



Human Rights Watch

UPR Submission

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Respect for human rights in Israel and in the Occupied Palestinian Territories deteriorated since the last Universal Periodic Review in 2008 in a number of areas. This submission covers Israel's inadequate investigation of security forces and settlers who harmed Palestinian civilians and civilian property; restrictions on freedom of movement; the construction of settlements and the demolition of Palestinian structures in the West Bank; restrictions on Palestinians' ability to access their lands on the other side of the "separation barrier"; discriminatory laws; and denial of property and housing rights to much of Israel's Bedouin population. While this submission focuses on violations by Israel, as the state under review, Human Rights Watch has documented severe rights violations by the Palestinian Authority, Hamas and Palestinian armed groups.

Harm to Palestinians, Inadequate Investigations and Impunity

In the last UPR in 2008, Israel accepted the recommendation (no. 14) to "spare no effort to investigate allegations of violence and killings committed by the police and also ensure that the State, at all levels, fully respects international human rights standards."

In April 2011, Israel announced that the military criminal police would investigate any killing by Israeli forces of Palestinian civilians in the West Bank. This improved the policy that had been in place since September 2000, whereby in many cases the military advocate general decided whether or not to conduct criminal investigations into killings of civilians based on the findings of an "operational debriefing" conducted by military forces in the field, often by officers in the chain of command of the forces involved.

However, Israel still applies the "operational debriefings" policy to cases of civilians killed in the Gaza Strip, which can preempt or delay criminal investigations. Further, based on official statements, Israel has not conducted criminal investigations in many cases where its forces have killed civilians in apparent violation of applicable international law, both during armed conflict with Palestinian armed groups in Gaza and in other contexts, including during protests in the West Bank, Gaza, and on the Lebanese and Syrian borders.

From September 2000 to April 2011, the Israeli rights group B'Tselem called for criminal investigations in 304 cases of apparently unlawful Israeli military killings of Palestinian civilians; in those cases, the military advocate general filed 9 indictments. From April 2011 to May 2012, B'Tselem called for investigations into five cases; the military police were carrying out the five investigations as of May.

B'Tselem also requested investigations into apparent violations by security forces that did not cause Palestinian civilian deaths. As of May 2012, the military police filed indictments in 7 of 241 cases involving soldiers where B'Tselem requested investigations, and the civilian police filed indictments in 12 of 244 cases involving police and Border Police officers. In another survey of 192 cases of alleged abuses by Israeli military forces against Palestinians from 2005 to 2011, the rights group Yesh Din found that the military filed no indictments in 96.5 percent of these cases.

During the armed conflict in Gaza in 2008-09 that resulted in the deaths of hundreds of Palestinian civilians, and three Israeli civilians, Israeli forces conducted indiscriminate and deliberate attacks and wantonly destroyed civilian property. Israel failed to investigate policies that may have led to serious violations, such as the use of heavy artillery in populated areas, and convicted three soldiers for crimes and handed a prison sentence to only one soldier, who had stolen a Palestinian's credit card. Hamas has prosecuted no one for indiscriminate rocket attacks on Israel during the conflict.

Israeli commandos killed nine participants on a ship in the May 2010 "Gaza Flotilla," which sought to break Israel's naval blockade. Despite the conclusions of two UN reports that the commandos had used excessive force, a government-appointed Israeli inquiry concluded that no security forces or officials had violated domestic or international law. On May 15, 2011, Israeli forces reportedly killed 10 demonstrators in Lebanon and five in the occupied Golan Heights, and used excessive force against protesters in the Gaza Strip and the West Bank. According to witness statements, protesters threw stones but soldiers could have avoided risks of injury and prevented a border breach by protesters without resorting to lethal force. On June 5, 2011, Israeli forces killed another 20 protesters from Syria who attempted to cross an Israeli fence in the Golan Heights. Soldiers fired live ammunition at protesters who threw stones but did not have weapons and who were too far away to pose a threat to the soldiers, according to witnesses and international news reports. Human Rights Watch is not aware of any public investigation into these killings leading to a determination of whether crimes were committed and if so identifying those responsible.

Reports of violence against Palestinians and their property by Israeli settlers in the West Bank increased since the last UPR. Attacks by settlers or security forces protecting settlers that injured Palestinians rose from 79 reported incidents in 2010 to 120 in 2011. Settler attacks that damaged Palestinian property increased from 219 in 2010 to 291 in 2011, according to OCHA. As of March 2012, Israeli police filed indictments against settlers in only nine percent of cases of alleged abuses against Palestinians, based on 781 case files monitored from 2005 to 2011 by Yesh Din.

Recommendations

- Conduct independent, thorough and impartial investigations into all incidents in which Israeli military or police forces may have been responsible for human rights violations, including in the Gaza Strip.
- Ensure adequate steps by law enforcement authorities to investigate and prosecute Israeli civilians who attack Palestinians or their property.

