



Status Report

February 2004

Facing the Abyss

The Isolation of Sheikh Sa'ad Village -
Before and After the Separation Barrier

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מרכז המידע הישראלי לזכויות האדם בשטחים (ע.ר.)

بیتسلم - مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة

B'TSELEM - The Israeli Information Center for
Human Rights in the Occupied Territories

Facing the Abyss

The Isolation of Sheikh Sa'ad Village – Before and After the Separation Barrier

***Status Report* February 2004**

B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories was founded in 1989 by a group of lawyers, authors, academics, journalists, and Members of Knesset. B'Tselem documents human rights abuses in the Occupied Territories and brings them to the attention of policymakers and the general public. Its data are based on independent fieldwork and research, official sources, the media, and data from Palestinian and Israeli human rights organizations.

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Cover photo: Dirt road between Sheikh Sa'ad and Sawahra a-Sharqiya (Eliezer Moav, B'Tselem)

This report discusses Israel's infringement of the right to freedom of movement of residents of the Palestinian village Sheikh Sa'ad and its severe consequences on their right to work, to health, and to education. We also describe the grave hardships suffered by the residents as a result of Israel's siege on the village over the past year and a half.

The report warns against further human rights violations that would result if the government implements its decision to build a separation barrier between the village and East Jerusalem.

Background

Sheikh Sa'ad is located on the eastern edge of Jerusalem and has approximately 2,000 residents.¹ The village lies adjacent to Jabal Mukaber, a neighborhood in East Jerusalem, and together with it comprises one contiguous urban area. Most of the village's land lies in Area C, which remained under complete Israeli control pursuant to the interim agreements between Israel and the Palestinians. Part of the eastern section of the village lies in Area B, in which the Palestinian Authority is responsible for civilian affairs. Fifteen houses situated in the northwest corner of the village lie within the jurisdiction of the Jerusalem Municipality. Seven other houses lie partially inside the city's border and partially in the West Bank (see the municipal boundary, page 15).

Sheikh Sa'ad is located on the peak of a 650-meter tall mountain. For topographical reasons, the village is only accessible from the west, via Jabal Mukaber. East and northeast of Sheikh

Sa'ad, at a distance of some two kilometers as the bird flies, lies Sawahra a-Sharqiya, which is also situated at the top of a high mountain. A deep valley separates the two villages.

In addition to the road on the western side of the village, there is a narrow dirt path that goes down the mountain on the east of the village, into the valley and then up to Sawahra a-Sharqiya. This is the only path that links the village to the rest of the West Bank without entering the jurisdictional area of Jerusalem. The path is so steep that only four-wheel drive vehicles are able to use it. Crossing the valley on foot takes around forty-five minutes, and only individuals in good physical shape can negotiate the ascent.

Historically, Sheikh Sa'ad is part of the 'Arab a-Sawahra area, which also includes Jabal Mukaber, Sawahra a-Sharqiya, and Sawahra a-Gharbiya. For the most part, the population in this area is composed of a small number of

1. This is the estimate made by a group of village residents. The estimate was given to B'Tselem by the group's representative, Mr. 'Aziz 'Alan. In the census taken in 1997 by the Palestinian Central Bureau of Statistics, the village contained 1,783 residents.

extended Beduin families, and the residents have extremely close family and social ties.²

In 1967, Israel annexed substantial parts of the West Bank and incorporated them in the jurisdictional area of Jerusalem. The city's new border ran through the 'Arab a-Sawahra area and created a superficial distinction in the status given the residents of the area. Jabal Mukaber and Sawahra a-Gharbiya were included inside Jerusalem's borders and their residents were recognized as "permanent residents" of Israel, while much of the area of Sheikh Sa'ad and Sawahra a-Sharqiya were not annexed by Israel. The far-reaching consequences of the differentiation in status was realized only some twenty-five years later, when Israel placed a general closure of the Occupied Territories (see below).

In addition to the extensive relations between residents of Sheikh Sa'ad and the "Jerusalem" residents of 'Arab a-Sawahra, the village's residents have always been dependent on access to Jerusalem, and on access of residents of Jerusalem to the village, to conduct their daily affairs. For example:

- Most of the residents rely – or more accurately, used to rely – on employment in East and West Jerusalem for their primary source of income. The village has a relatively small amount of farmland.
- The village does not have a high school. When the children reach tenth grade, they go to the school in Jabal Mukaber or to other schools in East Jerusalem. Most of the teachers in the village's two elementary schools live in East Jerusalem.
- The medical clinic in the village provides only basic medical treatment and vaccinations. For all other medical needs – lab tests, visits to medical specialists, surgery, and childbirth – the residents rely on hospitals in Jerusalem.
- Most of the villagers go to Jerusalem for most of their shopping, and the few shops in the village receive their goods by truck from the city.
- The village does not have a cemetery, and the only cemetery serving the residents is located in Jabal Mukaber.

