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Ground to a Halt

**Denial of Palestinians' Freedom
of Movement in the West Bank**

August 2007

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Stolen land is concrete, so here and there calls are heard to stop the building in settlements and not to expropriate land. But time? It is abstract. Time, however, is a precious resource of everyone. The time that is stolen at checkpoints, in anticipation of permits, cannot be returned. The loss of time that Israel steals daily from three and half million people is evident in everything: in impeding the ability to gain a livelihood, in economic, family and cultural activity, in leisure hours, in studies and in creative efforts, in reducing the living space of every person, and thus in narrowing the horizon and expectations.¹

1. Amira Hass, "The Natives' Time is Cheap," *Ha'aretz*, 23 February 2005.

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Introduction

For the residents of the Occupied Territories, particularly West Bank residents, sweeping restrictions on freedom of movement are not a new phenomenon. Since the early 1990s, Israel has gradually and steadily expanded and refined its movement restrictions' policy. Until 1991, Israel allowed all Palestinians from the Occupied Territories – except for a relatively small group of persons who were classified as security threats – to enter and stay in Israel during daytime hours. From time to time, Israeli security forces set up checkpoints in the West Bank to capture wanted persons and imposed restrictions on Palestinians wanting to go abroad. This ability to move around was a crucial factor in the creation of a Palestinian economy that depended heavily on Israel's economy.² It also aided in the establishment of social, cultural, and commercial ties between the West Bank and Gaza and with Palestinian citizens of Israel.³

In January 1991, during the first Gulf War, Israel changed its policy: the general permit was cancelled and every resident of the Occupied Territories needed an individual permit to enter Israel or East Jerusalem, which Israel had annexed in 1967. To enforce its new policy, Israel set up checkpoints at the crossing points between the Occupied Territories and Israel. These checkpoints have remained, in one form or another, until the present day. In March 1993, following the killing of nine Israeli civilians and six security forces by Palestinian residents of the Occupied Territories, Israel declared a general closure on the Occupied Territories "until further notice." This declaration institutionalized the measure that Israel had taken two years earlier. In implementing its policy, Israel issued entry permits sparingly, based on unannounced criteria. In addition to the harm caused to the Palestinian economy, especially to the families of Palestinians who had worked in Israel and lost their jobs, the closure split the Occupied Territories into three areas: East Jerusalem, the rest of the West Bank, and the Gaza Strip. With the outbreak of the second intifada, Israel imposed more stringent restrictions on entry into Israel and on movement between the three areas.

2. For an extensive discussion on this issue, see B'Tselem, *Crossing the Line: Violation of the Rights of Palestinians in Israel Without a Permit* (March 2007).

3. See B'Tselem and HaMoked: Center for the Defence of the Individual, *One Big Prison: Freedom of Movement to and from the Gaza Strip on the Eve of the Disengagement Plan* (March 2005).

A gradual gnawing away at Palestinian freedom of movement had begun in the West Bank long before the second intifada. Two main reasons led to the splitting of the West Bank and the restrictions on freedom of movement. The first was the ever-expanding settlement enterprise, which spread along the length and breadth of the West Bank. The very existence of the settlements did not generally restrict Palestinian movement. In many instances, however, the site of the settlement was chosen to thwart the expansion of Palestinian cities.⁴ In addition, the building of a network of bypass roads, running between the settlements and between the settlements and Israel, accelerated the cutting up of the West Bank. Unlike the settlements, the road network did bring about a separation of Palestinian villages and of Palestinians from their farmland and from the major towns. As will be shown below, the settlement enterprise, including the roads built for it, was one of the primary factors in shaping the restrictions regime that Israel has forced on the Palestinians since the beginning of the second intifada and which forms the focus of this report.

The second factor that led to splitting the space was the division of the West Bank, in the context of the Oslo Agreements, into three areas, based on the scope of the powers handed over to the Palestinian Authority. In Area A, the Palestinian Authority received all the powers relating to security and civil affairs. In Area B, Israel retained the powers relating to the police and army and with it the power to restrict movement. In Area C, the Palestinian Authority was given no authority, and Israel continued to be responsible for both security and civil affairs, including matters relating to land, planning, and building. This division did not of itself create a new impediment to Palestinian freedom of movement. However, Areas B and C comprised eighty percent of the West Bank, including the main roads, a fact that played an important role in the development of the movement restrictions' regime.

Though not a new phenomenon, the scope and duration of the movement restrictions that Israel has imposed since the outbreak of the second intifada, in September 2000, are unprecedented, in the history of the Israeli occupation. Even before the intifada, there was little Palestinian movement on the roads. Yet, the restrictions over the past seven years aggravated the situation, and Palestinian freedom of movement has turned from a fundamental human right to a privilege that Israel grants or withholds as it deems fit.

4. For example, according to the principal plan that guided the settlement policy of the Israeli government in the 1980s, "The Mountain Ridge Route [Route 60] is fundamentally a local Arab roadway. Jewish settlement along this route will create a mental barrier in relating to the mountain ridge, and is also likely to reduce the uncontrolled spread of Arab settlement." See Ministry of Agriculture and the Settlement Division of the World Zionist Organization, *Master Plan for Shomeron and Judea, Area Development Plan for 1983-1986* (Jerusalem, 1983), 22.

Israel's primary justification for the movement restrictions is that they are necessary to protect Israelis within its jurisdiction and Israelis living in the West Bank or traveling on West Bank roads. There is no dispute that a real threat to the safety of Israelis exists, especially to Israelis present in the West Bank. There is also no dispute that the State of Israel is obligated to protect the lives of everyone in territory under its effective control, including the Occupied Territories. However, Israel must provide this protection in a way that is proportionate and does not illegally infringe the rights of the Palestinians.

During the seven years that have passed since the outbreak of the second intifada, B'Tselem has published fourteen reports on various aspects of Israel's policy restricting Palestinian movement. Most of the reports focused on specific kinds of restrictions, such as checkpoints, forbidden roads, and the Separation Barrier, or the effects of the restrictions on a particular geographic area or on a specific right, such as the right to health or to work.⁵ These various aspects have also been examined, time and again, by other human rights organizations, international humanitarian organizations, and the press.

Against this background, the present report, which is being issued almost seven years from the start of the second intifada, offers a comprehensive survey of Israel's movement restriction policy in the West Bank and its effects on Palestinians' human rights. The primary source of the information presented in the report is the hundreds of interviews B'Tselem conducted in recent years and the dozens of visits and field observations it made over the past six months in researching this report. The report also draws information from reports of other organizations, statements of political and military officials, petitions to the High Court of Justice, and media reports.

The first chapter of the report surveys the tools that Israel uses to control and restrict Palestinian movement in the West Bank. The second chapter discusses the geographic repercussions of restricting Palestinian movement: splitting of the West Bank into sections and subsections, with travel between them being restricted and subject to supervision. Chapter 3 discusses some of the consequences of the movement restrictions and the geographic division of the West Bank on Palestinian life and on the Palestinians' ability to exercise other rights, such as the right to health, to work, and to maintain family, social, and commercial ties. Chapter 4 examines the legality of the movement restrictions under international law. Recommendations to the government of Israel and the defense authorities appear at the end.

5. The reports are available at www.btselem.org.



Chapter 1

The Means to Control Movement

Whoever travels the main roads of the West Bank can't help but notice the small number of Palestinian vehicles. The absence of Palestinian traffic results from the dozens of staffed checkpoints, the hundreds of physical obstructions, and the draconic regime of prohibitions that Israel imposes on Palestinian movement in an area for which, as the occupying power, it is responsible. The lively Palestinian traffic that once characterized, for example, Route 60, which runs along the north-south axis of the West Bank, is now conducted primarily along narrow roads linking one village to another. Other former main traffic arteries now serve, almost exclusively, settlers from the West Bank, the general Israeli population, and the Israeli security forces.

This chapter surveys the means used by Israel to control and restrict Palestinian movement within the West Bank. The survey will provide a factual background for the discussion in the next chapter on the way the West Bank is split into sections, movement between which is controlled and restricted, and in chapter 3 on the effects of dividing the area on Palestinian life in the West Bank.

For purposes of analysis, we divided the means of control into three categories, which reflect different layers in the mechanism of Israeli control of movement in the West Bank. These layers are built one upon the other and are interrelated. The first layer is composed of the physical means that regulate movement of the residents to certain passageways and roads, and prevent access to other roads; the second layer includes the restrictions and prohibitions enforced by the physical tools found in the first layer; the third layer is composed of the means that are intended to ease, selectively and under careful monitoring, the restrictions and prohibitions contained in the second layer. The basic assumption underlying this division is that the various means are part of a single control mechanism, operating more or less in synch, so that, to determine the impact of these means, it is necessary to evaluate the combined effect of the simultaneous use of the various means.

Physical means

The principal physical means Israeli security forces use to control and restrict Palestinian movement are obstructions, staffed checkpoints (permanent and temporary), and the Separation Barrier.

Obstructions

A traveler of the side roads in the West Bank, which lead to the villages, notices they are empty. Movement along these roads is blocked by physical obstructions that deny access to the main road. Obstructions of this kind, which Israel began to use at the outbreak of the second intifada, channel Palestinian travelers to staffed checkpoints, where the army supervises movement and passage from area to area. The obstructions come in various forms: dirt mounds, concrete blocks, boulders, trenches, fences, and iron gates. The number of obstructions varies from time to time; in recent years, there has been a gradual, moderate increase. As of mid-July 2007, there were 455 physical obstructions throughout the West Bank.⁶

Unlike staffed checkpoints, this tool does not enable the exercise of discretion in permitting movement along the road, even in emergency cases. Also, the obstructions prevent not only the passage of vehicles; they also limit the movement of pedestrians who have trouble going around or over them, such as the elderly, the ill, pregnant women, and small children. The problem is exacerbated in the winter, when large puddles of water collect alongside the obstructions and the area is muddy.

Following a petition filed in the High Court of Justice by Physicians for Human Rights at the beginning of the second intifada, the security forces promised that in every area, or "territorial cell" in military lingo, that is blocked by physical obstructions, there will be at least one access road that is not blocked in that way, but is staffed by soldiers, so that no area would be completely closed by physical obstructions.⁷

6. The UN Office for the Coordination of Humanitarian Affairs (OCHA), *Report 44 on Implementation of the Agreement on Movement and Access*, 26 July 2007. In August 2005, OCHA and Israeli security forces jointly counted the obstructions and checkpoints in the West Bank. The number they agreed on has served as the basis for comparison and for OCHA's weekly counting of obstructions.

7. HCJ 9242/00, *Physicians for Human Rights v. Minister of Defense et al.*, Judgment, 21 March 2001. On 17 July 2007, the army breached this promise when it closed the only entrance to the village of a-Tira, situated on the southern side of Route 443, with an iron gate. Since then, the army has opened the gate three times a day, about half an hour to an hour each time, for vehicles to cross. At other times of day and night, the gate is closed and unattended by soldiers, making it impossible for vehicles to enter or leave, including ambulances and other emergency vehicles.

Permanent checkpoints

Staffed checkpoints have existed in the Occupied Territories since the beginning of the occupation. When the general-entry permit to enter Israel was cancelled in 1991, the checkpoints were used to supervise the crossing of Palestinians into Israel. At the beginning of the second intifada, the army expanded the use of checkpoints, placing them also at the entrances to some towns and villages to supervise and restrict Palestinians from entering and leaving. Over the years, the checkpoints became the most conspicuous symbol of occupation.

The number of permanent checkpoints is fairly constant. In early July 2007, there were eighty.⁸ Thirty-three of them are the last inspection point before entering Israel, but most are located a few kilometers from the Green Line, inside the West Bank.⁹ Some of the checkpoints that prevent entry into Israel were privatized and are now staffed by private security companies, with the others being staffed by the Border Police and the army. The forty-seven checkpoints that remain (hereafter “internal checkpoints”) lie within the West Bank and control movement there.

Some of the internal checkpoints have control towers, from which the soldiers supervise movement. The soldiers rarely come down from the towers to inspect the persons crossing. During the first intifada, most of the internal checkpoints were permanently staffed, but with the passage of time, and the increase in the number of checkpoints, some checkpoints are now staffed on and off. At these checkpoints, persons crossing are sometimes checked but at other times no security forces are present and anyone can pass freely. The public is not informed which checkpoints will be staffed, or when, so travelers arrive at the checkpoint without knowing what to expect.

Some of the checkpoints are used for the transfer of goods. These are referred to as “back-to-back” checkpoints because the goods are unloaded on one side, checked, and then loaded onto another truck, on the other side. Seven such checkpoints are presently operated in the West Bank – three along the Green Line (Jalameh and Bardala, in the north, and Sha’ar Ephraim/a-Tayba, in the Tulkarm area), and four deep inside the West Bank (Bitunya, at the exit from Ramallah, ‘Awarta, in Nablus, Tarkumiya, in the Hebron area, and a-Za’ayem, in East Jerusalem).

Many checkpoints open at six in the morning and close at night. Some are staffed around the clock, but limit the crossing of Palestinians during the evening and at night to what the authorities classify as “urgent humanitarian” cases.

8. This figure does not include the fifteen checkpoints inside Hebron. For more on the restrictions on movement inside Hebron, see B’Tselem and the Association for Civil Rights, *Ghost Town: Israel’s Separation Policy and Forced Eviction of Palestinians from the Center of Hebron* (May 2007).

9. In practice, Palestinians are able to enter Israel through only eleven of these checkpoints.

Checkpoints in the West Bank, by type¹⁰

Type		Staffed permanently	Staffed on and off	Total
Internal	People only	35	11	47
	Goods only	1		
Crossing into Israel	People only	27		33
	People and goods	5		
	Goods only	1		
Total		69	11	80

The severity of the restrictions on persons wanting to cross varies from checkpoint to checkpoint and from time to time. At almost all the staffed checkpoints, the travelers must show their identity card or crossing permit (see below), which are checked in accordance with the requirements at the particular checkpoint. A person without the proper permit is not allowed to cross. Often, the personnel at the checkpoint check the vehicle and the passengers' items. Yet, there are no clear procedures regarding the frequency of searches, how they are conducted, how long they take; rather, the procedures are based on verbal orders given by the commander or the Israeli Security Agency (ISA), and sometimes, so it seems, on the mood of the soldiers at the checkpoint.

Some checkpoints are closed for cars, and only pedestrians are allowed to cross. At these checkpoints, the residents are permitted to proceed to a few meters from the checkpoint, while at others, the cars have to stop hundreds of meters away. Then the pedestrians cross the checkpoint, get into a vehicle on the other side, and continue their journey. A notable checkpoint of this kind is Huwara Checkpoint, the main Nablus checkpoint, located at the southern exit from the city.

At some of these checkpoints, only commercial and public transportation vehicles are allowed to cross.

Flying checkpoints

A few hours every day, security forces set up dozens of flying checkpoints throughout the West Bank. Army vehicles stop along a road, set up a checkpoint between two permanent checkpoints, and check all the Palestinian vehicles – as well as Israeli cars carrying Palestinian residents – that come by. The check is done even though the travelers had undergone a security check at the permanent checkpoint they previously had to pass.

10. These figures are updated to 11 July 2007. Later revisions are available at B'Tselem's Website, www.btselem.org/English/Freedom_of_Movement/List_of_Checkpoints.xls.

In recent years, the security forces have increased their use of flying checkpoints: in June-December 2005, there were an average of seventy-three a week, in 2006, the number rose to 136.¹¹ From January to May 2007, there were about 150 flying checkpoints a week, and some weeks there were 200.¹²

As Major-General (res.) Baruch Spiegel explained to B'Tselem, the flying checkpoints are intended to provide an additional apparatus for deterrence and security, using the element of surprise, especially when there are terrorist warnings. However, the use of flying checkpoints has become so extensive that it no longer creates a surprise, particularly given the fact that the security forces set up flying checkpoints in the same places or on the same roads time after time.¹³

Violence and humiliation at checkpoints

In recent years, the checkpoints have turned into the main friction point of Palestinians and Israeli security forces. The nature of the encounter varies from checkpoint to checkpoint and from day to day. To some of the checkpoints, particularly those at major crossing points between the different sections of the West Bank, numerous Palestinians arrive daily, in an attempt to live a life as normal as possible. Nevertheless, the frequent changes in restrictions create constant uncertainty as to the possibility of crossing. In many cases, the crowded checkpoints, combined with the uncertainty as to whether they will be allowed to pass, generate much tension on both sides. The long waits and the humiliation of Palestinians by soldiers at the checkpoints add to the tension.

Testimonies given to B'Tselem and reports of other organizations indicate the existence of worrisome practices that comprise yet another level of harm to the dignity and rights of Palestinians wanting to cross the checkpoint, these in addition to the restriction on their freedom of movement. Among these practices are the degrading inspection procedures, which include the demand that males expose the upper part of their bodies in public, and detention of residents. The sight of Palestinian males – adults and youths – detained at checkpoints is extremely common in the West Bank. At many checkpoints, there are “positions” used to hold detainees, some isolated by a wire fence and some by concrete blocks or other means. The pretext for detaining them varies, as does the amount of time they are kept at the crossing. In many cases, the residents are detained for security checks, but soldiers often detain them as punishment or to “educate” them in response for what the soldiers consider arrogance, or an attempt to bypass the checkpoint, or even for trying to talk with a soldier at the checkpoint. In doing so, the soldiers violate army directives. According to

11. OCHA, Summary Data Tables, January 2007. See www.ochaopt.org/documents/OCHA_oPt_PoC_MonthlyTablesDec06.pdf.

12. OCHA, Weekly Monitoring of Protection of Civilians, www.ochaopt.org.

13. The conversation took place on 25 January 2007.

information received by B'Tselem, the detention can extend for many hours, at "positions" exposed to heat and cold, without minimal conditions, food, or drink. In many instances, the detention is accompanied by severe degradation and physical and verbal violence by soldiers at the checkpoint.¹⁴

Cases of direct physical violence by soldiers against Palestinians wanting to cross the internal checkpoints have become an almost daily occurrence since the beginning of the second intifada. Despite the official censure of the violence, it appears that the army officials in charge of enforcing the law on soldiers fail to take measures to bring violent soldiers to justice so as to end the phenomenon.¹⁵

In January 2004, former prime minister Ariel Sharon appointed Major-General (res.) Baruch Spiegel to handle, in the Defense Ministry, the subject of "fabric of life." One of his first tasks was to examine the effectiveness of the handling of the checkpoints and the humanitarian cases that arise at the checkpoints. The committee he headed identified many problems in the functioning of the checkpoints, among them the harm to the dignity of the Palestinians and the misconduct of soldiers in their contact with the local population; the lack of clarity and uniformity in the procedures on movement and crossing at the checkpoints; problems of behavior, discipline, ethics, and "immorality" on the part of soldiers; failure to learn lessons and lack of swift investigations, enforcement, and timely punishment; lack of personnel sufficient to provide adequate professional response, primarily at peak hours; and lack of sufficient physical infrastructure, which impairs efficiency and regular passage of people and vehicles at the checkpoint. The committee also recommended a number of potential solutions to rectify the situation at checkpoints, only some of which were implemented.¹⁶

14. An order arranging the powers of soldiers in the West Bank to detain a person was not published until 14 January 2007. The order states, as do previous directives (which were not arranged in an order), that soldiers may detain a person "who is suspected of committing an offense or to prevent the commission of an offense when the duration and purpose of the restriction on liberty is defined in advance." In addition, the order states that "a person or a vehicle shall not be delayed for more than three hours." An officer holding the rank of lieutenant-colonel or higher, or a police officer, may extend the detention for three more hours at the most. In any event, detention for purpose of punishment is prohibited and is contrary to the provisions of the order or of the directives that preceded it. See Order Regarding Defense Regulations (Amendment No. 93) (Judea and Samaria) (No. 1588), 5767 – 2007.

15. According to figures provided by the judge advocate general, Brigadier-General Avichai Mandelblit, to the Constitution, Law and Justice Committee of the Knesset, in February 2007, during the first six and a half years of the second intifada, the Military Police conducted 427 investigations of suspected violent offenses, which works out to about sixty-five a year. According to Mandelblit, of the 427 investigations, only thirty-five (eight percent) led to indictments. B'Tselem's past experience shows that many files are closed because of flaws in the handling of the cases by the State Attorney's Office and the Military Police, and raises doubts that a serious investigation is conducted. For more on this point, see B'Tselem, *Absolute Prohibition: Torture and Ill-treatment of Palestinian Detainees* (May 2007).

16. See Eitan Rabin, "Investigation Committee Recommends: Revolution at Checkpoints," *nrg Ma'ariv*, 23 August 2004, available at www.nrg.co.il/online/1/ART/772/929.html.

The Separation Barrier

In June 2002, the government of Israel decided to build a separation barrier between Israel and the West Bank. In most areas, the barrier was composed of an electronic fence, on both sides of which were paved roads, and wire fences and trenches. In some places where the barrier and passed a built-up urban area or there was a fear of gunshots being fired at the road, a six to eight-meter-high wall was built in place of a fence. More than half of the barrier has already been constructed.

The declared purpose of the barrier is to prevent the crossing into Israel of Palestinians planning to attack Israelis, and to create a physical separation between Palestinians and Israelis.¹⁷ However, additional considerations, primarily the desire to separate most of the settlements from the rest of the West Bank, while creating territorial contiguity between the settlements and Israel, led to establishing a route most of which deviates from the Green Line.¹⁸ The route has undergone several changes, some of them a result of High Court rulings and local and international criticism. The current length of the barrier is 721 kilometers, of which only some twenty percent runs along the Green Line. The barrier's route leaves on the "Israeli" side areas that lie deep inside the West Bank, such as the block of settlements around Ariel, which reaches a point twenty-two kilometers from the Green Line. Near Jerusalem, the barrier will surround the settlements around Ma'ale Adumim and extend fourteen kilometers into the West Bank.¹⁹

The route chosen has created, or will soon create, two kinds of Palestinian enclaves. One includes the villages and farmland lying between the barrier and the Green Line, in the "seam zone," on the Israeli side of the barrier. The other kind of enclave is comprised of villages that lie on the Palestinian side of the barrier, but are surrounded on three or more sides because of the winding path of the route or because the barrier meets roads on which Palestinian movement is forbidden or physical obstructions exist.²⁰

17. The Website of the Seam Zone Administration, www.securityfence.mod.gov.il.

18. For an extensive discussion of the route, see Bimkom and B'Tselem, *Under the Guise of Security: Routing the Separation Barrier to Enable the Expansion of Israeli Settlements in the West Bank* (December 2005).

19. OCHA, Update Number 5, *Preliminary Analysis of the Humanitarian Implications of the April 2006 Barrier Projections*, July 2006.

20. Bimkom, *Between Fences- the Enclaves Created by the Separation Barrier* (October 2006), 5-6.

Restrictions and prohibitions on movement

The physical means described above enable the Israeli security forces to enforce other restrictions on Palestinian movement in the West Bank. The four main components of this layer are imposition of siege, creation of the seam zone, prohibition of travel on certain roads, and deterrence by increased enforcement of the traffic laws.

Imposition of siege

The term siege ("encirclement" in military jargon) relates, in this context, to preventing the crossing, completely or partially, of residents to or from a certain area, while isolating the area from other parts of the West Bank. This is done by blocking the access roads to the area by means of physical obstructions, which forces the residents to pass through a staffed checkpoint on their way in and out of the area. The degree to which the siege is enforced varies from place to place and from one period to another. In almost every instance, the persons most harmed by the siege are the residents of the villages situated outside the area under siege, who depend on the services provided there.

The physical closure of the space under siege enables sweeping prohibitions on the movement of groups of people who are classified by the ISA according to gender, age, or place of residence. These restrictions generally apply to males and male youths, although there have been cases in which the restrictions have been placed on women and female youths as well.²¹ The age group to which the restrictions apply varies from time to time, but it usually ranges from sixteen to thirty, sometimes to thirty-five. The army contends that these groups come within the "risk profile" of "potential terrorists," as set by defense officials. Individual examination of persons in these age groups was found, the army states, to be ineffective, "given that there is not always specific information on persons in these groups."²² Naturally, the vast majority of people in these groups are not suspected of being personally involved in terror.

