on exports and the shortage of raw materials.

Israel also continued to prohibit the entry of necessary quantities of industrial fuel intended solely for the power station in the Gaza Strip. As a result, the shortage of electricity, which stood at 8 percent prior to the imposition of the siege, almost doubled, reaching 15 percent in 2008. During the year, the power station was forced to cease operation a few times, causing prolonged power cuts throughout the Strip. Due to the constant shortage in electricity, 80 percent of the water wells were not fully operational; the others ceased operation completely. 80 percent of the water supplied to Gazans this year did not meet the drinking-water standard of the World Health Organization. The shortage of chlorine, a result of Israel's refusal to allow importation of necessary quantities, increases the risk of outbreak of diseases. Gaza's sewage-purification facilities, which operate on electricity, deteriorated, and interruption in the operations of some of the facilities led to 50-60 million liters of sewage running into the sea daily. The severe damage that the siege caused to infrastructure in Gaza could not be repaired because Israel prohibits entry of construction materials and replacement parts. Hospital and medical-clinic services suffered greatly too. Most medical institutions relied on generators because of the power cuts, and the shortage of replacement parts and raw materials led to poor maintenance of medical equipment and physical infrastructure. Also, the closure created a shortage in personnel and in medical specialists, since Israel prevented medical staff from going abroad for in-service training and for improving their expertise.

### **Family separation between the West Bank and the Gaza Strip**

For years, Israel's policy has been to separate Palestinian residents of the Gaza Strip from Palestinian residents of the West Bank. The policy primarily harms families in which one spouse lives in Gaza and the other in the West Bank, as it bars them from living together in the West Bank. In several cases, the army expelled Palestinians to Gaza, claiming they had been "staying illegally" in the West Bank. In other cases, Israel demanded that Palestinians from the West Bank wanting to visit in Gaza sign an undertaking not to return to the West Bank.

Since November 2007, Israel has enabled Gazans to submit requests for temporary permits to visit in the West Bank. To obtain such a permit, however, the applicant must satisfy numerous conditions, and even if these they are met, the army may still reject the request. Moreover, the permits are valid for only three months. Being unable to obtain a permanent permit, the spouses are forced to live in uncertainty, without knowing whether they will be able to remain after the permit expires or will be sent back to the Gaza Strip.



➤ At the end of 2007, Ahmad and Dalal Rasaras went to Gaza with their mother for a week, to visit their sick grandfather. Since then, Israel has not allowed them to return home to the West Bank. Dalal has missed scheduled brain surgery and suffers pain and convulsions. Muhammad Sabah/B'Tselem, December 16, 2008.

## **The Separation Barrier**

According to OCHA, as of August 2008, 409 kilometers of the Separation Barrier have been constructed, which constitute some 57 percent of the planned barrier. Another 66 kilometers (9 percent) are currently under construction. The completed barrier will be 723 kilometers long, more than twice the length of the Green Line, and most of it will run deep into the West Bank. Almost 12 percent of West Bank land (including East Jerusalem) will remain either west of the barrier or in enclaves created by the barrier's winding route. In total, the areas that will be severed from the rest of the West Bank are home to some 498,000 Palestinians living in 92 communities. The barrier's route annexes 60 settlements (including 12 in East Jerusalem) to Israel, which are home to some 381,000 Israeli citizens.

In May, Israel began to construct part of the Separation Barrier on land belonging to the village of Ni'lin, which lies west of Ramallah. When the construction ends, some 2,500 of the village's 7,000 dunams (approximately 618 of 1,730 acres), which are more than one-third of the village's land and on which there are many olive trees, will lie west of the barrier. The anticipated harm to the villagers from the loss of their farmland is aggravated by the decline in the number of villagers who have a permit to work in Israel, and by their increasing reliance on farming to earn a living.

