

Bilin: A Test Case for Immunity - The Culture of Violence and Deception among the Israeli "Security Forces"

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An examination of the "law-enforcement" activities of members of the "security forces" (the military or "Tzahal," the Border Police, the police, and the General Security Services or "GSS") who commit violent offenses or convey falsified reports about the conduct of their duties reveals a general culture of institutional leniency in Israel that results in the granting of de facto immunity to uniformed criminals.

Several examples of such leniency are extreme. Prominent is the case of the Bus #300 affair. In August 1986, the President of the State, Haim Herzog, granted pardons to senior officials of the GSS involved in the killing of two Palestinians, members of the ring that seized an Egged bus who had been captured alive. The pardons were granted to the GSS officials prior to their even having been indicted or found guilty in court. Similarly, the recent decision of the Ministry of Justice Police Investigation Unit (Mahash) in September 2005 not to charge any of the police officers involved in the killing of twelve Palestinian citizens of Israel and one Palestinian resident in October 2000, too, is part of the same approach.²

There are many other examples, albeit less brutal in nature, of immunity from prosecution being granted to uniformed criminals. One such case involves events that have been taking place in the Palestinian village of Bilin in the West Bank since the beginning of 2005. The following detailed description of events in Bilin and their ramifications clarifies how institutional leniency is granted in cases of offenses committed by members of the Israeli "security forces."

Bilin as a Test Case

There are several reasons why a detailed examination of the case of Bilin is interesting. Firstly, in contrast to GSS interrogations that take place in removed and isolated police stations, the apparent offenses were committed by the "security forces" in full public view. As a result, extensive video documentation exists of the offenses as they take place. In addition, the violence committed by the "security forces" against the protestors in Bilin and their attempts to conceal and cover up their actions do not involve a single, isolated incident; rather, it has been occurring regularly over an extended period of time. Furthermore, since Israeli and Palestinian protestors have been arrested at demonstrations in Bilin on many occasions, law enforcement officials – the police, Military Police Investigation Unit (Metzah), and the various courts – have received sufficient materials from the protestors in order to indict those who used extreme force. On the other hand, these same authorities have received false testimonies from uniformed "security" personnel a very short time – sometimes a few hours – after committing the offenses.

Thus, it is possible to study an additional chapter in the history of the leniency conferred on uniformed "security" personnel from a comprehensive, long-term examination of the manner in which the law is being "enforced" (or the absence of law enforcement) by

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² See "The Report of the Official Commission of Inquiry into the Clashes between Security Forces and Israeli Citizens in October 2000," (Hebrew) available at: http://elyon1.court.gov.il/heb/veadot/or/inside_index.htm

soldiers and Border Police officers involved in the crimes related to the demonstrations in Bilin.

The Demonstrations in Bilin

Bilin is a small Palestinian village in the Ramallah District of the West Bank, situated approximately five kilometers east of the Green Line. The 1,700 residents living in the village make their living from agriculture and odd jobs. The state of Israel established the settlements of Kiryat Sefer and Matiyahu not far from the village's land and recently, massive building has been undertaken to advance the planned expansion of these settlements. In comparison, Bilin suffers from a shortage of land, aggravated since the beginning of construction of the nearby Separation Wall. The present course of the Wall has appropriated 50% of the villages' land, comprising 70% of its agricultural land.

The foundations for the Wall were first laid on Bilin's land on 20 February 2005. Since then, non-violent demonstrations against it have been taking place in this small village nearly every Friday, which have become a symbol of the wider non-violent struggle against the Wall. Participants in this struggle include residents of the village and Israeli and international activists.

The events in Bilin take place on Fridays in what has become almost a fixed pattern, like a ritual, the stages of which are known in advance: the demonstrators depart from the center of the village in the direction of the route of the Wall holding aloft placards displaying slogans against its construction. Somewhere along the path leading to the Wall, while on the village's agricultural land, they are stopped by the army or Border Police for what is claimed to be trespassing into a closed military area. The order declaring the area closed is issued by the area's Commanding Officer each Friday. At this point, the demonstrators usually stand or sit down at this spot. After some time, without advance warning, the soldiers or Border Police attempt to disperse the demonstration by hurling smoke bombs and concussion grenades in the direction of the protestors, and even fire rubber bullets (on several occasions live ammunition has been fired). At this stage, the protestors begin to disperse while being pursued by the soldiers, who run after them attempting to seize several people randomly using unnecessarily extreme and violent force. The evidence provided by protestors' testimonies and the video materials present a picture of the severe suppression of non-violent demonstrators by use of particularly violent, illegal means.