2. For a discussion on the history of Palestinian settlement in this area, see Avshalom Shmuely, *Migrant Settlement in the Jerusalem Region in the Twentieth Century*, Ph.D. thesis, Hebrew University, Jerusalem, 1973.

The siege on the village

Most of the residents of Sheikh Sa'ad hold Palestinian identity cards, while a few have Israeli identity cards and permanent-resident status. As a result of the general closure that Israel has imposed on the Occupied Territories since 1993, village residents who are not Israeli residents are not allowed to enter East Jerusalem without a special permit from the Civil Administration. This prohibition has created an intolerable situation for village residents, whose only way out of the village runs through Jerusalem.

The closure created an absurd situation. A resident who wants to go to the Civil Administration office, which is located near the Ma'ale Adumim settlement, to obtain a permit to enter Jerusalem, must enter Jerusalem illegally. Furthermore, since the beginning of the al-Aqsa intifada, in late September 2000, the Civil Administration, citing vague and unspecified "security" reasons, has generally rejected requests submitted by village residents for permits to enter the city to work. The number of permits issued for people to enter Jerusalem for medical and other purposes has declined since the beginning of the intifada, and those that are granted are often issued for one day only, even when the individual requires prolonged treatment.

Entry permits are automatically revoked whenever Israel imposes a "comprehensive closure" on the Occupied Territories. Closures of this kind generally occur following Palestinian attacks against Israeli civilians, on Israeli holidays, and election days. After the

comprehensive closure ends, the resident must file a new request to obtain a permit.

Residents of Sheikh Sa'ad must cross through the city on their way to adjacent Palestinian towns and villages that lie outside Jerusalem's municipal borders, including Sawahra a-Sharqiya, Abadiyya, Abu Dis, Jericho, Ramallah, and Bethlehem. Some of the village's residents have to reach these places regularly to work, obtain medical services, and do their shopping. This dependence results directly from Israel's refusal to let them enter Jerusalem.

In September 2002, the IDF blocked the road connecting the village and Jabal Mukaber. This roadblock, composed of piles of dirt and concrete blocks, made it impossible to enter or leave the village by vehicle. Residents wanting to go to Jerusalem or anywhere else in the West Bank must climb over the roadblock and find transportation from the other side.

However, Israel's Border Police frequently patrols the area and prevents residents holding Palestinian identity cards from leaving the village unless they have permits to enter Jerusalem. The first time a resident is caught trying to leave the village for Jerusalem without a permit, the individual is usually compelled to sign an undertaking not to leave the village, and is forced to return to the village. If caught again, the person is arrested and taken to a detention center, usually near Checkpoint No. 300 at the entrance to Bethlehem, for questioning, which usually lasts a few hours. In some instances, the resident is fined a thousand shekels and then

released. Sometimes, the individual is detained for a longer period of time to enable the filing of an indictment for being in Israel illegally. Some residents of the village are now serving sentences for this offense.

The only way residents of Sheik Sa'ad can get to an adjacent Palestinian village or to the Civil Administration to obtain a permit to enter Jerusalem without risking arrest is by crossing the valley on foot to Sawahra a-Sharqiya, and then going by public transportation to their destination. As mentioned above, this option is not available to the elderly, the sick, pregnant women, small children, or residents who are not in good physical condition. When it is very hot or there is stormy weather, the way across the valley can be difficult even for people who are in good shape.

The village's isolation from Jerusalem has made the residents' living conditions intolerable. Many of the residents who formerly worked in Jerusalem even though they did not have entry permits are now unemployed, living off their savings and assistance from relatives.

Visits to relatives living in East Jerusalem have become a complicated logistical operation. In emergencies, the residents must carry the sick, the injured, and pregnant women over the roadblock, to an ambulance that can take them to hospital. Goods are brought into the village by transferring them from one truck to another at the roadblock. Even moving about in the village is complicated because the gas has to be brought in jerrycans from gas stations in Jerusalem.

Since Israel set up the roadblock blocking access to the village and as a direct result of the intolerable living conditions that followed, about 700 to 800 residents (25-30 percent of the residents) have left the village.³ Most of those who left held Israeli identity cards or permits to enter Israel that they obtained in the course of the family unification process, and went to live in East Jerusalem.⁴ The flight of residents as a result of Israeli actions since the beginning of the intifada has been extremely rapid, comparable only to the mass departure of Palestinians from the Old City in Hebron, and in the al-Mawasi area in the Gaza Strip.⁵

3. The estimate was made by the resident's group. See footnote 1.

4. For additional information on the family unification process, see B'Tselem and HaMoked: Center for the Defence of the Individual, *Forbidden Families: Family Unification and Child Registration in East Jerusalem*, January 2004.

