



Status Report March 2003

Al-Mawasi, Gaza Strip

Intolerable Life in an Isolated Enclave

בני עז

מרכז המידע הישראלי לזכויות האדם בשטחים (ע.ר.)
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B'TSELEM - The Israeli Information Center for
Human Rights in the Occupied Territories

Al-Mawasi, Gaza Strip

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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: Palestinians at the Tufakh checkpoint (Joss Dray)

Introduction

Al-Mawasi is a narrow strip of land along the Gaza coast, one kilometer wide and fourteen kilometers long. It borders Deir al-Balah to the north, and Rafah and Egypt to the south. The Gush Qatif settlements, containing approximately 5,300 settlers, lie east of it.¹ The area is divided into two sections, named after the adjacent cities: al-Mawasi – Khan Yunis in the north, and al-Mawasi – Rafah in the south. Al-Mawasi is rich in fresh water and contains the best farmland in the Gaza Strip. Approximately 5,000 people live in the community.²

Due to its proximity to the Gush Qatif settlements, the Oslo Accords gave al-Mawasi a different status from the rest of the Gaza Strip. The Palestinian Authority is responsible for civil affairs and Israel for security affairs, as in Area B of the West Bank.³

The infrastructure in al-Mawasi is poorly developed. Only fifteen percent of the houses are connected to the Israeli electricity grid; the others are connected to two generators provided by the Palestinian Authority. These generators operate only in the evening in order to reduce expenditures and because of the difficulties entailed in transporting fuel for the generators

into the area.⁴ Telephone hook-ups are rare. Following establishment of the Gush Qatif settlements, Israel built new roads in the area, but they are intended solely for the settlers and the army.⁵

Since the outbreak of the al-Aqsa intifada, the IDF has placed dozens of staffed checkpoints and hundreds of physical roadblocks that severely impede travel from one town or village to another. The army has also imposed a prolonged curfew in the West Bank and has allowed almost no Palestinians to enter Israel. In the Gaza Strip, the IDF has prohibited the residents from leaving the area to enter Israel except in special cases, and the exit to Egypt via Rafah crossing entails great difficulty. The army has periodically cut the Strip into three sections and prohibited movement from one section to another.

The IDF has placed additional restrictions on the movement of residents in al-Mawasi. Entry and exit is allowed only through one checkpoint and according to arbitrary criteria set by the army, which change from time to time. However, because of the long lines and the limited hours that the checkpoint is open, even Palestinians who meet the criteria cannot be sure that they will be able to cross.

1. See Israel's Central Bureau of Statistics Website, www.cbs.gov.il/shnaton/53st02_13pdf.

2. According to the 1997 census, al-Mawasi had 4,141 residents. The estimate of the current number of residents is based on the natural population growth in the area. See the Website of the Palestinian Central Bureau of Statistics: www.pcbs.org/temp/pales/002tables_e.pdf.

3. Israeli-Palestinian Interim Agreement on the Gaza Strip and the Jericho Area, signed in Cairo in 1994 (hereafter: the Gaza-Jericho Agreement), Annex 1, Art. 4(4); Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, signed in Washington in 1995 (hereafter: the Interim Agreement), Annex I, Art. 6(4).

4. This information was provided to B'Tselem in a telephone conversation of 20 February 2003 with 'Abed al-Majid al-Istael, the supervisor of the generators.

5. This information was provided to B'Tselem by an official in al-Mawasi, whose name is on file at B'Tselem. See, also, Amira Hass, "Giving up on Ideology in Favor of Earning a Living," *Ha'aretz*, 24 November 1999.

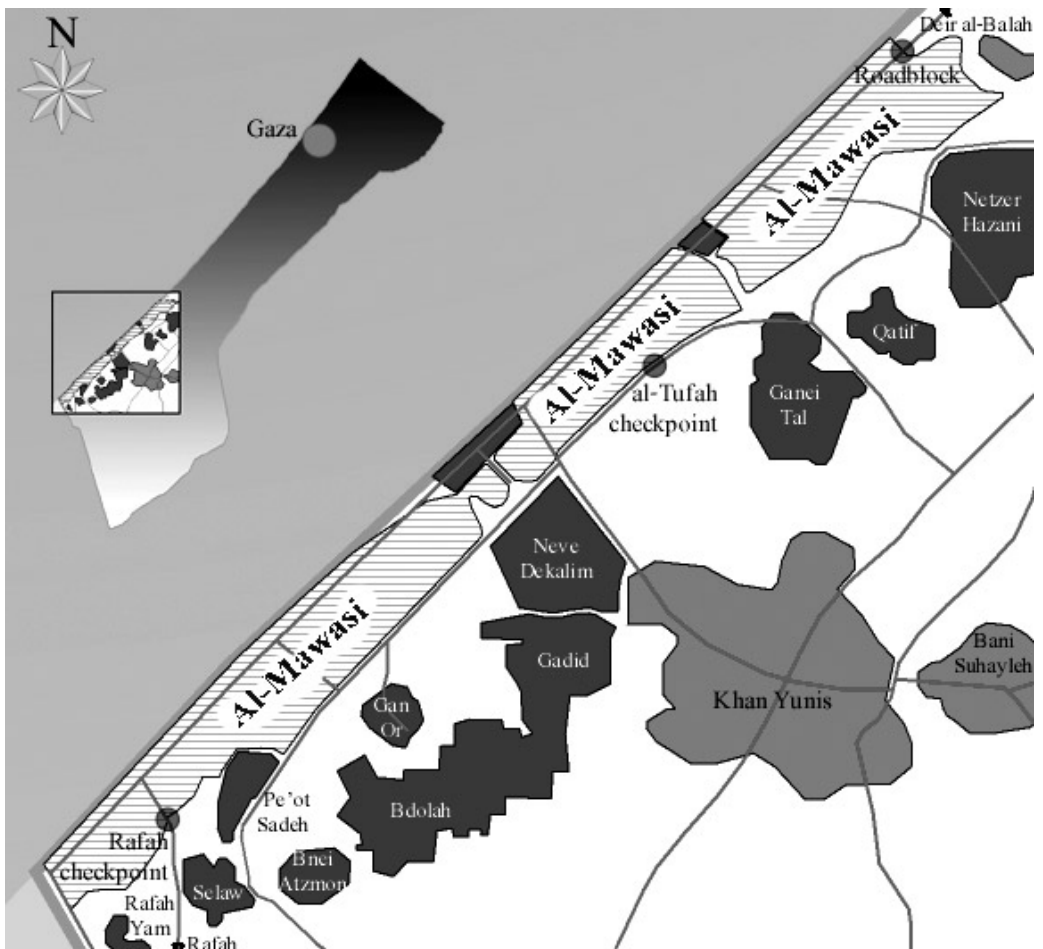
This report describes the difficult conditions in which al-Mawasi's residents live, which have received almost no public attention. The extreme restrictions on movement affect almost every area of life and violate the residents' basic human rights, including the right to work, the right to education, and the right to obtain medical treatment.