When the work on the barrier began, hundreds of the villagers, joined by people from Israel and abroad, began to demonstrate against the construction. In response, the army besieged the village and imposed a curfew on it for four days. During the curfew, and for weeks afterwards, B'Tselem received reports on extensive use of force by soldiers and border policemen in the village, including gunfire, physical violence against villagers, and damage to property. The peak of the confrontations occurred in July, with the killing of two Palestinians, one of them a 10-year-old boy, by Border Police gunfire.

Recently, the Defense Ministry began construction work on a new route south of the village of Jarryus, which lies east of Qalqiliya. In 2006, the High Court of Justice nullified the route in the area when it found that the route had not been based on security considerations, but was intended to annex an enormous tract of land for a planned industrial area. In two other sections that the Court nullified, around the settlement Alfe Menashe and the village of Bil'in, Israel has not yet altered the barrier's route. Moreover, the Court recently nullified the second alternate route the state had proposed on Bil'in land, finding that this route, too, was set to include future construction in the Modi'in Illit settlement, in violation of the Court's previous rulings.

The State of Israel has the right and duty to protect its citizens from attacks, but it is not allowed to use the barrier's route to expand and perpetuate the settlement enterprise. Israel must dismantle every section of the barrier that lies on the other side of the Green Line, and if it wants to build a contiguous physical obstruction between it and the West Bank, it must do so along the Green Line or on Israeli soil.



› Part of the Separation Barrier in Abu Dis, East Jerusalem. Eliana Aponte/Reuters, June 12, 2008.

## Palestinians held in administrative detention

In January 2009, the Israeli Prison Service informed B'Tselem that out of 548 administrative detainees being held by the army, 42 have been in prison for more than two years. 23 have been administratively detained for more than two and a half years; three of them have been detained between three and four and a half years, and two have been detained more than four and a half years. Altogether, five detainees have been in prison for three to five years. The vast majority of administrative detainees, 372, have been held in administrative detention at least twice.

In 2008, the number of administrative detainees gradually declined, from 813 in January to 546 in December, six of them minors. This year, for the first time, Israel held two female minors in administrative detention.

Administrative detention, as the term indicates, is based on an administrative order, without indictment and without trial. The military order that applies to the Occupied Territories enables a person to be administratively detained for six months, a period that may be extended indefinitely where there is “reasonable basis for believing that the security of the region or public safety” so requires.

Over the years, Israel has broadly interpreted the power given in the order and has held thousands of Palestinians in administrative detention, without taking the trouble to prosecute them in a long and expensive trial. Detainees may indeed challenge their detention, but neither they nor their counsel are allowed to see the evidence and refute the alleged claims against them.

Given the serious violation of administrative detainees’ rights, international law places strict restrictions on the practice. For example, administrative detention may be used only as a last means, after alternative means have failed to achieve the proper objective.

Also, the detention must be intended as a preventive, and not punitive, means, and the detainee must be allowed to appeal the detention in a proceeding under due process – including notifying the detainee of the suspicions against him and giving him a real opportunity to refute them. Israel’s use of administrative detention violates each of these rules, and the marginal reduction in the number of detainees this year does not rectify the breach. Israel must immediately release all administrative detainees or prosecute them for the offenses they allegedly committed, while ensuring them the right to due process.



➤ Zeinab Rashid Salah, from al-Khader, with a photograph of her granddaughter, Salwa Rizeq Salah, who was held in administrative detention for over 6 months. Christian Minelli, Jan. 4, 2009.