5. See B'Tselem, Hebron, Area H-2: *Settlements Cause Mass Departure of Palestinians*, August 2003, and B'Tselem, *Al-Mawasi, Gaza Strip: Daily Life in an Enclave*, March 2003.

Increased isolation resulting from the separation barrier

With the construction of the separation barrier between the village and Jabal Mukaber, the physical separation of Sheikh Sa'ad from East Jerusalem and the rest of the West Bank will soon be complete.⁶ In this area, the barrier will apparently take the form of an eight-meter-high concrete wall similar to other parts of the barrier that have been built around Jerusalem.

At the end of August 2003, the Political-Security Cabinet approved the construction of another section of the separation barrier in Jerusalem, part of which will run through the area of Sheikh Sa'ad and Jabal Mukaber. The entire section extends for seventeen kilometers, from the eastern edge of the Palestinian village of Beit Sahur in the south to the eastern edge of al-'Eizariya in the north. The southern edge of this section is planned to connect with the separation barrier that has already been completed in the southern part of the city. Some two-thirds of this route, including the section near Sheikh Sa'ad, runs along Jerusalem's borders. The other third winds eastward, past al-'Eizariya, to the Ma'ale Adumim settlement (see the separation barrier route, page 14).

In December 2003, the Jerusalem Municipality demolished two houses that had been built a few years ago at the edge of the village.

A family of six persons lived in one of the houses, and the second house was vacant. The municipality justified the demolition on the grounds that the houses had been built without permit. However, residents of the village are unable to obtain building permits in the areas that lie within the Jerusalem Municipality's jurisdictional area. These areas are zoned as "Green Areas," on which building is forbidden.⁷ This situation is not unusual, but reflects the municipality's discriminatory planning policy, which prohibits building on most of the open land in East Jerusalem.⁸

Furthermore, over the years, the Civil Administration and the Jerusalem Municipality have not enforced the planning and building laws in the village, and have never demolished a house in the village. Knowing that the law was not being enforced, residents built houses on private land within the built-up area inside the village.⁹ The municipality's decision to enforce the planning and building laws now in regard to two houses lying along the separation barrier's route leaves no room for doubt as to the reason they were demolished.

The Defense Ministry apparently intends to set up a pedestrian gate in the wall separating the village and Jabal Mukaber. However, the

6. For an extensive discussion on the separation barrier, see B'Tselem, *Behind the Barrier: Human Rights Violations as a Result of Israel's Separation Barrier*, March 2003.

7. Town Planning Outline 2683 ('Arab a-Sawahra).

8. For a discussion on this phenomenon, see B'Tselem, *A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem*, January 1997; IrShalem, *East Jerusalem – Planning Status: Survey of Outline Plans and the Planning Regime in East Jerusalem*, November, 1999.

9. For a discussion of a similar case, see B'Tselem, *Nu'man, East Jerusalem: Life under the Threat of Expulsion*, September 2003.

only persons who will be allowed to cross are the few individuals who hold Israeli identity cards. The other residents will require permits to enter Israel, which are difficult to attain and are granted in accordance with “security considerations.”

Even now, residents of Sheikh Sa’ad require permits to enter the city. Having no alternative, many residents who do not have permits enter the city and risk arrest,

finer, and incarceration. After the barrier is constructed, residents wanting to leave or return to their homes will have to use the arduous path that crosses the valley. As previously mentioned, this option is only available to residents in very good physical shape. In reality, construction of the barrier along the planned route in this area is the equivalent of an expulsion order for some village residents.

Testimonies

1. Testimony of Sami Daud Muslim al-‘Awisat¹⁰

I am thirty years old, married, and have two children – one two years old and the other three months old. We live in Sheikh Sa’ad. Until several months ago, I was a construction worker in Jerusalem, even though I do not have a permit to enter the city. Israel placed piles of dirt at the entrance to the village, and Border Police officers stand there and prevent the villagers from going to Jerusalem. I used to sneak into the city to find work, but five months ago, police caught me inside Jerusalem. I spent a month in jail and paid a 1,000 shekel fine. Since then, I have not gone into the city to work, which is a problem, because I have to work to support my family and my parents.

I have eight brothers. They all live in the village and all are unemployed. My mother has a kidney problem and requires dialysis every other day. She goes to al-Mutal’a Hospital, in East Jerusalem. The Palestinian Ministry of Health pays for the treatment, but my brothers and I have to buy the drugs that she needs for dialysis. Each treatment requires an injection that costs NIS 280. It works out to fifteen injections a month. We are unable to pay for them. To help cover the cost, I have had to borrow money from friends and relatives.

My mother has a permit to enter Israel. About two and a half years ago, she received an entry permit for a six-day period. Lately, she has been given permits for three-month periods, but they

are cancelled when a closure is imposed. There have been cases in which police officers who were standing guard at the roadblock during a closure did not let her pass, and ordered her to return home. There were also instances in which taxi drivers refused to take her, and she had to walk to the hospital. When she manages to leave the village, she goes alone, because none of us has a permit to enter the city that would enable us to accompany her to the hospital. Although she is totally exhausted as a result of the treatment, my mother has to make her way home alone as well.