B'Tselem faced numerous difficulties in preparing this report. Entry into al-Mawasi is restricted to local residents, with few exceptions. Only one of B'Tselem's fieldworkers was even able to enter al-Mawasi to take testimonies,

and this was only after great difficulties. Unlike other areas in the Occupied Territories, many residents of al-Mawasi were hesitant to give testimonies to B'Tselem and requested to speak anonymously out of fear they would be harmed.

The report examines the restrictions on freedom of movement, their length, the extent to which they are reasonable in light of international law principles, and the repercussions of the restrictions on other human rights of the residents.

Map of al-Mawasi



Restrictions on movement

The restrictions on the movement of al-Mawasi residents began after the Gush Qatif settlements were founded in 1982. The IDF restricted the entry and exit of the residents from the area to three ways: through the Tufakh crossing in Khan Yunis, the Rafah crossing in Rafah, and via the Coastal Road, on which the residents could freely travel to Gaza City. Shortly after the first intifada broke out, in 1989, the IDF posted soldiers at the Tufakh and Rafah crossing points, but the presence of the soldiers at these locations had little effect on the residents' movement.

The Oslo Accords provide that passage through the two checkpoints and travel along the Coastal Road are the sole means for entering and leaving the area.⁶ Israel paved new roads in the area, but these were intended for settlers and the security forces, and Palestinian traffic on these roads was forbidden.

The IDF imposed significantly harsher restrictions on the movement of al-Mawasi's residents following the outbreak of the al-Aqsa intifada in October 2000. The Rafah crossing was closed to movement of merchandise and vehicles. At the Tufakh crossing, vehicles were allowed to cross following prior coordination, and goods crossed by the "back to back" method – transfer of merchandise from a truck on one side of the checkpoint to a truck on the other side – after a security check. The Coastal

Road remained open to traffic, but the road was in poor shape, making travel difficult.

On 14 January 2001, Ronni Zalah of the Kfar Yam settlement in Gush Qatif was killed by a resident of al-Mawasi who worked in the settlement. Following the murder, the IDF destroyed large patches of farmland in the area and placed more stringent restrictions on the movement of al-Mawasi's residents. The Coastal Road was closed to local residents, and outsiders had to coordinate with Israeli officials entry into the area. Israel issued magnetic cards and numbers to al-Mawasi's residents. Persons without a magnetic card and number were not allowed to cross through the checkpoints.

In response to B'Tselem's query regarding the restrictions currently placed on residents of al-Mawasi, the IDF Spokesperson's Office stated that there is "free movement" at the Tufakh and Rafah crossings, and that only "males over the age of forty, women of all ages, and children up to the age of twelve who are accompanied by their parents" are allowed to cross. The response also stated that the passage of farm produce is allowed only at the Tufakh crossing, using the "back to back" method, between 8:00 A.M. and 4:00 P.M. With regard to merchandise and goods, only food products are allowed to cross. Non-residents are allowed to enter only upon prior coordination.⁷

6. Gaza-Jericho Agreement, Annex 1, Art 4(5)(b); Interim Agreement, Annex 1, Art. 6(5)(b).

7. Letter of 19 December 2002, from Captain Anrieta Levi, Head of Assistance Division, IDF Spokesperson's Office.

The IDF Spokesperson's Office's description does not fully reflect the reality faced by the residents of al-Mawasi. On 5 October 2002, the army closed the Rafah crossing to pedestrians. Passage through the Tufakh crossing could hardly be described as "free movement." As a result of the IDF's arbitrary criteria, many residents have remained imprisoned in their community. Residents who were outside the area when the IDF set the new criteria have been unable to return to their homes. The IDF Spokesperson's Office's contention that women have been allowed to pass freely through the checkpoints is also contradicted by testimonies given to B'Tselem, presented below. The searches at the checkpoints are thorough and time consuming. The crossings are open to traffic, including to pedestrians, only from 8:00 A.M. to 4:00 P.M. The limited hours and extensive searches create long lines, and many residents are unable to cross before the checkpoint closes, forcing them to spend the night outside their homes.

The Tufakh checkpoint became an army fortress. Delays are interminable. The checkpoint opens and closes at the soldiers' discretion. At the soldiers' lunchtime, for example, the checkpoint is closed. The soldiers disappear from sight, and are not available even to handle emergency situations. The residents present their documents through a window. Talal Shqora, 45, a supervisor for the Palestinian Minister of Education, described the difficulties at the checkpoint:

Teachers waiting at checkpoints on their way to school have to sit on the ground or on the rubble of destroyed buildings. We wait until the soldiers call out on loudspeakers for the people to cross. The Palestinian

laborers are allowed in first, and after them, the teachers. They order us to move in groups of five to the old pole and stop. Then they have us walk along the corridor until we reach a circular electric gate. We face the gate, the soldier looks at us from inside a closed room and then orders us to push the door so that it turns. After we pass through the gate, we get to another gate, about two meters away from the first one.