In a manner that is no longer surprising to any of the demonstrators, but should be alarming to every citizen, each protestor seized during the dispersal of the demonstration, already the victim of violence at the hands of the "security forces," finds him or herself charged with assaulting a police officer or public officials. These charges are based upon the testimonies of soldiers or Border Police officers to the police, who arrive in the village at the end of events.

Arrested demonstrators are taken to Givat Zeev Police Station for interrogation. Other demonstrators who were witness to the use of violence by the "security forces" often arrive at the police station armed with videotapes that contradict the claims that a certain protestor attacked a Border Police officer or soldier and prove that it was in fact the soldiers or Border Police officers who attacked the arrested protestor. On some occasions, the demonstrator is granted a conditional release at the police station. In other cases, he or she is not released, in spite of the materials presented by the demonstrators to the police. In such cases, the Israeli or international activists appear in

court the following day in order to extend their detention. The case for the detention of Palestinians is usually presented several days later.³

In several of the cases discussed by the courts, the judges were sharply critical of the "security forces" for the use of extreme violence against protestors and for giving false testimony, in an attempt to incriminate the assaulted protestors for attacking them.

Examples of the Culture of Violence and Deception

On 17 June 2005, Border Police officers arrested Rateb Abu Rahme, a Palestinian resident of Bilin, teacher and peace activist. Mr. Abu Rahme was wounded in the leg by a sponge bullet (one of the new measures used by the "security forces" to break up demonstrations) prior to his arrest. Border Police Officer Wael Sabit fired the bullet. During the discussion in the Military Court regarding the request to release Mr. Abu Rahme from detention, the military prosecutor presented the testimony that Sabit gave to the police investigator in which he described the circumstances in which Mr. Abu Rahme was fired upon: "The disturbances started ... I noticed a local as he moved the barbed wire and as the stone throwing began ... I saw that he was one of those throwing stones ... after I fired in his direction the local was hit, he fell to the ground." In addition to Sabit, testimonies by three other Border Police officers, including the Operations Officer and Deputy Company Commander Hassan Madah, were given in court.

The judge in the case, Captain Daniel Kafir, viewed a videotape presented by the defense documenting the injuring of Rateb Abu Rahme and the circumstances of his arrest (the film was presented to the police prior to the decision to arrest Mr. Abu Rahme). After viewing the film, Captain Kafir stated that, "As can be seen in the videotape, it would be an understatement to say that the reality of the situation is peculiarly different from the prosecution's witnesses' testimonies, so much so that the conduct of the military forces there and the use they made of the power given them warrant investigation."⁴

The judge further determined that not only did the accused "not behave violently nor throw stones and that there was no justification for the firing directed at him, but according to the film, there is no evidence whatsoever of stones being thrown prior to the decision to fire sponge bullets and tear gas. I conclude that there is no reason whatsoever to arrest the accused, there was no reason to fire upon him, to wound him, nor for him to have sustained the blows from the soldier."

The brother of Rateb Abu Rahme, Abdullah, a leading activist in the Bilin Local Committee, was also arrested at the same demonstration for allegedly assaulting a police officer after he protested against the behavior of the "security forces," due to the use of unjustified means of dispersing demonstrations by the Border Police officers. The arrest of Abdullah, too, was documented on a videotape submitted to the Military Court. Regarding the arrest of Abdullah, Captain Kafir determined that, "A number of soldiers grabbed him, caused him to fall down and hit him until he lost consciousness for a few seconds, and he had difficulty getting up."

³ According to the Detention Law that applies to Israelis, a person detained must appear before a judge within 24 hours. However, according to the military law that applies to Palestinian residents of the Occupied Territories, arraignment before a military judge can take place within up to eight days of the arrest.

⁴ The decision was made on 27 June 2005; Case #1885/05.

According to an article published in Israeli daily newspaper *Ha'aretz*,⁵ the Border Police officer who fired in the direction of Mr. Abu Rahme, Wael Sabit, was interrogated by Mahash and confessed that he had fabricated the version of events that incriminated Rateb Abu Rahme in order to justify his firing towards him. However, the same item maintains that, "The Border Police stated ... that Sabit was released at the conclusion of Mahash's interrogation and continued with his active duty operations. However, 'the Border Police Command takes a harsh view of this type of criminal offense and thus the officer was transferred to the army.' With regard to Abdullah Abu Rahme's arrest, the Border Police claim that Mahash determined that a reasonable, not extreme, use of force was used during his arrest."