## Palestinians imprisoned in Israel, December 2008

Date of statistics	Prison facility of:	Total nr. of individuals held	Serving sentence	Detainees	Detained until the conclusion of legal proceedings	Admin. detainees
28 Dec.	Military	48	6	40	2	0
31 Dec.	Prison Service	7,904	5,204	223	1,931	546

\* The figures include Palestinians from the West Bank, East Jerusalem and the Gaza Strip, without criminal detainees and prisoners. They were provided to B'Tselem by the military and the Israeli Prison Service, which are responsible for their accuracy. For the figures for the entire year, see: [http://www.btselem.org/English/Statistics/Detainees\\_and\\_Prisoners.asp](http://www.btselem.org/English/Statistics/Detainees_and_Prisoners.asp)

## Restrictions on movement in the West Bank

This year, too, Israel continued to impose sweeping restrictions on the freedom of movement of Palestinian residents of the West Bank, most of them deep within the West Bank. 40 checkpoints, which are staffed by security forces or private security companies, serve as the last point for inspecting persons entering Israel, yet lie several kilometers east of the Green Line, limiting Palestinian access to areas beyond them. 63 permanent checkpoints are located far from the Green Line, 18 of them in the city of Hebron.

In addition, the army limits the movement of Palestinians (except for residents of East Jerusalem) on 430 kilometers of roads, on which Israelis are allowed free movement. On 137 kilometers of these roads, the army completely prohibits Palestinian travel; on the other 293 kilometers, only Palestinians who have permits are allowed to travel.

2008 saw a rise in the number of flying checkpoints, which the army set up between permanent checkpoints. According to OCHA, flying checkpoints averaged 89 per week from the end of April to September 2008, compared to an average of 66 a week from September 2007 to the end of April 2008.

The number of physical obstructions that Israel places in the West Bank, which are intended to prevent access of Palestinians to the main roads and to channel traffic to staffed checkpoints, also rose in 2008. In the first nine months of the year, the monthly average stood at 537, compared to 459 in 2007.

This year, the government declared an easing of restrictions on movement in the West Bank and removed dozens of obstructions. However, checks made by B'Tselem and OCHA indicated that only a small number of the obstructions that were removed – two in the Hebron area and one near the Shavey Shomeron settlement – significantly affected the ability of the residents to live a normal life. In addition, the army placed new obstructions in villages in the southern Hebron hills. These obstructions not only impede the residents' daily routine but also impair water supply to the area, where the villages are not connected to a water system and villagers must buy water from traveling tankers.

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› Palestinians wait to enter Israel at Checkpoint 300, in north Bethlehem, during Ramadan. Anne Paq/Activestills.org, September 12, 2008.





# » Equality

**Equality is a fundamental principle of Israeli law and is strongly anchored in decisions of the Supreme Court, which has defined it as the “life spirit of our entire constitutional regime.” The principle is also anchored in international human rights law. The Universal Declaration of Human Rights states that “All human beings are born free and equal in dignity and rights,” and that everyone is entitled to the rights and freedom specified in the Declaration without distinction of any kind, “such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.”**

This principle is also enshrined in every human rights convention that has been adopted since then. International humanitarian law, which applies in situations of war and occupation, also incorporates this principle.

In the West Bank, there are currently two separate systems of law, which apply to persons based on their nationality – one for Palestinians and the other for Israeli settlers. Palestinians live under occupation and are subject to a military regime that denies many of their rights. Settlers, on the other hand, are considered by the authorities as part of the sovereign State of Israel and, as such, enjoy the same rights as the state’s citizens.

This division applies to every area of life and is implemented by all state bodies. For example, when Palestinians harm settlers, the authorities take considerable efforts, sometimes by illegal means, and in violation of human rights of Palestinians, to prosecute the perpetrators. Contrarily, the same authorities refrain from providing proper protection to Palestinians from physical harm and from damage to their property at the hands of Israeli civilians, and more than once security forces have taken an active part in attacks of this kind.

Also relevant in this context is the activity of the planning and building authorities in the Occupied Territories. Those that are supposed to serve Palestinians prevent any possibility of development and construction, while settlers benefit from fat budgets, detailed outline plans, and the turning of a blind eye to illegal construction, including retroactive approval. The division of water is also discriminatory: while settlers benefit from quantities of water identical to those provided to Israelis living inside the Green Line, Palestinians in many areas of the West Bank have no choice but to buy drinking water from private suppliers at great cost.

