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Israel's other terrorism challenge

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In the West, we hear a lot about terrorism in relation to Israel: Palestinian militants in Gaza using rockets to fire at Israeli towns over the ‘border’; and Palestinian suicide bombers strapping on explosives and detonating their payloads in Israeli cafes, bars, restaurants and buses. These attacks on civilian targets for the purpose of making a political statement are, indeed, examples of terrorism and Israeli civilians are right to demand that their government act decisively to prevent such acts. Yet Israel often responds to these terrorist tactics by adopting its own. When Israel sanctions and employs tactics which are designed to instil fear, humiliate, injure or otherwise cause harm to a civilian population for a political purpose, the state is guilty of state terrorism. Identifying those policies which constitute state terrorism requires an examination of both the intent and effect of actions (and inaction) by the state. The purpose of this chapter is to evaluate whether various Israeli policies and practices employed in Israel’s occupation of the Palestinian Territories constitute ‘state terrorism’. This policy analysis, while not exhaustive, is intended to present a broad cross-section of policies in recent and current context. Material has been sourced from reputable, human rights, non-government organisations (NGOs), United Nations (UN) bodies and published eyewitness accounts collated since the commencement of the second intifada.

Where the effect of state (in)action is identified as instilling fear, humiliating or injuring a person and the broader community, then it may constitute state terror. To assess whether
the (in)action qualifies as state terror rather than simply state repression, we must look at intent. Ruth Blakeley, in her volume *State Terrorism and Neoliberalism: The North in the South* (2009), identified a key ingredient, ‘instrumentality’, which set state terror apart. That is, the intended target of the violent act (or threat) is the wider audience, rather than only the immediate victim. As no state is likely to acknowledge that the intended purpose of its policies is to spread terror among a population in order to gain political control advantages, we must deduce intent from the context.

For the purposes of establishing whether the action’s purpose is legitimate, the following questions must be asked: Is the action a proportional response? Does the action adequately and specifically target the individual/s responsible? Can the response be justified under the state’s international and domestic legal obligations? Does the response have a permissible strategic value?

**PROPORTIONALITY**

While the notion of proportionality remains problematic, it is fair to say that it rests on a correlation between the crime and its punishment. Within jurisprudence, of course, a long history of case law has established a basic understanding within society of what (at least in general terms) constitutes a proportionate punishment. Further, the punishment is devised within the realms of the law, ie. a conviction is obtained, then the appropriate legal statute is consulted for an appropriate punishment.
A disproportionate response does two things: it side-steps the conviction process and it punishes beyond what is reasonable for the crime. In terms of the perpetration of state terror, the state exacts a disproportionate response which terrorises or physically harms innocents to send a political message to a wider population. The message is intended to project the state’s power and quell challenge or resistance.

SPECIFICITY
The term ‘collateral damage’ has been used to describe the supposed, *unintended* injuries sustained by innocent bystanders as a result of a targeted military action. It fails to differentiate between the innocent and guilty and rests on the premise that a certain level of unpredictable, unintended injury - beyond the action’s target - is acceptable, as long as the extent of such injuries does not outweigh the expected military advantage.

This comes down to what can be reasonably predicted. For example, it should be reasonable to expect that firing from a helicopter gunship into a crowded street, or an apartment block, is likely to cause substantial ‘collateral damage’. Failure to take all necessary steps to prevent wanton injury during military action - when it is so clearly foreseeable - amounts to, at best, culpable negligence and, at worst, an act of collective punishment, aimed at instilling fear across a broad audience.

JUSTIFIABILITY
The various instruments of human rights, to which Israel is a signatory, were developed in response to the litany of atrocities committed by states against civilian populations
throughout history. States’ support of these various treaties, which constitute international ‘law’, is vitally important both to their standing as nations and as an expression of moral integrity to their own citizens.

Where a state attempts to circumvent or ignore this fundamental set of human rights in order to pursue its political aims, it is, in effect, instilling fear among people for political advantage. International law is very clear about the rights of civilians to receive protection and no amount of semantic obfuscation or special pleading on the part of states can obviate their responsibilities in this regard.

STRATEGICALITY

The strategic value of a military action is its *raison d’etre*. This seems obvious, but often actions are taken which are purely retaliatory, punitive and have very little strategic value. For instance, bombing a civilian population or civil infrastructure does not usually reduce the number of combatants or their offensive capabilities. We can deduce, then, that the aim of the action is to subjugate and intimidate the population to reduce support for a political organisation or combatants.