We wait there until the soldier tells us by loudspeaker to push the door and come through. Then we go through a metal detector to a tall, concrete structure with small windows, where we hand over our ID cards to a soldier sitting inside. We also have to put our personal items on a conveyor belt that passes them through to the other side. Sometimes the soldiers order us to lift up our clothes and expose our stomach, or to take off our shoes and place them on the conveyor belt to be checked. After all this, we go to an area that is an army post, and then to a parking lot, where taxis are waiting to take us to the school. There are times when the soldiers do not allow the taxis into the parking lot. If that happens, we get to school on donkey-pulled carts. Often, when we take a taxi, an army jeep stops us at the Gush Qatif junction, and the soldiers make us get out, and search us. Sometimes, the same soldiers search us twice on the same trip, or we are detained for four hours or more, or they do not let us continue. In some cases, the soldiers let us pass after making us wait for a long time while they coordinate matters, and on occasion, they order us to take an alternate route, via Rafah crossing.⁸

8. The testimony was given to 'Issam Shath on 26 November 2002. For the remainder of the testimony, see below.

The efforts of Israel's researcher Raslan Mahagna to cross the Tufakh checkpoint clearly reflect the difficulties involved. He arrived at the checkpoint at 11:30 A.M. on 24 October 2002. He had previously spoken with officials in the IDF Spokesperson's Office, who promised that they would arrange an entry permit for him. It was not until 3:00 P.M. that he was given a permit that allowed him to stay until 4:00 P.M. Because of the short time remaining before expiration of the permit, he asked if he could return the following morning. He reached an understanding with the IDF Spokesperson's Office that he would be able to cross at 8:30 A.M. the next day. Mahagna describes what happened the following morning:

On Friday, I arrived at the Tufakh checkpoint at 8:15 A.M. I made my way from Gaza to Khan Yunis via the Kfar Darom checkpoint without any particular problems or delay. When I reached the Tufakh checkpoint, I met the same people I had seen the day before. A few commercial vehicles waiting to pick up produce from al-Mawasi were also at the checkpoint. I spoke with Nir, of the IDF Spokesperson's Office, and he said that the soldiers at the checkpoint had my name and that I could cross and go to al-Mawasi. I explained how the checkpoint was constructed and that I couldn't see the soldiers, and that it was dangerous to pass through the iron gate without prior coordination and without the soldiers in the towers knowing who I was. From where I was situated, it was impossible to see any soldiers. They were in the steel towers and also apparently behind the sacks of sand that were spread along the other side of the checkpoint.

I waited about an hour before Nir told me that he had described me to the soldiers at

the checkpoint, and that I could walk toward them. He told me to hold my blue [Israeli citizen] ID card up so that the soldiers could see my hands clearly. So I only took my notebook and left my camera. I put my cellular phone in my pocket. I walked slowly toward the checkpoint, my hands raised. My ID card was in one hand, and the notebook in the other hand. I proceeded forward about thirty meters when I heard someone shout "Stop" in Arabic from one of the towers. I stopped and explained to the soldier in Hebrew that I had received permission from the IDF Spokesperson to enter and that they [the soldiers at the checkpoint] have my name. I could not see the soldier. He was apparently inside one of the towers. He told me to wait and not move. He spoke to me in Hebrew. After waiting a couple of minutes, he told me to go back. He said that I did not have a permit to enter. I tried to explain to him that I had a permit from the IDF Spokesperson's Office. He shouted even louder this time, and ordered me to go back to where I had come from.

I went back and called Nir, the person at the IDF Spokesperson's Office. I told him what happened, and he promised that he would handle the matter promptly. Thirty minutes later, he asked me to go back to the checkpoint. I repeated what I had done earlier, but the same thing occurred. I tried to enter four times, and each time the result was the same. Then, finally, at 1:15 P.M., the soldiers allowed me to enter Khan Yunis.

In addition to the difficulties in passing through the checkpoint, the army has closed the checkpoint for prolonged periods without giving the residents prior notice. The first time this occurred since the outbreak of the al-Aqsa

intifada was at the beginning of Operation Defensive Shield, on 29 March 2002, when the checkpoint was closed for fifty days. The second closing occurred on 6 October 2002, during an IDF assault on Khan Yunis. On 20 October, the IDF allowed women, children, and males over the age of fifty to enter, and everyone who met the criteria and were at the checkpoint on that day returned home. In early November 2002, the army allowed males over forty and women over thirty-five to enter following a strict security check.

The army's closure of the checkpoint without giving the residents notice made it impossible for many of them to return to their homes. Dozens of residents had planned to return home the same day, and were subsequently stuck in Khan Yunis without a change of clothes, food, or a place to spend the night. Consequently, they had to rely on the kindness of relatives and friends to meet these needs. Many residents went to the checkpoint daily during these prolonged closures, but had to return to Khan Yunis. Some of them have not yet been able to return to their homes.

In its response to B'Tselem, the IDF Spokesperson's Office stated that the checkpoint was closed "in light of security warnings," and that "the key people in the Mawasi area were informed in an orderly manner, including the mukhtars, ambulance driver, grocers, and the like, and the announcement was made by loudspeaker." The response continued: "To reduce the harm to the Palestinians residing in the Mawasi area, concentrated operations

were conducted in the past to enable Mawasi residents who were in Khan Yunis and Rafah to go home. It should be noted that every operation is complicated and lasts a whole day."⁹

These statements contradict the facts on the ground. The notice on the closing of the checkpoint was not given to all the residents, and certainly not to local residents who were outside the area at the time the checkpoint was closed. Furthermore, these "concentrated operations" conducted by the IDF affected, at best, only the persons at the checkpoint on the particular day. The IDF clearly did not take the trouble to locate all al-Mawasi residents who were staying in Khan Yunis and inform them that they could return home.

The IDF Spokesperson's Office raises its usual argument – security needs – to justify the restrictions on movement: "Over the past two years, the arrangements for entering and leaving have indeed been altered because of the hostile terrorist activity and the growing number of warnings in the sector, and also because of the young age of the terrorists involved."¹⁰ However, al-Mawasi does not differ from other areas in the Gaza Strip and the West Bank. The sweeping, arbitrary restrictions, such as the restriction on males under forty years old from leaving the area, make it doubtful that the army has precise intelligence on the danger posed by al-Mawasi's residents.