## Settlements

The Ministry of the Interior recognizes 121 settlements in the West Bank (not including East Jerusalem). In addition, there are 12 large settlements and other small settlement points in East Jerusalem. Also, there are some 100 outposts in the West Bank that the government does not officially recognize, but supplies services to many of them.

The Israeli Central Bureau of Statistics estimated the 2008 population of the settlements at 285,800. Together with the 193,700 residents of the East Jerusalem settlements, the total number of settlers in the West Bank approaches half a million. The CBS also estimates that in 2008, the settler population (not including East Jerusalem) rose by 4.7 percent. This figure is appreciably higher than the 1.6 percent growth rate inside Israel. In the first half of 2008, the CBS documented about 1,000 housing starts in the settlements, an increase of 42.5 percent over the comparable period in 2007.

The existence of the settlements has caused grave and prolonged infringement of human rights of Palestinians. Among the rights infringed are the right to self-determination, the right to equality, the right of property, the right to freedom of movement, and the right to an adequate standard of living. In an attempt to prevent these infringements, and understanding that establishment of settlements inherently infringes human rights, international humanitarian law imposes an absolute prohibition on establishing settlements in occupied territory. Taking this into account, Israel must evacuate the settlements and return the settlers to sovereign Israeli soil.

**The existence of the settlements has caused grave and prolonged infringement of human rights of Palestinians.**

## Hebron

In 2008, Israel continued to carry out its “separation policy” in the center of Hebron. As part of this policy, Israel imposes a long list of prohibitions and restrictions on Palestinian movement on major thoroughfares, along which settlers are allowed to move freely. Israeli security forces routinely delay Palestinian passersby for repeated checks, in which they harass and humiliate them. Palestinian residents of the city center are also exposed to extensive violence by Israeli settlers, much greater than elsewhere in the West Bank. Therefore, the restraint shown by the authorities on enforcing the law against settlers in this city is especially blatant.

➤ Ze'ev Braude, a settler from Kiryat Arba, shoots Husni al-Matariyeh, from Hebron, at point-blank range. In the hours after the evacuation of the settlement in the a-Ras neighborhood of Hebron, settlers attacked Palestinians, torched houses and cars, and damaged property. Jamal Abu Sa'ifan/B'Tselem's video project, December 4, 2008.



During the years of the second intifada, the “separation policy” led to the annihilation of Palestinian commercial activity in the city center and to many families leaving the area. At the end of 2006, more than 40 percent of Palestinian apartments in this area were vacant, and more than 75 percent of the businesses were closed. These figures did not change significantly in 2008.

In March 2007, settlers invaded a residential building in the Palestinian a-Ras neighborhood. The new settlement took root, despite the declaration of the Defense Minister that he intended to evacuate it and despite a similar court decision in the matter. Even though the authorities considered the settlers’ action illegal, the army increased, due to the presence of settlers, the restrictions on Palestinian residents of the neighborhood. The settlers’ action also brought about a significant increase in settler attacks on Palestinians, and in 2008, these attacks increased. The settlement was only evacuated in December, more than a year and a half after the building was first invaded. In the days leading up to the evacuation, and after it, settlers increased attacks on Palestinians and these became a daily occurrence. Even though this escalation in violence was anticipated, the law enforcement authorities took no measures to prevent the attacks.

## Water

Israel controls the water resources it shares with the Palestinians, and its unequal distribution of water creates a permanent shortage of water for Palestinians in the West Bank. In drought years, such as 2008, the shortage becomes more acute. As a result of the discriminatory distribution, per capita daily water consumption of Palestinians in the West Bank is 66 liters; inside Israel, the figure is 230 liters, 3.5 times greater. The World Health Organization holds that the minimal recommended quantity to meet all household and urban needs is 100 liters a day per capita.