Freedom of Movement and Right to a Family

Gaza Strip

Israel relaxed import restrictions on many commercial goods entering Gaza in 2010 but continued to ban most exports, harming the territory's economic development. According to OCHA, "in 2011, less than one truckload of goods per day exited Gaza, less than 3 percent of the average amount of exports during the first half of 2007." As of June 2012, the per capita GDP of Gaza was 17 percent less than in 2005.

Israeli forces "regularly" shot at Gaza residents, regardless of their presumptive civilian status under international humanitarian law, who entered a zone that extends up to 1.5 kilometers from the armistice line, creating a "no-go" zone that comprises 35 percent of Gaza's agricultural land, according to OCHA. The Israeli navy shot at and

confiscated Palestinian fishing boats they found more than two nautical miles from the Gaza coast, prohibiting access to some 85 percent of Gaza's maritime area, OCHA found.

Israel prevented virtually all Palestinians from moving from Gaza to the West Bank – where many have families, homes, educational opportunities and other ties – because it considered them residents of Gaza rather than for security reasons. Under Israeli military orders, Palestinians whom Israel registered as Gaza residents but who later moved to the West Bank are illegal “infiltrators” subject to arrest and forcible transfer or deportation to Gaza; in June 2012, Israel acknowledged that around 18,600 “Gazans” were living in the West Bank. With limited exceptions granted as political “gestures” to the Palestinian Authority, since September 2000 Israel has refused to allow Palestinians to change their registered addresses from Gaza to the West Bank. Israel has also barred, with limited exceptions since September 2000, the foreign-born spouses of Palestinians from being registered as permanent residents of the West Bank and Gaza. Except for businessmen and in medical cases, Israel restricts temporary travel by registered residents of Gaza to the West Bank.

West Bank

Israel restricts Palestinians’ internal freedom of movement through roadblocks, checkpoints, and other obstacles; it has maintained a monthly average of 540 such obstacles in 2012, OCHA reported. Israel also limited access through checkpoints leading to the Jordan Valley to Palestinians whom it had registered as residents of the area. Israel typically restricts Palestinians’ movement unnecessarily or disproportionately. Palestinians to whom Israel has arbitrarily refused to issue West Bank residency documents are denied access through checkpoints by soldiers or arrested and face the threat of deportation or forcible transfer. In other cases, Israel maintains severe restrictions against Palestinians – including roadblocks or requirements for special military permission to access farmlands near settlements – claiming that such restrictions are necessary for the security of Israeli settlers, but imposes no restrictions or much less onerous ones on settlers for their own or Palestinians’ security. Unjustified different treatment on the basis of ethnicity or national origin constitutes prohibited discrimination.

Israel has violated Palestinians’ right to leave the West Bank, including by issuing arbitrary travel bans against human rights defenders like Shawan Jabarin, the director of the Palestinian rights group Al Haq. Palestinians whom Israel has arbitrarily refused to recognize as lawful residents of the West Bank often refrain from trying to exit the territory for fear of being barred from re-entering.

Recommendations

- Cease its excessive restrictions on the movement of goods and people out of the Gaza Strip and its excessive restrictions on residency and freedom of movement in the West Bank, and
- Acknowledge its obligations to respect Palestinians’ right to a family and to freedom of movement.

Settlements, Land Confiscation and Discriminatory Treatment of Palestinians

Since the last UPR in 2008, Israel continued to transfer Israeli citizens into the occupied West Bank, including East Jerusalem, in violation of the international law governing occupation. As of December 31, 2008, there were 479,000 settlers in the West Bank; as of December 31, 2010, there were 502,000 settlers.

Israel has granted more than 40 percent of the West Bank to settlements, including settlement “regional councils.” This land falls inside “Area C,” an area comprising around 62 percent of the occupied West Bank where Israel exerts complete civil and military control.

Israel has retroactively authorized settlements that were established unlawfully under domestic laws. In 2012, Israel “authorized” three previously-unlawful settlement “outposts” (Bruchim, Rechelim and Sansana). It agreed to relocate settlers from an outpost (Ulpana) whose homes were built on privately-owned Palestinian land, in violation of Israeli laws, to another location inside the West Bank. Israel previously relocated some of the settlers whom it evicted in 2005 from the Gaza Strip to West the Bank.

Israel limits Palestinian construction to around one percent of the land in Area C. In 2011, Israel demolished more than 600 Palestinian structures that had been built without military permits, displacing almost 1,100 people. In addition to denying access to the water, electricity, and road networks to many Palestinians in Area C, the military also demolished Palestinian water infrastructure, solar panels, and other structures, in some cases causing the forcible transfer of residents of the occupied territory. Settlers in the Jordan Valley had access to 1,312 liters of water per person per day, almost 18 times greater than the amount accessible to Palestinians, B’Tselem found. Such different treatment by Israeli authorities of Palestinians and settlers in Area C, which has not been justified for security or other reasons, constitutes prohibited discrimination.