Testimonies that B'Tselem received from residents of al-Mawasi regarding the IDF's refusal to let them return to their homes follow.

9. Letter of 31 December 2002 from Captain Anrieta Levi.

10. Letter of 19 December 2002 from Captain Anrieta Levi.

Testimony of Su'ad Salah 'Eid Wafi, 55, married with eight children, farmer, resident of al-Mawasi¹¹

My husband and I live in a house on a four-dunam [1 acre] plot of land containing olive trees, guava trees, date palms, and lemon trees. I help my husband in working the land, and our crops provide a livelihood for the family. I also work in our chicken coop. My work day begins at home, when I clean and prepare breakfast. After that, I go to work in our orchard. I generally do the picking. The guavas have fallen from the trees, but I have to bury them in a pit because we are unable to take the crop through the Tufakh checkpoint. I also tend our chicken coop.

On 6 October 2002, I went to visit my son, Mislah 'Atta Mislah, and my brother, both of whom live in Khan Yunis. Before leaving, I picked some dates and guavas for them. While I was at my son's house, Israeli tanks invaded Khan Yunis and positioned themselves between the Amal and Qativa neighborhoods. I spent that frightening night at my son's house.

The next morning, I decided to return home. I went to the Tufakh checkpoint, where I saw hundreds of civilians, including elderly people, women, and children, waiting in line. I was told that the checkpoint was closed and that it was impossible to enter or leave. I thought it would open in the evening, but it remained closed. I returned to my son's house for the night. When I returned to the checkpoint the following day, the situation was the same.

I did not remember our cellular phone number, so I could not call my children at home in

al-Mawasi. The checkpoint remained closed for a few days, and only then, when I called a neighbor, did I manage to find out how my children were. My neighbor told me that my husband had been taken by ambulance to Nasser Hospital, in Khan Yunis. My husband suffers from arthritis and has difficulty walking. He is in great pain and his legs are swollen. My neighbors, who had not seen my husband for a few days, went to visit him. When they saw his condition, they called an ambulance.

I immediately went to the hospital. He was in poor condition. His clothes were filthy. I took them and washed them at my son's house. I go to the hospital daily to visit my husband and then go to the checkpoint. I wait at the checkpoint until evening, but it doesn't open. My husband is still in the hospital, and nobody is cultivating our land.

Testimony of Fatma Hassan Hassan a-Lam, 55, married with two children, resident of al-Mawasi¹²

I have two daughters, one nineteen and the other fifteen. My husband, who is fifty-seven, is ill and unemployed. We do not own any land in al-Mawasi. My husband used to work in construction in Tel-Aviv and then he switched to agriculture. He has a back problem and has not worked for two years. I am the only breadwinner in the family. I sell vegetables in the Khan Yunis market. I buy the produce in al-Mawasi in the morning and take it, via the Tufakh checkpoint, to the market. I sell the produce and then return home to al-Mawasi. I make about twenty to thirty shekels a day. This is our entire income, which is not enough to live on.

11. The testimony was given to Nabil Mekherez on 25 October 2002.

12. The testimony was given to Raslan Mahagna on 24 October 2002.

The Palestinian Authority does not provide any assistance even though everyone in the neighborhood knows that we live in poverty. I do my shopping in Khan Yunis because prices are much lower there.

On 5 October 2002, I went to Khan Yunis to sell vegetables. I had NIS 55 in my pocket from the sales when my brother, 'Abd a-Rahman, who had gone with me that day, and I decided to pay a condolence call on relatives of ours in the city (a seventy-year-old relative had died in Khan Yunis). The same day, Israel shelled the city, so we spent the night in Khan Yunis. We planned to go home the next day, but the checkpoint was closed. Almost twenty days have passed since then, and I still can't go home.

My husband is pressuring me to do everything I can to get home so that I can take care of him

properly. My daughters are unable to do it. I also have his medication, which I bought in Khan Yunis. The money that I had made is gone, and my relatives in Khan Yunis, with whom I am staying, are supporting me. My brother sleeps on the family couch. My daughters also have no money. The neighbors give my husband and daughters food. I manage to talk to them only once a week because we do not have a telephone.

Everything is very uncertain. I go to the checkpoint daily at 8:00 A.M. and wait until 4:00 P.M. On 20 October, the army let women, children, and people over fifty years old cross, but I was not there that day. Nobody told us that the checkpoint would be opened. Since then, I have sworn to myself that I would go to the checkpoint every day and wait until it closes, hoping that they will open it again.

Infringement of human rights resulting from the restrictions on movement

The harsh restrictions on the right to freedom of movement of al-Mawasi's residents also result in violations of other human rights, such as the right to work, the right to a minimal standard of living, the right to health, and the right to education. Naturally, the longer the restrictions on movement continue, the greater the infringement of these rights.

Infringement of the right to work

The primary sources of employment and income of al-Mawasi's residents are farming and fishing. The area contains much fertile land and fresh water. The main crops are guavas, dates, and vegetables. In the past, most of the produce was marketed in the Gaza Strip, West Bank, Israel, and even Jordan.

The residents depend on access to markets to sell their goods. In this regard, the IDF's restrictions on movement cause significant harm. Before the al-Aqsa intifada, between forty and fifty produce-laden trucks left al-Mawasi daily. That number then dropped to about ten trucks a day, and now stands at only five or six trucks daily. The produce that is not sent to market rots and is discarded. Farmers who purchased fertilizer and equipment with the intent of paying for them from the revenues derived from the sale of the produce find themselves unable to pay their debts. The stringent security checks of the produce that Israel allows to leave the Gaza Strip include searches by soldiers and dogs in a manner that damages the produce. The use

of the "back-to-back" method to transfer the merchandise at each checkpoint also damages the produce, and raises its price due to the additional costs for the loading and unloading.