Some 228,000 Palestinians in the West Bank live in villages that are not connected to a water network. Another 190,000 Palestinians live in villages that are supplied with enough water to meet only a small

**Israel controls the water resources it shares with the Palestinians, and its unequal distribution of water creates a permanent shortage of water for Palestinians in the West Bank. In drought years, such as 2008, the shortage becomes more acute.**

portion of their needs. Even in communities that are connected to a water network, supply is not regular, and in summer months, water runs in the pipes only for short and irregular periods of time. As a result, hundreds of thousands of Palestinians need to buy water from private water vendors at a price 3 to 6 times higher than the cost of water supplied by a water network.

As opposed to the chronic water shortage suffered by Palestinians in the West Bank, the settlements receive a steady supply of water. According to figures of the Israel Water Authority and Mekorot (the Israel water company), the allocation of water to settlements for all of 2008 was 52.6 million cubic meters – more than twice the 23.8 million cubic meters that Israel supplied to Palestinian residents of the West Bank in the first six months of the year, even though the Palestinian population is 8.5 times greater (not including East Jerusalem).



› Khitmeh Is'ed, from Safarin Village in Tulkarm District, drawing water from a well in her yard. The village is not connected to a water system and its residents suffer from severe water shortage. 'Abd al-Karim Sa'adi/B'Tselem, May 24, 2008.

## Settler violence

In 2008, violence against Palestinians by Israeli citizens increased in the West Bank. During the year, B'Tselem wrote to the police demanding an investigation of 78 such cases, including instances of threats, expulsion from land, stone throwing, theft of livestock and crops, torching and destruction of fields, killing of livestock and work animals, shattering of windows, breaking of cameras, gunfire, damage to property, theft of property, assault, beatings with clubs, and spraying gas in the victim's face. In some of the cases, security forces were present at the scene and did not stop the assailants. In other cases, they even took an active part in the assault. During the year, B'Tselem requested the army to investigate 15 cases in which soldiers were suspected of failing to protect Palestinians while settlers were assaulting them. In five of these cases, soldiers were also suspected of taking part in the violence.

Even after such violent acts have been committed, the authorities generally fail to investigate and prosecute the offenders. They make it difficult for Palestinians to file complaints, refrain from collecting evidence from the scene and from taking eyewitness testimony, and almost never arrest suspects. In the few cases that are investigated, the files are very often closed without an indictment being filed against the offenders.

In early 2007, following exposure of settler violence against Palestinians, the government established a ministerial team to propose ways to solve the problem. The team never met. In 2008, following exposure of additional cases of violence, a new ministerial team, headed by Deputy Defense Minister Matan Vilnai, was set up, but this team, too, as far as B'Tselem knows, has never met. This policy of leniency and turning a blind eye to harm to Palestinians, which is implemented by all Israeli authorities charged with law enforcement on Israeli citizens in the Occupied Territories, reflects shameful disregard for the lives and property of Palestinians, which Israel has the duty to protect.

### » Settlers filmed beating Palestinian farmers in the Southern Hebron Hills

The Nawaj'ah family lives in Khirbet Susiya, a small gathering of tents in the Southern Hebron Hills, north of which the Susiya settlement was established. They gain their livelihood by grazing their flock and working their land, and suffer frequent attacks by settlers. On 8 June 2008, four masked settlers attacked three members of the family. The victims sustained severe injuries and one required hospitalization. A fourth member of the family documented the beginning of the assault with a video camera she had received through B'Tselem's camera distribution project. Following wide media coverage of the footage, the police arrested two settlers as suspects. B'Tselem was recently notified that the investigation was closed with no charges filed.



## East Jerusalem

Since the annexation of East Jerusalem in 1967, the authorities have discriminated against its Palestinian residents in almost every area of life – education, infrastructure, municipal services, urban development, planning and building, and so forth.