We have been able to manage more or less, but I do not know what will happen after Israel puts up the fence. It will block the only entrance to the village, and we won’t have access to any hospital. The village has a small medical clinic run by the Palestinian Ministry of Health, but it barely functions because the doctor does not live in the village and does not work regular hours.

Due to the poor economic situation, there are almost no employment opportunities in the village. There is almost no construction in the village. My daughters are still small, and I am afraid, Heaven forbid, that they may need hospital treatment. I would have a big problem getting them to hospital.

About five months ago, my brother was struck in the foot and tore a tendon. We took him by car to the entrance to the village, where we transferred him to another vehicle. It took

10. The testimony was given to Nidal Kna’aneh on 8 February 2004.

us time to find somebody with a car and an Israeli ID card who was on the other side of the roadblock and could take my brother to the hospital. It took us an hour and a half to get to the hospital, and that was the first treatment of any kind that he got for his injury. Not many people in the village have permits to enter Israel. The ones who do are sick people who received medical certificates from the hospitals where they receive treatment.

We barely manage to get by. We borrow money here and there, grow some vegetables in our yard, and raise chickens, though we have trouble getting food for them. We get by one day at a time. Some shops in the village have closed because the villagers do not have money, and everyone buys on credit. It is hard to bring goods into the village because of the roadblock at the entrance. When merchandise comes, the merchants have to transfer it from one vehicle to another. The merchants pay extra for the merchandise because of the difficulty and expense involved in transporting the goods to their shops.

It is almost impossible to leave the village. About half of the residents have moved out because of the grave situation. Most of those who left have Israeli ID cards, or are in the process of obtaining family unification. In the past, a person who was caught outside the village had to promise in writing that he would not enter Israel again. The police made the person sign a document each time they were caught, but the fifth time, the person would be sent to jail for a month and fined NIS 1,000.

Now, they only give you one chance. If you get caught a second time, you will be sentenced to jail and have to pay the NIS 1,000 fine.

The only thing we want is a gate in the fence and permits for everybody in the village so that we can work and live in dignity like everybody else.

2. Testimony of Farid ‘Omar Abu Dahim¹¹

I am forty-four years old, have a wife and eight children, and live in Sheikh Sa’ad, a village bordering Jerusalem. I have an Israeli ID card as a permanent resident. I sell food products and basic commodities wholesale. My shop is situated at the entrance to the village.

Our village is cut off from the rest of the West Bank, separated from it by a deep valley. The village has only one entrance, through which the residents reach Jerusalem. We rely totally on Jerusalem for our basic services. On 28 September 2002, the army blocked the entrance to the village with piles of dirt. Since then, there is no access to the village.

Since 1990, I have been selling my merchandise to shops in the village. Because of the roadblock, the economic situation in the village has declined, and more than ten shops have closed. Now we have only about five small shops, and they are barely hanging on. I buy merchandise in Jerusalem. When I order merchandise, I have to transfer it from one truck to another at the roadblock. Sometimes, Border Police officers do not allow the trucks bringing the goods to park near the roadblock, and make it difficult for me to transfer the merchandise and bring it into the village. In addition, many residents have left the village. Very few customers are left.

A large majority of the residents do not have permits to enter Israel. Whoever is caught inside Jerusalem without a permit pays a fine

11. The testimony was given to Nidal Kna’aneh on 12 February 2004.

and is jailed. So far, about fifteen residents have been jailed. So the residents prefer to stay at home. The unemployment rate is about eighty percent. Whoever manages to get into the city earns NIS 40-50 a day. Because of the economic situation, the residents buy only basic commodities, such as flour, rice, and sugar. They buy on credit and their bills grow steadily. I cannot demand payment because I know their financial situation. Besides, if I don't sell to them, they will starve to death. The residents try to get by on their own, growing vegetables and raising chickens.

Many of the young people in the village are depressed because of the situation. Some are even on the brink of a mental breakdown. Information gathered by a committee organized by the village mukhtar indicates that, because of their lack of income, the young people are not getting married. There are dozens of women over the age of twenty who are still single. In our culture, most women marry when they are between eighteen and twenty. The committee also counted the number of houses whose owners have left to live in Jerusalem. They found that the owners of fifty-five of the seventy houses on one street in the village had left their homes. They have not been able to find people to rent their homes, and settle for people moving in to "house-sit" for them.

Another problem relates to medical care. The residents have to go to Jerusalem for medical care and treatment. Because ambulances cannot enter the village, we have to carry people who are sick over the dirt piles and into an ambulance waiting on the other side to take them to the hospital.