The frequent use of sieges is one of the unique signs of the second intifada. In the first years of the intifada, the army placed a siege on large areas in the West Bank (primarily Area A), but subsequently removed it in most instances. However, a partial siege, which changes in magnitude, continues to be imposed on Nablus and its periphery, and sometimes on other parts of the northern West Bank, primarily Jenin and Tulkarm. A siege has also been imposed, since May 2005, on the Jordan

21. HCJ 7757/06, *Association for Civil Rights in Israel v. Commander of IDF Forces in Judea and Samaria*, Urgent Petition for Order Nisi, 18 September 2006, section 5.

22. Letter of 7 June 2006 from the legal advisor for Judea and Samaria to the Association for Civil Rights.

Valley, though in a slightly different format. Unlike the siege on Nablus, the main restriction imposed as part of the siege on the Jordan Valley involves the entry of Palestinians who are not residents of the area; Jordan Valley residents “only” have to undergo a check at the checkpoints set up along the access roads.

The orders on prohibition of movement during a siege were issued pursuant to the Proclamation Regarding the Closure of Area (Encirclement) (Area A), which was signed by the commander of military forces in the West Bank on 3 December 2001. The proclamation classifies all Area A as a closed military area. Unlimited in duration, it remains valid at the present time. Regarding Nablus, an order was issued, on 15 April 2007, allowing exit and entry from the city only via certain staffed checkpoints. The order was issued following a petition to the High Court of Justice filed by the Association for Civil Rights, in which the organization attacked the legality of the siege.²³ The army contends that the siege is “one of the security means needed to prevent terrorists and materiel from leaving Palestinian towns in Judea and Samaria... Thus, residents of these areas are prevented from leaving and entering them, other than under security supervision.”²⁴ As far as B’Tselem knows, no order has been issued that restricts entry into the Jordan Valley.

Creation of a “seam zone”

“Seam zone” is the term used by the Israeli authorities when referring to the area enclosed between the Separation Barrier and the Green Line. When the first section of the barrier – running from Sallem in the north to the Elkana settlement in the south – was completed, in October 2003, the army declared, by military order, that this part of the seam zone was a closed military area, in which it was forbidden to enter or remain.²⁵ It is expected that similar orders will be issued for most of the other sections upon their completion. Even if the state decides not to declare a part of the seam zone a closed military area, as it promised regarding Gush Etzion,²⁶ then, too, access to the area would be severely restricted, both by the barrier and by checkpoints Palestinians would have to pass through to cross the barrier and enter the seam zone.

The prohibition applies to the entire Palestinian population, while Israeli citizens and foreigners having permits to enter Israel may enter the seam zone and

23. Directives Regarding Movement and Traffic (Judea and Samaria) (Nablus Encirclement), 5767 – 2007. See also HCJ 7757/06, *supra*, footnote 21, Supplemental Statement on Behalf of the Respondent, 23 April 2007, Appendix. The petition is pending.

24. Letter of 1 August 2006 from the legal advisor for Judea and Samaria to the Association for Civil Rights.

25. Order Regarding Defense Regulations (Judea and Samaria), 5730 – 1970, Declaration Regarding Closing of Area No. 2/03/’o (The Seam Zone).

26. HCJ 639/04, *Association for Civil Rights in Israel v. Commander of IDF Forces in Judea and Samaria et al.*, Response on Behalf of the State, 13 November 2006, section 24.

remain there without restriction. As described below, the residents of villages in the seam-zone enclaves and residents of the West Bank who have farmland in the seam zone or need to go there for any reason are now subject to a permit regime to enable them to get to their homes, work their land, or meet their other needs in the seam zone.

Prohibition on traveling on certain roads

Israel imposes restrictions and prohibitions on the movement of vehicles with Palestinian license plates (hereafter "Palestinian vehicles") on various roads in the West Bank. On some of the roads, the prohibition is total (in military jargon, "sterile roads"), while on certain other roads Palestinian vehicles with a permit are allowed. Enforcement of these restrictions and prohibitions is based on the geopolitical division made in the Oslo agreements: Palestinian vehicles may, in most instances, travel without restriction on roads inside Areas A and B, but are prohibited or restricted in Area C. Palestinian vehicles are currently restricted or prohibited on about 311 kilometers of roads in the West Bank.

By means of this tool, these roads are open for the exclusive, or almost exclusive, use of Israeli citizens, settlers in particular.²⁷ Some of the roads link the settlements to Israel, and others serve as an internal transportation network between settlements. Several of the forbidden roads also provide rapid movement between different points inside Israel. Two such examples are Route 443, which links Jerusalem and Tel Aviv and the coastal plain area, and Route 90 (the Jordan Valley Road), which links Jerusalem and the north of Israel – Beit She'an Valley, Tiberias, and the Galilee.

With regard to some of these roads, the prohibition also bars Palestinian vehicles from crossing the road, limiting access to roads on which their movement is not prohibited. In these cases, the passengers have to get out of the vehicle, cross the road on foot, and find other transportation on the other side. A notable example is Route 557, in the section between the Huwara checkpoint and the Elon Moreh settlement. This road, and the Beit Furik checkpoint along it, separates the villages of Beit Furik and Beit Dajan from the district seat, Nablus, which is situated a walking distance away. Residents of the two villages wanting to pass through the Beit Furik checkpoint on their way to Nablus have to go to the outskirts of the village by vehicle, get out, walk across the road, and continue their journey in another vehicle. Not only does this restriction create a physical hardship for many of the residents, it also potentially endangers their lives.

27. For an extensive discussion on the prohibited roads, see B'Tselem, *Forbidden Roads: The Discriminatory West Bank Road Regime* (August 2004).

Israel has never set these restrictions and prohibitions down in writing – not in the military legislation, not in any other official decision, not even in the form of a sign on the road. Their implementation by soldiers and Border Police officers is based solely on verbal orders.

West Bank Roads on which Palestinian Vehicles are Forbidden or Restricted

Area	Number/ name	Palestinian travel on the road is prohibited from -	to -	Scope of prohibition ²⁸	Length (in Km)
North	585	Qaffin-Hermesh intersection	Mevo Dotan intersection	Total	10
	557	Access road to Elon Moreh settlement, east of Nablus	Huwara checkpoint, south of Nablus	Total	13
	557	Kafriat checkpoint, south of Tulkarm	The Green Line	Total	4
		Sarra	Jit	Partial ²⁹	2
Central	Ariel – Salfit	Access road to Ariel settlement and Salfit	Northern entrance to Salfit	Total	3
	505	Mas'ha, east of Kafr Kassem	The Green Line (Kafr Kassem)	Total	5
	5	Ele Zahav intersection and Pedu'el	The Green Line (Kafr Kassem)	Total	11
	466	Beit El, north of Ramallah	Route 60 (Ramallah bypass)	Total ³⁰	5
	463	The Post intersection	Kharbatha Bani Harith	Total	0.5
	450 "Talmonim Road"	Access road to Beitillu, north of Talmon	Dolev-Talmon intersection	Total	12
	55	Checkpoint at entrance to Israel at the Security Barrier, south of Qalqiliya	The Green Line	Partial ³¹	4

28. The roads specified in this table as partially prohibited are open, unless otherwise noted, only to permit holders or local residents.

29. Travel is permitted only to residents of Sarra and for movement of goods.

30. The road is open to VIPs and personnel of international organizations.

31. Travel on the road is permitted only to permit holders from 'Arab a-Ramadin al-Janubi who own land on the other side of the checkpoint.

Jerusalem	404 "Begin North"	Har Hotzvim, Jerusalem	'Atarot checkpoint	Total	6
	443	Maccabim intersection	Beit Horon interchange	Total	10
	443	Beit Horon interchange	Giv'at Ze'ev intersection	Partial	8
	436	Giv'at Ze'ev intersection	Ramot-Beit Iksa checkpoint	Partial	7
	Qedar – Ma'ale Adumim	Ma'ale Adumim	Container checkpoint, East Jerusalem, south of al-'Eizariya	Total	9
	60	Gilo intersection (Jerusalem municipal border)	Tunnels checkpoint	Total	6
	45	'Atarot checkpoint	Giv'at Ze'ev intersection	Partial	3
	1	a-Za'ayem	Ma'ale Adumim	Partial	3
South	Negohot Road	Border of Area B, east of Negohot	The Green Line	Total	5
	Tene Road	One kilometer north of Tene	The Green Line, north of Meytar	Total	8
Jordan Valley ³²	90	Bardala crossing, the Green Line	'Ein Gedi	Partial	120
	508, 578	Mehola intersection, Route 90	Ma'ale Ephraim intersection	Partial	44
	505	Gitit checkpoint	Peza'el intersection, north of Jericho	Partial	13

32. All the roads in the Jordan Valley are restricted to Palestinians whose address, as it appears on their identity card, is in the Jordan Valley, and to permit holders.

Deterrence by enforcement of traffic laws

High fines and intensified enforcement of the traffic laws, including provisions relating to vehicle standards and insurance requirements, help deter Palestinian residents from traveling in certain areas in passenger cars, and make them favor public transportation.³³ The law enforcement is carried out by officers from the SHAI [Samaria and Judea] Police District, who work throughout Area C, mostly near checkpoints, permanent or temporary, on roads frequented by Israelis. Examples are Route 443, which leads from Modi'in, inside Israel, to the Giv'at Ze'ev settlement and Jerusalem,³⁴ Route 60 between Jerusalem and Gush Etzion, and Route 5, the new Trans-Samaria Highway, which runs from the Tel Aviv area to the Za'tara (Tapuah) checkpoint, in the heart of the West Bank.

Furthermore, testimonies given to B'Tselem and field observations made by B'Tselem seem to indicate that the police enforce these laws discriminatorily against Palestinians, as appears from the relatively high percentage of drivers of Palestinian vehicles who are pulled over and ticketed. Figures recently provided to B'Tselem show that in 2006, SHAI District police officers gave about the same number of citations to Israelis and to Palestinians – 28,397 (49.4 percent) to Palestinians and 29,106 (50.6 percent) to Israelis.³⁵ However, given that the police were operating primarily on roads with limited Palestinian travel, both because of the obstructions that lengthen the time Palestinian vehicles need to reach the road and because of the desire to refrain from crossing a staffed checkpoint, these figures do not contradict the testimonies and field observations mentioned above. The opposite is true: given that Israeli vehicles are far more common on these roads than Palestinian vehicles, it is reasonable to conclude that the police discriminate in their enforcement of the law.

“Easing” of the restrictions and prohibitions

To counter the criticism for the severe restrictions on Palestinian freedom of movement in the West Bank, the Israeli authorities offer two principal means to selectively “ease” the situation of the Palestinians and take into account its needs: the permit regime and the building of “fabric of life” roads. These means have indeed eased the movement of some of the Palestinians who have been harmed by the restrictions, but they add another supervision and control mechanism that enables Israel to decrease and increase Palestinian movement at its discretion.

33. B'Tselem, *Forbidden Roads*, 9.

34. The information was gathered by the Association for Civil Rights for a petition to the High Court questioning the legality of closing roads to Palestinian vehicles. The petition is pending. HCJ 2150/07, *'Ali Hussein Mahmud Abu Tzfiya et al. v. Minister of Defense et al.*, Petition for Order Nisi.

35. The Israel Police Force provided the figures to Machsom Watch, which forwarded them to B'Tselem.

The permits regime

As mentioned above, in 1991, Israel began to condition entry from the Occupied Territories into its territory and to East Jerusalem on obtaining a personal entry permit. Since 1996, Palestinians have also had to obtain permits to enter the jurisdictional area of the settlements in the West Bank. Several months after the second intifada began, Israel hardened its movement-permit policy. Since January 2002, along with development of the means discussed above, some Palestinians have been required to obtain permits to enter and remain in, or leave, large areas inside the West Bank (other than the settlements and East Jerusalem), among them the seam zone and areas under siege. Other permits are intended only to arrange the crossing at certain checkpoints, depending on the kind of vehicle.

Some of the permits issued allowing vehicles to cross – especially permits allowing entry with a private vehicle into besieged Nablus and the permits for commercial vehicles – are limited in number, the Civil Administration deciding on the quota. According to the head of the Civil Administration, the quota is based on an estimation of how many inspections of the vehicles, goods, and permits the soldiers at the checkpoint can handle.³⁶

B'Tselem is aware of the following kinds of movement permits inside the West Bank:³⁷

- movement permit for passenger vehicle (needed for entry with a vehicle to Nablus District, the Jordan Valley, and the seam zone);
- movement permit for commercial vehicle and for transport of goods (needed for transporting goods into the three areas mentioned above);
- movement permit for public vehicle (needed for taxis and buses);
- movement permit in area under encirclement (needed for persons in a limited group who want to leave an area under siege, regardless of the reason for leaving);
- humanitarian permit (needed for persons in a limited group who want to leave an area under siege, to enable them to receive medical care);
- permit given to a person who is a permanent resident of the seam zone;

36. Conversation of 14 June 2007 with the head of the Civil Administration, Brigadier-General Yoav Mordechai.

37. Other permits are needed to cross into Israel (magnetic card and permit to work in Israel) and to enter or leave Gaza. This report does not deal with those issues. Also, it should be noted that, on 19 December 2006, B'Tselem wrote to the Civil Administration requesting a list of the permits needed for movement in the West Bank, and for other information related to this report. To date, the Civil Administration has not responded fully to the request, and the information that has been provided is extremely limited.

- daily permit to enter the seam zone (issued to certain persons who provide services or to first-degree relatives of residents of the enclaves in the seam zone);
- permit to enter the seam zone for farming or work purposes;
- permit to enter the Jordan Valley (issued to certain persons who provide services or to relatives of residents of the Jordan Valley).

Obviously, behind each of these permits lies a general prohibition of some kind. Thus, the Israeli authorities view the movement permit as an exception, a kind of privilege, which they grant if they are convinced that the applicant is not a security threat and has a “justifiable reason” for wanting to go from one place to another inside the West Bank. For those who are entitled to this privilege, the movement permit has become one of the most important documents for meeting daily needs and exercising rights, which cannot be achieved by means of other documents, such as an identity card or professional certificate.

The movement permits are issued by the District Coordination Offices in the West Bank.³⁸ To obtain them, Palestinian residents of the West Bank must go to the DCO near their home. Formerly, the requests were made through the Palestinian DCOs, a procedure that prevented direct contact between Israeli DCO personnel and Palestinian residents. This procedure was especially important in places like Nablus and Bethlehem, where Palestinians had to cross staffed checkpoints to reach the Israeli DCO. However, after Hamas took control of the Palestinian Authority, in January 2006, Israel ceased cooperation between the DCOs of the two sides, and, until recently, the residents had to, in most cases, go to the Israeli DCO to submit their requests for a permit. On 25 July 2007, the Israeli and Palestinian DCOs renewed their cooperation, and Palestinians can now submit requests for a permit both to the Israeli DCO and through the Palestinian DCO. As mentioned, in certain areas, Palestinians have to cross a checkpoint, and if they are among the groups not allowed to pass, they must show a crossing permit, which they do not yet have. Whether the Palestinians will be allowed to cross in such cases depends on the good will of the soldier at the checkpoint and their ability to convince the soldier of their reason for crossing.

The procedure for issuing permits is unclear and lacks transparency. To the best of B'Tselem's knowledge, two general and sweeping criteria must be met to obtain a permit: 1) lack of “prevention,” either for security or police-related reasons, relating to the applicant, and 2) proof of the grounds for requesting the permit, in

38. For an extensive discussion on the DCOs and the legal basis underlying their establishment, see B'Tselem, *Forbidden Roads*, chapter 3.

the form of documents sufficient to satisfy DCO officials.³⁹ These rules apply also to Palestinians wanting to enter the seam zone, except for persons living there, regardless of the purpose for which entry is desired: to cultivate farmland, to visit family, deliver goods, provide a service, and the like. Naturally, when a quota on a certain kind of permit is imposed, many qualifying residents do not receive the permit.

Except for these two criteria, the public is not informed of the Civil Administration's procedures, and the criteria on which issuance of the permit is determined are non-existent. Ultimately, granting of the permit depends on the discretion of DCO officials. The reason for denial, if provided, is brief – the word "security" sufficing.

Of the 27,000 requests for permits to enter the seam zone that were made in 2006 (to farm, do other work, or for social reasons), more than twenty percent were rejected.⁴⁰ A resident whose request is rejected may file another request, but since no grounds are given for the rejection, the applicant has no real opportunity to make a meaningful appeal.

Obtaining a permit to live in the seam zone, on the other hand, does not require the absence of a security or police prevention. The applicant must prove, "to the satisfaction of the competent authority" or a committee on its behalf, that he or she is indeed a permanent resident of the area, based on the address in the person's identity card on the day the declaration of closed military area was made, or by proving that the person's center of life is in the seam zone.⁴¹ A person wanting to obtain a permit to move into the seam zone must be related to somebody residing there, and must explain the reason for moving.⁴² Of the 5,234 requests for a permanent-resident permit that were filed with the Civil Administration in 2006, 4,834 (92 percent) were approved. The remaining four hundred were rejected on grounds of lack of sufficient proof that the applicant's center of life was in the seam zone.⁴³

39. B'Tselem has requested information from the Civil Administration regarding the criteria for obtaining the different permits. However, the information that has been provided is extremely limited. See footnote 37.

40. Letter of 7 February 2007 from the State Attorney's Office to the Association for Civil Rights, in response to the request for additional particulars in the framework of HCJ 639/04, *supra*, footnote 26.

41. Regulations Regarding Permanent Resident Permit in the Seam Zone (Judea and Samaria), 5764 – 2003. In the letter of 7 February, *ibid.*, the State Attorney's Office stated that proof of center of life in the seam zone is made "by means of providing confirmation from the local council, receipts of regular payments, such as water, electricity, and property tax, made during the years preceding the declaration, presentation of rental or purchase contracts that preceded the declaration."

42. If the authorities consider the reason satisfactory, the resident receives a permit for a two-year "trial period," at the end of which the authorities decide whether to grant a permanent-resident card. Regulations Regarding Permanent Resident Permit in the Seam Zone, *ibid.*, section 6.

43. See footnote 40.

Permits to enter the seam zone enable entry via one specific checkpoint only, noted on the permit, based on the permit holder's place of residence or destination in the seam zone.

"Fabric of life" roads

In an attempt to separate Palestinian and Israeli movement in the West Bank, and to prevent its restrictions from totally paralyzing Palestinian movement in certain areas, the army formulated a plan to build roads intended solely for Palestinians. The plan, given the name "Everything Flows," assigned the main roads of the West Bank for the use of Israelis, primarily settlers, while most of the roads assigned to Palestinians pass through villages and city centers.⁴⁴ Following much criticism, the plan was shelved, and, in 2006, the army began to develop an alternative plan.

The objective of the alternative plan is to create a separate, contiguous road network for Palestinians in the West Bank, running north-south.⁴⁵ Contrary to the previous plan, which was aimed at creating complete separation, the new plan is based on separate levels in places where roads for Israelis and roads for Palestinians meet. The separation is accomplished by means of bridges and interchanges, with the Israelis traveling on the top at high speed, and Palestinians at the lower levels, on roads referred to as "fabric of life" roads. The plan allows Palestinian vehicles to travel on only twenty percent of the roads on which Israeli vehicles travel. Although the plan has not been officially approved by the Defense Ministry, many of its elements have been implemented, and the "fabric of life" roads are being built. They include, in part, roads that run parallel to roads on which Palestinian vehicles are forbidden as well as roads intended to replace the roads access to which has been denied by the Separation Barrier.

Even if these alternate roads improve the flow of Palestinian traffic in certain areas, they also move it further away from the main roads, which become "Israeli roads" de facto. In addition, this separation will better enable Israeli security forces to restrict Palestinian movement, when needed, without disrupting travel by settlers and other Israelis driving on West Bank roads.

44. Amir Rappaport, "IDF Begins to Implement 'Separation Plan'," *nrg Ma'ariv*, 19 October 2005.

45. Amira Hass, "Palestinians in West Bank will Travel on Different Level than Israelis," *Ha'aretz*, 26 March 2006.

"Fabric of Life" Roads⁴⁶

Road from -	to -	Purpose	Status
'Anata	Al-'Eizariya	To join the south and central West Bank	Under construction
Rantis	Shuqba	To replace Route 465 (near the settlement Ofarim), which will become part of the route of the barrier around the settlements Beit Arye and Ofarim	Advanced stage of construction
Beit Liqya	Beit 'Anan	To join the two villages by a passageway running under road 443	Under construction
Beit 'Ur al-Fauqa	a-Tira	To replace Route 443 by means of underground passage	Under construction
Al-Jib	Bido	To connect the Bir Nabala enclave to Bido and neighboring villages	Almost completed
Al-Judeidah (tunnel in the Bir Nabala enclave)	Rafat	To cross under Route 45, which blocks the enclave, and connect it to Ramallah	Completed
Tulkarm/Route 57	a-Ras	To bypass the road leading to the settlements Avne Hefetz and Enav by means of a tunnel under it	Completed
Al-Khader	The villages Husan and Batir, in the "Gush Etzion" enclave	To enable access to the rest of the West Bank for the villages that would be left west of the Separation Barrier, in the "Gush Etzion" enclave	Under construction
Ras a-Tira	Route 55	To enable access of residents of villages in the Alfe Menashe enclave to the rest of the West Bank. This route will become part of the Security Barrier's route in the future.	Completed
Qalqiliya enclave (tunnel)	Kfar Habla enclave	Underground crossing to connect the two internal enclaves	Completed

46. The table is based on information collected by B'Tselem. B'Tselem sent a request to the army's Central Command for a list of the existing "fabric of life" roads, those under construction, and those in planning, but has not yet received a reply. An updated list, if obtained, will be made available on B'Tselem's Website, www.btselem.org.



Checkpoint at the entrance to al-Khader, Bethlehem District, 3 October 2006
(Anne Paq, ActiveStills)



Placing a physical obstruction south of Hebron, 24 July 2007
(Oren Yacobovich, B'Tselem)



Palestinian taxi bypassing checkpoints on an alternate road crossing the Ramin plain near Tulkarm, 22 October 2006
(Sarit Michaeli, B'Tselem)



Chapter 2

Splitting the West Bank

This chapter examines the division of the West Bank into sections (“cells” in military jargon) as a result of implementation of the means of control and restrictions on movement described in the previous chapter. In this chapter, the expression “split” or “division” relates to the situation in which travel from one section to another is controlled, requires a permit, or is prohibited altogether.

The chapter contains two parts: the first examines the manner in which the West Bank has been split into principal areas, and the second describes the splitting of these primary areas into secondary areas. The splitting cuts up territory that was considered part of single geographic, economic and social areas, separates communities from the district’s major town, and in some cases artificially connects them to another urban center.

An elementary principle of human rights is that every person has the right to move about freely in his or her country. If the governmental authority restricts this right, it must justify the restriction. The splitting up of the West Bank, as will be shown, reflects, in many ways, the opposite of this principle. The ability to move from one area to another inside the West Bank, and from one secondary area to another within each principal area, is now the exceptional case, dependent on various conditions and requiring justification by the local resident. In the eyes of the authorities, denial of freedom of movement is the norm, which requires no special explanation.

Cutting up the West Bank into six areas

The restrictions on movement that Israel has imposed on Palestinians in the West Bank have split the West Bank into six major geographical units: North, Central, South, the Jordan Valley and northern Dead Sea, the enclaves resulting from the Separation Barrier, and East Jerusalem.