It is not enough for an action to have an identifiable strategic value. It must also be *permissible*, by which I mean that it conforms to international laws and the state’s own regulations on the use of force by its representatives. Where an (in)action fails, on balance, to have a legitimate purpose, it must be deduced that its intention is to instil fear, humiliate, injure or otherwise cause harm to a civilian population for political purposes
and thereby constitutes an act of state terror. First, some background will be provided to the analysis of Israeli state terrorism.

BIRTH OF A STATE

Even prior to the official birth of the Israeli state, it is clear that groundwork was being done with the aim of depopulating the land of its Arab inhabitants. Early Zionists had decided already that the problem of co-existence would best be cured by driving the Arabs off the land (Morris 2004). This could be assisted by the establishment of an environment of extreme fear among the Arab population. The massacre at Deir Yassin, while not an isolated incident, was pivotal in causing widespread terror among Palestinians in the crucial, pre-state months of 1948.

According to the account of Jacques de Reynier (Khalidi 1971: 761-6), who headed the International Red Cross delegation to Palestine at the time, all but around 50 people out of 400 inhabitants of the village of Deir Yassin were deliberately massacred in cold blood by members of the Irgun (an extremist militant Zionist group).² As word spread among Arabs of the massacre, their terror was ‘astutely fostered by the Jews’ (Ibid. 765), leading to many fleeing their homes, including the evacuation of whole towns. Deir Yassin is vivid in the memory of today’s Palestinians and remains symbolic of what Palestinians see as a continuing policy aimed at ethnically cleansing the Occupied Palestinian Territories (OPT) of Arabs.
STATE TERROR POLICYMAKING: PLAN ‘D’

To understand how the use of terror became Israeli policy, we must go back to the period prior to the establishment of the Israeli state. In March 1948, the head of operations at the soon to be officially established, Israeli armed forces, General Yigael Yadin, launched what became known as ‘Plan D’ or ‘Plan Dalet’ (Tochnit Daleth) \(^3\) (Kimmerling 2003).

The official purpose of the plan was to aid the establishment of the state of Israel by providing protection for the new Jewish settlements against ‘hostile’ forces, specifying certain steps:

> These actions should be executed as following: destruction of villages by fire, explosives and mining – especially of those villages over which we cannot gain [permanent] control. The gaining of control will be accomplished in accordance with the following methods: encircling the village and searching it, and in the event of resistance destroying the resisting forces and expelling the population beyond the boundaries of the State.

\(^{1}\) (Ibid.: 24)

According to Pappe (2006:88), the plan was executed according to the directive: “the principal objective of the operation is the destruction of Arab villages … [and] the eviction of the villagers so that they would become an economic liability for the general Arab forces”. As Kimmerling (Ibid.) noted, Plan D, instigated following the declaration of a state of emergency, was a spectacular success. Some 20,000 square kilometres of territory were conquered and almost entirely cleansed of Arab inhabitants.\(^4\) In and around Haifa (a northern coastal city of Israel), 15 towns and villages of between 300 to 5,000 people were expelled in quick succession, despite the presence of British soldiers, foreign reporters and UN personnel (Ibid.).
STATE CULPABILITY FOR SETTLER VIOLENCE

Attacks by settlers on Palestinians in the OPT are daily occurrences, according to human rights organisations. In June 2007, Al-Haq (2007) reported an instance of a 16-year-old boy being attacked and injured by a group of settlers in Hebron. A Red Crescent ambulance was called to assist the boy, but was also attacked by the settlers. Nearby Israeli forces, observing what was happening, made no attempt to intervene. In other accounts, Palestinians were beaten with clubs or rifle butts, verbally abused in foul language and intimidated by large groups of armed settlers, settlement guards and the Israeli Defence Force (IDF). Settlers frequently usurp Palestinian farm land and olive groves, preventing Palestinians from accessing their means of feeding their families.

If the IDF took steps to prevent the settlers’ violence - to protect Palestinians from the violence when it occurred and prosecute settlers who perpetrated it - this would simply be a case of criminal behaviour by individuals and groups of settlers. What transforms this issue into one of state terror is the behaviour of the occupying forces. Where IDF soldiers are present during instances of settler violence, they rarely do anything to prevent it and, indeed, often encourage or assist it. The IDF seldom record identifying details of the settlers and almost never arrest a settler (B’Tselem n.d. a). Then the IDF imposes restrictions on the movement of the attacked Palestinians (including curfews), thereby punishing the victims further. Such a policy undermines Israel’s obligations under international law to protect civilians on land it occupies. The state’s response to settler violence against Palestinians has no legitimate purpose and it must be concluded that the
intent is to maintain fear among a population, who know they will not receive protection or recourse under the law (B’Tselem *ibid*).