We have the same problem with getting to the cemetery, which is located in Jabal Mukaber. If someone from the village dies, we have to carry

the body over the mound of dirt to get to the cemetery. There were two cases in which the mukhtar arranged with the army to remove the roadblock to allow the funeral to pass. Since the second case, the mukhtar hasn't made any such request because it took him so much time to arrange things with the army, and the families wanted to hold the funeral as soon as possible. Sometimes, the army won't let people take part in the funerals if they do not have entry permits, even if they are relatives of the deceased. Similarly, people are unable to visit the gravesites of their relatives in the cemetery. For these reasons, some villagers have suggested that we build a cemetery in the village.

Residents of the village have close family ties with relatives living in villages adjoining Jerusalem. The roadblock makes it very difficult for them to maintain these ties. This means that we cannot take part in family events that take place in those villages. This is an especially grave problem because, in our Beduin tradition, close family ties are very important. Often, residents have no choice but to enter Jerusalem illegally to take part in family occasions.

Once the fence is built, it will be impossible to leave the village. That will be a big blow to us. Before the army set up the roadblock, there was transport service operating between the village and Jerusalem. Since then, the drivers have been afraid they will be caught carrying villagers who do not have permits to enter the city. Because of the lack of transport services, four of my eight children, who study in the school in Jabal Mukaber, have to walk for half an hour to get to school. I do not know what will happen after the fence goes up. My mother and brothers live in Jabal Mukaber. I also have a house there. If the fence surrounds the village, I guess I will have to move to Jabal Mukaber. If that happens, I would not be able to see my

Separation barrier and Jerusalem Municipality border in Sheikh Sa'ad area



Source: Civil Administration aerial photo attached to Seizure Order 47/03/n.



relatives who live in Sheik Sa'ad. It will be a hard decision.

3. Testimony of Turki Hussein Muhammad Mashahra¹²

I am thirty-eight years old, married, have nine children, and live in Sheikh Sa'ad. I am a construction worker for an Israeli company. The only road leading to the village has been blocked with dirt piles for two years. Our village is in a mountainous area, and it is hard to get to the village other than by that road. On its northern, southern, and eastern sides, the village borders Jerusalem. To the east, the closest village in Sawahra a-Sharqiya. There is a huge valley between the two villages.

Our lives center around Jerusalem and the surrounding Palestinian villages. We do our shopping in Jerusalem and our children go to schools in the city. Sheikh Sa'ad has only two elementary schools, which are not sufficient for all the children in the village. With the only road to the village blocked, the children go by foot. If someone needs medical treatment, we take the person to the other side of the roadblock, where the ambulance picks up the patient.

About two months ago, my brother died. He lived in the village and our cemetery is located near Jabal Mukaber. We had to postpone the funeral until we received a permit from the

army to leave the village to have the funeral. This is the standard procedure for every funeral, and for weddings as well. When Border Police officers are positioned at the entrance to the village, there are more problems because they only allow people with Israeli ID cards to leave. There are some houses in the village that lie inside the Jerusalem city limits. On the 'Eid el-Fitr holiday, for example, an army jeep stood at the entrance to the village and prevented us from visiting relatives and friends.

A few months ago, work began on the separation barrier right at the entrance to the village. To put up the barrier, the Israelis demolished my brother Samir's house. Samir has four small children. They demolished his house the day before the holiday, and used the site to build a road that is part of the barrier. The road also cuts us off from our land – now our olive orchards lie on the Israeli side of the barrier.

The fence is a catastrophe for us. It imprisons us inside the village. We are cut off from everything, and have no access to the outside world. Our telephone lines are from Bezeq (the Israeli telecommunications company) and our water infrastructure is part of the Jerusalem Municipality's system. We live in uncertainty, not knowing what the future will bring. Nobody (from the Israeli authorities) tells us anything. For now, our future looks extremely bleak.

12. The testimony was given to Nidal Kna'aneh on 15 December 2003.

Conclusions

For more than three years, Israel has placed restrictions unprecedented in scope and severity on Palestinian residents of the West Bank. Israel blocks entry into most villages in the West Bank. A majority of the main roads are closed to Palestinian traffic. The army has placed hundreds of dirt piles, concrete blocks, and trenches along roads in the region.

Sheikh Sa'ad is an extreme example of the catastrophic results of Israel's restrictions on movement. Blocking the road that connects the village to the adjacent East Jerusalem neighborhood of Jabal Mukaber in September 2002 isolated the village and created great hardship for the residents. As a result, at least one-quarter of the residents have moved out of the village. Now, with its plan to build a separation barrier between the village and East Jerusalem, Israel will further exacerbate the situation. Not only will the barrier sever the village from the city, it will also cut it off from the rest of the West Bank.