The North section includes the Jenin, Tulkarm, Tubas, and Nablus districts, except for the portions of these districts that lie in the Jordan Valley and in the Separation Barrier enclaves. More than 840,000 Palestinians live in this section.⁴⁷ This area is also home to 6,300 settlers.⁴⁸ The South section includes the Hebron and Bethlehem districts, except for the northern Dead Sea and Separation Barrier enclaves. More than 700,000 Palestinians and about 14,000 settlers live in the area.⁴⁹ The Central section includes the Salfit, Ramallah, and Jericho districts, except for the parts that lie in the Separation Barrier enclaves. More than 400,000 Palestinians and 26,600 settlers live there. Although Jericho District is geographically part of the Jordan Valley, the restrictions on movement have separated the city from the rest of the Jordan Valley and strengthened its connection with Ramallah District.

The Jordan Valley and northern Dead Sea section includes the eastern strip of the West Bank, except for Jericho and the nearby refugee camps. Some 10,000 Palestinians and 8,900 settlers live in this area. The first restrictions on Palestinian movement in the Jordan Valley, among them the checkpoints and physical obstructions on access roads, began with the outbreak of the second intifada and have gradually been expanded.⁵⁰

As a result of running the Separation Barrier inside the West Bank and because of its winding route, many areas in the West Bank have been isolated from the rest of the West Bank and have become (or will become once the barrier is completed) enclaves. Some of the enclaves, the "seam-zone enclaves," are enclosed between the Separation Barrier and the Green Line. Other enclaves, the "internal enclaves," remain on the "Palestinian" side of the barrier but are surrounded on most sides because of the way the barrier winds and twists. Upon completion of the barrier, some 30,000 Palestinians will be living in seam-zone enclaves and 25,000 Palestinians in internal enclaves. In addition, the area between the barrier and the Green Line contains thousands of dunams of Palestinian farmland and thirty-nine settlements, in which 138,000 settlers live (not including settlements in East Jerusalem and in the Giv'at Ze'ev and Ma'ale Adumim settlement blocs). Unlike

47. The districts referred to in this chapter are based on the division adopted by the Palestinian Authority. Unless mentioned otherwise, all the figures regarding the number of Palestinians in the West Bank are taken from the Palestinian Central Bureau of Statistics and are estimated for 2005.

48. The figures on the population of the settlements are taken from the Israeli Central Bureau of Statistics, *2005 Yearbook*, and do not include settlements that were evacuated. For details on the settlements and the population of each settlement, see B'Tselem's Website, www.btselem.org.

49. The figures do not include residents of the settlements and villages in the Etzion bloc that will remain on the "Israeli" side of the Separation Barrier following its construction.

50. Since 16 March 2005, Palestinians coming from Jordan via Allenby Bridge (the only way to exit or enter the West Bank from abroad) have not been allowed to cross through the Jordan Valley, even if they were headed to the northern West Bank. Residents of Jericho are forbidden to travel north toward the Jordan Valley and Route 90 via the A'uja checkpoint, in northern Jericho. Residents of the northern villages of the Jordan Valley are not allowed to cross this checkpoint on their way to Jericho and must use alternate roads to go to and from Ramallah. The bypass route and checkpoints along the way increase their travel distance and time.

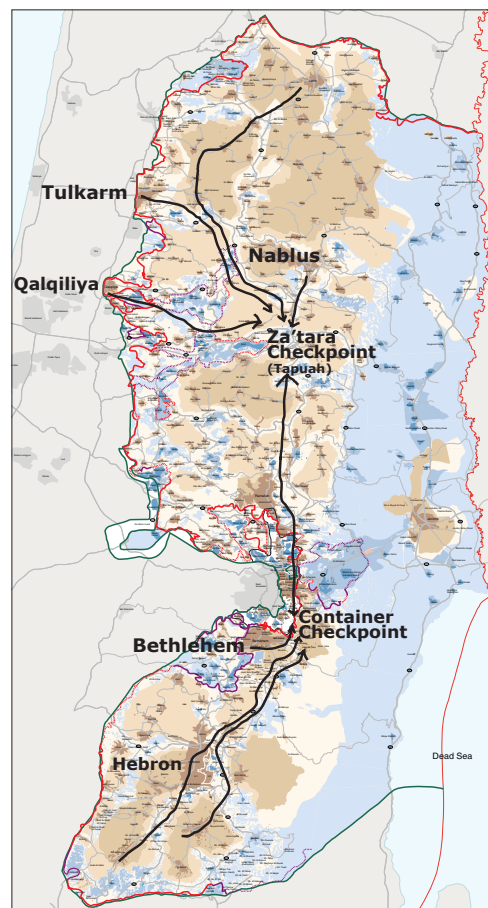
the other five principal sections, the enclaves are not one geographical area, but dozens of non-contiguous sections separated from the rest of the West Bank.

The East Jerusalem section includes all the area that Israel annexed in 1967 and attached to the Jerusalem Municipality, except for the Shu'afat refugee camp and Kfar 'Aqeb, which are separated from the city by the Separation Barrier. In addition to the settlements in the municipal area of the city, this section contains two settlement blocs: Giv'at Ze'ev and Ma'ale Adumim. There are now 200,000 Palestinians and over 220,000 settlers living in this section.

This division of the West Bank is achieved by the use of the means of control described in the previous chapter, in a way that channels the movement of Palestinian vehicles and pedestrians to checkpoints they must cross to get from one section to another. Whether they are allowed to pass depends on the conditions and restrictions in force at the time. These checkpoints are as follows:

Za'tara (Tapuah) Checkpoint controls almost completely movement between the North and Central sections. The army channels to this checkpoint all the traffic coming from the west and east along the Trans-Samaria Highway, and from Route 60 from the direction of Nablus in the north and from the direction of Ramallah and the southern West Bank in the south. The checkpoint is staffed by soldiers around the clock. Palestinians are generally allowed to freely cross the checkpoint in the northerly direction, but those traveling south encounter a check of their identity cards and sometimes a search of their vehicle.⁵¹ Delays at the checkpoint occasionally reach 30-60 minutes, and at peak times or following a security warning even longer. The Israeli security forces often prohibit males aged 16-35 from crossing in a southerly direction. This prohibition is generally applied to residents of Jenin and Nablus districts, and sometimes to residents of Tulkarm, and results

Za'tara Checkpoint and Container Checkpoint



51. Vehicle checks are done at random, except in the case of a special warning, when the checks are more stringent and frequent.

in a partial siege on the northern West Bank. On such occasions, a bottleneck is created at the checkpoint, or the major obstruction, at which persons not permitted to continue their way south are not allowed to proceed.

"Container" Checkpoint controls almost completely movement between the South and Central sections. It is located on Route 398, the Wadi Nar road, which runs from Beit Sahur, on the southern outskirts of Bethlehem, to the main entrance of the Ma'ale Adumim settlement, in the north. The checkpoint sits on a hill overlooking Nahal Kidron, a stream bed. When the army instituted the general closure of the Occupied Territories, in 1993, in which it prohibited the entry into Jerusalem of Palestinians traveling between the southern and central West Bank, this road became the main traffic artery between these areas.

The checkpoint is staffed by Border Police officers twenty-four hours a day. From 2002 to February of this year, Israel prohibited passenger cars to cross the checkpoint unless the driver had a special permit. The prohibition was cancelled as part of the "easing of restrictions." Also, since shortly after the outbreak of the second intifada, Palestinians have been forbidden to use the section of Route 398 that runs from the checkpoint to the entrance to Ma'ale Adumim. The authorities contend that the prohibition is needed to protect the 720 residents of the Qedar settlement, which lies alongside the road, who use the road to get to Ma'ale Adumim and from there to Israel. As a result, Palestinians arriving at the checkpoint on their way north have to bypass this section of the road by going along the narrow, worn roads of the nearby villages (Sawahrah, Abu Dis, and al-'Eizariya). In 2005, a new bypass road was opened linking Qedar and Ma'ale Adumim, following which the settlers stopped using the segment of the road that was prohibited to Palestinian traffic. However, the army has stated that Palestinian movement on the section will continue to be forbidden until the "engineering work" needed to block movement from the road to the settlement is completed.⁵²

As a rule, the Border Police officers staffing the checkpoint check the vehicles and passengers passing through. Often there are lengthy delays, especially at peak times.⁵³ When Israel declares a comprehensive closure, the checkpoint is closed, severing the southern West Bank almost completely from the rest the West Bank. When this occurs, many Palestinians wanting to travel to or from the South section must bypass the checkpoint on foot along dirt roads between the hills.

52. Letter of 16 May 2006 from the IDF Spokesperson's Office to B'Tselem.

53. According to the findings of B'Tselem's researchers who maintained a lookout at the checkpoint, delays ranged from 30-60 minutes, even following the easing of inspections and crossing at the checkpoint.

From the testimony of Samir `Abd a-Rahim Muhammad Hereb, resident of Ramallah

On 21 November 2006, I had to go to the village of Sa'ir, near Hebron, with three friends to express our condolences to a friend whose father had died. It was pretty easy to reach Sa'ir. Around three in the afternoon, we left by taxi from Ramallah... We drove to al-'Eizariya, Abu Dis, and a-Sawahrah a-Sharqiya until we got to the Container checkpoint. Only five cars were in line. After waiting about fifteen minutes, our turn came. We crossed the checkpoint and continued on our way to Sa'ir, arriving at about five o'clock. We paid our condolence call for about half an hour and then started on our way back toward Ramallah.

Around six o'clock, we reached the Container checkpoint. Lots of cars were waiting. The driver of the taxi we were in went around the line and proceeded to a few meters from the checkpoint. I saw the soldiers were carefully checking a Palestinian taxi. They dismantled the seats, the door panel and many other parts of the taxi. They spent a lot of time inspecting it, and we and the people in the other cars got tired of sitting in the car.

A young fellow, about sixteen, got out of the car in front of us... Quickly, three soldiers went over to him and beat him... They really beat him, apparently to scare the other passengers, who were sitting in the cars, the number of which had now reached, I estimate, one hundred. When they finished beating him, they announced over the loudspeaker that it was forbidden to get out of the cars.

We waited there until 9:15, a wait of more than three hours. Only then did the soldiers start to let the traffic flow. They did not search the cars, but just let them all pass. The delay resulted from the police officers' mood; they just decided to delay the people for no reason or security need. I got home to Ramallah around 10:30 at night.⁵⁴

Tayasir, Hamra, Gittit, and Yitav checkpoints control movement to and from the Jordan Valley. In May 2005, Israel instituted a sweeping prohibition on Palestinian movement into the Jordan Valley, regardless of the purpose of travel, except for persons whose identity cards indicate they are residents of the Jordan Valley, and for persons with special permits. On 26 April 2007, the Defense Ministry announced cancellation of the sweeping prohibition on entry. The notice of cancellation stated that, following a review of the need to continue the movement restrictions in the Jordan Valley, it was decided to cancel them, and that every resident of the West Bank would be allowed to enter the area following a security check at the entry checkpoints. The notice did not state the reason why the restriction had

54. The testimony was given to Kareem Jubran on 3 January 2007.

been made in the first place.⁵⁵ B'Tselem's monitoring of the checkpoints since the cancellation shows that the removal of the prohibition related only to pedestrians and persons traveling on public transportation, which itself requires a permit. Also, the decision was implemented only at the Tayasir and Hamra checkpoints, where the waiting time is especially long. The requirements for crossing at the Gittit and Yitav crossings remained the same.

Almog Checkpoint is located at the Beit Ha'arava intersection and controls movement to and from the northern Dead Sea. Generally, only persons with permits to work in the nearby settlements and/or permits to enter Israel are allowed to cross. Since May 2007, the latter have not been allowed to pass through the checkpoint. The manager of the 'Ein Fascha vacation site, in the northern Dead Sea, told B'Tselem, on 28 May 2007, that the vacation site receives orders from the army from time to time to forbid the entry of Palestinians unless they show permits to enter Israel. Testimonies given by reserve-duty soldiers to the Association for Civil Rights indicate that the reason for setting up the checkpoint, as explained by the brigade commander, was "the reduced revenue of the Jewish communities along the Dead Sea coast when Palestinians also use the beaches."⁵⁶

The Separation Barrier channels the movement between the seam-zone enclaves and the rest of the West Bank to several *gates in the Separation Barrier*, which control the movement to and from the seam zone. Passage through the gates is permitted only to persons holding the special entry permits, as described in chapter 1. Presently, there are thirty-eight such gates, only six of which are open daily, for twelve to twenty-four hours continuously. Seventeen of the gates are opened two or three times a day, for thirty minutes to two hours at a time, and thirteen are opened only during the farming season – generally for the olive harvest.⁵⁷ Two other gates are opened, upon coordination with the DCO, to enable the movement of residents of a few houses that are enclosed by the barrier and completely separated from their village.⁵⁸ Private security companies are in charge of the crossing at some of the gates. In addition to these gates, there are crossings intended primarily for the use of Israelis traveling between the West Bank and Israel, which are operated around the clock.

Movement between East Jerusalem and the rest of the West Bank is channeled,

55. Letter of 10 April 2007 from Ruth Bar, assistant to the Minister of Defense, to the Association for Civil Rights.

56. Letter of 3 July 2007 from the Association for Civil Rights to the Chief of Staff, Lieutenant-General Gabi Ashkenazi.

57. The authorities contend that, upon prior coordination, the seasonal gates may be opened at other times as well.

58. Letter of 9 May 2007 from the Civil Administration to B'Tselem.

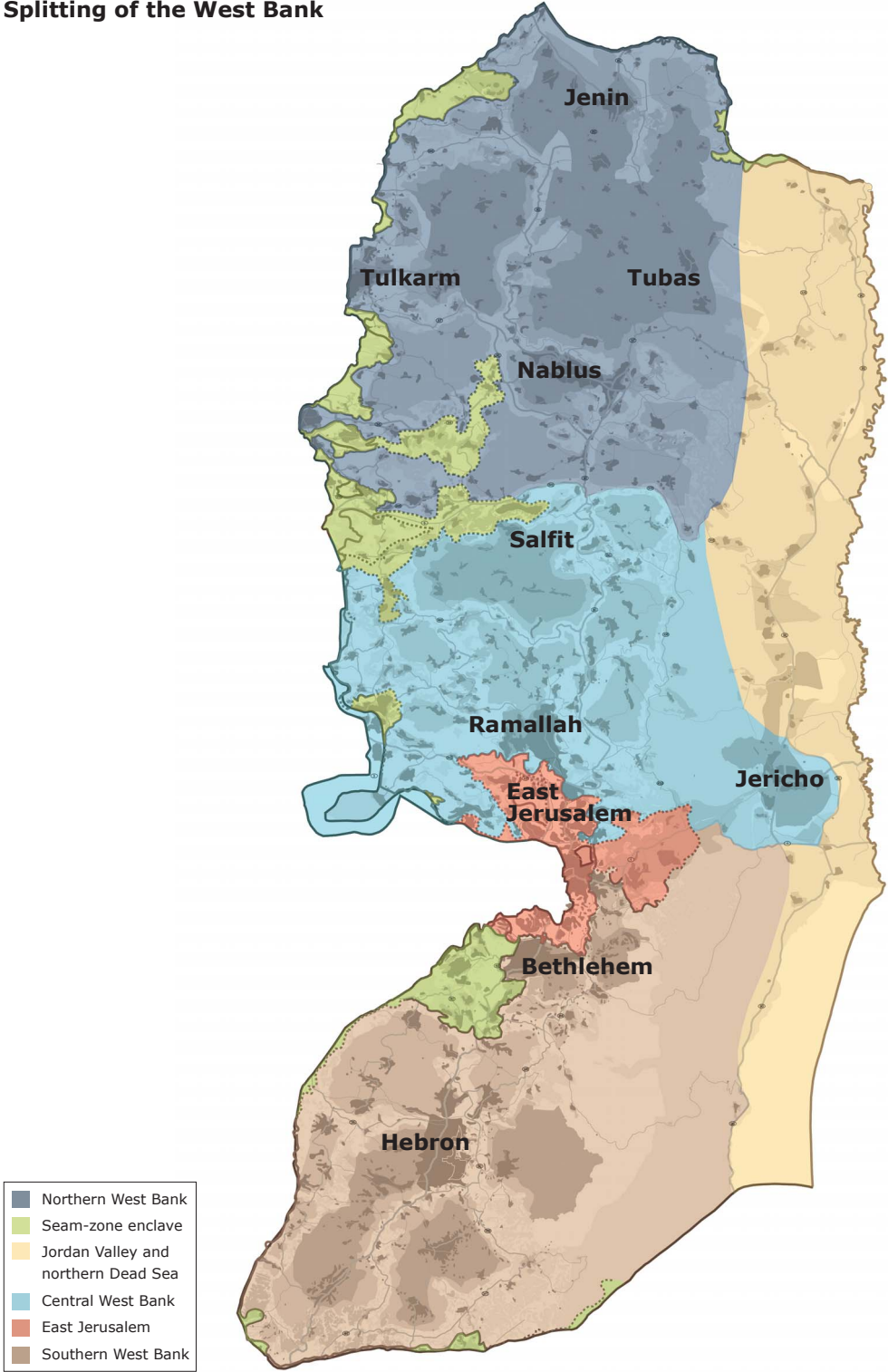
also by means of the Separation Barrier (in this area, the barrier is referred to as the “Jerusalem envelope”), to twelve checkpoints along the barrier. Palestinian residents of the West Bank who do not have Israeli identity cards, but have permits to enter Israel, may use only four of the checkpoints: *Qalandiya in the north, 300 in the south, Shu’afat refugee camp in the east, and the Olives/Ras Abu-Sabitan checkpoint*, which is only for pedestrians who come from the direction of Abu Dis and al-’Eizariya. Crossing these checkpoints entails, in addition to showing an identity card and valid permit, stringent checks that include, among other things, exiting the vehicle so it can be searched and passing through a revolving metal gate (“carousels”) equipped with a metal detector.⁵⁹ The remaining eight checkpoints are intended for use by settlers and residents of Israel, including Palestinians living in East Jerusalem. The latter are generally required to present an Israeli identity card.

* * *

The difficulties in moving from area to area, arising from the means described above, cause extensive harm to West Bank Palestinians, ranging from severance of commercial ties between the areas to breaks in social and family ties. As shall be shown in chapter 3, the harm has both immediate and long-term consequences.

59. OCHA, Update Number 5, *supra*, footnote 19.

Splitting of the West Bank



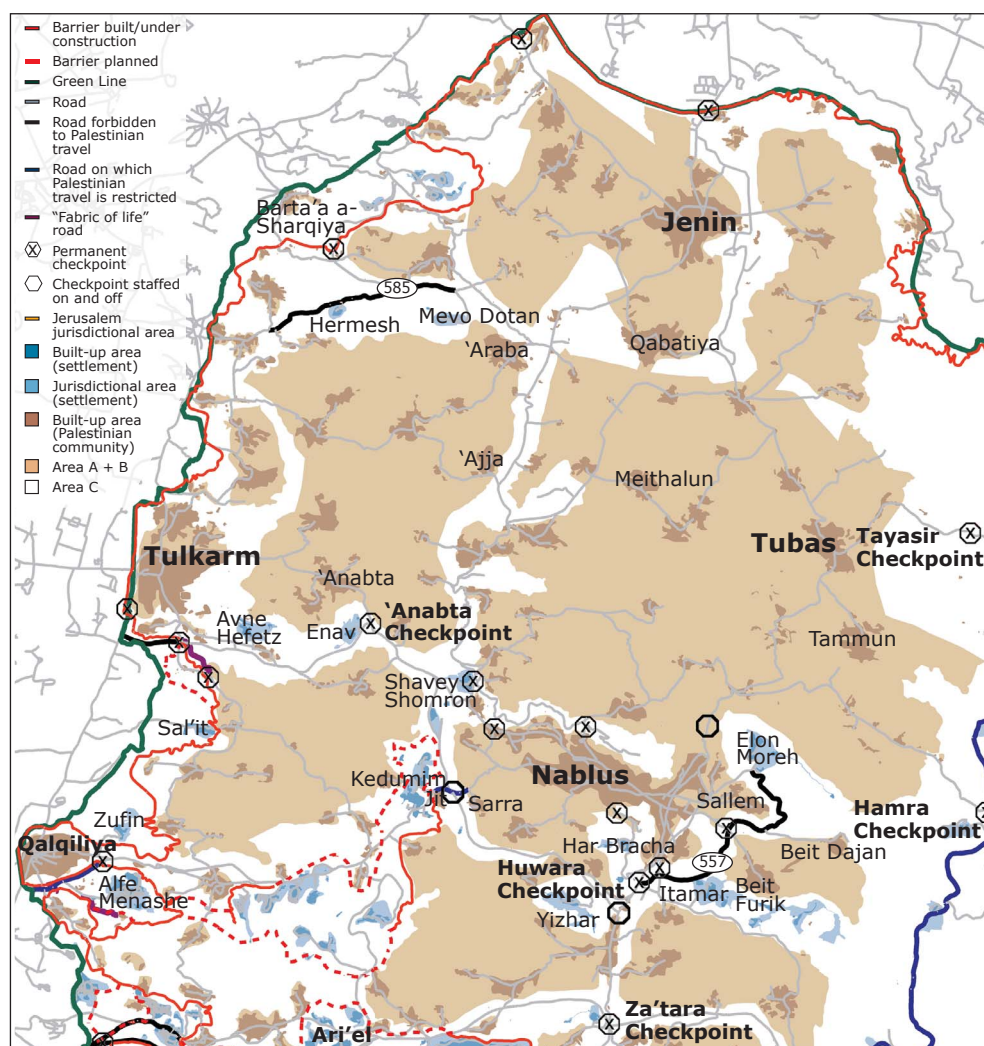
Internal division into sub-areas

In addition to the restrictions on movement from area to area, as described above, Israel severely restricts movement *within* the areas, breaking them up into sub-areas and controlling the movement from one to the other.

Splitting of the North section

Enforcement of internal movement prohibitions in the North section separates the besieged Nablus area from the nearby villages and from the other districts in the northern West Bank – Jenin, Tubas, and Tulkarm.

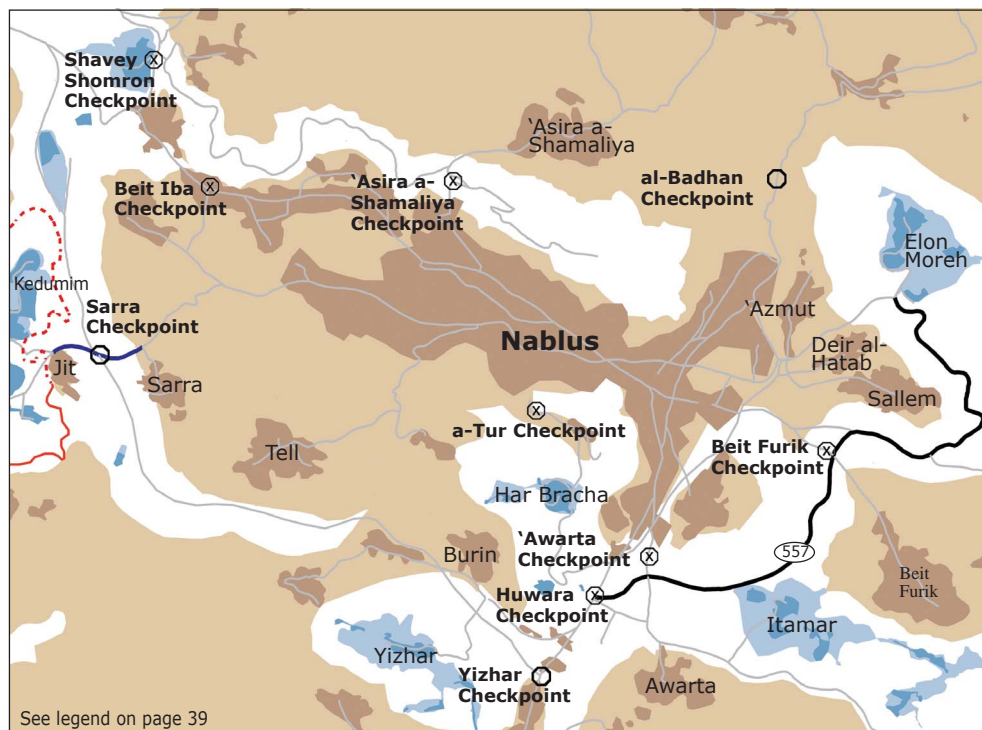
North section



The siege on the Nablus area

The Nablus area, which includes the city, three refugee camps, and fifteen villages, contains over 200,000 persons. It has been under siege for six years. Entry and exit is possible only via four checkpoints that surround it.⁶⁰ Crossing the checkpoints entails stringent checks of persons, vehicles and goods in both directions. Entry of passenger vehicles is not allowed without a special permit. Physical obstructions block all the other entrances and exits to the area.