**HOME DEMOLITIONS**

The IDF use home demolition regularly as a means of collective punishment for the (alleged) terrorist activities of an individual Palestinian or in order to force the individual (or family members) to turn the accused person in to Israeli authorities. B’Tselem statistics on punitive house demolitions for the period October 2001 to January 2005 put the figure at 668 homes (B’Tselem n.d.b). Demolitions of this type, in particular, occur with little warning and without means of redress, as happened in the case of the family of a young man, Ibrahim, who was arrested in 2002. In February 2004, Ibrahim’s brother, wife and children (including a newborn child) were forcibly removed from their house in the middle of the night and 10 minutes later, their home was demolished (Al-Haq 2004).

Rarely do Palestinians live as single individuals in a single free-standing house. Given the overwhelming crowding within Arab villages and towns, mostly several related and unrelated families are packed into a group of joined apartments within blocks which are attached or built very close to other apartment blocks. A demolition of one ‘suspected terrorist’s’ home equates to the destruction and damage of many other families’ homes and often the loss of almost all their personal belongings. Such demolitions are carried out with little regard for the safety and well-being of the families living there (or indeed, of foreign activists trying to prevent the destruction - see the case of Rachel Corrie)
(Palestinian Centre for Human Rights Gaza 2003). The demolition policy is disproportionate, unlawful and constitutes collective punishment.

In February 2005, the Minister for Defense announced a cessation in the policy, following the recommendations of a committee, which found that punitive house demolitions not only failed to deter terrorist activity but in fact, instilled further hate and a desire for vengeance in Palestinians (Margalit 2005). The fact that this policy has been dropped and then resurrected at various times by the IDF suggests that the policy is used as revenge or intimidation, rather than as a strategic military action.

BEATINGS AND ABUSE

Palestinians may be subjected to verbal or physical abuse by the IDF at any time or place in the West Bank but by far, the greatest risk lies at the many checkpoints dotted throughout the West Bank. Palestinians often queue for hours in all weather conditions with the uncertain hope of finally being able to pass and reach school, work, home or medical centres. Checkpoints are invariably crowded, tense bottlenecks which MachsomWatch (a group of Israeli women who observed and reported on checkpoints) described as a “pressure cooker that’s about to explode at any moment” (MachsomWatch 2004). There is a great sense of uncertainty and unpredictability surrounding the checkpoint process, as acknowledged in the statement of an Israeli soldier at Qalandia checkpoint:

No one knows what is going on; the rules change every minute. Palestinians get shot because no one knows what they’re supposed to be
According to MachsomWatch (2004), a soldier was observed attacking a Palestinian in the face with a screwdriver at the Ar Ram checkpoint. When Machsom Watch confronted the officers involved, they were told ‘we don’t understand why you’re so upset, events like this occur ten times a day’. The attacks on unarmed Palestinian civilians by heavily armed IDF soldiers range from verbal abuse (often in Arabic for extra impact) through pushing, slapping, kicking to shooting. One particularly poignant example of the more serious end of the scale is contained in an affidavit by a 23-year-old woman from Zeita, obtained by Al-Haq (2002). The woman was in labour and was being driven by her husband and father-in-law to hospital. Soldiers at a checkpoint ordered the woman to lift her shirt so they could confirm that she really was pregnant and they were motioned to pass through the checkpoint. Yet 600 metres further, the soldiers opened fire on their car, hitting the occupants. The woman was made to undress fully (including her undergarments) and forced to lie on the cold ground. By the time the soldiers allowed a Palestinian ambulance to take them to hospital, the woman’s husband was dead, her father-in-law seriously injured and she was left injured.

When challenged concerning incidents of brutality, the IDF mount a limited investigation occasionally but seem unwilling to accept either the scope or prevalence of the problem. The response blames the individual soldier, who may have become ‘unhinged’ (MachsomWatch 2004) or acted contrary to orders. According to B’Tselem, incidents of
IDF brutality towards Palestinians are too common and have increased significantly with the outbreak of the *al-Aqsa intifada*. Many incidents are unreported. To file a report regarding such incidents, Palestinians must follow a convoluted process, which is time-consuming and generally pointless. According to reports by B’Tselem, the Department for the Investigation of Police often close files following incomplete or indifferent investigations due to the ‘offender [being] unknown’ or there being ‘insufficient proof’. At other times, the case has not progressed because the complainant has been unable to obtain the necessary travel permit from the Israeli authorities to attend hearings and provide a testimony. In the few cases where perpetrators are prosecuted, they can expect to receive light sentences (B’Tselem n.d.c).