The Israeli siege on the village infringes the basic right granted to all persons to move about freely and without restriction in their country. Under international law, Jerusalem has the same status as other areas of the West Bank, so village residents have the right to enter East Jerusalem. Furthermore, having failed to provide any alternative way for the residents to enter or leave the village by vehicle, Israel

may not prevent the residents from entering Jerusalem. The right to freedom of movement is enshrined in Article 12 of the International Covenant on Civil and Political Rights. Also, according to Article 43 of the Hague Regulations, the occupier is required to take all measures in its power to ensure that public life continues in the area under its control. The siege also infringes rights provided in the International Covenant on Economic, Social and Cultural Rights, including the right to the opportunity to gain a living by work (Article 6) and the right of every person to "enjoy the highest attainable standard of physical and mental health" (Article 12.1).

Israel is allowed to restrict movement to meet military needs. However, the sweeping nature and indefinite length of the siege imposed on Sheikh Sa'ad, and the utter disregard for the grave hardship it places on the residents, turn the siege into a flagrant breach of international law. Construction of the separation along the planned route in the Sheikh Sa'ad area will further increase Israel's violation of human rights and international law.

B'Tselem demands that the Israeli government immediately remove the siege on the village of Sheikh Sa'ad and enable its residents to enter East Jerusalem without restriction, and refrain from building a physical barrier that will separate the village from East Jerusalem or the West Bank.

Response of the IDF Spokesperson

Israeli IDF Int.	Defense Spokesperson Org.	Forces Unit Section
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22	February	2004



To
Mr. Yeheskel Lein
Bt'selem

IDF Spokesperson's response to the Sheikh Sa'ad Report

The Sheikh Sa'ad village is located in the West Bank, outside of the municipal area of Jerusalem (except for a small number of buildings).

As part of the measures taken in order to deal with the murderous terrorist attacks, carried out over the past three years in Jerusalem, the Israeli security forces have taken steps to block the uncontrolled access roads leading from the West Bank to Jerusalem.

These roads were blocked because they were used by the terror organizations, to enter terrorists and explosive materials and other weapons into the Jerusalem area. One of the pathways that have been blocked is the road leading from the Sheikh Sa'ad village, to Jerusalem.

In August 2002, the Sheikh Sa'ad village residents petitioned the Israeli High Court of Justice against the blocking of the pathway from their village to Jerusalem. The State of Israel, in its response, made clear that because the village is located within the West Bank, its residents, do not have Israeli citizenship, and thus do not have an inherent right to enter Jerusalem. It was further noted in the State's answer that the residents are allowed to travel on an alternative road in the direction of Sawahra village, and from there to the rest of the West Bank. In the Past a small bridge above the Kidron River along the alternative route, was demolished, so the Israeli security forces repaired it. Due to this information, the Israeli High Court of Justice decided to revoke the petition.

It should be mentioned, that in light of the additional difficulties to travel on the path, the Israeli Security Forces intend to take additional steps in order to improve the pathway, so that free and safe travel is possible.

As commonly known, an anti-terror fence is currently being constructed around Jerusalem. In the area of Sheikh Sa'ad village the fence is being built – in general – along the Jerusalem municipal border. The security forces are aware of the commuting difficulties of the village residents, as described in your report, and are currently examining different ways to deal with these difficulties, in order to improve the daily lives of the Palestinian population.

**Sam Wiedermann, Major.
Head of the International
Organizations Desk**

Response of the Israel Police Force, Jerusalem District*

Israel Police Force

Jerusalem District Headquarters
Office of the Commander
Telephone 02 - 5391205
Facsimile 02 - 5391191
19 February 2004

Mr. Yehezkel Lein
B'Tselem

Re: Response of the Jerusalem Police Department to B'Tselem's report

1. Sheikh Sa'ad is located in Area B.
2. In recent years, residents of Sheikh Sa'ad and Sawahra a-Sharqiya engaged in extensive illegal building with the intention of blurring the Jerusalem Municipality's border. Following that, residents of the Territories holding orange and green identity cards [which indicate residence in the Territories] attempted to enter Jerusalem illegally, also for the purpose of carrying out hostile terrorist activity (such as the attack on Bus Line 32), and to commit criminal offenses.
3. As a rule, movement from the village to Jerusalem by persons holding entry permits is done by vehicle, and the Ministry of Defense is currently planning a road that will provide more convenient access to Sawahra, which will enable the residents to reach Jerusalem quicker.

Border Police officers stationed at roadblocks allow entry in humanitarian cases, in coordination with the Civil Administration and village heads. At the same time, the police will continue to enforce the law preventing residents of the Territories to enter Jerusalem.

4. It should be mentioned that a petition was filed in the High Court of Justice against the roadblock. The justices denied the petition.