Nablus-siege checkpoints



One of the unique elements of the siege on Nablus is the collective prohibitions on movement. Such prohibitions have been imposed, since 2002, on Palestinians with a registered address in the Nablus area who belong to a certain age group, generally 16-35. Usually, the restrictions apply only to males, but on occasion also to females. The prohibitions on movement based on age and gender, which were initially imposed in 2002, were cancelled only in early 2004. In 2006 alone, the movement prohibitions were in force for more than nine months.

60. The four checkpoints are Huwara, at the southern entrance to the city; Beit Iba, on the west; al-Badhan, on the north; and Beit Furik, on the east. Entrance via the Beit Furik checkpoint is restricted to residents of Beit Furik and Beit Dajan. Another checkpoint, 'Awarta Checkpoint, is used for goods entering the city.

To understand the scope and effect of the prohibitions on the local population, one need only consider that prohibiting the movement of males between the ages of sixteen and thirty affects some 26,000 persons. If the prohibition is placed on males aged 15-35, the number rises to 36,000, the population of a medium-sized town in Israel. If the prohibition covers males and females aged 15-35, 73,000 persons are affected.⁶¹ This group, which suffers the harshest movement prohibitions, comprises the main work force in the area, on which the economic life of the entire population depends.

In response to a petition filed by the Association for Civil Rights, the Judge Advocate General's Office stated, in January 2007:

In accordance with the new policy, the restriction [preventing the exit of certain age groups from the Nablus area] will be imposed only when there is a concrete warning – where there is information on a terrorist who is about to leave the Nablus area, and there is no other way to prevent his capture. Such a restriction will be imposed for a limited time, based on a concrete warning, and will be removed depending on developments regarding the concrete warning... The authority to order a restriction on a certain age group from leaving... will be that of the Judea and Samaria Division Commander, who may issue the order for a period not to exceed seventy-two hours.

According to the statement, the officer heading the Command may restrict exit for a longer period. Imposition of the restriction "will be supported by a written order by the person authorized under section 88 of the Order Regarding Defense Regulations."⁶²

The residents are not informed of the prohibitions on the movement of a particular group, despite the army's duty to inform them, and they learn of it only when they reach the checkpoint. To fill in this vacuum and inform the residents of the changing restrictions, Palestinian radio has fixed spots reporting the daily restrictions on movement imposed on residents of Nablus District. In most cases, however, the media itself receives the information from residents and not from Israeli defense officials.

The conditions at the siege checkpoints differ from checkpoint to checkpoint. At the two main checkpoints – Beit Iba and Huwara, the waiting time is generally very long and includes many delays caused by the soldiers.

61. The figures were compiled by the Association for Civil Rights. See HCJ 7757/06, *supra*, footnote 21, sections 2, 6.

62. *Ibid.*, Response on Behalf of the Respondent, 7 January 2007, section 3.

From the testimony of Ahmad Yusef Hamail, resident of Beita, Nablus District

The soldiers close the checkpoint for ten minutes to three hours sometimes, depending on their mood. As a result, a large number of people, hundreds, wait at the checkpoint. When the soldiers return, they open the checkpoint and let the people cross very slowly... If one of the soldiers is drinking juice or eating a sandwich or doing something else, he stops the inspection and search, leaves the people and does his thing while the people at the checkpoint wait. He talks on the phone with his friends or talks with the other soldiers at the checkpoint while people stand there waiting. This increases crowding at the checkpoint, creating great congestion, agitation, and tension. The people want to get home, they just completed a long day of hard work, everyone is hungry, and waiting under the sun makes it hard. So, the people push to get to the front of the line. When this happens, rather than rush things along, the soldiers stop working. The soldiers also swear at the people who come to the checkpoint, as if they are insects.⁶³

As mentioned above, persons having a "risk profile" only because of age, who are thus forbidden to leave the area, need a "movement permit in area under encirclement" if they want to get out. However, obtaining the permit entails numerous difficulties: the Nablus DCO is situated outside the area under siege, so the prospective applicant needs to cross the checkpoint to get there. Generally, soldiers at the checkpoint allow only persons with a medical or other kind of certificate, proving the need for a permit, to cross. Those not allowed to cross have to find a relative, friend, or employer to file the application. As a rule, permits to cross the siege are not issued for "ordinary" needs, such as work, family visits, or studies, but only for needs that the authorities consider "humanitarian," such as medical care. The chances of obtaining the desired permit are extremely low, even for those who manage to overcome the hurdles on the way.

The Beit Furik and Beit Dajan enclave

The villages of Beit Furik (10,500 residents) and Beit Dajan (3,600 residents) are located four kilometers east of Nablus. Settlements were established on two sides of the villages: Elon Moreh to the north and Itamar to the south. Route 557 leads to the settlements from Huwara Checkpoint. The road formerly was also the main access road to the two villages. Since the outbreak of the intifada, Palestinians have been forbidden to use the road, which is now open only for use by settlers and their visitors. Another road, which crosses Route 557, links the two villages to Nablus. On the western side of this road lies the Beit Furik checkpoint, one of the

63. The testimony was given to Salma a-Deba'i on 11 September 2006.

checkpoints used to impose the siege on the Nablus area. Exit from Beit Furik and Beit Dajan to the east, in the direction of the Jordan Valley, has been blocked by physical obstructions since the second intifada began.

The prohibition on travel on Route 557 isolates the 14,000 residents of the two villages, forcing them to use the siege checkpoints if they wish to go elsewhere in the West Bank, regardless of their destination. For this reason, on every trip to the central West Bank, whether north or south, the residents have to cross the road on foot, go through the Beit Furik checkpoint at the entrance to Nablus, and later cross one of the three other checkpoints at the exit from Nablus. If they want to go to one of the nearby villages – Sallem, Deir al-Khatib, and 'Azmut – which lie northeast of Nablus, they have to make a big circle via the city. Going from Beit Furik to nearby Huwara can take two or three hours instead of several minutes.

Only residents of the two villages and persons having appropriate permits are allowed to cross the Beit Furik checkpoint. A special permit is needed to cross in a vehicle. Palestinians with permits to go by car are allowed to cross Route 557, but are not allowed to drive on the road in either direction. Residents who make their way on foot, or by car without a permit, get to the checkpoint, cross it on foot and take a taxi on the other side.

The checkpoint's hours of operation vary. In the past, it was only open from 6:00 A.M. to 5:30 P.M. Following repeated complaints and requests of human rights organizations, the hours were expanded and the checkpoint is now usually open from 5:00 A.M. to 9:00 P.M. Persons wanting to cross at other hours have to shout to the soldiers who are barricaded in a tower at the checkpoint and beg them to open the checkpoint. In many instances, the requests are refused, unless an outside body, such as Machsom Watch, becomes involved.

Residents of the two villages have natural, deep, and long-standing ties with the city of Nablus that affect all aspects of life. They go there to buy food, obtain medical services, and attend school. The city is a primary commercial center and source of livelihood. Also, many residents of the two villages have relatives living in and around the city. Despite the severe geographical separation and the harsh restrictions on movement, the residents continue to maintain these ties as much as possible. Otherwise, they would be completely detached from their surroundings.

From Machsom Watch field observations

"What can I do with all this cheese in the sun? Come on soldier, let me pass the cheese. Look, it's getting ruined."

"You can't take your car into Nablus" said the soldier. "You don't have a permit for the car."

"I don't have a permit for the car? But, you can see for yourself, I have a permit from the... ministry of agriculture... I am allowed to pass my cheese, I have sheep, I make cheese from them and sell it in Ramallah where they use it for knafeh [a pastry]. Every week I transfer the cheese in my car to Nablus, from Nablus I go to Huwara checkpoint and then I head to Ramallah. And now you, a bunch of new soldiers, tell me that I need a permit to enter with my car into Nablus. If you would let me I would bypass it, I don't even want to enter Nablus, I just want to get to Ramallah. How do you want me to pass all this cheese, on my back?," said the cheese man and pointed at the buckets that were full of hard salty cheese.

"I don't care how you pass it, get into your car and drive away, I don't want to see you here again without a permit for your car."

The cheese man sighed in desperation and turned around to look for a car that had a permit to enter to Nablus.

After half an hour the cheese man found a car with a permit to enter Nablus. It took another thirty minutes to transfer the buckets from one car to the other, and another thirty minutes waiting in line. The soldier inspected the car for five minutes and sent them back to Beit Furik.

"What's the matter," we asked the soldier, "This car has a permit to enter Nablus."

"Yes it does," the soldier said, "but the permit allows the car to enter empty, it hasn't got a permit to transfer merchandise."

After twenty minutes he found a car with a permit to enter Nablus and to transfer merchandise. It took twenty minutes to move the buckets from one car to the other (by then they have become experts in this) and thank god the car passed the checkpoint and entered Nablus.

After an hour we left to Huwara checkpoint. We parked at the faraway parking lot and walked to the checkpoint. From afar we saw buckets of cheese being moved from one car to the other.

...We came closer. It was the same man that was at Beit Furik. He passed the checkpoint into Nablus, but the car he was in didn't have a permit to exit Nablus through Huwara and head to Ramallah, so at the exit from Nablus, he started moving the cheese to another car that had a permit to transfer merchandise from Nablus through Huwara. He got out of Nablus and then had to move the cheese again from one car to the other.

"What's the matter," we asked, "doesn't this car have a permit to transfer merchandise?"

"Yes it has," said the cheese man, "it has a permit to transfer merchandise."

"So why are you moving the cheese from one car to the other all over again?" we asked.

"It doesn't have a permit to pass through Za'tara. I'm swapping it with a car that has a permit to pass through Za'tara in the direction of Ramallah."⁶⁴

Separation of Jenin, Tulkarm, and Tubas from Nablus

Three other districts in the North section – Jenin, Tulkarm and Tubas – are directly affected by the restrictions on movement and the siege on Nablus. These districts have close ties with each other and with Nablus District. The most important economic and social ties for residents of Jenin are with the Tulkarm and Nablus districts. For years, Nablus was the economic and industrial center of the West Bank.

Access to major roads in these districts is blocked, and Israeli security forces set up flying checkpoints daily along them. In addition, Israel periodically imposes sweeping prohibitions on the movement of people in certain age groups to the Nablus area.

With the beginning of the second intifada, Israel greatly increased the restrictions on access to the northern section of Route 60. The army prohibited Palestinian movement along the section from the Dotan intersection, near the Mevo Dotan settlement, to the Kedumim settlement and the Jit intersection, west of Nablus. Along this section lay the settlements of Sa-Nur, Homesh, Shavey Shomeron, and Kedumim. As part of the disengagement, in September 2005, the settlements Sa-Nur and Homesh were evacuated, but the restrictions on movement along the road continued.

The Deir Sharf intersection, situated east of the Shavey Shomeron settlement, where the Shavey Shomeron checkpoint now stands, was one of the main crossing points between Jenin and Nablus, and between towns and villages in the entire northern West Bank. In August 2005, the checkpoint was closed to Palestinians because of construction of the wall east of the army base and the settlement. The construction work ended over a year ago, the wall is standing, but the checkpoint is still closed. As a result, movement is blocked on the road heading north, in the direction of Jenin and the villages and towns on the way there. The trip from Jenin to Nablus used to take about forty minutes on the main road. As a result of the checkpoint, for more than a year, the travelers have made the trip on alternate,

64. Machsom Watch Observations, March 2007, available at www.machsomwatch.org/docs/monthlyReports/March2007Eng.asp?link=summaries&lang=eng.

narrow, winding roads, and at the end have a long wait at one of the checkpoints at the entrance to the Nablus area. For the quarter of a million residents of Jenin District, the trip takes from one to three hours, depending on the number of – and the time spent waiting at – the flying checkpoints on the way.

Over the past two years, access to Nablus from the villages located to its north has been hard and complicated. A checkpoint placed between Nablus and 'Asira a-Shamaliya was closed to traffic in March 2006. Since December, passage through the checkpoint has been limited to members of international organizations and to ambulances.⁶⁵ Following the closing, more than 20,000 residents of the villages in this area have had to use long bypass roads taking them to Route 57, from which they continue on to Nablus.

Route 57 is the main access road from Tubas, Qabatiya, Tamun, and the Jordan Valley to Nablus and is used, in normal circumstances, by thousands of travelers. Here, too, the army set up a checkpoint, at al-Badhan. The checkpoint is presently staffed on and off. When it is staffed, the delays are appreciable, sometimes hours. Often, the soldiers close the road to traffic for several hours, without prior warning, thus blocking the travelers' only direct means of access to Nablus and forcing them to go via the Tulkarm checkpoints.

Going from Jenin and Tubas toward Tulkarm also entails the use of winding roads that pass through the local villages. Entrance into Tulkarm is possible only through two permanent checkpoints: 'Anabta, from the east, and al-Aras, from the south. The 'Anabta checkpoint is the more important of the two given that much of the traffic heading north from the Za'tara checkpoint, primarily travelers who don't want to go via Nablus, use it. When the checkpoint is crowded, or closed, many Palestinians bypass it by switching to winding dirt roads, passing through agricultural fields not meant for passenger cars. The army is aware of this practice and sometimes lets the travelers use them unhindered. At other times, the army sets up flying checkpoints on these roads and does not let the cars pass. In many instances, the soldiers "punish" the travelers for bypassing the permanent checkpoint, either by means of physical violence or by confiscating permits and identity cards, which the Palestinians can get back only by going to one of the permanent checkpoints.

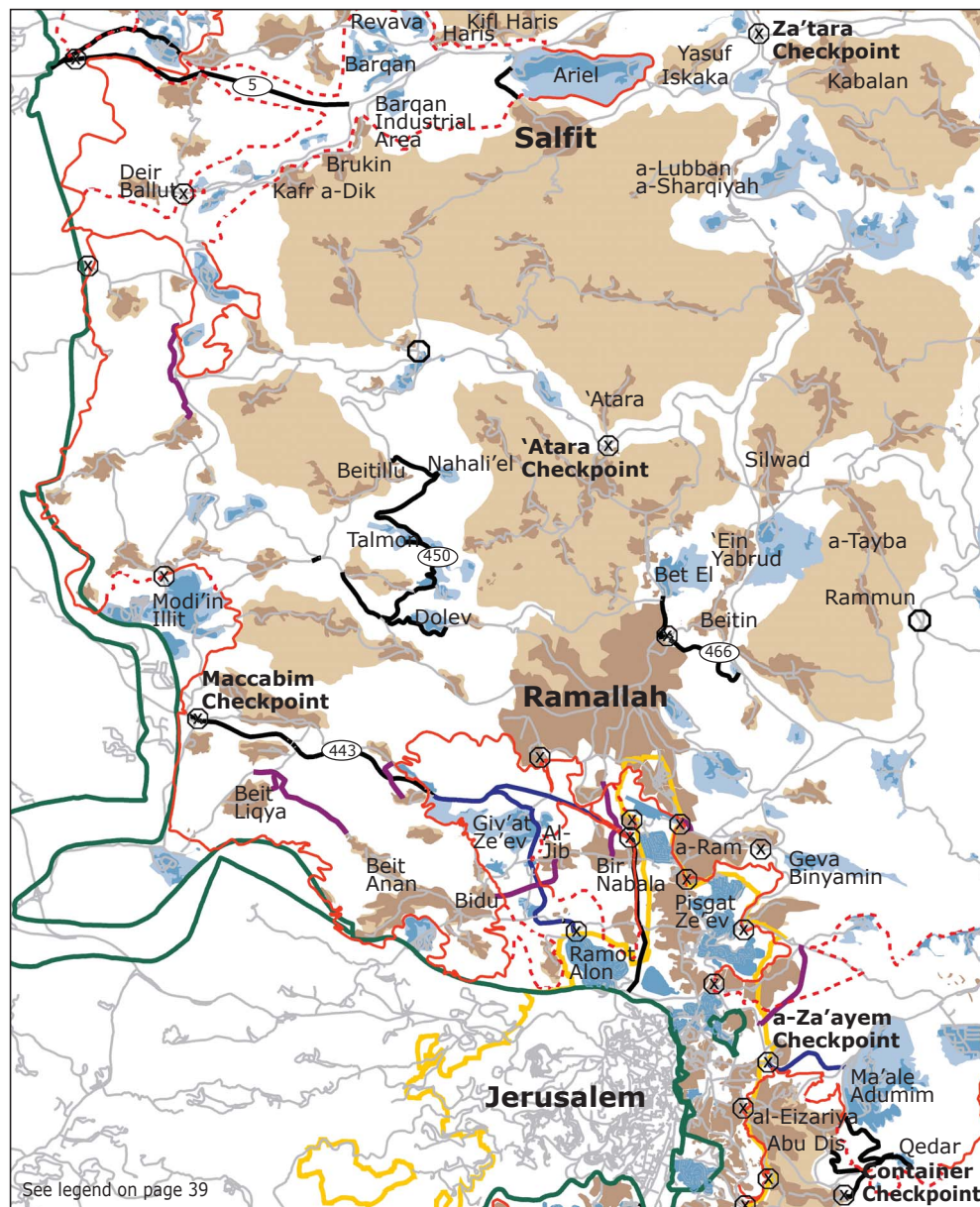
The army still prohibits Palestinian vehicles to use the section of Route 585 that runs from the Mevo Dotan intersection, in the east, to several kilometers after the Hermesh settlement, in the west. This road formerly served as the main traffic artery between the northern West Bank, the village of Baqa a-Sharqiya, and Tulkarm. As a result, residents of Baqa a-Sharqiya and the villages in the area have to use alternate roads unsuitable for inter-city travel on their way to and from Jenin.

65. The checkpoint was opened in early May 2006, for a few months, but pedestrians were not allowed to cross, and only seven taxis received permits to carry passengers across it. OCHA, *Fragmentation of the West Bank*, May 2006.

Splitting of the Central section

Restrictions on movement in the Central section created two principal sub-areas around the district seats Salfit and Ramallah. In addition to the detachment of some villages from these cities, the restrictions have resulted in the separation of a few village blocs from the villagers' farmland.

Central section



Salfit District

The city of Salfit is the district seat that supplies the principal services for residents of all the villages on the two sides of Route 5. The district has more than 66,000 residents.

The road leading to the city's main entrance, from the north, also leads to the nearby Ariel settlement. Until the beginning of the second intifada, the villages' residents used to reach the city from Route 5 by means of this road. A few months after the second intifada began, the army blocked the road at the point after the turn to Ariel. As a result, it is no longer possible to enter Salfit from the north, and the road has since then been used only by the settlers. A traveler wanting to enter Salfit must go via the Za'tara intersection, near the Kfar Tapuah settlement, and via the villages Yasuf and Iskaka. The army's stated reason for blocking the road is the desire to prevent friction between Palestinians and residents of the settlement. However, diverting the traffic for Salfit to the Za'tara intersection not only lengthens the trip for most of the residents of the area, it also creates a new friction point, sometimes more problematic, between Palestinians and residents of the Kfar Tapuah settlement and soldiers at the Za'tara checkpoint.

Simultaneous with closing the main entrance to the city, the army restricted access to Route 5 from most of the areas' villages. In the past, Palestinians were only allowed to travel on twelve kilometers of the highway, from Za'tara Checkpoint in the east to the village of Haris in the west. This section of the road is fenced on both sides, and entry onto the road is possible only through iron gates at the point where it joins the access roads to the villages. The army decides when to open and shut the gates and does not inform the residents of the schedule for opening the gates, or of changes in the opening times.

When the gates are closed, the villagers have to travel east, to the Za'tara intersection and cross the checkpoint in order to get onto the road, even if they only want to cross Route 5 to visit the neighboring village or get to their farmland on the other side of the road. Recently, the army has allowed Palestinians to travel on four more kilometers of the road, in the section between Haris and the descent to the road leading to Deir Balut and the Ele Zahav and Pedu'el settlements (referred to by the army as the "Elimelech Route"). The army states that this road, which joins the villages of Brukin and Kafr a-Dik to Route 5, is open to Palestinian traffic; in practice, access to it is blocked. One indication of the harsh consequences of the restrictions on movement in this area is that most of the residents of the villages situated north of Route 5 now go to Nablus to obtain their basic services, even though access to Nablus is severely restricted.

The restrictions on access to Route 5 also make it difficult for many residents to get to their farmland. For example, most of the farmland of residents of Bidya, which lies north of the road, is situated on the southern side of the road. The farmers'

only access is via a drainage ditch passing under the road. It goes without saying that during the winter, when the ditch is brimming with rainwater, it is impossible to get to the farmland. Even when the ditch is not overflowing, the crossing is not a proper means of passage for humans.

Ramallah District

More than 300,000 persons live in Ramallah District, whose importance to West Bank Palestinians results primarily from the centrality of the city of Ramallah. After residents of the West Bank were denied entry to East Jerusalem, Ramallah became the Palestinian governmental center, where most of the PA's institutions in the West Bank were located. Over the years, and after many entrepreneurs left Nablus and the northern West Bank because of the numerous restrictions on the area, Ramallah also developed into the cultural and economic center of the entire West Bank.

This subsection is demarcated by obstructions, checkpoints, and the Security Barrier. Its northern border is marked by Route 465 (which runs west from Route 60). On this road lies the 'Atara checkpoint, which travelers from the north must cross to get to Ramallah. Delays at the checkpoint are usually protracted, so many drivers prefer to take a longer route that enters Ramallah from the east. The Alon Road and the Rimonim checkpoint control movement coming from the east, from Jericho and the Jordan Valley. On the west and south the subsection is demarcated by the Security Barrier, which separates the central West Bank from Jerusalem.

From the testimony of Samir 'Abd a-Rahim Muhammad Hereb, resident of Ramallah

I am originally from Iskaka, in the Salfit District. I have been living in Ramallah, with my wife and children, since 1999. All this time, I have been going weekly to visit my family in Iskaka. When the second intifada began, the Israeli army put up checkpoints and severely restricted Palestinian movement throughout the West Bank. Going from Ramallah to Iskaka there are, at best, two checkpoints: the 'Atara checkpoint and the Za'tara checkpoint. Before the army established the checkpoints, the trip took half an hour. Now it takes, including the waiting and searches at the checkpoints, about three hours. Because of the difficulties in traveling from Ramallah to the village, I visit my relatives primarily on family occasions and holidays. I usually go alone, because I want to save my wife and children the suffering and humiliation that I undergo at the checkpoints.⁶⁶

66. The testimony was given to Kareem Jubran on 3 January 2007.

West of Ramallah are some ten villages, which are separated from the city by the "Talmonim Road," which runs north-south, on which Palestinian vehicles are forbidden. This road connects the Halamish, Nahliel, Talmon, and Dolev settlements, providing them with a rapid, "sterile" roadway. Inasmuch as the prohibition also applies to crossing the road, residents of the villages have to use a bypass road to the south, a road that they built, to get to Ramallah. Going via the bypass route adds a substantial amount of time to the journey.