The message that these responses transmits to soldiers at checkpoints is that abuse of Palestinians is an acceptable means to control a population, whose dignity matters very little. From time to time, senior officers and politicians pay lip service to the idea that such abuse is undesirable or even unacceptable. As B’Tselem (*ibid.*) noted, however, until the lip service is supported by unequivocal instructions to all security forces operating in the Occupied Territories that abuse of Palestinians is absolutely prohibited and then, complaints are seriously and fairly investigated, the abuse was sure to continue. The message that Israel’s inaction in these circumstances conveys to Palestinians is that any Palestinian may be subjected to cruel, degrading treatment at the hands of an all-powerful IDF. There can be no permissible strategic purpose to such humiliation and physical harm; nor can the actions be considered lawful, proportional and specifically targeted. It is reasonable to conclude that until all appropriate steps to prevent IDF abuse
against unarmed Palestinian civilians are taken by Israeli authorities, Israel is culpable and guilty of using state terror tactics.

**TORTURE OF DETAINEES**

The issue of detainee torture has received substantial international media coverage in recent years, primarily as a result of reports of torture at high-profile institutions in Iraq (Abu-Ghraib), Afghanistan, Cuba (Guantánamo Bay) and facilities in various countries under ‘rendition’ arrangements. The use of torture as a means to extract information, enforce compliance or generally break the will of detainees is nothing new. Humankind’s creativity in inventing new forms of torture throughout the ages shows a serious commitment to this form of cruelty. Since the inception of the UN and the various Charters, Declarations and Covenants (particularly the UN Convention Against Torture (UN 1975) ), however, torture is no longer popularly acceptable.

A joint investigation of torture of Palestinian detainees was conducted in May 2007 by Hamoked - Center for the Defence of the Individual and B’Tselem (Lein 2007). Their report revealed the nature and scope of torture that Palestinian men, women and children experienced at the hands of IDF captors over a six-month period in 2005-06. The report detailed a policy of torture in the form of ‘beating, painful binding, swearing and humiliation and denial of basic needs’ which began at the moment of arrest by security forces. This treatment’s practical outcome was the ‘softening up’ of detainees prior to being handed over to the big guns of interrogation, the Israel Security Agency (ISA). The report identified several key elements of the treatment of detainees during interrogation
periods which, in the sample, lasted an average of 35 days. Detainees were subjected to isolation (from other prisoners, their families, lawyers and International Red Cross workers) and solitary confinement in poor conditions; they were deprived of sleep, exercise and food. They were cuffed in the ‘shabah’ position - painfully bound by hands and feet to a chair. Detainees were abused and humiliated (including verbal abuse, swearing, spitting and unnecessary strip searches). Intimidation and threats of torture against the detainees and their family members were common, both to illicit information and to recruit the detainees as informants.

These routine devices are intended to ‘break the spirit’ or will of detainees and are prohibited under international law. It is the non-routine or ‘special’ methods involving direct physical violence, however, which are most disturbing. These methods include: sleep deprivation for more than 24 hours; ‘dry’ beatings; extreme tightening of handcuffs; abrupt forced movements of parts of the body; ‘frog’ crouching - which involves tip-toeing in a crouched position and extreme arching of detainees’ backs while seated (known as the ‘banana’ position). The use of these non-routine methods are not out-of-the-ordinary, spontaneous responses to exceptional circumstances. The report indicated that the methods were ‘pre-authorised and used according to fixed instructions’ (Ibid.: 8). The report’s findings were corroborated by other reports and numerous testimonies, compiled by various human rights organisations and international bodies, including Amnesty International, Human Rights Watch, Al Haq and B’Tselem. Under international law, these methods constitute torture and are prohibited.
Human Rights Watch, in a memorandum to the UN Committee Against Torture in May 1998 (Human Rights Watch 1998), noted that Israel had failed to comply with Article 16 of the Convention Against Torture. A number of recommendations were made by the UN body and others regarding concrete steps which Israel must take to ‘bring its law and practice into compliance’. The Human Rights Watch memo stated: “Israel has consistently disregarded these recommendations and continues to use torture and cruel, inhuman or degrading treatment during interrogations of Palestinian detainees”. Israel’s response to these and other international criticisms of its policy and practice of the torture of detainees was to invoke ‘Special Powers of Interrogation of the General Security Services (GSS)’ (Israeli Ministry of Foreign Affairs 1999). The document stated, inter alia, that:

The Government intends to introduce to the Knesset a bill that would secure the existing powers of interrogation of the GSS in its struggle against terrorism ... with the proviso that these practices would not involve torture, cruelty or inhumanity …

(Ibid.)