The difficulties in transporting the merchandise are clearly evident in the testimony of an official in al-Mawasi:

Our problems got worse after the al-Aqsa intifada broke out in early October 2000. The crossing points at al-Tufakh and Rafah became army camps. At the Rafah crossing, the army let people pass, but did not let vehicles and merchandise go through. The Khan Yunis crossing point was also closed to vehicles. The army allowed loading and unloading of merchandise from vehicle to vehicle at the crossing provided there was prior coordination. A vehicle that arrived with produce underwent inspection and then proceeded to the gate, where the produce was unloaded and then loaded onto another vehicle that was waiting on the other side of the checkpoint. In that way, goods moved from Khan Yunis to Rafah.

About forty vehicles full of merchandise used to enter [daily]. Since October 2000, about ten vehicles enter each day, and today there have been only five or six. The decline is a result of the search of the vehicles. In their searches, the soldiers use dogs, which scratch and paw at all our produce. The soldiers have never found any explosives or weapons in the crates of produce or fish. In

the past, we could travel along the Coastal Road even though it was much longer and more difficult. We have suffered great losses because of these changes.¹³

Approximately one-quarter of the residents of al-Mawasi made a living from fishing. They have suffered greatly from the IDF's restrictions on fishing along the Gaza Strip's shore. Except for short interruptions, Israel has prohibited fishing since the middle of July 2002.

Prior to the current intifada, about one thousand Palestinians from al-Mawasi worked in settlements in the Gaza Strip, mostly in farming. After October 2000, the number fell sharply and now stands at only 150.

Testimony of Masbah Tamim al-'Aqed, single, farmer, resident of al-Mawasi¹⁴

I have ten brothers and one sister, and my parents are still alive. My sister is married and lives with her husband in Khan Yunis. Five of my brothers and I live in our parents' home in al-Mawasi. My other five brothers have been living for two years now in a house that my parents own in Khan Yunis. My father, who is forty-five years old, is a farmer and we all work with him. Some of us work on land that he owns in al-Mawasi and the others market the farm produce in the wholesale market in the city.

Our house has three rooms. It is connected to the Palestinian Authority's electricity generator, which operates daily starting at 4:00 P.M. in the winter, and 6:00 P.M. in the summer. The PA turns off the generator at 8:00 P.M. Because of the few hours that we get electricity, we do not have a refrigerator or washing machine. There are very few of these appliances in al-Mawasi.

The fuel to operate the generator comes from the nearby settlements, which means that we do not have problems in this regard. We have a television that receives only a few channels. Almost every house in al-Mawasi has a TV.

We own five dunam of land on which my father and I grow vegetables. Our entire income comes from the sale of the produce. We work the land throughout the year, from 6:00 A.M. to dusk. In the past, I brought the produce to the Tufakh checkpoint and loaded it onto a vehicle that my brothers sent from Khan Yunis. My brothers sold the vegetables at the wholesale market in Khan Yunis, where our family has a shop.

Over the past two years, it has been very hard to transport our produce because of the restrictions imposed by the IDF on the transport of merchandise, and also because they closed the Coastal Road, which was our alternate route when the army did not let us through the Tufakh checkpoint. When the checkpoint is closed, we have no way of getting the produce to Khan Yunis, and it goes to waste.

For the past two years, we have been able to get out [from al-Mawasi] only one truck a week. That was the arrangement made for us. One truck was insufficient to carry all our produce. We needed one truck a day. So we do not pick the whole crop, and it rots in the field. Farming is no longer profitable for us. The procedure at the checkpoint means that we have the added expense of paying laborers to transfer the produce at the checkpoint onto another vehicle. A few months ago, we paid 25 agorot [about \$ 0.05] a crate, and now we pay twice that amount. We also have to pay the transport cost from the crossing to the wholesale market.

13. The testimony was given to Raslan Mahagna on 25 October 2002. The name of the official is on file at B'Tselem.

14. The testimony was given to Raslan Mahagna on 25 October 2002.

The restrictions on transporting agricultural produce from al-Mawasi to Khan Yunis result in a shortage of vegetables in the city and the entire area. Prices have gone up on certain items, which pleases us somewhat as farmers but is bad for the general population.

I left al-Mawasi on 5 October and have not yet been allowed to return. Twenty days have passed already. The only contact I have with my father is by telephone. I wait for hours in the morning for our truck to arrive, so I can load it up and transport it to Khan Yunis. It is already noon and I am still waiting. Apparently, the checkpoint is closed and nothing is allowed to pass. Not even the little bit of merchandise that is usually allowed through. The produce that has to return to al-Mawasi will rot and be thrown in the dump. Some of it will be used for animal feed.

My only consolation is that we have a house in Khan Yunis where I can stay until the army lets me return home. Since 6 October, I have gone to the checkpoint every day, just like others who are stranded in Khan Yunis, and wait there hoping that the army will open the checkpoint, if only briefly. The only time that they let people pass was a week ago, on a Sunday, but they did not let men under fifty years old go home.

Our financial condition has really deteriorated in the past two years. My father had some savings, which we used to live on. The savings ran out four months ago, and we have been buying goods on credit. The merchants in Khan Yunis know us and trust us, hoping that when we have a good season, we'll pay the money we owe them.

Testimony of Musa Muhammad al-Kham, 40, married with six children, official in the Palestinian Ministry of Labor, resident of al-Mawasi¹⁵

I own one dunam of land, which I inherited from my father, on which I built a greenhouse. I

also work for the Palestinian Ministry of Labor in Khan Yunis.

All [Palestinian Authority] officials in al-Mawasi have trouble leaving the area. We have to wait days on end to get out. I work two or three days a week outside of al-Mawasi. If the checkpoint is closed, I am unable to get to work, and I lose income as a result. I have children who are in university and they have lots of expenses. I manage to get to my office in Khan Yunis about ten to fifteen days a month. Sometimes, I stay overnight in Khan Yunis so that I won't have to cross the checkpoint. I meet the criteria for crossing through the checkpoint – I am over forty years old and have a magnetic card and number – but the time it takes to cross varies and is arbitrary, so I can't be certain that I'll be able to cross. Some days, twenty people pass through the checkpoint, and some days, seventy. It all depends on the soldiers and the orders they receive.