Route 466, which leads from Route 60 to what was one of the main entrances to Ramallah – the "City Inn" intersection (the Judea and Samaria intersection), to which traffic into the city from the villages east of it was channeled – is also forbidden to Palestinian traffic. The reason for the prohibition is that the road also leads to the main entrance of the Beit El settlement, in which 900 settlers live. The prohibition is enforced by a staffed checkpoint near the City Inn intersection, which prevents Palestinian vehicles, except for ambulances and VIP vehicles, from traveling in either direction. Residents of the villages east of Ramallah, especially those living in nearby Burka, Beitin, and 'Ein Yabrud, have to go on alternate roads that extend the journey by some twenty kilometers.

From the testimony of Naji Suliman, head of the Beit Ur a-Tahta council

The residents began to use the alternate road linking Saffa and Bil'in, which passes through the villages of Ni'ma, Deir Ibbzi', 'Ein 'Arik, Bitunya, and Ramallah. The road is six meters wide and thirty-five kilometers long. Three flying checkpoints are usually set up along the road: near Bil'in, near Ni'ma, and near 'Ein 'Arik. The road has no shoulder, sidewalks, lighting, traffic signs, or drainage. At peak hours, in the morning and afternoon, when children go to school and people to work, the road is crowded the whole way. It takes forty-five minutes to get to the city, while going along Route 443 takes ten minutes. Traveling along the alternate route also adds to the travel costs. The toll for traveling between Saffa and Ramallah increased from two shekels to seven shekels, one way.⁶⁷

Another main road on which Palestinian travel is forbidden is Route 443, which served, until 2002, as the main artery between Ramallah and the villages situated southwest of the city. The road, which was widened by taking land from the villages and became a four-lane roadway, has served only Israelis ever since, providing them with another rapid thoroughfare linking Jerusalem and settlements

67. The testimony was given to the Association for Civil Rights on 3 December 2006. On 7 July 2007, the Association for Civil Rights filed a petition in the High Court of Justice, on behalf of six villages located along Route 443, demanding that the section of Route 443 in the West Bank be open to Palestinian vehicles.

surrounding the city with the Tel Aviv area. By blocking access from the villages to the road, rather than by setting up a checkpoint to filter the travelers, the army is able to deny that Palestinians are not permitted to use the road.⁶⁸ The only road now connecting the villages to Ramallah is a worn, winding road that runs under Route 443, between and through the villages. This much longer road serves the 35,000 residents of the villages on the two sides of Route 443.

Jericho area

More than 40,000 Palestinians live in Jericho District. Almost 10,000 of them, however, live north of the city, in the besieged Jordan Valley, so they are separated from the city. Essentially, the Jericho area, which is comprised of the city and a few refugee camps, is the only part of the Jordan Valley to which all residents of the West Bank may enter, by vehicle and on foot, without a permit. Travel to and from the Jericho area is via one of three staffed checkpoints: Yitav Checkpoint, the DCO checkpoint, and Jericho Checkpoint.

Yitav Checkpoint lies on Route 449, which runs from Jericho to the central West Bank, and controls movement between Jericho and the northern and central West Bank. Palestinians traveling in the direction of Jericho do not need a permit, but those traveling north toward the Jordan Valley must have a permit, or an identity card carrying a Jordan Valley address, to enter the Jordan Valley.

The DCO [District Coordination Office] checkpoint is situated south of the city and controls movement between Jericho and the southern West Bank, East Jerusalem, and the Dead Sea. Until October 2006, crossing the checkpoint was generally unrestricted. Since then, exiting the area westward has been permitted only to residents with registered addresses in the southern West Bank, Jerusalem, and the Jordan Valley, and permit holders. Persons not in these categories who want to get to the southern West Bank must go via Yitav Checkpoint toward Ramallah. Travel in an easterly direction from the DCO checkpoint, toward Route 90 (the Jordan Valley road), is restricted to residents of the Jordan Valley or permit holders. Travel south, to the Dead Sea, is permitted only to persons holding a permit to enter the Jordan Valley or Israel. On weekends and following warnings of suspected terrorist activity, crossing the checkpoint is a very slow process.

Jericho Checkpoint, also referred to as the “bridge crossing,” the reference being to the nearby Allenby Bridge, is located at the eastern entrance to the Jericho area. The checkpoint, which was established at the beginning of the occupation, controls movement from all parts of the West Bank through the city to Allenby Bridge, which is the only crossing point to Jordan. Crossing at this checkpoint is permitted only to buses holding permits.

68. Akiva Eldar, “How they Trample on the Law on Route 443,” *Ha'aretz*, 26 September 2006.

In addition, movement is channeled by means of nineteen kilometers of trenches that have been dug east of the city, and by declaring the land east of it a closed military area.

Splitting of the South section

Although the division into defined subsections is less conspicuous in the South section than in the North and Central sections, the restrictions on movement are still substantial. The most notable restriction involves the use of the southern section of Route 60, which runs the entire length of the southern West Bank and is the principal roadway in this subsection. With the outbreak of the second intifada, most of the access roads to Route 60 were blocked, and the road was used almost solely by residents of the settlements in the southern West Bank and by the army. Flying checkpoints and army and police patrols further deterred Palestinians from using the road. With the passage of time, some of the obstructions were removed, but Palestinian use of the road remained limited, most of it by public transportation.

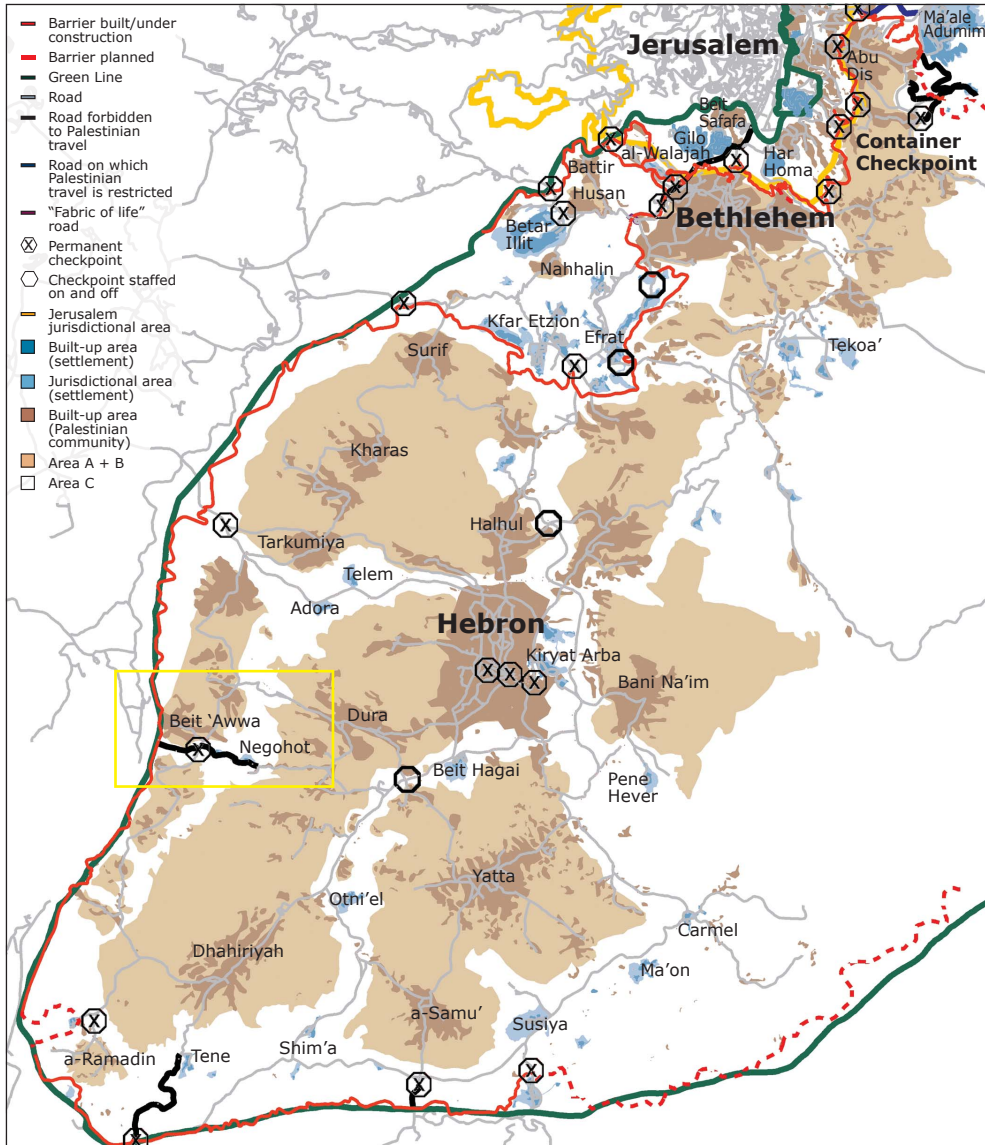
The obstructions along the road especially harm the residents of the towns and villages in the south of the Hebron area. These residents have to travel on long, winding, beat-up roads to get to Hebron and then continue northward. For example, the obstructions prevent direct access to Route 60 by residents of a-Dahiriyah, a-Samu', and neighboring villages, and force them to use worn, long bypass roads to get to Dura and from there to Hebron. These slow alternate roads cannot be considered a proper substitute for a main road.

Upon completion of the Security Barrier east of the settlement of Efrat and Gush Etzion, the northern quarter of Route 60 in the South section will remain on the "Israeli" side of the barrier and completely prohibit Palestinian use of the road. As a result, Bethlehem will remain separated from both Jerusalem and the main road to Hebron. Route 356, which runs east of Bethlehem in a southerly direction, will apparently be the sole roadway between Bethlehem and Hebron.

Villages west of Hebron

The Beit 'Awwa intersection lies on Route 354, which is the main north-south artery in the Western Hebron Hills. Running east-west through the intersection is a road that goes from the Green Line in the west to Hebron in the east. Alongside this road lies the settlement of Negohot. During the second intifada, the army prevented Palestinians from crossing the intersection by car, and often also prohibited crossing it on foot. As a result, 45,000 villagers in the area (among them residents of Beit 'Awwa and Deir Samit) were isolated from Dura and Hebron. They had to use long, dangerous dirt side-roads, some of which the residents built themselves.

South section⁶⁹

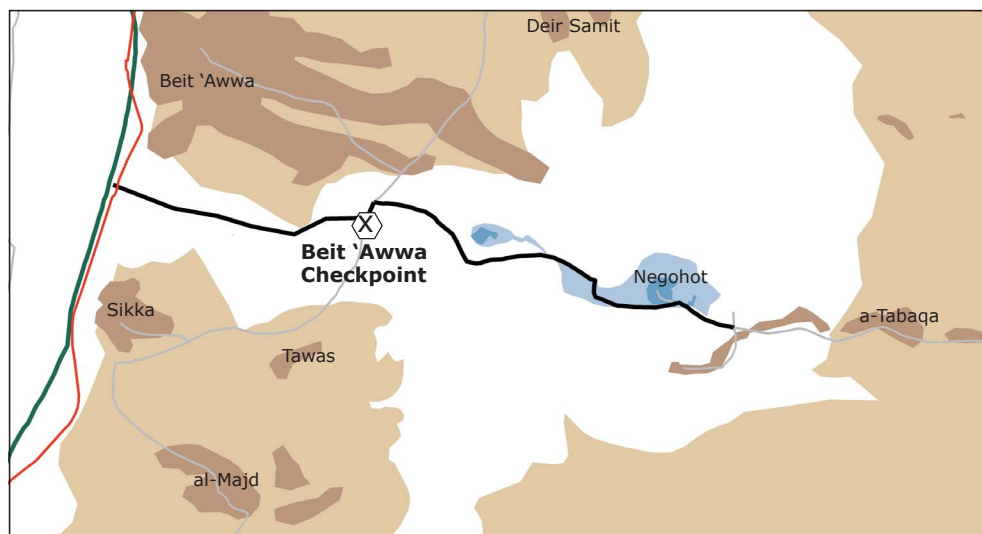


69. Regarding the area in the yellow frame, see page 52.

In response to a petition filed in May 2006 in the High Court of Justice on this issue, the army contended there were two reasons for blocking movement at the intersection: the need to complete construction of a crossing in the nearby Security Barrier, and the need to protect the 150 settlers living in Negohot and the adjacent outpost (Mitzpe Lachish) and their movement along the road leading to Israel. The protection became necessary following a number of security incidents, the last of which occurred in 2004.⁷⁰

In early 2007, following completion of the Security Barrier in this area, the army allowed the Palestinian residents to use the north-south road, but not the east-west road in the section running from three kilometers east of the Negohot settlement to the Green Line. The matter is still pending in the High Court. In the time since the petition was filed, the army issued an order formally prohibiting Palestinian travel on this road, a prohibition that had been imposed in practice a few years earlier, until 31 December 2009. As far as B'Tselem is aware, this is the first and only time that a permanent prohibition on Palestinian use of a road has been made by written order.

Beit 'Awwa intersection



Villages in the Southern Hebron Hills

Restrictions on Palestinian movement on Route 317 and the southern edge of Route 60, which lead to the Tene and Carmel settlements, have isolated thousands of residents from areas that constitute their center of life. In early 2006, the army

began construction of a concrete barricade forty-one kilometers long and eighty-two centimeters high along these roads. The barricade came to replace, to a great extent, the Security Barrier that was planned for the area and had been moved to the Green Line following a High Court decision.⁷¹ The route of the barricade is similar to the old route of the Security Barrier in this area.

Construction of the barricade created an enclave to its south. The enclave contains more than 80,000 dunams of land, some of it under private Palestinian ownership, and 2,000 residents, who are separated from their nearby urban centers, which remain north of the barricade. For owners of farmland who live in the large towns and villages outside the enclave, gaining access to large parts of land in the enclave has become much harder and more time consuming. Primarily, the barricade blocks the entry of mechanized equipment and animals (flocks of sheep and goats taken there to graze and animals used for transportation). It also blocks the crossing of children, the elderly, and persons with mobility disabilities who are physically unable to cross over the barricade. The army made eleven openings along the barricade, but they are an average of five kilometers apart and require a long walk to reach, and thus fail to meet the needs of a large segment of the population.

In February 2006, the Association for Civil Rights petitioned the High Court, demanding that it order the army to refrain from constructing the concrete barricade. In its response, the army contended that the barricade was intended solely for security purposes, i.e., to protect movement along the said roads, which lead to Israeli settlements that remain on the “Palestinian” side of the Security Barrier.⁷² Following almost one year of hearings, the High Court held, in December 2006, that, although the concrete barricade is indeed an effective means of protecting travelers along the roads, the harm it causes to the protected Palestinian population is extremely great and alternative security means exist that are just as good and will harm the local population less. Therefore, the court ordered the army to dismantle the barricade within six months.⁷³ For more than seven months, the army has not implemented the decision. On 24 July, the justices charged the army with contempt-of-court and ordered it again to dismantle the barricade, this time within fourteen days.⁷⁴

70. HCJ 3969/06, *Muhammad ‘Abd Mahmud Alharub et al. v. Commander of IDF Forces in the West Bank et al.*, Response on Behalf of the Respondents, August 2006, section 24.

71. The change in route was made in light of the principles set forth in HCJ 2056/04, *Beit Sourik Village Council et al. v. Government of Israel et al.*, *Piskei Din* 58 (5) 807. The original route, which was nullified by the court, would have left 170,000 dunams of land in the Southern Hebron Hills on the “Israeli” side of the barrier.

72. HCJ 1748/06, *Mayor of a-Dhahiryah et al. v. Commander of IDF Forces in the West Bank et al.*

73. *Ibid.*, section 22.

74. The army has recently begun implementing the court’s decision. Updates on implementation of the

Hebron City Center

Hebron is the only Palestinian city in the West Bank, other than East Jerusalem, which Israel annexed in 1967, with an Israeli settlement in its center. Over the years, the army has created a contiguous strip of land in the city along which the movement of Palestinian vehicles is absolutely forbidden. The strip runs from the Kiryat Arba settlement in the east to the Palestinian Tel Rumeida neighborhood in the west. At the present time, the only persons allowed to move about freely along this strip are settlers and Israeli security forces. The center of this strip contains many sections of street on which even Palestinian pedestrians are forbidden. The main street of this kind is Shuhada Street. In addition, the strip blocks the main north-south artery in the city, thus harming the city's entire Palestinian population.

The closing of the city center to Palestinian residents is intended, according to army statements, to protect the settlers in the city, by physically separating them from the local Palestinians. To achieve this separation, the army forces all Palestinians in the area to bear the burden of the protection of Israelis who have settled in the city.⁷⁵

The Jordan Valley and northern Dead Sea

One of the main restrictions in this area involves the use of Route 90, which runs the length of the section. Since the outbreak of the second intifada, i.e., before the sweeping prohibition on entry to the Jordan Valley, instituted in 2005, Israel has prohibited Palestinians not registered as Jordan Valley residents to use the road. Until 2005, this prohibition was enforced primarily by flying checkpoints and increased police patrols. Since then, Israel has operated the five checkpoints mentioned in the previous section. Only public transportation and vehicles holding special permits are allowed to cross these checkpoints.

Following the prohibition, Route 90 has served, almost exclusively, settlers living in the area and Israelis traveling between Jerusalem and the Beit She'an Valley, the Sea of Galilee, or the Galilee area, in the north, who prefer to use that road rather than Highway 6 (the Trans-Israel Highway), which is a toll road, or the Coastal Road, which takes much longer to travel. An officer who commanded the Hamra checkpoint, in the northern Jordan Valley, explained to observers from Machsom Watch that the purpose of the restrictions at that checkpoint was, at the brigade commander's order, to "clean up Route 90."⁷⁶

decision will be available on B'Tselem's Website, www.btselem.org, and the Website of the Association for Civil Rights, www.acri.org.il.

75. See B'Tselem and the Association for Civil Rights, *Ghost Town: Israel's Separation Policy and Forced*

Another restriction results from the declaration of extensive sections of the Jordan Valley, especially in the north, as army fire-exercise zones.⁷⁷ Given that it is forbidden to enter these areas other than by coordination with the Israeli DCO, access to water sources and grazing areas located in these areas is extremely limited.⁷⁸

Security Barrier enclaves

Seam-zone enclaves

The seam zone area is comprised of dozens of subsections, here referred to as “enclaves,” which are not contiguous. Contiguity is prevented by the Separation Barrier’s winding route that runs back and forth between the Green Line and the West Bank. All the enclaves contain farmland of Palestinians living on the other side of the barrier. Some of the enclaves also contain villages, in which some 30,000 Palestinians are expected to be living by the time construction of the barrier is completed.

Crossing from one subsection to another is especially difficult, sometimes impossible, for two principal reasons. First, given the lack of contiguity, the traveler has to cross the barrier twice, each time undergoing all the hardships entailed in crossing through the gates. Second, inasmuch as the permits to enter the seam zone are generally valid for crossing through a specific gate, i.e., to one enclave only, a Palestinian wanting to go to another enclave must obtain a second permit.

The Separation Barrier can be divided into five sections, not including the Jerusalem area, which will be discussed separately below. Each section contains several separate enclaves.

The first section, completed in 2003, runs from the village of Sallem to the settlement Elkana. Four of the enclaves created along this section contain villages that are home to a total of 7,700 Palestinians: the Barta’a a-Sharqiya enclave and nearby villages, the Khirbet Jubara enclave, the enclave of villages near the settlement Alfe Menashe, and the ‘Azzun ‘Atmah enclave. In addition, 11,000 Palestinians have been recognized by Israeli defense authorities as having a connection to land in this section of the seam zone.⁷⁹ This section of the seam zone is the only one that has been declared a closed military area, meaning that

Eviction of Palestinians from the Center of Hebron (May 2007).

76. Machsom Watch, *Checkpoints in the Jordan Valley*, 3 July 2005.

77. According to OCHA’s figures, 537,955 dunams in the Jordan Valley have been declared a military area or fire-exercise zone.

78. OCHA, *Humanitarian Update*, Jordan Valley, October 2005.

79. The number of Palestinians living in this area, and the amount of farmland there, will likely decline

anyone wanting to enter must have a permit. It is expected that the government will add a large amount of land, comprising six settlements deep in the West Bank, to the Alfe Menashe enclave in this section.⁸⁰

'Azzun 'Atmah – enclave inside an enclave

The village of 'Azzun 'Atmah, home to 1,800 Palestinians, lies southeast of Qalqiliya, three kilometers from the Green Line. To its east, Israel established the settlement Sha'are Tikva, part of it on land belonging to the village. The settlement severs the contiguity between the village and two neighboring villages, Beit Amin and Sanniriya. The settlement Oranit was built close to the western border of the village.

The section of the Security Barrier in this area, completed in October 2003, completely surrounds the village, placing it in the seam zone. The route in this area was chosen to leave on the "Israeli" side four settlements near the village: Oranit, Sha'are Tikva, Etz Ephraim, and Elkana. One gate, open from six in the morning to ten at night, is the only way to enter or leave the village. Only residents of the village and permit holders are allowed to cross.⁸¹

In addition to the Security Barrier, which separates the village from the rest of the West Bank, the government decided to surround the village with another barrier, turning it into an enclave inside the seam-zone enclave. The route of the additional barrier was approved in principle, but until now an order to requisition property has only been issued for the purpose of building the section to the south of the village. Construction of this section, which lies north of Route 505, began on 10 November 2006. The new barrier separates 'Azzun 'Atmah from some 2,000 dunams of cultivated farmland, which will be surrounded by the southern section and Route 505. Access to this farmland will, almost certainly, require a permit and be limited to the opening hours of the gates that will be built in the barrier for this purpose. If past experience is a guide, there will be many instances in which the gates are not opened on schedule.⁸²

Even assuming that the barrier around the village is intended to meet security needs, these needs do not justify running the route in a way that separates the village from its southern neighborhood and the residents' farmland. Nor is it clear why, from a security perspective, the barrier was placed one kilometer from the Green Line in a way that separates the villagers from more of their land, when it was possible to find alternative routes that would have harmed the villagers less.

following the change in the route of the barrier in the area of Khirbet Jubara and Alfe Menashe, "removing" some 1,100 residents from the seam zone. See HCJ 639/04, *supra*, footnote 26, sections 15-17.

80. The settlements are Kedumim, Immanuel, Ma'ale Shomeron, Karne Shomeron, Nofim, and Yakir. See Cabinet Decision 3283, of 20 February 2005, section b(2).

81. In a letter of 15 May 2007 to B'Tselem, the army promised that the entrance gate to the village would remain open around the clock. B'Tselem monitored the situation and found that now, as before,

The second section, which runs from the settlement Elkana to the settlement Giv'at Ze'ev, is well under construction and much of it is already up. When the construction is completed, this section will contain a large number of enclaves that contain, for the most part, Palestinian farmland that will remain on the "Israeli" side of the barrier. The number of Palestinians who will be living in the enclaves is relatively small, mostly the residents of two villages west of the settlement Ariel. In the parts of the section that have already been completed, access to the farmland requires prior coordination with the DCO.

The third section, which will encircle Gush Etzion west and southwest of Bethlehem is also in an advanced stage of construction. This enclave will contain some 20,000 Palestinians living in four principal villages. According to information that the state provided to the High Court of Justice, unlike enclaves in the northern part of the seam zone, this enclave will not be declared a closed military area, and the residents will not be subject to the permit regime. Rather, Israel will place an additional barrier north and west of the enclave, which will block the entry of Palestinians into Israel.⁸³ However, even if this promise is fulfilled, entry into the enclave from elsewhere in the West Bank will presumably be subject to army supervision and checks.

The fourth section, which runs from the village of Sallem to the Jordan River, was completed some time ago. The fifth section, from Gush Etzion to the Dead Sea, is in its final stages of completion.⁸⁴ Because of its proximity to the Green Line, a relatively very small number of enclaves, containing only grazing land and farmland, have been created along these two sections.

Internal enclaves

Internal enclaves are communities and farmland that are surrounded on most sides as a result of the winding route of the Separation Barrier or because the barrier comes in contact with another physical obstruction, such as a forbidden road.