Eight years and many instances of torture later, Israel still relies on a ‘necessity defense’ (Public Committee Against Torture in Israel 2007); given the environment of defending the state against ‘terrorists’, the GSS is obligated to use whatever means it deems necessary against anyone it perceives as a threat. This defense is limited, however, in both international and national provisions, such as article 31 of the ICC Statute and article 34 of Israel’s own Penal Code. Specifically, the interrogation methods used must be ‘reasonable’, ‘necessary’ or ‘immediately necessary’ and ‘no alternative means’ must
be available (Marchesi 2006). Governments who sanction (or fail to prevent) torture
during incarceration or interrogation fail in their legal obligations under international law.

Torture as a tactic is clearly designed to instil fear, break the will, humiliate and
intimidate its victims and the wider population. It is a disproportionate action because the
methods employed are clearly not ‘immediately necessary’, reasonable and without an
alternative. Detainees may be suspected of some kind of involvement in a crime or
potential crime, they might be relatives/friends of a suspect or they might be quite
randomly chosen. Given the various reports and entreaties of the many human rights
organisations and Israel’s inadequate responses, it surely can be deduced that Israel
intends to continue the practice.

USE OF HUMAN SHIELDS

The use of civilians as ‘human shields’, as protection for soldiers conducting house-to-
house searches or other similar operations, is prohibited under international law. Article
27 of the Fourth Geneva Convention states that civilians must be treated humanely and
protected against acts or threats of violence. Articles 31 and 51 prohibited moral or
physical coercion of civilians to make them participate in military tasks. Official
commentary of the Convention specifically acknowledged the barbarity and cruelty of the
practice of human shields. In the case of children, further protections are afforded and the
use of children under the age of 15 to carry out military tasks is considered a war crime
under the terms of international criminal law (B’Tselem n.d. c)
The IDF made use of Palestinian civilians as human shields in a number of circumstances. They may be forced to enter buildings before the soldiers to detonate any booby traps or remove occupants that might resist. Where suspicious objects are sighted on roads that the army uses, human shields will be ordered to remove the objects. They may be lined up in front of sites, where the IDF are located, to prevent militants shooting at the IDF. At gunpoint, human shields are forced to walk in front of soldiers to prevent the soldiers from being shot (while the soldier fires over the human shield’s shoulder) (B’Tselem n.d. d).

The practice of randomly choosing Palestinian civilians to act as human shields was used extensively by the IDF during the Al Aqsa intifada and was particularly prevalent during Operation Defensive Shield, from March to April 2002, which essentially consisted of a series of incursions into Palestinian towns and villages. The testimony of an IDF soldier provides us with an insight:

Before searching a house, we go to a neighbor, take him out of his house, and tell him to call for the person we want. If it works, great. If not, we blow down the door or hammer it open. The neighbor goes in first. If somebody is planning something, he is the one who gets it. Our instructions are to send him inside and have him go up to all the floors and get everyone out of the house. The neighbor can’t refuse; he doesn’t have that option. The neighbor shouts, knocks on the door, says that the army is here. If nobody answers, we tell him that we’ll kill him if nobody comes out, and that he should shout that out to the people in the house. The basic procedure was the same no matter who gave the briefing. Maybe the ‘we’ll kill him’ came from the platoon, but the rest came from the brigade level or higher’.

(B’Tselem n.d. e)
As a result of this marked increase in the use of human shields, in May 2002, various human rights organisations petitioned the High Court of Justice to obtain a cessation of the practice. The IDF undertook to stop the practice, except for the ‘neighbor procedure’ (the technique described in the above testimony). Following the death of a Palestinian in August 2002, the Court was petitioned successfully to grant an injunction into this practice. The practice continued anyway. Further petitions resulted in the IDF replacing its ‘neighbor procedure’ with a ‘prior warning procedure’, which essentially permitted the use of human shields as long as the individual consented to being so used. In such circumstances of extreme power imbalance and the threat of harm, implicit or explicit in such situations, it is highly unlikely that consent would be withheld very often. As Supreme Court President, Aharon Barak, observed: “It is very hard to verify willingness, and the fear is that, when a contingent of soldier (sic.) come at night, out of fear no neighbour will refuse to cooperate with the soldiers” (B’Tselem n.d. f). In October 2005, the High Court of Justice ruled the use of Palestinian civilians during military operations is illegal, regardless of what label is attached (Ibid.).