The situation in the village of Silwan, which lies south of the Old City, clearly illustrates the discrimination in planning and building. The planning authorities have never prepared an outline plan for the village, without which it is impossible to build legally. Given that population growth in the village raises the need for additional construction, the residents have been forced to build without a permit. In November, the Municipality demolished two structures that had been built illegally in the Bustan neighborhood. The Municipality intends to demolish the 90 structures in the neighborhood, which were built in the 19980s and 1990s, in order to construct an archeological garden. If the plan is realized, this will be the largest demolition since the Municipality demolished the Mughrabi neighborhood, in the Old City, in 1967.

This policy sharply contrasts with the Municipality's disregard for illegal work being carried out in Silwan by the settlers' non-profit organization Elad, by the Antiquities Authority, and by municipal companies: extensive archeological excavations (some under the houses of village residents, causing damage to their homes) and infrastructure work on main streets that is intended to improve access to the settlers' compound in the area. The Municipality has also not demolished a large building of the settler non-profit organization Ateret Kohanim, which was illegally built in the neighborhood. In November, the High Court of Justice issued, at the request of local residents, a temporary injunction prohibiting further archeological excavation.

In other Palestinian neighborhoods in East Jerusalem as well, Israel ignores the planning needs of the residents, and lacking outline plans, there, too, residents are compelled to build without a permit. In 2008, the Municipality demolished 89 residential units in East Jerusalem, compared to 65 in 2007. The threat of demolition hovers over thousands of Palestinian families in East Jerusalem that, having no alternative, have also built their homes without a permit.

➤ A bulldozer demolishes a Palestinian house in Silwan, East Jerusalem. Yannis Behrakis/ Reuters, November 5, 2008.



## Blocking of Palestinian access to land around settlements

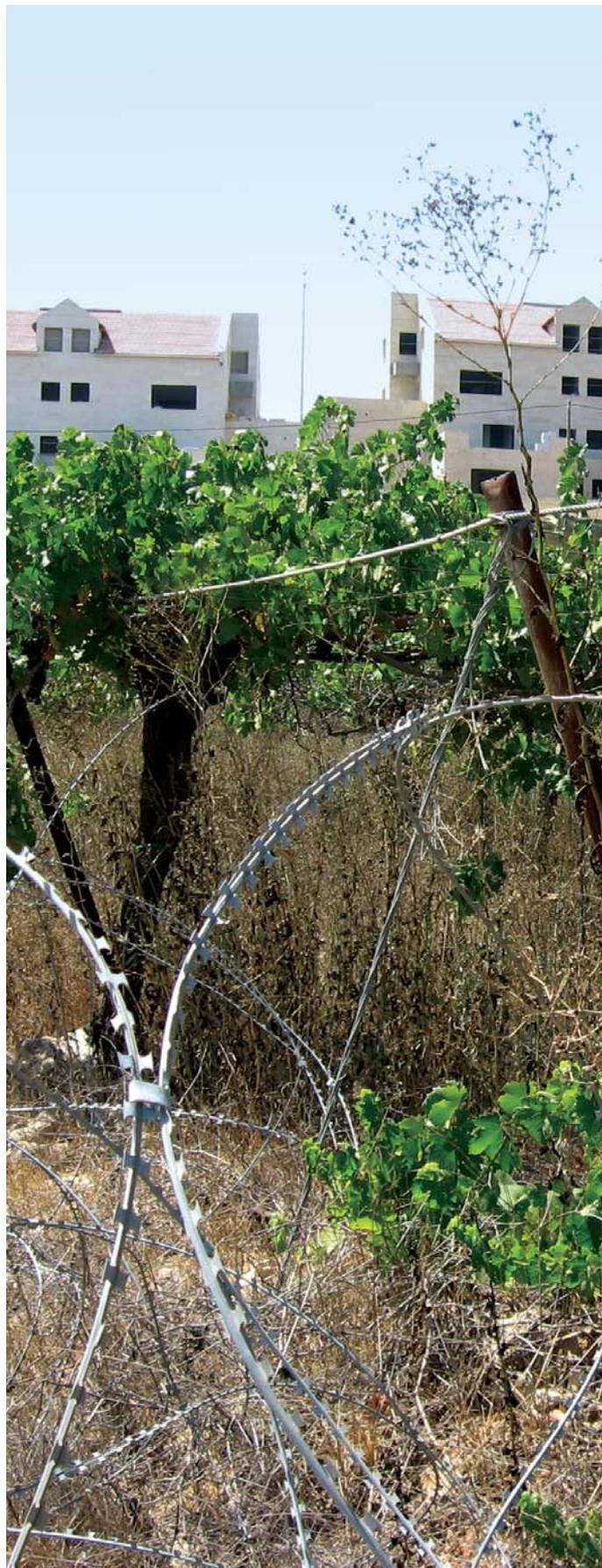
For years, settlers have prevented Palestinians access to their land near settlements. As of the end of 2008, many thousands of acres around settlements are closed to Palestinian entry. Settlers have placed physical obstructions far from the last houses of the settlement, patrol paths that they have built on Palestinian land, and expel Palestinians from this land.