Movement to and from the enclave is through one or two points that have been left open, or openings that Israel made, in the barrier. Unlike the seam-zone enclaves, movement is not dependent on crossing through gates and possession of permits. However, roads that formerly connected these enclaves and other communities have been closed, and travel via the road left open makes the trip longer and more complicated. Of greater significance, a staffed checkpoint at the crossing that has been left open is by itself enough to place a tight siege on the entire enclave. The

at ten o'clock at night the soldiers lock the gate and go into the guard tower alongside it.

82. A petition objecting to this section of the Security Barrier is presently pending in the High Court of Justice.

army has done this for short periods of time in various enclaves in recent years, primarily during military operations.

The planned barrier route will lead to the creation of thirteen, non-contiguous, internal enclaves in which close to 240,000 residents in dozens of towns and villages live. A few examples follow.

The town of Qalqiliya is surrounded on three sides – north, west, and south. The enclave covers 9,400 dunams and has a population of more than 40,000 people. The enclave results from the decision to include the settlements Alfe Menashe and Zufin, and lands intended for their expansion and access roads to the settlements, on the "Israeli" side of the barrier. A narrow opening leading east, to the rest of the West Bank, and a tunnel running south under the barrier are the only avenues for exiting Qalqiliya for the rest of the West Bank. During arrest operations in the town, the army customarily closes these exits.

The enclave comprising the villages of Habla and Ras-'Atiya, which lies on the other side of the tunnel, also resulted from the aforesaid considerations. This enclave is 3,500 dunams in size and is home to 7,750 people. In addition to the underground passageway to Qalqiliya, two agricultural gates have been set up for the crossing of residents to farmland in the Alfe Menashe seam-zone enclave, but most of the time only one of these gates is open. The barrier surrounds the enclave on its northern, eastern, and southern sides.⁸⁵

A number of villages, located on the outskirts of Jerusalem, have also become internal enclaves, completely isolated both from Jerusalem and the West Bank. One of these includes the villages of Bir Nabala, al-Jib, al-Judeidah, Beit Hanina al-Balad, and Qalandiya, in which more than 15,000 people reside. Two new roads (Route 45 and Route 404), built in the area at the beginning of the intifada, on which Palestinian travel is forbidden, largely separate the villages from Jerusalem. The Separation Barrier in this area, which follows the route of the forbidden roads, completes the separation of the enclave from the city. Exit from the enclave is possible by means of two tunnels – one leading to Ramallah and the other in the direction of the village of Bido (for further discussion in this regard, see chapter 3) – even though the enclaves' residents' main ties are with East Jerusalem.⁸⁶ In addition, the barrier detached the al-Khalayle neighborhood of al-Jib from the rest of the enclave, leaving it on the "Israeli" side of the barrier.

83. HCJ 639/04, *supra*, footnote 26, section 24.

84. Three petitions are presently pending in the High Court of Justice regarding the plans for the Separation Barrier in this area.

From the testimony of a resident of the al-Khalayle neighborhood in al-Jib

In 2001, Israel closed the western entrance to the village of al-Jib with boulders and dirt piles. This entrance lies on the main road, Route 436, running between al-Jib and the settlement Giv'at Ze'ev, north of Jerusalem. As a result, persons wanting to leave or enter the village have to go via the Qalandiya checkpoint, or through the tunnel under Route 45 that connects al-Jib and other villages with Ramallah. Only persons with a permit to enter Israel are allowed to cross the Qalandiya checkpoint. Since the closing of the western entrance to the village, it has been hard and complicated to reach the village. Rather than use the easy way, via Route 436, we have to go a much longer distance.

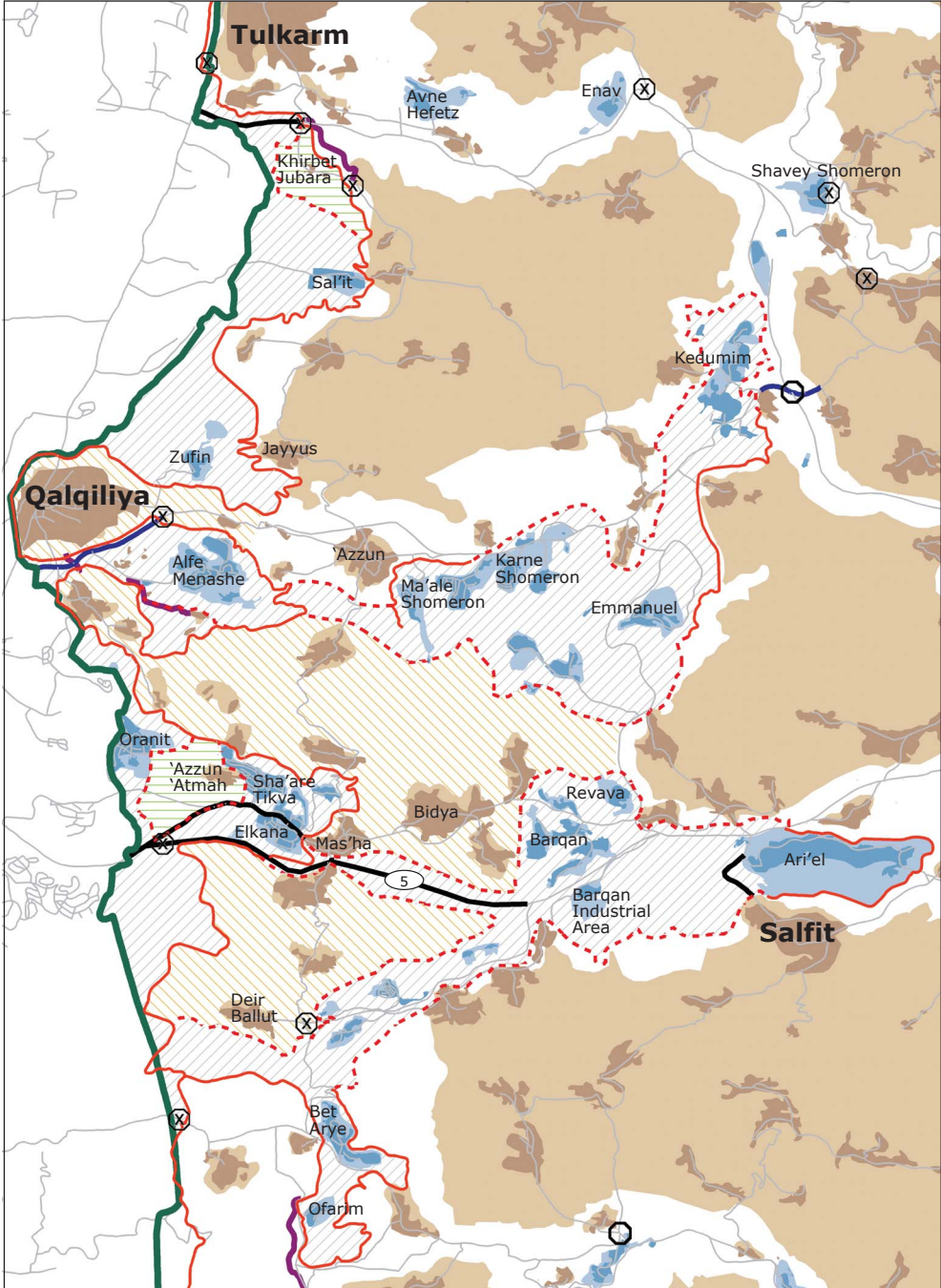
Al-Khalayle, a neighborhood of al-Jib, lies west of Route 436. With access to Route 436 blocked, it is impossible to go by car from al-Jib to al-Khalayle ...

One night at the end of 2004, Border Police officers came to the neighborhood and took a census. After the census, the Israelis put a gate at the western entrance of al-Jib. The Border Police staffed the gate around the clock. Also, the Israelis put up a wire fence along Route 436 so that anyone going from al-Jib to al-Khalayle would have to go through the gate. Only residents of the neighborhood and persons with permits to work in the Giv'at Ze'ev settlement are allowed to cross.

The day after the census was taken, I wanted to go to my shop in al-Khalayle. When I got to the gate, the Border Police officers didn't let me cross, even though I had a permit to work in the Giv'at Ze'ev settlement. They told me that if I wanted to get to Giv'at Ze'ev, I had to leave al-Jib via the Qalandiya checkpoint. Going through Qalandiya checkpoint is longer and more expensive, and there is a long wait at the checkpoint... If they would let me go through the gate, it is a five-minute walk from my house [which is in the village] to my shop.⁸⁷

85. See Bimkom and B'Tselem, *In the Guise of Security*, 40. See also, Bimkom, *Between Fences*, chapter 7.

Enclaves



See legend on page 53

- Seam zone enclave [diagonal hatching]
- Internal enclave [yellow diagonal hatching]
- Special enclave [green diagonal hatching]

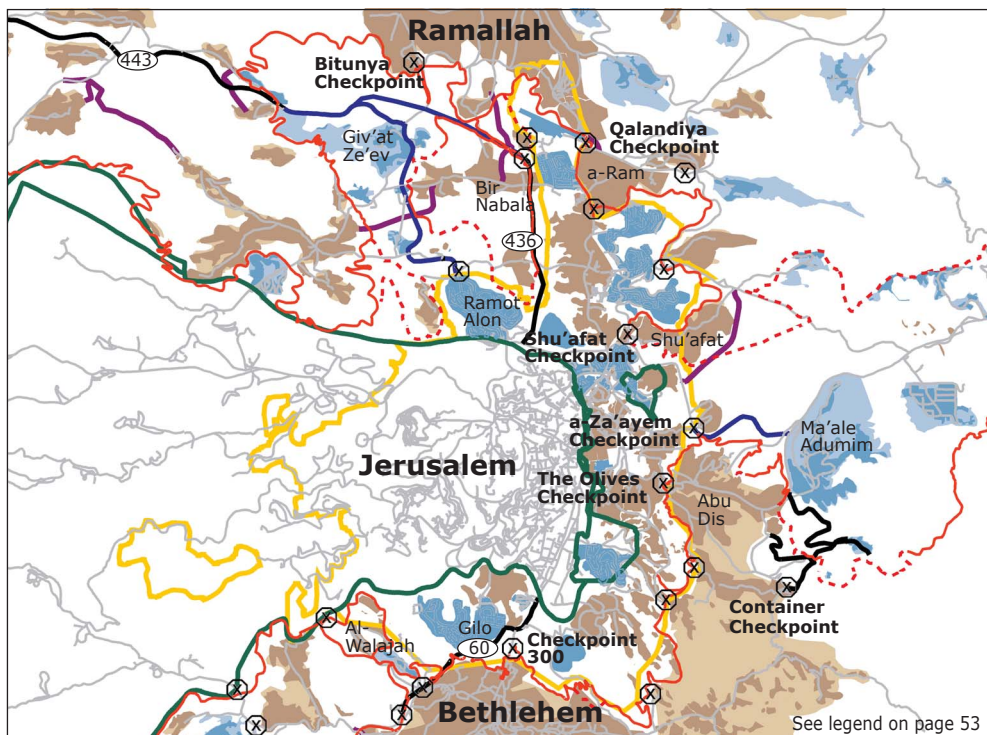
East Jerusalem section

Palestinians living in East Jerusalem on the “Israeli” side of the barrier who hold Israeli identity cards are allowed to move about inside this section relatively freely. The most striking restriction, which has developed in recent years, is the use of temporary checkpoints to collect tax debts of residents. These checkpoints, referred to as “collection checkpoints,” are set up for a few hours at a time on main roads in the Palestinian neighborhoods (primarily al-’Eisawiya, Ras al-’Atiya, and Beit Hanina-Shu’afat). The Israel Police, usually Border Police units, operate the checkpoints, at which tax officials are present. The police stop the cars and turn the handling of the matter over to them.

These checkpoints create traffic jams on main traffic arteries linking neighborhoods in East Jerusalem, often paralyzing inter-neighborhood traffic in the entire area. In some instances, as occurred at the collections checkpoints near a-Ram, the checkpoints are set up only a few meters from a permanent checkpoint, which forces some of the residents to be stopped twice within a very short distance.

It goes without saying that the use of these checkpoints is done only in Palestinian neighborhoods of Jerusalem and never in the Jewish neighborhoods and settlements in the city.

Jerusalem



Ground to a Halt - Denial of Palestinians' Freedom of Movement in the West Bank



Al-Badhan Checkpoint, 3 February 2007
(Atef Abu a-Rub, B'Tselem)



Passage between Bidya and its farmland, under Route 5, 16 November 2006
(Oren Yacobovich, B'Tselem)



Palestinian vehicles waiting at Sarra Checkpoint while Israeli vehicles pass undisturbed, 1 March 2007 (Yotam Ronen, ActiveStills)



Chapter 3

Harm to the Palestinian Fabric of Life

The geographic division of the West Bank into primary and secondary sections, separated and sometimes completely detached from each other, greatly affects every aspect of the lives of the Palestinians. The consequences of this division are felt every day, every hour. This chapter discusses some of these repercussions, concentrating on the central social institutions and systems, which affect the residents' ability to exercise many of their human rights, in matters of health, the economy, the extended family, and local government. The chapter also examines some of the consequences accompanying the building of the "fabric of life" roads.

The movement restrictions also have harsh consequences on freedom of religion, inasmuch as they prevent the resident from visiting their main religious sites, which are located in Jerusalem and Bethlehem. They also deny Palestinians exercise of their right to education, especially university studies, because of the difficulty in reaching the universities and other educational institutions. This report, being limited in scope, does not discuss these ramifications.

In addition to the direct hardship caused to the Palestinians in these and other aspects of life, some of the harm will likely be felt only in the long run.

Health

Exercise of the right to health depends on numerous factors. Access to medical facilities, both of the service providers and the service recipients, is one of the main factors. Therefore, the restrictions on movement impede the ability of many to fully exercise this right: ill persons needing treatment have difficulty reaching the medical centers; the quality of service provided at these centers suffers greatly as a result of the lack, or delay in arrival, of physicians and staff; first-aid crews have trouble reaching the ill and the injured quickly. Even when these phenomena do not immediately endanger the life of the patient, they are liable to result in increased morbidity and a shorter life span.

Harm to recipients of medical services

Many Palestinians in the West Bank have very limited access to medical treatment, and sometimes none at all. The problem is especially grave among residents of villages and outlying areas who need to get to hospitals in the large cities. One example is sick persons whom the security authorities classify as having a "risk profile" needing to cross the Nablus-siege checkpoints on their way to medical treatment. Another example is persons who must have a permit to enable them to get to hospitals in East Jerusalem for treatment. To obtain the permit, the patients have to provide medical documents testifying to their illness and confirmation that they have an appointment at the specific hospital, which is the only place where the needed medical treatment is available.

The need for a permit is especially problematic for pregnant women, who need to get to the hospital in time to give birth. The problem is particularly acute in the Jerusalem area. The permit given to women who are about to deliver is valid for only one or two days, as it is for most ill persons, even though the delivery date is uncertain. Therefore, the expectant mothers must go to the DCO every few days to renew the permit. As a result, there have been cases in which the mother gave birth at the checkpoint, the crossing having been delayed because she did not have a valid permit. Na'ma Muhammad Halmiya, a resident of Abu Dis, which is separated from Jerusalem by the Separation Barrier, told B'Tselem what happened to her daughter-in-law, 'Afaf, who gave birth at a checkpoint:

On Sunday, 4 March 2007, Faiza, 'Afaf's mother, went to the DCO offices at the a-Zeitun [the Olives] crossing and submitted a request for a permit to enter Jerusalem for 'Afaf, so that when she went into labor, she could go to al-Makassed Hospital... She was given a permit for 'Afaf that was good for only one day, 5 March 2007, from five in the morning to five in the afternoon. Faiza told the soldiers that it was impossible to know the exact day 'Afaf would give birth, and requested a permit for a longer period of time. They did not agree to give her one [for a longer period]. On Monday, 12 March, Faiza again went to the DCO and took 'Afaf's identity card to request a new permit on her behalf. That same day, at 1:40 in the afternoon, 'Afaf felt labor pains... I summoned a taxi and at 2:00 'Afaf and I went to the Ras Kubsa gate in al-'Eizariya on our way trying to get to al-Makassed... Because we did not have crossing permits, the police refused to let us cross... We begged and begged for ten minutes after which a policeman agreed to let 'Afaf pass alone, but she was afraid to go by herself. We went back to the taxi and drove to the a-Zeitun crossing, hoping that the soldiers there would let us cross. At the main gate, we were asked, from a distance, for our permits. I waved 'Afaf's old permit, of 5 March. The soldiers let us cross through the main gate. When we got to the revolving door, the soldiers standing there asked to see the permit. When they saw it was old, and that 'Afaf did not have her identity card, they refused to let us cross.

I told them that her mother had the ID card, and that she had been at the same crossing since the early morning hours and was waiting to get a permit for 'Afaf.

I told them 'Afaf was about to deliver and that we had to get to the hospital... I argued with the soldiers for half an hour, during which 'Afaf felt greater and greater pain. Then two officers came over and asked what the problem was... They took us into a big hall where there were many people waiting to get a permit. 'Afaf's mother was among them, and when she saw us, she shouted at the soldiers, "Here is my daughter, who is about to give birth, and you have been accusing me of lying since the morning."

Afaf's pains became intense, and the officers removed me and 'Afaf and her mother from the hall and led us to an empty corridor. When we got there, 'Afaf began to shout that the head of the fetus was coming out. I touched her and felt the newborn's head. I asked 'Afaf to lie on the floor, and I put my bag under her head... Then the baby [a girl] burst into the world as 'Afaf shouted, and with a few soldiers gathering around us. I shouted at them to move. After a few minutes passed, a person came and lifted up the baby... He wrapped the baby. The umbilical cord was still attached to the mother.

We remained there for forty-five minutes, until an Israeli ambulance came with four paramedics... One of the soldiers brought a crossing permit for 'Afaf and her mother, and they went in the ambulance to al-Makassed Hospital. The soldiers also let me go with them in the ambulance, even though I didn't have a crossing permit.⁸⁸

Following a petition that Physicians for Human Rights filed in 1996, the State Attorney's Office announced two procedures instituted by the army regarding the crossing of checkpoints on grounds of medical need. One of the procedures is the "Procedure for Handling of a Resident of Judea and Samaria who Arrives at a Checkpoint in an Urgent Medical Situation." Under this procedure, which applies in normal times and also when there is a closure or siege, the commander of the checkpoint shall allow a person with a medical emergency to cross to go to a medical institution, even if the person does not have a permit. The second procedure, the "Procedure for the Handling of Requests of the Areas' Residents for Medical Treatment," deals with the crossing of injured or sick persons who need medical treatment but are not in an emergency situation. Under this procedure, the injured or sick person "may turn to the DCO... and make a request, attaching the relevant medical documents. The request will be checked, and if found justified, the DCO will enable the applicant to cross the checkpoints between his place of residence and the hospital in which he is given the treatment... As a rule, residents of the areas are to be allowed to receive medical treatment, unless granting the approval... is liable to cause a security problem."⁸⁹

86. Bimkom, *Between Fences*, chapter 5.

87. The testimony was given to Kareem Jubran on 12 November 2006. The witness's particulars are on

These procedures are supposed to apply at all the checkpoints in the West Bank, but recent testimonies indicate that this is not always the case. Frequently, the soldiers, who have no medical training that would enable them to evaluate the medical condition of the person, err in judgment. 'Adnan a-Shtiyeh, a taxi driver from Tell, a village near Nablus, told how, on 12 December 2006, he tried, unsuccessfully, to convince soldiers at a flying checkpoint north of Nablus to permit an unconscious person to be taken to hospital in Nablus:

I walked over to the first jeep, which was only some five meters from where I was. In Hebrew, I told the soldier who was sitting in the front passenger seat that a very ill man was in a car and had to get to the hospital urgently. He said that he would take a look...

After about 3-4 minutes passed, three soldiers – the driver, the soldier I had spoken with, and a soldier who was in the back – got out of the jeep. They looked at Isma'il [the unconscious person]. It seemed as if they weren't interested in him. They went back to the jeep, and I heard the soldier who was sitting next to the driver speak on the radio transmitter and say that they had a sick man. The voice on the radio transmitter said that it was forbidden to cross, sick or not. I told 'Imad [the taxi driver in whose taxi Isma'il was sitting] that he had to go by the bypass road, because they wouldn't let him pass. He turned around and went via the bypass road.

I continued to wait until the soldiers finished digging the road, or until they would let me pass. I waited in vain until 3:30, and decided to go by the bypass road to get to Nablus. This road is very steep and hard to drive, so it took me about forty minutes to get to Nablus. When I got there, I saw Radi Salim. He, too, is a taxi driver from our village... He told me that Isma'il had died... He said that Isma'il had died a few minutes before he reached the hospital and that he had suffered a heart attack.

The information made me very sad. If the soldiers had let him pass, the doctors might have been able to save his life. It takes only 5-7 minutes to get to the hospital from where we were on the road.

About fifteen minutes later, Radi Salim called me to say that the soldiers had left the area and that I could get home by the regular route.⁹⁰

The hardships entailed on the way to medical treatment involve more than the bureaucracy of the permit regime. In many cases, the way to the hospital is blocked, so the sick and injured have to travel on long, winding, worn roads. These alternate roads often lead to a staffed checkpoint, where they are forced to wait and undergo checks. These hardships affect the population in general, especially those who need health services: the sick, the injured, the elderly, and

file at B'Tselem.

pregnant women. Meysar Daher, 68, a kidney patient from Yasid, a village near Nablus, requires dialysis three times a week. These treatments are provided only at al-Watny hospital, in Nablus. Daher told B'Tselem about the road she takes to get to her dialysis treatments.

Before the intifada, I used to go by taxi from our village to Nablus and it would take seventeen minutes. Since the present intifada began, and with it the closing of the road leading to our village, the situation has become difficult... I have to go a long distance along winding and hilly roads. It is even harder after the treatment because I am tired, and sometimes my blood pressure drops, and I can't walk.

In 2002, when I saw that the closure and siege on Nablus were continuing, I rented a house in Nablus because, due to the prolonged closure, I couldn't get to the hospital at all, and my medical condition deteriorated. I remained in Nablus until the end of 2003, when the Red Crescent Center arranged my crossing the army checkpoints. Then I returned to Yasid. But the ambulances can't pick up the sick people at their houses and take them to the hospital because there are not enough ambulances to meet the needs of the many sick people living outside the city. So it was arranged that we go to the Beit Iba checkpoint and from there the ambulance would take us to and from the hospital...

A dialysis patient cannot go alone and cannot wait a long time at a checkpoint. But the soldiers delayed us for two hours, claiming that the ambulance must take only one sick person and that only one person can accompany the patient. They did not let the ambulance pass until three more ambulances were summoned to transport us. This happened many times. We had to wait a long time and that delayed us.

I leave the house at seven in the morning and return around six in the evening because I am dependent on the ambulance's schedule. So we have a long wait in the hospital courtyard doing nothing and unable to relax, even though we are supposed to rest, sleep, and eat after treatment.

Before the intifada, the treatment took between four and four and a half hours. Now, it takes more than ten hours. Often, I don't go for treatment because of the harsh conditions at the checkpoint. I can't wait a long time in the line for an ambulance, not in the summer when it is very hot, nor in winter when it is very cold and rainy... My condition deteriorates every time I undergo dialysis treatment.⁹¹

In some cases, the denial of access to medical treatment is not a result of the lack of a permit, but of the policy on opening and closing the checkpoints. Staffed checkpoints closed at night leave whole communities for many hours without a way for vehicles, even ambulances, to get to the outside world. This situation has

88. The testimony was given to Kareem Jubran on 23 March 2007.

been created, primarily, in the seam-zone enclaves and in a number of isolated areas, such as the communities of Beit Furik and Beit Dajan in the Nablus area.