Unfortunately, the Israeli forces still use human shields. In May 2007, a student at A-Najah University, Majd Ghanem, was shot in the back while being used as a human shield. In March 2007, testimonies were received by B’Tselem (B’Tselem 2007) that two children, a 15-year-old boy and an 11-year-old girl, were used by the IDF as human shields in operations. In both cases, the children were forced to enter houses in front of soldiers. Their compliance was unwilling - both feared that they would be killed or arrested if they did not do as they were told.
It is clear from the continuance of human shield use by the IDF, that military orders prohibiting their use have failed to be communicated properly to soldiers in the field nor have violations been investigated thoroughly. The effect of this is a perception by soldiers that the use of human shields is not really a problem. As B’Tselem wrote:

> using a Palestinian as if he were a bulletproof vest turns him into an object whose only purpose is to save soldiers’ lives. His needs, his pain and suffering, his very being, are utterly ignored.

(B’Tselem n.d. f)

IDF soldiers in the field do not take international law seriously because their military commanders and state leadership do not. It is clearly disproportionate to use an innocent civilian in a way which is likely to cause the person injury or death. Likewise, the human shield is not a ‘person of interest’ who could be detained reasonably and so, the policy fails the specificity test. The use of human shields violates international law and Israel’s domestic laws; while the strategic military advantage is obvious, it is not a permissible strategy.

VIOLENT INCURSIONS

IDF incursions into Palestinian towns are not unusual - many such operations have been mounted into both the West Bank and Gaza Strip - and there are no signs that incursions will stop anytime soon. They are usually accompanied by the rhetoric of ‘security operations’ - the need to ‘uproot the terrorist infrastructure’ - but the IDF is not carrying out a surgical extraction of known terrorists from its bases in these operations. Operation
Defensive Shield, launched in March 2002, was easily the most extensive incursion into the West Bank that Palestinians experienced since the expulsions of 1948 (Hamzeh & May 2003). The operation was far from ‘defensive’. It was estimated that within less than a month, the damage was United States $465m and included: the gutting of hospitals and universities; the bombing and bulldozing of homes; and the vandalising of private and public institutions, business, banks and homes. Up to 270 Palestinians (mostly civilian) were killed and as many as 750 people were injured (Ibid.).

During this period, the IDF stepped up its use of all of the terror tactics described previously in this chapter and became even less concerned about the potential for harm to civilians. Eyewitness accounts of the incursion into Jenin refugee camp (Baroud 2003) described civilians being shot at inside their own homes; of having hand grenades thrown in through doors or windows; and tanks driving over everything in their paths, including cars. Those unable to get out of their homes in time were bulldozed along with them and ambulances were prevented from assisting those injured.

Six months after Operation Defensive Shield, I was in Ramallah at Birzeit University when I was shown a photo album, full of pictures taken in Jenin immediately following the incursions. I saw mangled, burned, bullet-ridden corpses of men, women and even a few of small children. I counted 30 such photographs before I could bear to look no more. Similar atrocities were reported to have occurred during recent (early 2008) incursions into Gaza. A photojournalist - Mohammed Omer - who resided in Rafah refugee camp,
close to the Egyptian border, reported widespread, indiscriminate rocket fire from Israeli warplanes, causing many civilian casualties (Omer 2008).

According to Human Rights Watch (2009a), Israel failed to hold anyone in the IDF to account for violations of international humanitarian laws in the early 2008 Gaza incursion and 2002 West Bank incursions. This failure, according to Human Rights Watch (Ibid.) sent the message that serious abuses of civilians would be tolerated in future conflicts. In December 2008, following a spate of rocket attacks by Hamas on Israeli towns, the Israeli Air Force commenced an air offensive against targets in Gaza which escalated in January 2009 with an IDF ground offensive. By 10 January 2009, the UN put the Palestinian death toll at 792 with a further 3,200 injured (United Nations 2009a). Gaza, a small sliver of land between Israel and Egypt, is home to approximately 1.5 million people and one of the most densely populated places in the world. During the course of the fighting, Israel was accused of indiscriminately firing upon civilian targets, including the following national institutions: the education, foreign and justice ministries (Nabulsi 2009); a mosque in Beit Lahiya (Balousha & Syal 2009); Gaza University (Bannoura 2008); and even the shelling of clearly identified UN schools (El-Khodary & Kershner 2009; Human Rights Watch 2009b). Furthermore, attempts by UN agencies to assist civilians and for Red Crescent workers and other medical personnel to access the many dead and wounded were actively hampered by Israeli forces, causing the death of at least one UNRWA driver and injuries to others (Palestine Red Crescent Society 2009; United Nations 2009a; 2009b; 2009c). This was despite the UN facilities being clearly marked, co-ordinates
mapped and the agencies receiving specific Israeli approvals (United Nations 2009a; Human Rights Watch 2009b).

