

Yesh Din – Volunteers for Human Rights
Presentation for the UN Security Council Arrria Session
May 6th 2016

1. Who we are: Israeli HR lawyer and an Israeli NGO focused on strengthening the rule of law as a means to protect the human rights of civilians under occupation
11 years representing Palestinian residents of the WB in pursue of protection against and remedy for abuse to property, body and life.

Yesh Din's database:

- a. 1300 cases of alleged abuse by Israeli civilians against Palestinian civilians
- b. 550 cases of alleged abuse by members of Israeli armed forces.

This extensive database and our intimate acquaintance with the law enforcement agencies and the GOI's policies in the WB allow us a unique understanding of the reality on the ground.

2. The Israeli Palestinian Conflict has dreadful effect on civilians from both sides
 - a. Palestinian civilians are victims of ongoing and escalating assaults by radical Israeli settlers who systematically attack their communities, harm their crops and use extreme violence against them, all in an effort to gain more domination over their land, dispossess and finally displace them.
Violent settlers terrorize the Palestinian rural community and cause much pain and suffering.
Palestinian are also victims of massive use of force by Israeli security forces, which sadly is frequently not compatible with International Law.
 - b. Israeli civilians are being targeted by Palestinian armed groups who randomly select their civilian victims as a method of struggle, and by lone attackers who look for Israelis to stab and kill or wound them. These phenomena terrorize the Israeli society and causes much pain and suffering.

Yesh Din condemns vigorously and unequivocally all insults to human rights, all violations of international law and all attack on civilians whoever the perpetrators are and whatever the identity of the victims is. It maintains that the Government of Israel has a duty to provide protection to all civilians under its control, that the Government of

Palestine has responsibility to the extent it has control over offenders and that the Security Council has a responsibility to constantly remind them of their obligations and insist that they uphold them.

3. Protection: However, while Israel maintains a functioning and largely effective security apparatus that is meant to protect Israeli civilians and investigate and bring to justice those who wage attacks on them, Yesh Din's multi-years research reveals that the Israeli agencies responsible for protection of Palestinian civilians is failing colossally.

4. Yesh Din Data and analysis: Since the conflict is on territory, and since the Israeli settlement enterprise is meant to colonize the Palestinian lands, settler violence, which may seem in first glance anarchic and unguided, actually has a strategic aim: dispossessing Palestinians from their lands and allowing room for more Israeli settlement growth. But settling an occupied territory is not prohibited in international Humanitarian law for nothing. It is meant to prevent the exact grave outcomes which are manifested in the OPT: a coercive demographic change in the composition of the population in the occupied territory, the allocation of the wealth and natural resources of the occupied territory to the nationals of the colonizing power on the expense of the local population and the creation of two classes of residents – one deprived of rights and powerless and one privileged, powerful and well connected.
But worse: Every Israeli settlement functions as an epicenter of fields of human rights abuses of the neighboring Palestinian communities – Those communities suffer from restriction on their movement, damage to their livelihood, the assignment of almost every local natural resource to the settlers, in many cases physical harassment and abuse, and in all cases gradual loss of property and lands. Loss of land is caused by a set of official policies of confiscation and allocation to the settlers and unofficial violence aimed to deter farmers from cultivating their lands.
 - a. **The unseen lines of domination are the lines of violence that keep moving.**
 - b. **YD has found that Israeli law enforcement agencies suffer from systematic and institutional failures which in turn allow the process of**

land grab through violence to flourish (lack of resources, political backing to the offenders' camp, "spirit of the commander")

The bleak result:

- c. 91.5% of complaints into ideologically motivated crimes by Israeli civilians against Palestinian civilians investigated by Israeli police, closed with no results(2005-2016)
- d. 85% of investigation files are closed because of investigation failures (ranging from failure to carry a basic investigative action to slowness of action and lack of resources or manpower).
- e. Only 7.3% of complaints result in charges being brought against alleged offenders.
- f. Only 33% of trials against alleged Israeli offenders result with either full or partial conviction
- g. The bottom line: only about 2% of complaints filed by Palestinians (who overcome the natural distrust) result in the perpetrator being convicted.**

Yesh Din's recent data shows an increase in attacks carried out against Palestinians in residential areas of West Bank villages since August 2014, reflecting a growing boldness on the part of perpetrators, who know they will not be penalized.

Lack of law enforcement on Israeli citizens who harm Palestinians and their property sends perpetrators a clear message that their actions will be tolerated and they will be immune from punishment.

This is a clear violation of Israel's obligations under both IHL and IHRL. Israel is failing to provide adequate protection both in the form of prevention and in the form of post facto judicial remedy.

- 5. But that is the lesser grave violation. GOI's Settlement policy has seen a dramatic change in recent years, especially in recent months. This change provides a significant tailwind to settler violence (given its aim is gaining control over more land as explained) and to the process of dispossession through violence:
 - a. YD and other NGO's active in the struggle against settlement expansion have experienced this sea of change through court proceedings in the

Israeli high Court of Justice and through the official State positions presented in those proceedings regarding the fate of unauthorized settlements –

GOI has maintained for years, both in international arenas and in the Israeli court, that unauthorized settlements ("outposts" – built either fully or partially on grabbed land) are to be removed. In recent years its policy has made a complete U turn: of 100 outpost, 32 have been either retroactively authorized (19) or are in the process of being authorized (13). This new process is creating de facto and sometimes de jure new independent settlements.

Each such new settlement is a new center for potential massive growth and another source for abuse of Palestinian livelihood, freedom and property.

All such retroactive authorizations violate international law (and international agreements to which Israel is a party and in which it committed itself to evacuate outposts and not establish new settlements – Oslo accords, Annapolis conference joint understanding, The Road Map for Peace)

- b. A second dramatic shift of State legal position relates to the status of the West Bank. Gradually GOI shifts towards denial of the occupied status. We also record a growing tendency to deny of the applicability of the Geneva Convention to the military regime in the WB, which up-to-date was in practice accepted as governing norm, even if in international forums Israel has questioned its applicability.

These policy changes pose immense new dangers to the rights of Palestinian communities. They will allow an unprecedented expansion of the settlement enterprise and erode what is left of international humanitarian law protections Israel concedes Palestinians do have.

6. I would like to conclude with a personal note.

I am an Israeli national. I was born in Israel, I was raised in Israel, I went to law school in Israel, I raise my children in Israel. It is not easy for me nor to the organization that I represent to stand before you and list my country's violations of International law. But we are concerned about the future of our country. And we

want the best for the Israeli society. And being concerned for the future of Israel entails

to – as the UN secretary general aptly recommended "*Systematically remind parties to conflict of their obligations under international law*", and if I may add **to insist they live up not only to their international legal obligations but also to the values upon which they were founded.**

This council is entrusted with the sacred task of maintaining peace and security. There are missions here that represents States who are allies of the State of Israel and share values with its people. The "friendly" thing to do is to keep reminding its government that

- the West Bank is occupied and that the occupation must end, that millions of people with suspended civil rights must be allowed to exercise their natural rights;
- that the Geneva Convention applies to the occupation of the West Bank, the Gaza Strip and Jerusalem;
- that settlements are illegal and all settlement activity must stop,
- that Israel is the occupying power and has a legal obligation to prevent assaults on Palestinians, bringing attackers to justice and providing protection to Palestinian property.

Your excellencies, Israelis and Palestinians are destined to live together.

Palestinians will not evaporate into thin air, Israelis will not disappear. Adherence to international law is a main ingredient in the recipe for peace.

Thank you.