My children who study in Gaza City have not been home for six months because they are nineteen and twenty-one years old, and the IDF only allows males who are over forty to cross. They rented an apartment in Khan Yunis for one hundred dollars a month, which adds to the family's expenses.

As for our food, there are shops in Khan Yunis that sell wholesale, but the merchants are unable to transport their goods to al-Mawasi without first obtaining [IDF] approval. The goods also undergo lengthy checks. So we are only able to meet our basic needs. We use water from the cisterns in the agricultural fields. We installed pipes from the cisterns to the houses. Our electricity comes from a generator, but it operates only a few hours a day. The generator recently malfunctioned, and we did not have

15. The testimony was given to Najib Abu Rokaya by telephone on 18 February 2003.

electricity for fifteen days. Yesterday, the generator began to work again.

Infringement of the right to education

There are two schools in al-Mawasi. One school is located in the al-Mawasi – Khan Yunis section and has first through twelfth grades. The other school, which was founded in February 2002, is in the al-Mawasi – Rafah section and has grades 1-9.

Until the al-Mawasi – Rafah school was opened, the children from this area had to walk six kilometers daily to attend school in Rafah. The UN Development Program (UNDP) donated caravans to establish a school for these children, and in September 2001, the UNDP and Israel began to negotiate the entry of the caravans. Israel finally authorized their entry, and 19 February 2002 was set as the day the caravans would be transported into al-Mawasi. The IDF did not let the caravans pass on the agreed-upon date, but allowed the caravans to enter the area a few days later.¹⁶

The two schools in al-Mawasi have suffered greatly as a result of the restrictions on movement. According to the IDF Spokesperson's Office, "Most of the teachers living in Khan Yunis and teaching in the Mawasi area pass through the Tufakh checkpoint without restriction, thus enabling them to reach the school."¹⁷ This contention is not precise. The teachers are required to undergo strict examinations before being allowed to enter al-Mawasi (see below). Furthermore, when the

IDF closes the checkpoint, the teachers are unable to pass. As previously noted, the IDF has closed the checkpoint for many days at a time. When this occurs, sometimes the schools close and sometimes college students who are unable to reach their schools serve as substitute teachers.

The army has prohibited textbooks and school supplies from entering the area, except for one truckload, which crossed into al-Mawasi in October 2002. In January 2003, the IDF allowed a Red Cross truck carrying school supplies to enter. However, the army did not allow computers and other electronic equipment through the checkpoint.

Jara al-Qudwa School, al-Mawasi-Khan Yunis

*Testimony of Talal Muhammad Shqora, 45, married with five children, Ministry of Education supervisor, former school principal, resident of Khan Yunis*¹⁸

The Jarar al-Qudwa School is located at the western edge of Khan Yunis, in al-Mawasi, a kilometer west of the Tufakh checkpoint. In early November 2001, I was appointed principal of the school. Being the only school in the area, it is co-ed. In the high school, only the humanities are taught.

There are 209 school days each year, which are divided into semesters. In the 2001/2002 school year, the school had forty-two teachers, seventeen of whom were from al-Mawasi.¹⁹ Sixty school days were cancelled, either because

16. The details were provided to B'Tselem in a telephone conversation on 20 February 2003 with 'Omar a-Naqeh, the Palestinian Authority official who handled the matter. See, also, Akiva Eldar, "Explosives placed in Ras al 'Amud," *Ha'aretz*, 21 February 2002.

17. Letter of 31 December 2002 from Captain Anrieta Levi, Head of Assistance Branch, IDF Spokesperson's Office.

18. The testimony was given 'Issam Shath on 26 November 2002.

19. According to the IDF Spokesperson's Office, in 2002, al-Mawasi was under curfew for eighteen days, eleven of them in October-November. Letter of 19 December 2002 from Captain Anrieta Levi.

the teachers were not allowed to enter the area or because of curfew. As a result of the teachers' inability to get to school regularly, student performance in the high school fell to sixteen percent this year.

In the 2001/2002 school year, the school, which has grades 1-12, had 1,063 students. The Red Cross supplied five tents to serve as classrooms. Each class had fifty-five to sixty pupils. We were unable to open new classes because the army has not allowed us to bring in the furniture.

This year, twenty-three of the forty-two teachers are from al-Mawasi. The number of pupils rose this year to 1,172. The increase was due to the registration of new pupils in the first grade and the failure of most of the twelfth graders to successfully complete their studies. Those who failed to graduate remained in school. We lack classrooms, even with the tents that we received last year from the Red Cross. We called the Red Cross to ask for more, and they provided five more tents. Now we have twenty-eight classes.

Writing implements and books are also a problem this year. We were lucky to get the army to allow one truck of equipment through the checkpoint. The rest of the items are still in storage at the Ministry of Education. Since 5 October, the teachers who do not live in al-Mawasi have been unable to get to the school, increasing the burden on the teachers from the neighborhood. We asked the DCO to make arrangements so the teachers could cross the checkpoint, but we have not yet managed to obtain the necessary permits for them. The first semester is almost over, and the pupils have not yet finished the material they were supposed to cover.

Electricity is cut off during the day, so at night we have to activate the pump connected to the well to enable us to pump water and fill the containers of drinking water. The school does not have a telephone. A dirt road full of potholes leads to the school.

Infringement of the right to medical care

Two medical clinics, providing only basic medical services, operate in al-Mawasi, one in each section of the community. Residents who require other medical services must go to the municipal medical centers in Khan Yunis and Rafah. The restrictions on movement almost totally prevent the residents from obtaining these additional services.