Even more disturbing were allegations that Israel unlawfully used a chemical ‘obscurant’ - white phosphorus – in densely populated areas on a number of occasions during the conflict. White phosphorus is highly incendiary and “causes horrific burns when it touches the skin” (Human Rights Watch 2009c). Media photographs have shown white phosphorus projectiles bursting in the air above civilian areas with the potential to spread ‘116 burning wafers over an area between 125 and 250 metres in diameter’ (Ibid.). Gazans felt extremely vulnerable because:

in Gaza there is nowhere to evacuate people to safety: they are imprisoned on all sides, with an acute awareness of the impossibility of escape. Land, sea, sky: all will kill you.

(Nabulsi 2009)

For Israel to declare these violent incursions to be security operations designed to uproot the terror infrastructure was disingenuous. The sheer scale of the operations and the apparent lack of care taken to avoid civilian loss of life amounted to an unlawful and disproportionate action against the general Palestinian population, with easily foreseeable consequences. The incursions had the effect of parading the overwhelming might of the Israeli forces and to reiterate the inability of the Palestinian authorities to protect the people. Violent incursions (and the ongoing threat of them) are a particularly effective means of causing fear and intimidating large numbers of people.
EXTRAJUDICIAL ASSASINATIONS

The practice of ‘taking out’ a suspect, known as an ‘extrajudicial assassination’, is widely used by Israel in the OPT. In a ruling in the Israeli High Court of Justice in December 2006 - *The Public Committee against Torture in Israel v. Government of Israel* (HCJ 769/02) - the Court found that killing a ‘terrorist’ was permissible when a person played a ‘direct part’ in an act (Dugard 2007). The terms were rendered very broad but were tempered by the requirement that such ‘extrajudicial assassinations’ should not be resorted to when a person could be arrested without undue risk to soldiers, or where the risk of harm to civilians would outweigh any security advantage. It would seem unlikely that Israel would feel restrained by the need to justify its actions, given this ruling. Firing missiles at an apartment block or a moving vehicle - or mounting an armed incursion into a town to kill an individual - always results in some ‘collateral damage’. This disregards civilian safety and results in the perception by Palestinians that their lives are not valued (therefore why should they value Israeli lives?) and that they are being punished collectively for the the alleged crimes of particular individuals.

Some commentators, such as Steven David of John Hopkins University (2003), would argue that in this ‘post 9-11 world’, ‘targeted killing is a legitimate and moral response to terrorist attacks’. This is a very dangerous proposition and one with which the UN Special Rapporteur, John Dugard, disagreed (2007). He described the policy as the death penalty via the back door. It is also a means by which a warning is sent to other militants and potential supporters that deadly military force will be used against whomever Israel deems a threat. Extrajudicial assassinations have little strategic value as even Israel
acknowledges that for every militant killed in this way, another takes their place. The policy is without merit in terms of proportionality and lawfulness because it does not exact a punishment in line with international humanitarian law standards or Israel’s own criminal laws. The action fails to adequately prevent foreseeable injury to innocent bystanders. The context reveals the broader intent of targeted assassinations to be the terrorizing of the population.

IDF TRAINING

The IDF, as the official ‘face’ of Israel to most Palestinians in the territories, wields substantial power and every interaction between the IDF and Palestinians has life-changing potential. Appropriate training, supervision and the enforcement of lawful rules of engagement are vitally important. It is reasonable to expect that the IDF, like any other military force, will attract a few people who really shouldn’t be issued with a weapon of any kind. Within the IDF, however, a pattern of systemic brutality has been identified. A Master’s research project was conducted by Nufar Yishai-Karim - a clinical psychologist at Hebrew University in Jerusalem and a former soldier in Gaza (Urquhart 2007) - to assess how pervasive was the problem and how it was perpetuated. The report identified a propensity for IDF soldiers to see themselves as above the law:

The most important thing is that it removes the burden of the law from you. You feel that you are the law … you are the one who decides … as though from the moment you leave the place that is called Eretz Yisrael .. and go through the Erez checkpoint into the Gaza Strip, you are the law. You are God.  

(Ibid.)
The report proceeded to describe various acts of brutality by soldiers, including the shooting of a 25-year-old man for no reason at all and then, leaving him to die in the street without a second glance. A woman threw a clog at one soldier so he repeatedly kicked her in the groin, rendering her infertile. Another woman spat at a soldier and received a rifle butt in the face.

This is not only a problem of poor discipline among soldiers, it is a problem of example and training. A soldier described the actions of his new commanding officer:

> It’s 6 am, Rafah is under curfew, there isn’t so much as a dog in the streets. Only a little boy of four playing in the sand. He is building a castle in his yard ... the officer suddenly starts running and we all run with him ... He grabbed the boy .. broke his hand here at the wrist, broke his leg here. And started to stomp on his stomach, three times, and left ... The next day I go out with him on another patrol and the soldiers are already starting to do the same thing.