In the seam-zone enclave 'Azzun 'Atmah, for example, the enclave's 1,800 residents rely on one gate in the Security Barrier to enable them to leave to receive medical care. The gate is open only from six in the morning to ten at night (see chapter 2). Therefore, most of the pregnant women in the village prefer to leave their homes shortly before they expect to deliver, so as to avoid the problematic situation of going into labor and having to go to the hospital at night, when the gate is closed.

On one evening in February 2007, a young man who had been severely injured in a car accident was brought to the gate after it had been locked. The soldiers in the tower delayed his being taken to the hospital for seventy minutes, which apparently led to his death. Mu'atasem Ibrahim 'Abdallah 'Omer, the injured person's cousin, related to B'Tselem what happened.

Last Saturday [17 February], a friend of 'Adel 'Omer, my cousin, asked him to help free a vehicle that was stuck in a field west of 'Azzun 'Atmah. 'Adel called me and Qusai 'Ali, our friend, and, at around 9:40 at night, the three of us went by tractor to the site to tow the vehicle to the garage in the village. Qusai drove, I sat on his right, and 'Adel sat on his left.

The tractor's lights didn't work, and when we were on the road, the tractor drove onto a boulder and flipped. Qusai and I fell under the tractor, in the space next to the gear shift, and we weren't hurt at all. 'Adel fell under the wing of the tractor and was crushed... We pulled 'Adel out from underneath the tractor and put him into Qusai's car.

We drove to the 'Azzun 'Atmah gate [of the separation barrier]. We got there about 10:20 at night... We got out of the car and called to the soldiers who were in the guard tower. I shouted to them in Hebrew that we had a person in the car who had been injured in an accident and that we had to rush him to the hospital. Qusai, who speaks Hebrew better than I do, explained 'Adel's condition to the soldier. Through a small window in the tower, one of the soldiers ordered us to move away from the gate. Qusai and I insisted and again asked the soldiers to open the gate so that we could take 'Adel to the hospital.

'Adel was lying in the back seat of the car. I moved his legs to prove that it was an emergency. I saw that he was breathing. I know that the lighting at the gate and the light projectors from the tower made it possible for the soldiers to see inside the car. We waited and insisted [that they open the gate]. We called again and again to the soldiers to open the gate. After about an hour and five minutes had passed, three soldiers came out of the tower and went over to the car. They saw 'Adel and realized that he had to get to the hospital. One of the soldiers asked what happened. We explained about the accident, and one of the soldiers opened the gate. All told, the soldiers delayed us for about an hour and ten minutes.

We rushed to al-Aqsa Hospital, in Qalqiliya. We got there in 20 minutes, arriving at 11:50. The hospital staff took 'Adel to the trauma department. The doctors and nurses examined him, but he was already dead. They found that he had suffered broken bones and internal bleeding in his chest.⁹²

Access problems of this kind have increased the residents' dependence on first-aid services, which do not meet a large proportion of the residents' health needs, and cannot cope with emergency cases and cases requiring special expertise. In certain cases, even reaching these services entails a lengthy journey with many obstacles along the way. This occurs, for example, in the village of Khallet a-Nu'man, in East Jerusalem, which lies on the "Israeli" side of the Security Barrier and is home to some 200 persons. In addition to their isolation from nearby areas in the West Bank, the villagers of Khallet a-Nu'man are also separated from other areas in East Jerusalem because they do not hold Israeli identity cards.⁹³ Prior to the construction of the Security Barrier, specialist physicians on behalf of UNRWA came weekly to the village and provided medical care to the residents. Since early 2006, Border Police officers have not allowed UNRWA's patrol vehicle to enter the village via the barrier. As a result, sick residents have to go to the gate in the barrier – a distance of 1.5 kilometers – on their own, and then continue to the clinic or hospital in the nearby Bethlehem area.

A similar situation was created in villages adjacent to Route 443, whose residents are almost entirely dependent on the medical services provided in Ramallah. According to the testimony of 'Ali Muhsein Mahmud Abu Safiya, the head of the Beit Sira Village Council, the village has only one governmental clinic, to which a family doctor arrives once a week. Because of the difficulties in traveling along the alternate road, which runs via all the local villages and extends the journey to Ramallah by forty minutes, many village residents forego medical services that are not urgent.⁹⁴ According to Naji Suliman, head of the Beit Ur a-Tahta Village Council, "In cases of emergency, the lives of sick or injured persons are in danger because of the great distance from the hospital. Some women give birth on the alternate road because of the greater amount of time it takes to get to the hospital. It can take an ambulance more than forty minutes to get here because of the road and the checkpoints on the way."⁹⁵

89. HCJ 9019/96, *Physicians for Human Rights v. Minister of Defense et al.*

90. The testimony was given to Salma a-Deba'i on 13 December 2006.

91. The testimony was given to Salma a-Deba'i on 31 August 2006.

92. The testimony was given to 'Abd al-Karim a-Sa'adi on 21 February 2007.

93. At the east entrance to the village, there is a three-meter opening in the barrier, through which the village's residents enter. Only residents of the village whose identity card lists the village as their place of residence are allowed to cross. Residents whose registered address is elsewhere are not permitted to pass through, regardless of the reason for their visit. For more on this subject, see *B'Tselem, Nu'man*,

Impaired functioning of hospitals

The ability of hospitals to function has also been impaired because of the restrictions on movement. Especially affected are the Palestinian hospitals in East Jerusalem, considered the most advanced in the West Bank and Gaza, which provide services that are unavailable in other hospitals in the West Bank. The separation of East Jerusalem from the rest of the West Bank and the requirement of obtaining a permit to enter the city impede access of staff and patients to these hospitals.⁹⁶ Twelve workers at al-Makassed Hospital, for example, who live outside Jerusalem, were classified as "prevented entry" and were denied entry permits. Workers who obtained permits often have trouble getting to work on time because of the delays at checkpoints at the entrance to the city. As Dr. Bassem Abu Libda, the hospital's medical director, said:

Crossing the checkpoints tires the workers and involves humiliation and waiting, so they don't arrive at fixed times... At many checkpoints, such as the tunnels checkpoint, the Hizma checkpoint, and a-Za'ayem checkpoint, it is impossible to cross even with permits, except in extraordinary cases in which the hospital organizes the transport and coordinates it with the authorities. This, of course, is very hard for the hospital, and it is impossible to bring all the workers by organized hospital transport.⁹⁷

Al-Makassed Hospital offers out-patient specialist clinics, some of them unique in the West Bank and Gaza, so many Palestinians from the West Bank are referred there by local hospitals. However, they cannot get to the hospital without first obtaining a permit. The requirement that they have a permit to enter East Jerusalem was made in 1991, but until the Security Barrier was built, many residents, especially those living on the outskirts of Jerusalem, managed to enter East Jerusalem, and receive medical services, without a permit. Completion of most of the barrier around the city has resulted, according to figures provided by the hospital's director, to a decline of more than thirty percent in out-patients, and with it a sharp drop in hospital revenues. An efficient medical system relies on a "division of labor" between various units, each specializing in different fields.⁹⁸ However, when most sick persons cannot reach the medical centers providing specialist care, the system must duplicate services at a cost of lower quality.

Finally, the many restrictions on movement also impair the development and expertise of medical professionals in the Palestinian health system, it being almost impossible for physicians and staff to get to in-service training or students to the universities. Many students are unable to complete their studies, or receive

East Jerusalem: Life in a Village under the Threat of Expulsion (September 2003).

94. The comments were made to Iyad Hadad on 29 November 2006.

95. The comments were made to the Association for Civil Rights on 3 December 2006.

96. Physicians for Human Rights, *A Wall in the Heart: The Separation Barrier and its Impact on the Right to Health and on Palestinian Hospitals in East Jerusalem* (December 2005), 17-18.

a lower degree of professional training.⁹⁹ Roqaya Muhammad 'Abd a-Salam al-Faqiya began her medical studies in 2002, at al-Quds University, in Abu Dis. During her fourth year, in which she was to begin her practical training, she requested a permit to enter Jerusalem so that she could do the training at al-Makassed Hospital. The authorities rejected her request, and she had to train at a hospital in Hebron. In her testimony to B'Tselem, she related that:

The quality of training I receive at the hospital in Hebron is lower than what they provide at al-Makassed, which has more resources... I am training in pediatrics and gynecology. Because the quality of training is not especially high in the hospitals in Hebron, and because I cannot get to Jerusalem to train at al-Makassed, I am considering going to Jordan and train at the Islamic hospital in Amman. I am very frustrated that I cannot do my training in Jerusalem, which is only a twenty-minute ride from my house. The hospital is only four kilometers from al-Quds University, but because of the Israeli authorities, I have to do my training in Hebron.¹⁰⁰

Without a specialist health system and the ability to train and nurture a reserve of physicians and medical staff, the dependence of Palestinian society on external health services, which already exists, will grow. More and more patients will have to go to Israel, Jordan, or other countries to receive medical treatment. Given the requirement of entry permits into Israel, many Palestinians needing medical treatment will find themselves in a hopeless situation.

Economy and trade

Since the beginning of the second intifada, the economy of the West Bank has been in a profound recession. One of the striking expressions of the recession is the almost forty-percent decline in per-capita gross domestic product in the West Bank and the Gaza Strip.¹⁰¹ Unemployment for the first quarter of 2007 stood at 24.3 percent of the work force, compared with 16.9 percent for the first quarter of 2000.¹⁰² Despite the numerous factors affecting the West Bank's economy, there is no dispute that the restrictions on movement inside the West Bank are significant.

97. The testimony was given to Kareem Jubran on 12 June 2007.

98. Physicians for Human Rights, *Freedom of Movement*, November 2004, available at www.phr.org.il/phr/article.asp?articleid=73&catid=45&pcat=5.

99. Ibid.

100. The testimony was given to Kareem Jubran on 1 June 2007.

101. Reports of the World Bank show that, despite a recovery in the years 2003-2005, the Palestinian

Movement of workers and goods – general

A survey conducted for OCHA among residents of the West Bank shows that the restrictions on movement have a significant effect on the ability to get to work.

Difficulties West Bank Residents Face on Way to Work (by percentage)¹⁰³

Inability to obtain permit to move about within the West Bank	58
Inability to obtain permits to enter Israel and East Jerusalem	66
High transportation costs	46
Physical obstructions inside the West Bank	78
Physical obstructions preventing access to Israel and East Jerusalem (including checkpoints)	64
Increase in travel time	46

Palestinians who worked outside their home community – in their district's city for example – used to commute to and from work daily. The restrictions on movement imposed at the beginning of the intifada forced many to remain much closer to the work site during the week. Many workers who did not want, or could not, separate from their families, lost their livelihood because they were unable to get to their jobs regularly. This situation naturally affected the employers as well: many service businesses and manufacturers lost a skilled work force and were forced to reduce output substantially. Some even had to close their enterprise or switch to another area of business.

The restrictions on movement also impeded the transport of goods within the West Bank. Many dealers in the past used to sell their goods and transport it themselves, but with the restrictions on movement and the longer travel time, it no longer paid financially to do it on their own, and they contracted out the marketing and transport. The difficulties in transporting goods naturally affected prices and profits. The increased distances and the forced use of alternate roads not intended for commercial vehicles caused a sharp rise in transport costs. For example, transport costs between Nablus and Ramallah rose by 400 percent over the past five years.¹⁰⁴ The frequent delays in transporting goods resulted in the loss of customers and a decline in the value of the merchandise. According to Samer Muhammad Ahmad Ghanem, a pickle-factory owner in Barkin, Jenin District:

economy again declined in 2006. See, World Bank, West Bank and Gaza, *Economic Development in 2006, A First Assessment*, March 2007.

102. OCHA, *Humanitarian Monitor – Report 13*, May 2007.

The [restrictions on] freedom of movement in the Jenin area greatly affects work in the factory. To make the pickles, we have to buy, among other things, preservatives, food coloring, and the like. Every time I buy the substances and want to bring them to the factory in Barkin, the soldiers at the checkpoints on the way stop me to check them... At each checkpoint I pass with the substances, I undergo the same inspection time and again. The great amount of time spent in bringing the substances to the factory and the protracted delay at the checkpoints increase the transport costs of the substances. Also, the many inspections sometimes damage the material, causing me monetary loss... I buy the glass containers for the pickles in Israel. In the past, I went myself to Israel to buy the jars, but since the outbreak of the second intifada and because of the difficulties entailed in crossing into Israel, I buy the jars through middlemen who have permits to enter Israel, which increases my expenses. As a result, production costs have risen and my profits have dropped.

Regarding marketing of the pickles, I used to rely primarily on the Israeli market and on a few cities in the West Bank. Our vehicles used to travel freely on the roads and distribute our goods. Sometimes, at the end of work, I used to go and distribute the merchandise myself. The only thing I had to pay was gas. Since the problems with movement began, and with the establishment of the checkpoints on every road, distribution has been complicated. Now I have to hire vehicles with permits to travel between the West Bank checkpoints to distribute the pickles. The truck drivers charge a lot for their services... They exploit the fact that it is very hard to get a permit to move between the checkpoints, and that there are few trucks and drivers with these permits. I also can't get to every shop in Israel and sell my merchandise, so I transfer the merchandise to a small number of dealers by the back-to-back method, and have to agree to the price they set. As a result, my profits have fallen by more than fifty percent.¹⁰⁵

An obvious result of the difficulty in traveling from place to place is the division of the economy into local and smaller markets. Trade with other sections of the West Bank has become expensive, unpredictable, and inefficient. According to figures of the World Bank, in 2000, some sixty percent of the companies in the West Bank conducted trade primarily outside the district in which they were located; in 2005, the number had declined to around forty percent, with many companies focusing on the nearby, small, local market.¹⁰⁶

Transport of goods to the Jordan Valley, the seam zone, and East Jerusalem requires an entry permit for the driver and the commercial vehicle. In Nablus, only the commercial vehicle requires an entry permit. Without a permit, the goods are not allowed to enter these areas. As mentioned in chapter 1, the Civil Administration sets a quota on the number of permits it grants. The quota is

103. See OCHA, *Consolidated Appeal (CAP) for 2006*, 6.

104. World Bank, *West Bank and Gaza Investment Climate Assessment: Unlocking the Potential of the*

based on an estimate of the capability of the checkpoints along the way to bear the projected workload entailed in checking the goods and the permits.¹⁰⁷ The limited number of permits issued, and the difficulty in obtaining and renewing the permits, have resulted in a sharp decline in commerce between these areas and the rest of the West Bank, along with an increase in the manufacturers' and farmers' transport and marketing costs.

Regarding the Jordan Valley, for example, until Israel imposed the siege, this area had been a focus of interest for dealers from the West Bank and Israel, who used to go there and buy the farmers' produce. As a result of Israel's permit regime and the ongoing friction with soldiers at the checkpoints, few dealers now go to the area. Consequently, transport and marketing of the produce rests almost entirely on the shoulders of the farmers, causing a sharp drop in their profits. Commercial ties between residents of the northern West Bank and residents of the Jordan Valley, once very strong, have weakened. An example is the animal-feed sector. Once there was much trade in animal feed between Tubas and the Jordan Valley. Thirty trucks used to haul the feed from the Jordan Valley to the northern West Bank. A sharp increase in labor costs, a direct result of the many restrictions on movement, led to an increase in the price of the feed, making marketing difficult and profit margins small. As a result, many dealers have left the sector. In January 2007, the situation improved following the opening of the crossing for goods, at Bardala, in the northern Jordan Valley, which eased movement of agricultural products to Israel.

The movement of goods to and from Nablus and to East Jerusalem requires crossing through checkpoints used for the passage of goods and is done by the back-to-back method: the goods are unloaded, checked – whether by mechanical means (scanner) or manually, and sometimes using dogs – and then loaded onto another truck. In many cases, some of the goods are damaged or broken during the unloading, inspection, and reloading process. The time to inspect the goods varies, but in any case causes much delay in transporting the goods. As the drivers continue their journey, they encounter additional checkpoints of one kind or other, which cause further delay and at times entail another, less stringent, inspection of the goods. Many dealers now avoid the permanent checkpoints by using Israeli drivers, who can move between the West Bank and Israel. However, when the Separation Barrier is completed, goods will have to pass through these checkpoints, which will likely further limit and increase the cost of trade with and through Israel.

Private Sector, March 2007, 16.

Tourist sites and small businesses

The tourist sector, in particular, has suffered from the restrictions on movement. Many tourist sites were established throughout the West Bank, especially during the period between the Oslo Agreements, in 1993, and the outbreak of the second intifada, in September 2000. The difficulties in travel facing visitors wanting to go to tourist sites have forced the sites, many of them privately owned, to close or open on a very limited format. One example is the park owned by the Barahameh family, which is located in al-Badhan, a village ten kilometers north of Nablus. To get there, a visitor from Ramallah has to pass through four permanent checkpoints: 'Atara, Za'tara, Huwara, and al-Badhan, and the flying checkpoints set up that day. Faraj 'Abdallah Salah Barahameh spoke about these difficulties in his testimony to B'Tselem.

In 1994, my father built a family amusement park on our land in the village. My nine brothers and I worked in the park, along with four workers we hired, and made a living from it. Visitors came from all over the northern West Bank. Operating the park in the summer alone brought in enough revenue to support us for the whole year.

With the outbreak of the second intifada, things changed. Israel put up checkpoints throughout the West Bank, including on the way between the village and Nablus and near the village of al-Far'a, north of al-Badhan, and blocked the main entrance to al-Badhan with a dirt mound. These checkpoints caused many delays for people wanting to come to our park, and very quickly people stopped coming altogether. Because of the sharp drop in revenue, we had to fire our four employees. We lost about 400,000 shekels in a year. My brothers and I had to look for other work. I began to use my car as a taxi, taking people from the checkpoint at the entrance of the village to places inside the village. I also had to sell my wife's jewelry...

In May 2005, the army opened the road to al-Badhan... We thought that it would stay that way. Two of my brothers and I asked the Arab Bank for a loan of 150,000 Jordanian dinars (about 900,000 shekels). We planned to renovate the park, build a swimming pool, and start up the business again. The bank agreed to lend us the money on condition that we give it a mortgage on the land and pay the loan back at \$2,510 a month.

We completed the renovation and were ready to open, but in April 2006, the army again closed the entrance to the village. This time with a staffed checkpoint instead of the dirt mound... They also operated flying checkpoints on the main road between al-Badhan and Nablus, and on the road between 'Asira a-Shamaliya and Nablus... They also set up three flying checkpoints inside al-Badhan, to prevent the free movement of the residents inside the village.

In November 2006, soldiers again opened the main road linking the village and Nablus, and removed the flying checkpoints. However, the checkpoint at the entrance to the village remained and the soldiers there delay the residents for

hours. Sometimes they have to wait four hours. Because of the restrictions on movement and the difficulty in getting to al-Badhan, people don't come to the park, and we don't have any income. We are in great distress now because we can't repay the bank loan and are liable to lose our land. Opening the road changed nothing as far as we are concerned. It is inconceivable that a visitor has to wait three or four hours at the checkpoint to be able to come and spend time at the park.¹⁰⁸

Restrictions on movement also directly affected small businesses. For example, along Route 443, there used to be more than a hundred businesses and stores, among them restaurants and shops selling flooring materials, ornamental plants, and furniture. These businesses closed because Palestinians were forbidden to use the road. Khaled Yusef Khaled Harfush, who sells building materials and lives in Khirbet al-Misbah, which lies adjacent to Route 443, described the economic ramifications of closing the road.

Closing the road severely reduced our revenues. Before, we could transport the stones and sand from our site to Israel and buy building materials in Israel relatively easily. Access to our site via Route 443 was easy. Since they closed the entrance to the road, transporting the goods has become almost impossible. To get to where we buy the construction materials, the trucks have to go along a lengthy, worn alternate road. Even when we have to transport materials from the site to Ramallah, we have to use this road. The road goes via Beit Ur a-Tahta, Saffa, Bil'in, Kafr Ni'ma, Deir Abu Ibbi, 'Ein 'Arik, Bitunya, and Ramallah, and it takes more than half an hour, rather than fifteen minutes along Route 443. The distance from the village to Ramallah along the alternate road is thirty-five kilometers, seventeen more than along Route 443. Because of the long distance, it is also more expensive.

In 2005, we decided to close the building-materials site, because of the problems in getting to it. As a result, we lost income that ranged from 5,000 to 7,000 shekels a month... From 1994 to 2000, my brothers and I also had a factory for making concrete. It was located in a-Ram. After Route 443 was closed, getting to the plant and taking materials to and from the plant became very hard. The longer trip increased transport costs, so we had to raise prices. As a result, many customers left us, and our revenues dropped to the point that we were losing money. In the end, we had to close the plant at a loss of more than half a million shekels.¹⁰⁹

The World Bank's report on the movement restrictions' effect on private businesses and trade in the West Bank shows that the constant lack of certainty and the steady increase in costs, both caused by the restrictions on movement within the West Bank, are two of the major hurdles on the way to reviving the Palestinian economy.

105. The testimony was given to Atef Abu a-Rub on 25 March 2007.

106. World Bank, *Investment Climate Assessment*, supra, 15.

Farming in the Jordan Valley and in the seam-zone enclaves

Agriculture is an important source of income for Palestinians in the West Bank, particularly for residents of the North section, who own land in the Jordan Valley and the seam-zone enclaves. The permit regime and the other restrictions on movement have severely harmed this latter group and many of them, whose requests for a permit have been rejected, were no longer able to get to their land regularly. In addition, many Palestinians who worked as hired hands on farmland in the Jordan Valley could continue in their jobs only if they had a permit. The terms of the permit, which require the holder to leave the Jordan Valley or the seam zone at night, together with the exhaustion and frustration entailed in crossing the checkpoints and barrier crossings daily, led many of the workers to cease working in these areas. As a result, numerous farmers lost a vital work force and with it the ability to work their land efficiently.

Husni Muhammad 'Abd a-Rahman Sawafteh, a farmer and merchant from Tubas, owns land in the Jordan Valley. Despite his permit, in most instances, soldiers at the Tayasir checkpoint do not let him get to his land. In his testimony to B'Tselem, he related the difficulties he faces due to the siege on the Jordan Valley.

I live in Tubas, but my brothers and I also have a house and 250 dunams of land in Bardala, a village in the northern Jordan Valley. We also have livestock on the land.

To get to our land in Bardala, we have to cross the Tayasir checkpoint, where we encounter much difficulty... The prohibition on crossing the checkpoint affects my work. We have workers working the land in Bardala and harvesting the farm produce.

I need to market the produce, and it is important that I am there. Because of the difficulty in getting to Bardala, I manage things by telephone, but that is not enough. To be updated on the prices and the payments from the dealers, I have to be present there.

Sometimes, a whole month goes by in which I don't meet the dealers who buy my crops, and without sitting down with them and calculating the costs. The dealers send me payment on account and do not pay the entire sum for the produce. Over time, the money they owe me builds up, and if I am not there to talk with them face to face, or go to them to collect the debts, I don't have enough money to buy the materials needed for fertilizing the land and growing the crops.

Another problem is caring for the livestock. We had a large flock in Bardala and it needed ongoing, daily care. Because I cannot go there regularly, I had to build a new farm for the livestock in Tubas and bring the flock there. Nevertheless, I still had a problem, because Tubas does not have available grazing land like Bardala, and I can't let the flock out to graze every day. Now, I have to buy food

for the flock. This is an additional expense that I incur because of the prohibition on crossing into the Jordan Valley.¹¹⁰

Tamun: a case study

The village of Tamun lies southeast of Jenin, on the mountain ridge alongside the Jordan Valley. Although classified as Area A, outside the Jordan Valley, its lands spread from al-Hamra in the south to Tubas in the north, and east into the Jordan Valley. The village's lands, according to the division made during the British Mandate, is ninety-eight thousand dunams, about two-thirds of which are hilly grazing land. The settlement of Beka'ot and the army base in the area, as well as the prohibitions on movement along Route 578, which runs from the Mehola intersection to the Beka'ot intersection and through the village's land, severely limit the residents' access to these lands.