Sincerely,

Shmulik Ben Ruby, Chief Superintendent
Jerusalem District

*Translated by B'Tselem

Response of the Jerusalem Municipality*

Municipality of Jerusalem

Director General

Jerusalem, 22 February 2004

Mr. Yehezkel Lein
B'Tselem
8 Hata'asiya Street
Jerusalem
(Fax 02-6749111)

Dear Mr. Lein:

Re: Response of the Jerusalem Municipality to B'Tselem's report on Sheikh Sa'ad

Ref: Your letter of 17 February 2004

Background/preface

1. B'Tselem – The Israeli Center for Human Rights in the Occupied Territories was established to combat human rights violations *in the territories under Israeli occupation*, and advocates change in Israeli government policy in the territories that it occupied, to make the government aware of its obligation to protect the human rights of all the residents and to strictly comply with its obligations under international law. B'Tselem performs its activities in the belief that respect for human rights *is not inconsistent with Israel's security...* (profile of the organization and its goals, as appears in B'Tselem publications).
2. Following the Six Day War – *and as a direct result of the Arab attacks against the State of Israel* – the State of Israel indeed annexed territory by expanding the area of jurisdiction of the Jerusalem Municipality, and applied Israeli law in all that territory. *B'Tselem supports the position and starts from the assumption that, under international law, the State of Israel is forbidden to annex unilaterally territory that was occupied in war; and therefore, according to international law, the annexation of this territory into Jerusalem (and the State of Israel) is void, and the status of the said territory is no different from that of other parts of the “West Bank” (Judea and Samaria).*

* Translated by B'Tselem

Unlike B'Tselem's basic assumption, the Municipality of Jerusalem is committed to the State of Israel, its laws, and the directives of the governments of Israel, and it acts accordingly within its municipal borders, for the benefit and welfare of all its residents.

3. *We regret that B'Tselem is among those who challenge the unification of Jerusalem under Israeli sovereignty, as was seen in the appearance and speech of a member of B'Tselem's Board of Directors, Dr. Menachem Klein, on 28 January 2004, to the Mideast Subcommittee of the European Council, where he referred to the establishment of the state in 1948 as a catastrophe and harshly condemned the government's policy, in general, and the construction of the separation barrier, in particular, in the presence of Members of Knesset Haim Ramon, Micha'el Eitan, and Yuri Shtern (Ha'aretz, 29 January 2004). An expression of the status that B'Tselem has in the Palestinian Authority, the status given to its actions, and to the esteem that its leaders give to the organization were recently evident in the comments of Jibril Rajub, "... Sharon, too, was not exactly active in B'Tselem" (Ha'aretz, 18 February 2004).*
4. Regarding Sheikh Sa'ad, its land is classified as Area B and Area C in the West Bank/ Judea and Samaria. It lies outside the boundaries of the Jerusalem Municipality and east of the Jabal Mukaber neighborhood. Although in the past its residents requested to be annexed into the Municipality – also after the Oslo Agreements and transfer of the village to the civil authority of the Palestinian Authority – Israel did not accede to their request. Therefore, the Jerusalem Municipality is not required to provide services in the village or to its residents. Over the years, residents of Jabal Mukaber (members of the Sawahra clan) built illegally, and the open area between the communities became a built-up contiguous area, blurring the municipal border. Furthermore, over the course of time – prior to restrictions on passage and movement that resulted from the necessity of defending against Palestinian terrorism – residents moved from Jabal Mukaber to Sheikh Sa'ad and built houses there (which were cheaper to build because city levies and fees did not have to be paid). They also moved due to marriage ties with residents of Sheikh Sa'ad.
5. According to our records, the Jerusalem Municipality did not demolish in December 2003 houses that were inside the city's borders in eastern Jabal Mukaber/Sheikh Sa'ad. However, there were indeed three structures built without permit that were situated on the route of the eastern ring, and of the security separation barrier. These structures were the subject of legal proceedings, when, in September 2003, the Municipality demolished one (vacant) structure in the area.

We protest the claim that the Jerusalem Municipality conducts a "discriminatory planning policy." This claim is based on reports published by B'Tselem and IrShalem, whose orientation and activity are clearly misleading and tendentious.

6. In general, the Jerusalem Municipality regrets the need to enforce the law by demolishing houses, and it does not hasten to do so except in cases in which the offenses cannot be rectified, and/or where the offenses harm public interests. This is the reason that the number of houses built illegally in Arab neighborhoods is so small in relation to the number of [building] violations in the Arab sector. This does not mean that the Municipality does not enforce the law. The Municipality does this by giving warnings, issuing cease-work orders, and by filing suit. We have also acted in this manner in this region of the Municipality's area of jurisdiction.
7. A security "separation fence" is currently being built. This action *is the result of the need to provide protection against Palestinian terrorism aimed at residents of Jerusalem*. Over the past three years, this terrorism has resulted in the killing of 167 and the wounding of 1,550 residents of the city (most of the attacks were committed by suicide terrorists who were not residents of the city), in addition to the damage to property and disruption of daily life and harm to the residents' quality of life (recent terrorist attacks took place on 29 January 2004 by a suicide bomber and on 22 February, the date of this response). The route of the "separation fence" was set by the defense establishment following examination of diverse factors, and the right to be heard and to file an appeal was given to the relevant residents and with the maximum consideration and fairness.