(Ibid.)

During the first weeks of basic training, a group of soldiers was escorting arrested Palestinians. The soldiers made the Palestinians, wearing very little clothing, sit on the floor of the bus in sub-zero temperatures. The new recruits spent the journey stamping on and beating the Palestinians, before dousing them in cold water.

If this is the training regime of the IDF and the example set by its officers, then two things must be considered: either the IDF are seriously mismanaging the training of recruits and failing to instil the ethics so proudly displayed on the IDF’s website; or the IDF has two ethics policies - the written and unwritten ones - which are at odds with each
other. Either way, the state is culpable for the actions of its military. What allows such acts of unrestrained brutality is the notion that Palestinians’ lives are worth less than those of the soldiers and that the state, by not enforcing appropriate standards in its military, condones and even encourages such actions. The only possible explanation for this is the terror value gained by maintaining the Palestinians in a perpetual state of fear for themselves, their families and friends. The problem this creates for Israel is simply ‘the next generation of terrorists’ (B’Tselem 2003).

ISRAEL’S OTHER TERRORISM CHALLENGE

From the foregoing, it is surely indisputable that Israel is committing acts of state terror of many kinds on a daily basis in the Occupied Territories. In each case considered in this chapter, the action taken shows an unlawful and disproportional response, which fails to target individuals adequately and appropriately for a permissible, strategic purpose. This failure indicates a more generalised policy of employing terror tactics for the purposes of subjugating a population.

Revisionist historians (including Israelis) have acknowledged the truth regarding Israel’s violent birth. Early Zionists laid the foundations of state terror and Israel’s military has continued on this basis. Despair, hopelessness and rage are engendered by Israeli state policies and practices, which allow Palestinians to be subjected, with little recourse in the law, to beatings, abuse, punitive home demolitions, torture, death as human shields or ‘collateral damage’ and death by prevention of medical treatment. It is unacceptable and counter-productive to attempt to counter terror with terror. This chapter seeks to expose
Israeli state terror for the sake of Israelis as much as for the sake of Palestinians. How can Israel live peacefully as a nation among nations if it fails to uphold the very things it claims to be built upon? How can there be reconciliation with the moderate majority of Arabs in the Middle East when Israel is unwilling to acknowledge the violence of its birth and resolve to adhere to its obligations under international humanitarian law? Israel’s future rests on how it rises to this, its other terrorism challenge.
ENDNOTES

1 Israel is a signatory to many instruments of Human Rights protection, including: The Universal Declaration of Human Rights; The Geneva Conventions; The International Covenant on Economic, Social and Cultural Rights; The International Covenant on Civil and Political Rights; The International Convention on the Elimination of All Forms of Racial Discrimination; The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; The Convention on the Rights of the Child; Rome Statute of the International Criminal Court (signed, but not ratified).

2 Full name Irgun Zvai Leumi, headed at the time by Menahem Begin, who was later the sixth Prime Minister of Israel.

3 According to Kinnerling, the Book of Haganah History (published only in Hebrew) sets out the full story of how Plan D provided a blueprint for a policy of ethnically cleansing Palestine of its Arab inhabitants.

4 It is commonly accepted among historians that approximately 750,000 Palestinians became refugees in 1948.

5 MachsomWatch, ibid., pp. 48-49. The case of a brutal beating and shooting of an unarmed student at Beit Iba is one of the few cases where the IDF has proceeded with investigation and prosecution of the IDF perpetrator. It was concluded that the soldier possessed a “narcissistic personality disorder and the inability to control violent urges”. MachsomWatch had raised concerns with this soldier’s commanding officer on previous occasions, but was ignored.

6 Israel has signed and ratified this convention, with the proviso that the nation does not recognize any external right to investigate incidents within its borders. According to the UN Convention Against Torture, torture is defined as: Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession … when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (UN Convention against torture and other cruel, inhuman or degrading treatment or punishment, Part 1, Article 1(1)).


8 For further insights into IDF actions during the operation, see: John Pilger, Palestine is Still the Issue, Carlton International Media, 2004, DVD; Mohamed Bakri, Jenin Jenin, Arab Film Distribution, 2002, DVD; Amira Hass, Reporting from Ramallah: An Israeli Journalist in an Occupied Land, Los Angeles, Semiotext(e), 2003; and Mitri Raheb, Bethlehem Besieged: Stories of Hope in Times of Trouble, Minneapolis, Fortress Press, 2004.

9 See also reports by Mohamed Omer at <http://www.ipsnews.org>.
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