How B'Tselem is helping the ICC target Israel

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The [announcement by International Criminal Court chief prosecutor Fatou Bensouda](https://www.israelhayom.com/2019/12/22/new-icc-ruling-reveals-organizations-true-anti-semitic-intentions/) that she was considering prosecuting IDF officers for war crimes was based on two assumptions: the first, that Israel perpetrates war crimes, and the second, that Israel's legal system cannot be trusted to handle the issue.

Both of these assumptions are the fruit of an international campaign waged by a network of NGOs in Israel (primarily the [B'Tselem rights group](https://www.israelhayom.com/opinions/the-idf-should-cut-contact-with-btselem/)) and the Palestinian Authority that receive funding from European nations.

For example, the terms of a 250,000 euro ($280,000) grant to B'Tselem from the government of the Netherlands in 2018 include a clause that addresses the "Supreme Court and expulsion of communities," which describes planned activities for the second half of 2018 in which B'Tselem was to "produce a report about the functioning of the Supreme Court on the matter of expulsion of Palestinian communities."

The document states that B'Tselem sees the Supreme Court of Israel as the main mechanism that allows for the "ongoing occupation" and the "violation of human rights" by granting legitimacy to Israeli policy.

In 2019, B'Tselem received an 87,000 shekel ($25,000) grant from the Swedish Diakonia organization that was earmarked for an "examination of the court's rulings about violations of Palestinian human rights." This was after the organization received 70,000 shekels ($20,000) in 2018 for a project to review "Supreme Court rulings about home demolitions."

According to a probe conducted by the watchdog NGO Monitor, some of the grants were specifically issued to be used for activity involving the International Criminal Court in The Hague.

Another major player against Israel in the ICC is the nonprofit Adamir, which was recently the focus of media attention thanks to two of its employees being involved in the murder of Israeli teen Rina Shnerb, 17, in a roadside bombing in August. In 2018, Adamir received $120,000-$150,000 from the Swiss government, after it committed to continuing to work to bring Israel to the ICC.

Yet another organization involved in anti-Israel efforts at The Hague is the Palestinian Center for Human Rights, which received the following grants: 270,000 Swiss francs ($275,000) in 2018; 340,000 euros ($370,000) from the government of Germany; and 70,000 euros ($77,000) from the government of Ireland in 2017. The PCHR's contract with the Swiss government stipulates that the organization was to supply the office of the ICC's chief prosecutor with information. The contract also states that the success of the organization would be measured by "the number of people who manage to access the international mechanism of justice as a result of the organization's activity."

The legal principle of complementarity determines that the ICC has no legal mandate over nations with functioning legal systems, which is what has kept Israel from being prosecuted at The Hague. But if one tracks activity by B'Tselem, it appears that the organization has been attacking that principle ceaselessly. This past February, B'Tselem put out a report that attacked the legitimacy of Israel's Supreme Court. The report examines "the responsibility of the Supreme Court justices for demolitions of Palestinian homes and their [Palestinians'] expulsion."

Professor Gerald Steinberg, president of NGO Monitor, said that "some of the organization tried to damage the independence of the Israeli legal system in order to present it as ineffective in the eyes of the international community. The main question is how we can make it clear to the Europeans that their money cannot continue to be part of the ongoing campaign against Israel."

B'Tselem issued a detailed response to the above allegations:

"The Israeli legal system is one of the mechanisms of the occupation. If the Israeli legal system were to do its job in the pursuit of justice and defending human rights – rather than comprising a central mechanism of allowing the occupation – the reality here might be markedly different."

B'Tselem took issue with the "tone" of the Israel Hayom reporter's query.

"Our efforts are not to 'attack,' but rather to expose the truth, according to the facts and figures that we have been publishing for years clearly state it to be. The truth is that because Israel does not conduct real investigations, but rather upholds a system of whitewashing, the 'principle of complementarity' does not defend it, and there is nothing to defend. Attorney General Avichai Mendelblit, especially in his former role as chief IDF prosecutor, certainly understands that very well.

"Israelis would do well to ask themselves who better interprets international law. For example, B'Tselem called on soldiers not to obey explicitly illegal orders to use live fire against Palestinian protesters in Gaza. In response, government ministers called for an investigation into B'Tselem while the orders on opening fire – the same illegal orders – were given week after week, exacting the terrible price of hundreds of Palestinian protesters being killed and thousands wounded in Gaza. Now, the prosecutor of the ICC has declared that she can investigate the issue. Wouldn't it have been better for her to come down on the side of B'Tselem from the start?

"B'Tselem is once again clarifying that the responsibility for violations of international law and the perpetration of war crimes by Israel lies first and foremost with the top political and military echelon. Any attempt by cowardly ministers to pass of this responsibility on subordinates is an attempt to distract people and evade responsibility.

"In conclusion, some legal advice: Anyone who doesn't want to stand trial for war crimes would do well to avoid committing such crimes [and] not move the population of an occupying state into occupied territory, not bomb homes with their inhabitants inside, not shoot unarmed protesters, not demolish homes, and expel their residents. Don't commit crimes. Please."