Unfortunately, because of the protective measures and the desire to save and prevent the loss of life, the measures taken cause some discomfort and hindrance in the daily routine of people, but preserving lives prevails over safeguarding personal convenience.

The situation in Sheikh Sa'ad

8. Most of the residents of Sheikh Sa'ad indeed belong to the Sawahra clan, *Beduin families who settled in the Jerusalem area*. Most of them hold Palestinian identity cards because they are residents of the West Bank/Judea and Samaria and in that the village has always been situated outside the jurisdictional area of the Jerusalem Municipality.
9. Because it lies adjacent to Jabal Mukaber, in which families from the Sawahra clan also live, and because there is regular and open passage, a willingness to allow movement, and contiguity (before the current war on terror that has lasted for several years, and which is directed against citizens of Israel/Jerusalem, such as by booby-trapped vehicles and suicide bombers), the municipal border has become blurred, with residents of Sheikh Sa'ad and Jabal Mukaber being able to move without restriction between Jerusalem and the West Bank/Sheikh Sa'ad. In this manner, with marriage/family ties being routine, Jerusalem residents also built homes in Sheikh Sa'ad/West Bank, and illegal building created a built-up contiguity between Sheikh Sa'ad and the eastern part of Jabal Mukaber that blurred the municipal border.

10. Indeed, the terror that has taken place since 1992-3, which has continued with the establishment of the Palestinian Authority and transfer of civil powers in the West Bank to that entity, led to an emphasis on differentiating the territorial area to which the person belongs and all that that entails in regard to movement, the obligation to supply civil services, and so forth.
11. The obligation to provide civil services in Sheikh Sa'ad and to its residents lies with the Palestinian Authority, just as they were provided – prior to the transfer of powers to the PA – by the Civil Administration in Judea and Samaria. The Jerusalem Municipality provided services – primarily in the area of education, and continued to accept in its schools the sons and daughters of parents holding Jerusalem identity cards, even those who moved to Sheikh Sa'ad.
12. Palestinian residents in the Territories, in general, and in this context the residents of Sheikh Sa'ad, can enter Jerusalem when necessary and lawfully, subject to approvals issued by the Civil Administration (for work, medical treatment, etc.), and this situation will continue. Entry without a permit indeed constitutes illegal stay, with all that entails. To the degree that the permits are revoked, that is generally done because of terrorism that harms innocent people, including the welfare of the population.
13. To the best of our knowledge, in addition to the existing dirt paths, the defense establishment plans to prepare a road that will connect Sheikh Sa'ad and Sawahra a-Sharqiya and Abu Dis. The eastern ring road, under construction, will likely greatly facilitate their *rapid* access to the north and south as well (in the direction of Bethlehem and Ramallah).

Conclusion

14. Sheikh Sa'ad is situated in Areas B and C, in which the responsibility for civil affairs lies with the PA and the Civil Administration in Judea and Samaria, the bodies that are responsible for the handling of all civil matters and the provision of services to the local residents.
15. The Jerusalem Municipality enforces the law, including the planning and building laws, within its municipal jurisdiction, by employing the tools available to it by law, and in extreme cases, also demolishes structures. In any case, and although the illegal building in Sheikh Sa'ad and Jabal Mukaber created a contiguous built-up area, *the Jerusalem Municipality, contrary to what the report states, did not demolish two structures there in December 2003, but did demolish one structure in September 2003.*
16. The Jerusalem Municipality shows consideration to residents who moved from their homes in Sheikh Sa'ad, and accepts their children in municipal schools in Jabal Mukaber, etc. It also appears, to the best of our knowledge, that the defense establishment is planning a

crossing point in the separation wall that will be built in this area. In addition, it will make a road that will connect Sheikh Sa'ad and Sawahra and Abu Dis.

17. In any event, the paramount duty is to join with the defense establishment and the government of Israel in their actions to protect the lives of residents of Jerusalem against the Palestinian terrorism and its effects, which have left deep scars in the city. *We regret the harm caused to the quality of life and the inconvenience caused to residents of Sheikh Sa'ad, who also are victims and pay the price in another way for the Palestinian terror, just as we regret the harm, both physical and psychological, to the residents of Jerusalem, and to their property, and await its termination.*
18. In our opinion, in writing its report, B'Tselem should have presented the overall context and the need to protect lives in Jerusalem – both Jews and Arabs – against the Palestinian terrorism, and should have provided figures on the terrorist attacks, against which the security separation fence also provides us protection.

Sincerely,

Eitan Meir
Director General

cc: Mr. Gidi Schmerling – Municipality Spokesperson

בצלם

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بتسيلم - مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة

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