As far as we can determine, charges have not been brought against Border Police Officer Wael Sabit, either for the unjustified shooting of Mr. Abu Rahme or for the attempt to impair the investigation, even though he himself admitted under interrogation by Mahash that he unjustifiably incriminated Mr. Abu Rahme.

In another case, two Israeli activists were arrested by the Border Police on suspicion of participating in an illegal gathering, assaulting a police officer, and disturbing an officer in the conduct of his duty during a demonstration that took place in Bilin on 20 July 2005. The videotape brought to the police station by the demonstrators failed to convince the investigators that the two did not attack the police officers in any manner and the following day they were brought before the Deputy President of the Jerusalem Magistrate Court, Judge Yoel Tzur, for the extension of their detention. After viewing videotape documentation of the event, Judge Tzur harshly criticized the Border Police officers and found that, "though the policemen involved in the incident make accusations against the two defendants, the videotape clearly shows that it was the Border Police officers who used force against the defendants."⁶ In addition, the judge determined that, "In the matter before us, there are actual doubts over the claim of assaulting and disturbing an officer in the performance of his duty. Nonetheless, it is clear from the fact that the defendants were involved in these activities that they committed the crime of participating in an illegal gathering." The Court freed the protestors on bail. Even though the judge was harshly critical of the violence and deception of the officers, no indictments have been filed against them to date.

In another demonstration in Bilin on 2 September 2005, Nimrod Ronen, a 19 year-old Israeli activist, was arrested. Videotapes recorded by three video cameras and presented to the police show soldiers catching the protestor and pushing him to the ground. One of the soldiers kicked the protestor repeatedly in the stomach with full force. Another soldier is seen kicking him in the back. As Ronen tried to get up, he shouted at one the soldiers who was kicking him, "You're crazy," and was again pushed to the ground. Other soldiers are seen jumping on top of him and one chokes him. After awhile, they dragged him along the road. According to *Ha'aretz*,⁷ the statement published by the army spokesperson stated that, "a soldier was attacked and hit by an Israeli left-wing activist. As a result, the soldier was slightly injured. The left-wing activist who struck the soldier was arrested."

⁵ See Meron Rappoport and Yonatan Liss, "*Mahash Investigation of Border Police Officers: He admitted he shot Palestinian without justification and gave a false testimony against the Palestinian*," *Ha'aretz*, 12 July 2005 (Hebrew). See also Yonatan Liss, "*Judges Against Border Police: Lies and excessive force against the anti-wall protestors*," *Ha'aretz*, 28 July 2005 (Hebrew).

⁶ Jerusalem Magistrate Court, Case #9874/05.

⁷ See Meron Rappoport, "*The IDF Gets a Kicking*," *Ha'aretz*, 9 September 2005 (Hebrew).

Following the soldiers' false testimonies, the Prosecutor's Office for Judea and Samaria (the West Bank) had intended to file an indictment against Nimrod Ronen and to request that he remain in custody until the end of proceedings against him. However, after the Head of the Prosecutor's Office for the West Bank viewed the videotapes, she decided not to file the indictment. In spite of her decision and the videotapes that were presented to the police, however, no action whatsoever was taken against the soldiers for the illegal use of force and giving false testimony.

However, fraudulent testimonies are not limited to the police or operational reports filed by soldiers. The "security forces" also give untruthful reports to the upper echelon of state officialdom without ever having to stand trial.

Possibly the most severe case of dishonest reporting to high-level state officials took place on 2 September 2005, during the same event in which Nimrod Ronen was arrested. Earlier in the day, many soldiers entered the village and shot massive amounts of tear gas, rubber bullets, and even live ammunition prior to departure of the protestors to the demonstration. Several protestors made a telephone call to MK Zahava Gal'on of the Meretz-Yahad party and reported to her on what was transpiring. MK Gal'on made a telephone call to the Deputy Minister of Defense, Zaev Boem, to ask for clarification on the matter. After 45 minutes, Deputy Minister Boem reported to MK Gal'on that, according to the military reports he had received, no live shots were fired in Bilin whatsoever, and the soldiers in the area had not used any weapons to disperse the demonstration. Subsequently, however, the army spokesperson published an account claiming that the soldiers present in Bilin did use weapons to disperse the demonstration. Just as in the other incidents portrayed in this article, it is not surprising that no action was taken against anyone who gave the orders to fire into the village, nor against anyone who sent fraudulent reports to the Deputy Minister of Defense.