**The “special security area” plan of the Defense Ministry is especially relevant in this context. Under the plan, fences are put up on Palestinian land around settlements, and Palestinians are denied access to the fenced land.**

Israeli authorities do nothing to eliminate the phenomenon. In recent years, they have even acted to retroactively approve some of the obstructions placed by settlers. Amongst others, the defense establishment has rebuilt old fences that settlers put up without authorization, and has placed new physical obstructions far from the last houses of the settlements, in practice annexing Palestinian land to the settlements. In the framework of this policy, soldiers expel Palestinians from the land, sometimes pursuant to an order issued by the military commander and sometimes without any authorization whatsoever.

The “special security area” plan of the Defense Ministry is especially relevant in this context. Under the plan, fences are put up on Palestinian land around settlements, and Palestinians are denied access to the fenced land. So far, Israel has built fences of this kind around 12 settlements that lie east of the Separation Barrier, making these settlements 2.4 times the size they were previously. Expansion of the settlements has been carried out on land used by Palestinians, more than half of which is privately owned by Palestinians. Israel justifies the plan by the need to establish an empty “warning zone” around settlements to protect their residents; however, the plan only prevents access of Palestinians to this land, while granting free access to settlers, who also live, work, and go there for recreation. The presence of settlers on this land thwarts the use of it as a “warning zone.”

Blocking access is one of the many ways used to expand settlements. It causes serious harm to Palestinians throughout the West Bank, the gravest harm being suffered by families engaged in agriculture, who are no longer able to work their land and gain a livelihood from it.



› An untended vineyard that the Civil Administration separated from its Palestinian owners by fencing it off and defining it a “special security area” of the Givat Haharsina settlement, seen in the background. Ofir Feuerstein/B’Tselem, September 19, 2007.

» B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories has championed human rights in the Occupied Territories for two decades, earning an international reputation as the leading source of reliable and comprehensive information. Founded in 1989 by a group of prominent Israeli public figures, B'Tselem combines first-class research and innovative advocacy and public education strategies to effect change.

The organization serves as a primary source of information for journalists, researchers and the diplomatic community at the national and international level. Our activities receive extensive media coverage, generate public debate and encourage changes in official policy. Most recently, B'Tselem has pioneered the use of video as a tool for human rights advocacy. Our video camera distribution project empowers Palestinians to advocate for their rights, reaches new audiences with the human rights message and serves as a powerful tool to promote accountability.

As an Israeli organization, B'Tselem is committed to ensuring that our own country lives up to the highest ethical standards. We promote Israeli accountability, the rule of law and universal respect for human rights principles. In doing so, B'Tselem bolsters Israel's democratic foundation and fosters local human rights culture.



Settlers attack Palestinian farmers in the Southern Hebron Hills. Filmed by Muna a-Nawaj'ah, a participant in B'Tselem's video project.



**B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories**

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