Two major roads used to run directly from the village to the farmland in the Jordan Valley. The army closed them with iron gates that it opens twice a day, at eight in the morning and four in the afternoon, a half an hour each time, to enable school pupils to cross. Before the army installed the gates, the villagers could get to their farmland, which lies on the eastern side of the Jordan Valley (on the other side of Route 578), in only fifteen minutes. Now, it takes three hours, a result of the longer path and the waiting and inspection time at the Hamra checkpoint.

Because their land is detached, residents of the village living on land in the Jordan Valley are separated from their families in the village. So they won't have to return to the village every day, families from the village (and from other villages in the northern West Bank) who farm their land or graze their flocks built huts and temporary structures on their land in the Jordan Valley, creating "branches" of the villages. In other cases, families moved to permanent communities in the Jordan Valley, but their official address, as appears in their identity card, remained Tamun. When the restrictions and prohibitions on movement increased, they found themselves classified as "persons staying illegally" in their homes, separated from their families and main household in Tamun.

The increasing difficulty in gaining access to their homes and to their land led, in some cases, to families splitting, with the children staying with their mother in Tamun, near school and other vital services, and the father and others in the family who were not in school living in the "branch" in the Jordan Valley. In other cases, the residents graze their flocks in the Tubas area, in the northern West Bank, where the grazing land is thinner, and farmers are forced to neglect their land. The same has been true of many residents of Tubas and other villages in the northern West Bank and the northern Jordan Valley.

107. Conversation of 14 June 2007 with the head of the Civil Administration, Brigadier General

In April 2007, Israel announced the easing of restrictions on residents entering the Jordan Valley. The announcement raised hopes that the situation of the farmers and dealers in the area would change for the better, but it is still too early to say what the real effect will be. There is, however, reason for doubt, given that the lifting of restrictions applies to only two of the four checkpoints in the Jordan Valley and only to some of the persons wanting to pass.

Most of the seasonal and daily agricultural gates, through which the farmers get to the seam zone, are opened two or three times a day, for 20-60 minutes at a time. This limited access, provided by the gates, alongside the irregularity with which they are opened, affect the farmers' ability to work their land. To make matters worse, tractors and other farm vehicles require their own special permit to cross. As a result, most of the farmers have to go long distances on foot or on donkeys. The restriction on the number of permits given to hired workers and to relatives involved in working the land also has an immediate deleterious effect on agriculture in this area. It should be noted that Palestinian farming has traditionally relied on the extended family's participation in the farming, with workers being hired during high season.

The restrictions imposed by Israel have led many farmers to forego crops that generated great revenue, such as tomatoes and cucumbers, and switch to crops that are not labor intensive, such as wheat, which generate less revenue.¹¹¹ Other farmers stopped requesting permits and preferred to let the land lie fallow rather than take the economic risk in working the land under restrictions.¹¹²

Family and social ties

Community life in Palestinian society is based on the extended family, though the family does not necessarily live in the same village or town. Children who leave home and go to live elsewhere following marriage are only one example of the geographic expansion of many families. In the case of Palestinian families in the West Bank, the possibility of maintaining family life in a broad geographic space is steadily declining. This impediment to maintaining family life is especially felt by families living in the seam zone, in the Jordan Valley, and in Nablus, which are under siege. For example, twenty percent of the women of Barta'a a-Sharqiya (a seam-zone enclave), who went to live elsewhere in the West Bank after marriage, and forty percent of their husbands, are unable to visit their families living in Barta'a because they have not received the requisite permits.¹¹³ In the past, the

Yoav Mordechai.

108. The testimony was given to Salma a-Deba'i on 28 November 2006.

109. The testimony was given to Iyad Hadad on 12 November 2006.

DCO issued entry permits that were valid for twelve months but, since the end of 2006, these women have been given a permit for one day only, so they have to leave the enclave before nightfall.¹¹⁴

Ni'ma 'Ali Salameh Abu Zahara, from Nablus, has had trouble visiting her daughter since her daughter married and went to the Jordan Valley to live with her husband:

I have a daughter, Hiba, who is seventeen. In 2003, she married a man from Jiftlik. Since then, nobody in our family has managed to visit her, not even during the holidays, because the army doesn't let us cross the Hamra checkpoint. Even when Hiba had her first child, I did not manage to get to see how she was and to see my first grandson. The first time I got to see her was two months after she gave birth, when she came to us.

About two weeks ago, she gave birth, by Caesarean section, to her second child, but I couldn't visit her. I went to the checkpoint and prayed to Allah that the soldiers would let me cross, but they didn't. I told one of the soldiers that my daughter lives in Jiftlik and that she had undergone surgery to give birth and that I only wanted to see her. I begged him to let me cross, and promised to return within an hour. But he refused. I told him that I would leave my identity card with him to guarantee that I would return whenever he said, but he still refused. I went home and cried.¹¹⁵

The difficulty in moving about the West Bank has led to the splitting of many nuclear families, which under other circumstances would have remained together: students who leave their parents' home to live near the university so they can continue their studies; wage earners and tradesmen who leave their families to live close to their work place so they can make a living; chronic patients who go to live in the cities so they can get to the hospitals for ongoing medical treatment. From the time that they leave their family, they encounter problems when they try to return, even if only for a visit.

Burhan Alziat, 21, a resident of the Balata refugee camp, Nablus District, works in Ramallah. On 18 July 2006, while waiting at the Ramallah checkpoint, he related to B'Tselem that he had come to Nablus to attend his sister's wedding and when he wanted to return, the soldiers did not let him leave, contending that he was young [i.e., within the age group under restriction] and the address in his identity card was Nablus. He added that he intended to try to get out by bypassing the checkpoint. He said he had to get to the Yizhar intersection, and from there to the village of 'Aqraba, bypassing the Za'tara checkpoint, at which the soldiers do not let men under thirty-six cross. Alziat pointed out that, because of the harsh situation at the checkpoints, he generally goes to Nablus only once every three

110. The testimony was given to Atef Abu a-Rub on 31 January 2007.

111. OCHA, *The Humanitarian Impact of the West Bank Barrier - Special Report*, January 2006.

months, more or less, so that he won't lose his job. He stated that he is compelled to stay far from family and friends, and although he lives only forty-five minutes from them, it feels like "living on another planet."

Naziyeh Jabril Jabril Darbiya, a resident of Nablus, lives in Ramallah, where he works, and sees his family on weekends. In his testimony to B'Tselem, Darbiya related how he feels being far from his family.

It pains me greatly that my son Ahmad calls and asks me: "Daddy, when are you coming back? Come." It pains me not being with my children on their birthday. My daughter Wala's birthday was on 16 August. I did not go home for it because it did not fall on a day that I go to Nablus. During the month of Ramadan, it hurts me that I have to break the fast alone, far from my wife and children. And another thing – my eldest son, Adham, and Wala are now adolescents, and I know how important this period is, how important it is for me to be with them, to talk with them and know their problems. I am forced to stay out of Nablus because of the army checkpoints.¹¹⁶

Not only do the restrictions on movement prevent routine gatherings of the nuclear family, they also delay or prevent members from taking part in family events: if a wedding or other festive occasion involves a relative from outside the town or village, there is no certainty that all the invited relatives will be able to participate. And if a relative living elsewhere dies, it is not sure that relatives will be able to get to the funeral or pay their respects. In other cases, relatives who are permitted to reach the site of the event forego the opportunity because of the difficulties entailed in getting there and back.

Vacations with family or friends are few and far between. The northern Dead Sea area, which includes twenty-five kilometers of coastline that lie entirely in the West Bank, was the last vacation refuge of the residents, and many used to go there on weekends or for vacations. The restrictions on movement have turned the 'Ein Fascha nature reserves, one of the most popular recreational sites in the area, now operated by Israel's Nature Reserves and Parks Authority, into an exclusively Israeli site, as described in chapter 2.

It is also difficult to maintain family ties when relatives live in different subsections of the same geographical area. This is true, for example, in the case of a family some of whose members live in Ramallah and others in the villages west of it, alongside Route 443, which Palestinians are forbidden to use. The situation was explained by the head of the Beit Ur a-Tahta Village Council:

We in the village depend greatly on our district's city, Ramallah. The residents used to go to the city daily to meet all kinds of needs. Now they go only for

112. Ibid., 23.

urgent matters because of the movement difficulties. This has really affected the residents' lives. Social visits and ties are minimal, taking place primarily during the holidays. Some families left the village to go and live in Ramallah because of the restrictions on movement.¹¹⁷

The village of Beit Sira also lies adjacent to Route 443. The head of its village council said in his testimony to B'Tselem that:

The prohibition on travel on Route 443 also impeded our social life. In the past, I used to pay social calls in Ramallah whenever I wanted, at any time of day. Within twenty minutes, I was in Ramallah. Since the prohibition on using the road began, my social ties ceased almost completely. My sister, for example, lives in Beit Sourik. In the past, I used to visit her every five or six days, but now I barely get to visit her on the holidays. There are many festivities involving family and friends that I do not get to because of the difficulties in traveling.¹¹⁸

Basic services and law enforcement

Many of the primary services offered to rural residents are provided in the district seat or by persons who come from there. These include urban infrastructure services, social services, mail, governmental services, rescue services, electricity, and gas. Palestinian Authority law-enforcement officials, who are responsible for these areas, are usually also based in the district seat.

Employees of the local councils or the district government are not given preference over the rest of the residents when crossing checkpoints, in access to isolated areas or areas under siege, or in using the forbidden roads. As a result, every time there is a breakdown in infrastructure (water, electricity, gas), the residents of some villages have to wait a long time for it to be repaired.

This situation is especially striking in the villages around Route 5, which are separated from the district's seat, Salfit, making it hard to supply services to the residents regularly. For example, the rescue and emergency vehicles used in this area are stationed in Salfit, and to get to the villages have to pass through the Za'tara checkpoint, where they are delayed, often making the whole journey superfluous. As a result, the villages north of the highway began using ambulances from Nablus, which, despite the many restrictions on leaving the city, often arrive quicker than from Salfit.¹¹⁹

113. HCJ 639/04, *supra*, footnote 26, Amended Petition for Order Nisi, 23 March 2006, section 95.

114. For extended discussion on the need for permits in the seam zone, see chapter 1.

115. The testimony was given to Salma a-Deba'i on 22 January 2007.

Rescue vehicles in Bethlehem District – three fire trucks and one ambulance – encounter similar problems. Ibrahim Mahmud 'Ayash, head of the Civil Defense hotline in Bethlehem, related in his testimony that, until the beginning of the intifada, the rescue services in the district operated without difficulty due to the hotline's arrangement with the Civil Administration that the rescue vehicles would be allowed to leave Bethlehem and go to the district's villages situated in Area C without unnecessary delays by the army. The situation changed completely at the beginning of the second intifada.

Because of the delays crossing the checkpoints around Bethlehem, we were no longer able to do our work. In recent years, there have also been cases of gunfire at fire trucks and of soldiers bullying and assaulting the crews.

The villages to the west are separated from the city by dirt obstructions on Route 60. The only road we can use to get to these villages, in case of fire for example, is via the Beit Jala checkpoint. This checkpoint is now open most of the time and we have no trouble crossing it. Sometimes, though, it is closed for a few hours, which creates a problem for us. Now and then, soldiers at the checkpoint delay us for at least fifteen minutes, and at times for more than two hours. The villages on the western periphery are located for the most part in Area C, and it is forbidden for the fire fighters to wear their official uniforms when they go to these areas, otherwise they would be subject to bullying by the soldiers patrolling in these villages or by soldiers at flying checkpoints.

We also have a branch in Abu Dis, which has one fire truck. The fire fighters there are prevented from moving about in their official uniforms. If we are needed to provide back-up to the Abu Dis station, we encounter a problem at the Container checkpoint. The delay there depends on the mood of the soldiers involved. There are soldiers at the checkpoint who, if told there is an emergency requiring that we get there swiftly, deliberately delay us. They delay the fire truck, open the doors, and check the identity cards of the crew. We have the feeling that they do this deliberately to delay the fire truck.¹²⁰

The restrictions on movement make it hard for Palestinian Authority law-enforcement authorities to operate. This difficulty is one of many factors. Among the others are the prohibition on Palestinian police officers to carry weapons in certain areas and the economic crises in which the Palestinian Authority is mired. Under the Oslo Agreements, Israel transferred civil powers and responsibility for law and order in Area A to the Palestinian Authority. Oslo II, signed in September 1995, transferred to the Palestinian Authority the responsibility for law and order in parts of Area B. These areas, which amount to some forty percent of the West Bank, are comprised of dozens of "islands." Therefore, movement between them requires, almost always, movement through Area C, where Israel continued to have complete control over law enforcement. To the extent that Palestinian police

116. The testimony was given to Salma a-Deba'i on 30 August 2006.

are involved, especially armed police officers, prior coordination is needed with Israeli security forces. Uncoordinated movement brings with it protracted delays at checkpoints and the possible arrest of Palestinian police officers. However, as appears from the testimony of the commander of the Jenin police department, Colonel Muhammad Ibrahim 'Ayash, the army often drags its feet when the Palestinian police want to coordinate entry, rendering the arrival of the police officers at the scene superfluous:

Regarding the police's work in chasing criminals and handling incidents that take place in the district's villages, the Israelis prevent us from moving about. They drag their feet in issuing approvals for our police officers to get to the scene... The Israelis do not trust our reports and are suspicious of us. They check if an incident occurred, and wait until they verify it, before approving Palestinian police going to the scene. In most cases, the approval is given too late. This makes it impossible for the police to reduce crime. By the time that the police arrive, the criminal has already fled the scene, and much evidence has been removed from the site.

When the police have assignments to carry out, we send, through the Palestinian military liaison, a list of names of persons, models of vehicles and their license-plate numbers, as well as the weapons they have. The liaison officer forwards the request to the Israeli side and then waits for a response. The procedure takes time and is not suitable for urgent matters that require an immediate response.¹²¹

Colonel 'Ayash stated that the handling of incidents in the seam zone and the Jordan Valley is particularly difficult. Palestinian police are forbidden to enter these areas. To file a complaint, the complainant must go to the police station. Generally, the police's hands are tied and it cannot handle the complaint because it is unable to get to the scene of the incident.

As for areas inside the fence, the police cannot, officially, enter them... We soothe and rebuke, but do not act in a policing role. We are also forbidden to enter the Jordan Valley and areas east of Tayasir and al-Hamra. In these areas, there were several assaults that were not handled because of the inability of the police, on the one hand, to get to the scene and investigate, and, on the other hand, bring the suspects to Palestinian police offices. In areas near settlements, especially in the villages in the Ya'bad area, most requests to enter are not granted.¹²²

According to Colonel 'Adnan Damiri, of the Palestinian police in Ramallah,

In cases of violent, armed clashes, as happened, for example, in the area of Bir Zeit, which is only eight kilometers from Ramallah, we submit a request to send a police patrol with armed officers. This happened last summer, when there

117. The testimony was given to the Association for Civil Rights on 3 December 2006.

118. The testimony was given to Iyad Hadad on 29 November 2006.

was an armed clash between families from Abu Shakhidam and Bir Zeit, during which the police station in Bir Zeit was attacked. When we submitted a request for coordination [with the Israeli authorities] so that we could send a force to the scene to settle the dispute, we received approval the following day. The incident ended in the killing of one young man, the wounding of others, and the torching of a building.¹²³

“Fabric of life” roads

In recent years, Israel has built a number of new roads in the West Bank, referred to as “fabric of life” roads, which are intended for Palestinian use and ostensibly serve as an alternative to the roads that are blocked or use of which is forbidden to them. These alternate roads were built even though the two principal plans proposed to facilitate Palestinian travel were rejected and frozen: one, by the donor states, which had been requested to finance the building of the roads, and the other, by the Israeli Defense Ministry (see chapter 1). These roads affect the human rights of Palestinians in the West Bank in both the immediate and long term.

First, building the roads entails expropriation of privately owned land and the inefficient use of public property. In most cases, these impediments follow Israel’s taking of other lands, near the planned road, to enable construction of the Security Barrier.

One example is the alternate road built between the village of Shufa, which lies south of Tulkarm, and a-Ras, northeast of the settlement Sal’it. To build the road, Israel took lands from the villages of Far’on, a-Ras, and ‘Izbat Shufa. The route of the Security Barrier created a large enclave south of Tulkarm, containing the village of Khirbet Jubara and extensive areas of farmland belonging to Palestinians living on the other side of the barrier. The enclave also contains a section of the main road running from Tulkarm south to Qalqiliya. To enable movement between the two district seats, Israel built the 2.5 kilometer road section between Shufa and a-Ras. Part of this road is a tunnel under Route 57, which runs from the Green Line to the settlements Enav and Avne Hefetz, the purpose being to separate traffic on the new road from the Israeli vehicles using Route 57. To build the tunnel, Israel expropriated ten dunams of olive and citrus fruit orchards belonging to a family from Far’on. Five more dunams, belonging to other families, mostly from Shufa, were expropriated to build the road.

Especially in those places where a “fabric of life” road replaces an existing road, on which Palestinians are not permitted, the landowners objected to the

119. Interview with the governor of the Salfit District, Munir al-’Abushi, on 15 November 2006.

expropriation, though their objections were not effective in the end. The roads being built as a substitute for Route 443, which is forbidden to Palestinian traffic, offer an example.

Route 443 was built along an old route whose widening, in 1988, required the expropriation of much land. Despite this, the landowners and other local residents raised no objection, apparently because the authorities had promised that the widened road would serve them [as well as Israeli drivers] and improve their connection with Ramallah. After the second intifada broke out, as mentioned, Israel prohibited Palestinians to use the road. Later, it took control of additional land to build the Security Barrier alongside the road. This situation created the "need" to build an alternate road. 'Othman 'Abd al-Ghafur, a resident of Beit Ur a-Tahta, related to this in his testimony to B'Tselem.

About a year ago, the Israeli authorities informed the village council that they intended to build an alternate road to link Beit Ur a-Tahta, Deir Abu Ibbi, and Ramallah, contending it would preserve the fabric of life in the villages that were harmed as a result of the separation fence and the prohibition on using Route 443. The residents did not support the selected route because it would cause them harm and involve the expropriation of approximately 10,000 dunams.

The residents do not understand why an alternate road is needed, when Route 443 belongs to them from the start and lies on their land. We petitioned the Supreme Court in Israel, through the al-Quds Legal Advice and Human Rights Center, in Ramallah, and objected to the plan. On 27 September 2006, the court issued an order freezing the plan. Following the court's ruling, the Israeli authorities sent us a new plan, to run an alternate road north of the village, near the lands of Beit Ur al-Fauqa, from the north, and then to Bitunya and Ramallah. The road will be called 'Ein Qrayot. We refuse any substitute road, and insist that we be allowed to use the existing Route 443.¹²⁴

In most cases, the Israeli authorities determine the route unilaterally, without giving proper weight to the interests of the Palestinians who use the road and will be injured by the route. In many cases, these roads demarcate villages in a way that limits the potential for building and expansion to meet the needs of the growing population. Some of the roads are winding, long, and illogical financially, given the existence of a highway.

In other cases, the road forces a new "fabric of life" on the residents. One could say that, instead of linking the communities, as intended, to their natural center of life, the road forces an artificial connection to another "center of life." An example is the enclave, resulting from the Security Barrier northwest of Jerusalem, comprised of the group of villages centering around Bir Nabala. Historically, in terms of services and family and social ties, these villages were linked to

120. The testimony was given to Suha Zeid on 3 February 2007.

East Jerusalem. Two “fabric of life” roads were built in the area of the enclave, ostensibly to enable the residents to live a “normal life.” However, rather than link them to Jerusalem in another way, the new roads connect the residents of the enclave to Ramallah and the villages lying west of them.¹²⁵ To build the road to Ramallah, Israel requisitioned about one hundred dunams of land belonging to the villages, some of it privately owned. To pave the second road, an underpass heading in a westerly direction, Israel took some 170 dunams of private land, most of it under cultivation.¹²⁶

Generally, even if the “fabric of life” roads ease Palestinian travel in certain areas, this result is achieved by unnecessary harm to many other Palestinian interests that the roads are intended to serve. The consequences of Israel’s policy extend beyond the present and the specific individual, given that every road, and even more so network of roads, shapes the spatial environment and affects the relations between the people living in that space. Therefore, it is clear that Israel’s policy will have long-term effects on whole communities.

121. The testimony was given to Atef Abu a-Rub on 5 February 2007.

122. Ibid.

123. The testimony was given to Iyad Hadad on 1 February 2007.

Ground to a Halt - Denial of Palestinians' Freedom of Movement in the West Bank



'Anabta Checkpoint, at the entrance to Tulkarm, 22 October 2006 (Sarit Michaeli, B'Tselem)



Palestinian residents cross a physical obstruction south of Hebron, 24 July 2007 (Oren Yacobovich, B'Tselem)



Gate at entrance to 'Azzun 'Atmah, in the seam zone, 8 February 2007 (Miki Kratzman, Ha'aretz)



Chapter 4

Restrictions on the Freedom of Movement from the Perspective of International Law

Right to freedom of movement and authority to limit it

Israel's legal obligation to respect the freedom of movement of residents of the West Bank results first and foremost from the basic duty that international humanitarian law imposes on the military commander to ensure the needs of the civilian population in occupied territory.¹²⁷ This obligation is important because every impediment to freedom of movement almost inevitably impairs the ability of the population under occupation to meet other vital needs, by denying access, for example, to medical-treatment facilities, job sites, commercial centers, and educational institutions.

International humanitarian law recognizes the imperative military needs of the occupying power in the occupied territory, and allows the occupying state to impair, sometimes severely, the daily routine, including freedom of movement, of the population under occupation. Such impairment may be legitimate, only to the extent it is necessary for security or military needs. Israel's obligation regarding freedom of movement results also from the right of every person to move about freely in his or her country, a right enshrined in international human rights law. The principal relevant statement of this right appears in article 12 of the International Covenant on Civil and Political Rights. Like international humanitarian law, the Covenant recognizes the power of states to limit the freedom of movement of persons under its jurisdiction in certain circumstances: article 12(c) of the Covenant states that the right to freedom of movement "shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the

124. The testimony was given to Iyad Hadad on 15 November 2006.

rights and freedom of others, and are consistent with the other rights recognized in the present Covenant."¹²⁸

Furthermore, under the two bodies of law mentioned above and under Israeli administrative law, infringement of a human right, including freedom of movement, must meet another requirement, in addition to that of military necessity: it must be proportionate. Thus, the state must prove that there is a rational connection between the infringement of freedom of movement and achieving the security objective sought to be achieved, that it is not possible to achieve the security objective by a less harmful means, and that there is a proper relationship between the harm caused to those whose freedom of movement is restricted and the security purpose achieved as a result of the infringement.¹²⁹

As the UN Human Rights Committee explained, the principle of proportionality requires that restrictions on freedom of movement be incorporated in legislation containing clear criteria for restricting the right. States that fail to incorporate the restrictions in legislation contravene the Covenant.¹³⁰

Is protecting Israelis in the West Bank a legitimate security need?

One of the main arguments that Israel raises to justify its many restrictions on Palestinian movement is that they are absolutely necessary to protect the lives of Israeli citizens living in the West Bank and of Israelis living within the Green Line who travel on roads in the West Bank. Clearly, this threat is real: since the beginning of the second intifada, Palestinians have carried out many attacks against Israelis in the West Bank, in which 233 Israeli civilians, thirty-nine of them minors, and seventeen foreign residents have been killed (176 of the total number of dead were killed in the years 2001-2003).¹³¹ There is also no dispute

125. The state admitted to the High Court that Israel intends to sever the villages from Jerusalem in a way that forces a new connection to Ramallah. HCJ 4457/05, *Bir Nabala Village Council et al. v. