



Human Rights Watch
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Respect for human rights in Israel and in the Occupied Palestinian Territories deteriorated over the past year in a number of key areas.

Israel's comprehensive blockade of the **Gaza Strip**, including restrictions on freedom of movement, constituted collective punishment of the civilian population in violation of international humanitarian law (the laws of war). Israel tightened its blockade of Gaza in 2007 and 2008 in response to numerous rocket attacks by Palestinian armed groups against Israel. These attacks, which violated the laws of war prohibition against deliberate or indiscriminate attacks against civilians, killed three Israeli civilians in the first half of 2008, injured others, and forced thousands to take refuge in bomb shelters, and flee their homes.

Israeli military operations in Gaza caused high numbers of civilian casualties, raising concern that its forces did not take sufficient precautions to avoid civilian casualties, as required by the laws of war.

Israel accelerated the expansion of settlements and a wall, or "separation barrier," inside the occupied West Bank, in violation of international humanitarian law.

Israel also applied laws and practices that discriminate on the basis of ethnicity or national origin. Among these are laws that prevent Palestinians from the Occupied Palestinian Territories from uniting with their Israeli spouses in Israel, and prevent Palestinians from filing tort claims for injuries caused by Israeli security forces.

Israel continued to deny property and housing rights to much of its Bedouin population, demolishing hundreds of homes and forcing families and communities to move with little or no notice. These laws and practices violated Israel's international human rights obligations to prohibit discrimination and guarantee rights to adequate and secure housing.

Freedom of Movement and Collective Punishment

Israel expanded already extensive, often arbitrary restrictions on freedom of movement for Palestinians in the West Bank and East Jerusalem. As of September 2007 Israeli roadblocks had increased by 52 percent in two years, according to UN statistics. From September 4, 2007 through April 29, 2008 closure obstacles increased in the West Bank from 572 to 607. These pervasive and protracted restrictions make it difficult or impossible for many Palestinians to get to work or access to education and health services as well as religious sites and cultural institutions

Israel continued to occupy the Gaza Strip by virtue of its effective control over Gaza's borders, airspace, territorial waters, tax collection, and population registry. Article 55 of the Fourth Geneva Convention places a duty on an occupying power to ensure the food and medical supplies of the population, as well as to permit and facilitate rapid passage of humanitarian relief to civilians in need. Denying food and medical supplies or humanitarian relief to a population can constitute collective punishment in violation of international humanitarian law.

Israel's near-total blockade of the Gaza Strip has had a severe impact on the civilian population, drastically reducing the availability of basic goods and severely constricting the provision of essential services. Israel, along with Egypt, sharply restricted the movement of people into or out of Gaza, preventing departure for work, study and medical care, with the exception of a very small number of exit permits for humanitarian emergencies. The closure crippled the Gazan economy. In March 2008 the World Bank reported that the restrictions had led to the suspension of 95 percent of Gaza's manufacturing operations.

Israel made itself Gaza's major source of electricity and sole source of fuel, so that its severe restrictions on their supply in 2008 crippled transportation and as well as water, sewage and sanitation facilities, with serious consequences for the population. Israel's fuel restrictions as well as restrictions on the import of spare parts for water treatment facilities forced the Gaza Coastal Municipality Water Utility to dump 10 to 40 million liters of raw sewage a day into the sea in the first half of 2008.

Israel has sought to justify these measures as a legitimate response to rocket attacks by Palestinian armed groups against Israel. These rocket attacks violate the laws of war prohibition against deliberate and indiscriminate attacks against civilian populations, but are not a lawful basis for the Israeli blockade.

Collective punishments during armed conflict are prohibited as a matter of treaty and customary law. Under article 33 of the Fourth Geneva Convention, which governs occupations, collective punishments and all measures of intimidation are explicitly prohibited.

Recommendations

Israel should cease its wholesale restrictions on the movement of goods and people into and out of the Gaza Strip, and widespread restrictions on freedom of movement in the West Bank, in order to comply with the prohibition under international humanitarian law of practices that constitute collective punishment. That Palestinian armed groups might not cease their indiscriminate attacks on Israeli civilian areas, as Human Rights Watch has also called for, should in no sense justify Israel continuing its own violations.

Palestinian Deaths and Impunity

The armed conflict between Israeli forces and Palestinian armed groups in Gaza has incurred high numbers of civilian casualties. Israel's use of artillery and air strikes in Gaza have raised serious concerns as to whether Israel is taking all feasible precautions to identify targets as military and to minimize harm to civilians.

In one instance documented by Human Rights Watch, on April 16, 2008, an Israel Defense Force (IDF) tank fired a shell that killed Fadel Shana'a, 23, a Reuters cameraman, along with Ahmad `Aref Farajallah, 14, Khassan Khaled `Otaiwi, 17, and Khalil Isma'il Dughmush, 22. Eyewitnesses said that there had been no fighting in the immediate area of the attack that day, and that the tank crew had the opportunity to identify their target as civilian. Israel opened a "field investigation" into the deaths, which being limited to officers in the unit involved in the attack, does not constitute an impartial and thorough inquiry.

Statistics gathered by the UN and nongovernmental agencies point to high numbers of women and children among casualties due to Israeli attacks, raising further concern as to whether Israel is taking all feasible precautions to identify targets as military and to minimize harm to civilians. According to the Israeli nongovernmental organization B'Tselem, 416 Palestinian combatants and civilians were killed by Israel forces in the first half of 2008. In April, the International Committee of the Red Cross estimated that at least one third of those killed so far in the year during military operations were women and children. OCHA OPT estimated that at least 75 children were killed by Israeli forces between January and June.

Israel and Hamas authorities in Gaza agreed to an Egyptian-mediated ceasefire in June 2008, greatly reducing Israeli military activity in the Gaza Strip. Despite the decrease in violence, Israel remains obliged to investigate civilian deaths where there is evidence that laws of war violations may have occurred. Failure to do so reinforces a culture of impunity in the army and deprives victims and their families of an effective remedy.

Recommendations

Israel should conduct independent, thorough and impartial investigations into all incidents in which actions of its military forces may have been responsible for civilian deaths. Such investigations should not be left to officers in the units involved in the attacks.

Settlements and Confiscation of Occupied Territory

Israel continued to transfer Israeli citizens into the occupied West Bank and East Jerusalem, and to extend construction of a “separation barrier” or wall that encompasses that territory, in violation of international humanitarian law governing belligerent occupation.

The government accelerated the expansion of Israeli settlements in the West Bank and East Jerusalem. On June 13, 2008, the Israeli government announced the development of 1300 new homes in the Ramat Shlomo settlement, in East Jerusalem.

The route of the “separation barrier” or wall where it extends inside the West Bank has had a profound humanitarian impact on the ability of Palestinian residents to exercise their fundamental right to freedom of movement, endangering their access to their lands, services, medical care, water, and livelihoods.

Israel has sought to justify its construction of the wall as necessary to protect its citizens from attacks by armed Palestinians. The government has acknowledged that it is also building the wall to establish its territorial and political claims on the occupied West Bank and East Jerusalem. In December 2005, Tzipi Livni, who was Israeli Minister of Justice at the time and is now Israel’s Foreign Minister, said that the future borders of Israel will roughly follow the route of the wall. This statement by an Israeli public official explicitly linked the route of the wall with Israel’s political, not security, aims.

Article 49 of the Fourth Geneva Convention prohibits Israel, as the occupying power, from transferring members of its own population into the West Bank and East Jerusalem. Article 55 of the Hague Regulations, a component of customary international law, also prohibits Israel from making permanent changes to the territory that do not benefit the local inhabitants.

Recommendations

Israel should immediately cease the construction and expansion in the West Bank of settlements, as well as roads and other infrastructure intended solely for its citizens, as required by international humanitarian law. Israel should bring its citizens inhabiting settlements in the OPT back within its existing recognized borders. Such a policy would satisfy Israel’s duty to protect its citizens without undermining its duty to respect and uphold international law and end the severe humanitarian harm to the Palestinian population caused by the settlements and supporting infrastructure, including the construction of the wall inside the West Bank and East Jerusalem.

Discriminatory Legislation

Israel continues to apply laws and policies that discriminate on the basis of ethnic or national origin. Since 2002, Israel has prohibited Palestinians from the OPT who are spouses of Israeli citizens from joining their

partners in Israel. In March 2007, the Israeli parliament, the Knesset, amended the Citizenship and Entry into Israel Law, expanding the scope of the existing ban on family reunification and extending it through 2008. The new law also bans residents or citizens of Iran, Iraq, Syria, and Lebanon married to Israelis from living with their spouses in Israel.

In 2008, the Knesset voted in favor of legislation, in the form of a proposed amendment (Number 8) to the Civil Wrongs (Liability of the State) Act, which would reintroduce a sweeping ban on Palestinians from the OPT from filing tort claims for injuries caused by Israeli security forces. Israel's Supreme Court had struck down a previous amendment to this effect in December 2006.

The law is contrary to the fundamental principle in international law that those harmed by illegal acts should be entitled to compensation even if the acts were committed in a time of armed conflict.

Israeli laws and practices have forced tens of thousands of Bedouin in the Negev region to live in "unrecognized" shanty towns. Since the 1970s, Israel has demolished thousands of Negev Bedouin homes, hundreds in 2007 alone. Officials contend that they are simply enforcing zoning and building codes. However, Israel imposed this "unrecognized" status by deliberately excluding Bedouin villages from its national planning process, leaving them off official maps, and thus denying them legal status. Often demolitions and forced relocations occur without advance warning.

The state controls 93 percent of the land in Israel. No Israeli law requires the government agency, the Israel Land Administration, which manages and allocates state land, to ensure its fair and non-discriminatory distribution. Its governing body includes representatives of the Jewish National Fund, which has an explicit mandate to develop land for Jewish use only.

In October 2007, the Ministry of Housing appointed a commission, headed by retired Supreme Court Justice Eliezer Goldberg, to examine land-ownership issues involving the Negev Bedouin community. The commission, which does not include a representative from the unrecognized Bedouin villages, began work in January 2008 and is expected to publish its recommendations before the end of 2008.

Recommendations

Israel should amend its Citizenship and Entry into Israel Law to enable spouses of Israeli citizens to join their partners in Israel, and not to discriminate against them on the basis of nationality or ethnic origin.

The Knesset should withdraw amendment number 8 to the Civil Wrongs (Liability of the State) Act and ensure that this law allows claimants to seek compensation for illegal actions committed by the state in the Occupied Palestinian Territories.

Israel should declare an immediate moratorium on demolitions of Bedouin homes and create an independent

commission to investigate pervasive land and housing discrimination against its Bedouin citizens in the Negev. The government should base new regulations and policy on Israel's international human rights obligations prohibiting discrimination and guaranteeing rights to adequate and secure housing.