Testimonies to B'Tselem indicate that the area also lacks medicine. The Red Cross sends a supply of medicines monthly, but it is insufficient to meet the residents' needs. The facilities in the area are unable to provide immunizations to infants, and babies must be taken to Khan Yunis or Rafah. Prior to December 2002, the IDF did not allow women under thirty years old to leave the area with their infants to have them vaccinated; the mothers sent their children with other women, who were over thirty years old, to get the shots. In December 2002, the IDF began to allow every mother with a child under one year old to leave the area to get her child vaccinated.²⁰

Emergency cases are unable to cross swiftly because it is impossible to speak with the soldiers. Among those who have been delayed at the checkpoint are women in labor and

20. The information was provided to B'Tselem on 20 February 2003 in a telephone conversation with Dr. Khader Qunan, director of the al-Mawasi – Khan Yunis clinic, and with an official in the Palestinian District Coordination Office whose name is on file at B'Tselem.

patients scheduled to undergo surgery or routine tests at the hospital in Khan Yunis. Furthermore, according to testimonies given to B'Tselem, the passage of people who are sick through the Tufakh checkpoint depends primarily on the goodwill of the soldiers, and the army apparently has not issued clear orders that allow the sick to cross.

For example, Musa Yusuf Muslam Zo'arub, 63, stated that, on his way to the hospital for surgery, he was kept waiting for a long time at the checkpoint, and was not allowed to pass until an officer intervened. Zo'arub had arrived at the Tufakh checkpoint on the morning of 18 October 2002. The soldier on duty told him and another ten or so residents to leave. Zo'arub returned in the afternoon, and this time, too, a soldier told him to leave. An officer asked him what his problem was. Zo'arub pointed out the blood stain on his pants and showed the officer documents indicating that he was scheduled for surgery. About an hour later, the officer let him cross.²¹

Testimony of Khader Rassem Mahmud Qunen, 43, married with six children, physician and director of the medical clinic in al-Mawasi, resident of al-Mawasi²²

The clinic has been operating since September 1996. The staff has been working for next to nothing. For a long time we were not paid. Then we were paid each time a patient came for a visit, which cost them three shekels. Some of the patients could not even afford that.

Another physician, who was appointed by the Ministry of Health, and a nurse also work in the clinic. We treat simple medical matters, such as the flu, tonsillitis, monitoring of diabetes patients

and patients with blood pressure problems, stitching up wounds, and the like. In emergency or hard cases, we send the patient to Nasser Hospital [in Khan Yunis] after first coordinating it with the Israelis. If we get an emergency call at night, we try to coordinate matters internally to make a house call because we are afraid to move about at night. In some cases, patients who need medical follow-up remain in the ambulance outside my house so that I can monitor their condition all the time. If their condition improves, we take them home. If their condition deteriorates, or if they need intensive care, we ask for permission to take them to the hospital. We have a personnel shortage, so we have not been able to take a vacation. We are also called out late at night to handle emergency cases.

Our caseload is extremely large, so there is lots of pressure. When the checkpoint is closed, all the patients come to us, and we are unable to handle them all. We work in cooperation with the Rafah Medical Services Clinic, which has one physician, a nurse, and a pharmacist. All of them reside in al-Mawasi and are in the clinic all the time. We share an ambulance. The medic in the ambulance took a course that I gave, in addition to his regular training. The paramedic, Muhammad 'Ali Abu 'Odeh, drives the ambulance.

We lack medicine for children. The PA Ministry of Health provides us, via the Red Cross, with medicine from its warehouse in a-Zeitun and from the [Rafah] medical services' warehouse. We receive the shipment of medicines on a fixed date each month. Sometimes, the shipment is delayed.

21. The testimony was given to Nabil Mekherez on 25 October 2002.

22. The testimony was given to 'Issam Shath on 26 October 2002.

Testimony of Sabah Kamal a-Najar, 25, married with seven children, resident of al-Mawasi²³

I have seven children ranging in age from twelve years to one week old. On Saturday, 16 November, I reached the Tufakh checkpoint in an ambulance while on my way to Mubarak Hospital [in Khan Yunis] to give birth. When we got to the checkpoint so that we could leave al-Mawasi, the soldiers refused to let the ambulance through. My condition deteriorated. We waited many hours, and were allowed to pass only after we managed to coordinate matters with many officials.

On my way home after giving birth, I was not allowed to pass because I was too young. I am waiting here in the wind and cold, which affects my health and the health of my baby daughter. All of us who have to wait at the checkpoint suffer from the conditions and the treatment we receive by the soldiers. There is not even a toilet here, and most of us are women and children.

I am waiting for them to let me pass. If I do get through, I will have to return in a couple of days to have my daughter immunized. Al-Mawasi does not have a gynecologist, obstetrician, or even a midwife. When we get sick, there is nobody here to treat us, and we have to go to Khan Yunis.

23. The testimony was given to 'Issam Shath on 24 November 2002.

Conclusions

In its letter to B'Tselem regarding the situation in al-Mawasi, the IDF Spokesperson's Office stated that, "We would like to point out that the entire matter is currently under review with the intention of making things easier for the residents." The harsh reality today reflects just the opposite. The residents of al-Mawasi now live in intolerable conditions, and are engaged in a constant and prolonged struggle to survive in the face of the numerous and severe restrictions on their movement. The restrictions have damaged the farming and fishing economy on which they rely for income. The educational system and health services are in crisis. Individuals who require services in the city or hospital treatment run the risk that they will not be allowed to return to their homes. Crossing a checkpoint is a lengthy and degrading process that scores of local residents experience daily. Residents of an entire community are imprisoned within a small area and are unable to go to other areas in the Gaza Strip.

This permanent imprisonment of the residents of al-Mawasi and the infringement of other human rights of the residents are not justifiable on grounds of security. Security needs do not give the army free license, and it must act in accordance with international law. The IDF has failed to do this. It did not consider alternate, less harmful methods before it imposed the extensive and harsh restrictions described above. Rather, it chose extreme measures far in excess

of the dangers that al-Mawasi's residents pose to the settlers and soldiers.