From the Particular to the General

The fact that in so many cases soldiers and Border Police officers are documented having employed unjustifiable and extreme violence against non-violent demonstrators in Bilin, together with the fact that this documentation proves that the soldiers and police have been making accusations against demonstrators by means of misleading testimonies, without any of them being indicted, is indicative of the immunity given to those in uniform and the leniency shown to them by law enforcement officials.

It is clear that such leniency is the exclusive preserve of members of the "security forces" club. Demonstrators whose arrest was not documented by video cameras are charged with the offense of assaulting the police and public officials just a few days after their arrest.

While it is true that the offenses alleged to have been committed by the "security forces" in Bilin do not approach the level of torture or the murder of innocent persons, and are not as serious as the crimes committed by GSS investigators in the incident of Bus #300, or by those questioned by Mahash following the events in October 2000, the message implicitly sent out by officials charged with enforcement of the law is one of general institutional leniency. Such a message allows for the continuation of the violence committed by the "security forces," as well as the culture of fraudulent reporting and the false incrimination of innocent persons.

In Bilin, as in other cases, the immunity awarded to the "security forces" is part of an intricate process, often describable as well contrived. Whether or not this is the case, the outcome is the same – offenders in uniform are granted immunity from being tried for a

criminal offense. The judgment of the High Court of Justice (HCJ) regarding torture,⁸ for example, established that the protection against indictment due to "necessity"⁹ within criminal law can be applied to a GSS investigator who has used proscribed methods (i.e. torture) during an interrogation. It is important to emphasize here that at the beginning of the Al-Aqsa Intifada, the Military Judge Advocate General changed the policies in all matters relating to the initiation of investigations by Metzah into cases of the killing of Palestinian civilians. In contrast to the first Intifada, when every case of a Palestinian civilian killed was investigated, during the present Intifada, according to order of the Chief Military Prosecutor, Metzah investigations are conducted only in cases in which soldiers "grossly violated the orders for firing and causing physical and mental injury." According to the human rights organization B'Tselem, "the extensive orders regarding non-investigation, the flawed management of internal Metzah investigations, and the sloppy nature of current investigations send a clear message to soldiers and officers that, even if they exceed their orders and injure innocent persons, in practice there is no likelihood that actions will be taken against them."¹⁰

Although an extended discussion of this point cannot be undertaken here, it should be borne in mind that none of the organizations responsible for the investigation of persons in uniform is actually an independent civilian body. Accordingly, former or future police officers serving in Mahash investigate currently-serving police officers; in Metzah soldiers interrogate fellow soldiers; and even the Department for Investigation of Complaints (whose role is to investigate complaints of those interrogated lodged against the GSS employees who interrogated them) is manned by seconded members of the GSS. This arrangement constitutes an additional central component in the realization of the de facto immunity awarded to the "security forces." If this policy of immunity remains unchanged or unchallenged, then perhaps the time has come to initiate the presentation of cases before international courts in accordance with the universal jurisdiction they have been granted.

⁸ H.C. 5100/94, *The Public Committee Against Torture in Israel, et. al. v. The State of Israel*, PD 54(4) 817.

⁹ The protection on the basis of "need" is a protection from criminal responsibility established in Section 34 (11) of the Penal Law. The following has been determined to be such a need: "a person will not be held criminally culpable for an action that was taken immediately in order to save his life, his freedom, his body or property, that is of his or that of a fellow human being, from a perceived danger of severe injury that evolved from a particular situation that was occurring when there was no alternative action that could be taken."

¹⁰ This change in policy led to a significant decrease in the number of investigations initiated by Metzah: Since the beginning of the Al-Aqsa Intifada on 29 September 2000 until 22 June 2005, only 131 investigations were initiated by Metzah concerning shootings, only 18 of which led to the issuing of an indictment. During this same period of time, 3,185 Palestinians were killed, among them 645 minors. Although some Palestinians were killed during fighting against soldiers or Israeli citizens, hundreds of others were not involved in such activities. See:

<http://www.btselem.org/english/Firearms/Jag_Investigations.asp>