Israel declared that portions of the West Bank are “state land” under the control of the Israeli government, on the basis that Palestinians do not have registered private property claims there. However, Israel stopped allowing Palestinians to register private land claims in 1968.

Israel continued to build the “separation barrier” inside the West Bank, recently expanding it through Palestinian communities around Jerusalem. The barrier was ostensibly built to stop Palestinian attacks against Israeli civilians, but around 85 percent of its route lies inside the West Bank, in violation of international humanitarian law. The barrier severely restricts Palestinians’ movement, harming their livelihoods and limiting their access to medical care, education, and other resources. Israel requires Palestinians to obtain advance permission from the military, called coordination, to cross through barrier gates to access their farmlands. Israel has rarely granted coordination, and then for brief periods on days chosen by the military regardless of Palestinians’ agricultural needs. Israel imposes further restrictions on Palestinians’ access to more than 18,400 hectares of West Bank land that the Israeli military has declared to be “seam zones.” Israeli rights groups reported that from 2006 to 2009, the number of permits that Israel granted to Palestinians to access seam zones declined by 90 percent, and that the military rejected applications on the basis that Palestinian applicants could not meet a burdensome test of proving a “connection to the land” rather than for specific security concerns. In one of the areas affected by both the permit and coordination systems, a group of eight villages with around 30,000 residents known as the Biddu enclave, Israel’s barrier and other restrictions cut off Palestinian farmers from 50 percent of their farmlands and 70 percent of their grazing lands for 328 days in 2011, according to UN monitors.

Recommendations

- 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.
- Dismantle the settlements and bring its citizens inhabiting settlements in the West Bank back within its existing recognized borders.

Legislation and Practices inside Israel

Israel pledged in 2008 to implement recommendation 29 to “ensure that the rights of minorities are fully protected.” However, Israel continues to apply laws and policies that discriminate on the basis of ethnic or national

origin. In 2012, Israel's highest court approved amendments to the Citizenship and Entry into Israel Law that banned Palestinians from the West Bank and Gaza and citizens of Iran, Iraq, Syria, and Lebanon who are married to Israeli citizens from living with their spouses in Israel. The law primarily harms Palestinian citizens of Israel, since very few Jewish citizens have spouses from the banned territories and countries. The law's parliamentary sponsors frequently explained its aim as preventing Palestinians outside Israel's 1967 boundaries from exercising the "right of return" through marriage to Israeli citizens.

In 2012, Israel's parliament approved an amendment to the Prevention of Infiltration Law that would subject all people who enter the country irregularly by crossing the Egyptian border to potential indefinite detention, without any exception for asylum seekers and refugees. The law's explanatory notes state that it is intended to penalize irregular border crossers as "infiltrators." The majority of border crossers come from Eritrea and Sudan, according to government records, and may have valid asylum claims.

Israeli laws and practices have forced tens of thousands of Bedouin in the Negev to live in "unrecognized" shanty towns. Since the 1970s, Israel has demolished thousands of Negev Bedouin homes, hundreds in 2011 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.

Israel's policies towards the Bedouin are discriminatory. In two cases, Israeli authorities have developed plans to establish Jewish communities on the site of Bedouin unrecognized communities, Al-Tir and Um al-Heiran, and have refused to accept or develop plans for the Bedouin themselves.

The government prepared a plan for the settlement of the Bedouin in the Negev, which it is expected to submit as a draft law, without consulting with the Bedouin whom it would affect. Under the plan, the government would recognize the land claims only of Bedouin who had submitted compensation claims to the government in the 1970s (only a fraction did so), and in those cases, would grant land amounting to a maximum of 50 percent of the claimed area. It would not grant the claimants their own land, but land in a desert landscape. The plan foresees forcibly displacing Bedouin residents of any unrecognized villages that fail to meet a series of planning criteria that Israel does not apply to Jewish communities.

In 2011 Israel legalized the practice of community "admissions committees" to screen out applicants for residency on the basis of vague "social suitability" criteria, which may amount to discrimination. The state owns an estimated 93 percent of the land in Israel. In many cases, the state's planning authorities have discriminatorily failed to zone land needed for the natural growth of non-Jewish Israeli communities.

Recommendations

- Amend the Citizenship and Entry into Israel Law to enable spouses of Israeli citizens to join their partners in Israel, on a basis that does not discriminate against them on the basis of nationality or ethnic origin.
- Amend the Prevention of Infiltration Law to ensure respect for asylum seekers' rights not to be punished for illegal entry and to that other migrants are not subjected to indefinite detention.
- Declare an immediate moratorium on demolitions of Bedouin homes, withdraw the plan for the settlement of Bedouin in the Negev, and create an independent commission to investigate pervasive land and housing discrimination against its Bedouin citizens in the Negev.
- Base new regulations and policy on Israel's international human rights obligations prohibiting discrimination and guaranteeing rights to adequate and secure housing.