Article 43 of the Hague Regulations requires the occupying state to allow civilian life to continue in the occupied territory. Israel's policy of restrictions flagrantly contravenes this principle of international law. The widespread application of the restrictions, the arbitrary criteria for allowing passage, and the harsh consequences of this policy on the Palestinian residents make Israel's policy a clear case of collective punishment, which is prohibited by international humanitarian law.²⁴

Israel's policy also breaches international human rights conventions to which Israel is party. Its policy breaches the right to freedom of movement, which is enshrined in the Covenant on Civil and Political Rights. Although the Covenant allows a state to restrict this right in certain cases, the sweeping, arbitrary nature of Israel's policy do not enable Israel to rely on these exceptions as grounds for restricting the movement of al-Mawasi's residents.

Furthermore, Israel's policy directly infringes the right to work, the right to an adequate standard of living, the right to education, and the right to health. These rights are enshrined in the Covenant on Economic, Social and Cultural Rights, of 1966, to which Israel is party and which also applies in the Occupied Territories. It is one thing for Israel to fail to act affirmatively

24. Article 50 of the Regulations to the Hague Convention Respecting the Laws of War and Customs of War on Land of 1907; Article 33 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 1949.

to ensure realization of these rights; it is clearly another thing for it to infringe these rights directly.²⁵

Israel imposes the sweeping restrictions on movement described in this report only on Palestinians. Meanwhile, the settlers are free to move about the area as they wish, and travel along roads built especially for them and the army. This policy clearly discriminates on the

basis of nationality and for this reason, too, violates international and Israeli law.

In light of the above, B'Tselem demands that the IDF change its policy regarding movement in al-Mawasi. The army must allow residents of al-Mawasi to conduct their lives in a normal manner, to move about freely without fear, to receive proper medical treatment, to work and to market their produce, and to educate their children.

25. In its concluding comments to the report filed by Israel, the UN Committee on Economic, Social and Cultural Rights pointed out by implication that Israel is responsible for implementing the Covenant's principles in every place under its control. See *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel*, Section 6, 4 December 1998. See also Physicians for Human Rights, *Organized Injustice, the Right to Health in the Occupied Territories under Closure and Siege*, November 2001; B'Tselem, *Civilians under Siege: Restrictions on Freedom of Movement as Collective Punishment*, January 2001.

Response of the IDF Spokesperson's Office

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06 March 2003



To:

Mr. Shlomi Swissa

B'Tselem

IDF Spokesperson's Response to Report Concerning Limitations of Movement in the Muassi

Dear Sir,

Herewith is our response to your report regarding the limitation of movement in the Muassi area.

As you know, no separation exists between the Muassi area and the nearby areas of Israeli communities in Gush Katif. Palestinian terrorist organizations have in the past carried out acts of terror against Israeli civilians, by taking advantage of this geographic proximity. The terror attacks have been carried out both by residents of the Muassi with their assistance or under the cover of the later, even if they did not have knowledge of this.

These terror attacks have caused the death and injury of Israeli civilians and IDF soldiers.

Lately, there is a sharp increase in the attempts to carry out severe terror attacks, which include infiltration attacks into Israeli communities in the Gaza Strip and indiscriminate murder of Israeli civilians. Based on these attempts, there are many warnings against the intentions of terrorist organizations to carry out such terror attacks, while using the area of the Muassi and its residents.

Herewith is a partial list of recent terror attacks, which have originated from the Muassi:

- May 12, 2002 – a Palestinian worker, a resident of the Muassi in Hassam Hila, murdered an Israeli employer, resident of Gush Katif.
- March 7, 2002 – Five Israelis were killed and 24 were wounded when terrorists infiltrated the Israeli community of Atzmona. The terrorists infiltrated the community with the assistance of a Palestinian resident of the Muassi.
- January 31, 2002 – A foreign worker was wounded by an explosive charge and by gunshots fired towards him near Ganei Tal by terrorists who came from the Muassi.
- December 12, 2001 – Four Israeli citizens, residents of Gush Katif, were wounded by an explosive charge that was detonated by two suicide bombers in northern Gush Katif. The terrorists originated from the area of the Muassi.
- November 6, 2001 – Two Israelis, residents of the Israeli community of Shalev, were killed by two Palestinian workers who opened fire at the Israelis while working in their greenhouses.

In the framework of coping with the activity of the terrorist organizations, the IDF has been forced to take a number of security steps. Amongst others, the General of Southern Command declared the Muassi a closed military area effective of May 2002. Accordingly, Muassi residents are allowed to pass to PA areas back and forth through the Tufah crossing and Hassam Hila. Additionally, whoever is not a resident of the Muassi is required to hold a special permit to enter this area.

Naturally the supervision of the crossing of young age Palestinian male youth is stricter, due to the high probability that terrorists will belong to this group. Accordingly, Palestinians belonging to this group are required to coordinate their passage in the Muassi area and into areas of the Palestinian Authority and back. This coordination is done through the Israeli DCO's.

It should be noted that the IDF allows passage in cases of special humanitarian and medical needs, as well as the passage of patients in need of emergency medical care into Palestinian territories. This is done without prior coordination (even in cases where the above-mentioned group of young aged is involved). Furthermore, representatives of international organizations are also allowed to enter once they have coordinated their arrival.

Finally, the IDF permits merchandise to pass from the Muassi into PA areas, this according to the necessary security procedures.

Naturally, the security operations against the terrorists entail interruption of the daily life of the civilian population. In this regard it is important to emphasize that the military commanders are directed to act while balancing the security needs with the need to allow for a daily life to those not involved in terror.

Thus, the IDF constantly operates to improve the passage between the Muassi and PA areas, under realistic security constraints on the ground.

In light of the large number of residents who pass through the passages in and out of the Muassi every day, there may be cases where delays occur for certain periods. The IDF on its part operates to minimize such occurrences. As such, there is an Arabic-speaking representative of the DCO operating at the crossings. In addition, the DCO maintains daily contact between them and their Palestinian counterparts.

In addition, the IDF supports suggestions aimed at minimizing the dependency of the residents of the Muassi on the facilities based in other areas, and thus ease their daily lives. For example, the IDF coordinated the entry of prefabricated structures to be used as classrooms and the construction of a gas distribution facility to the residents of the Muassi etc.



Yours Sincerely,

Cap. Anrieta Levi

Public Relations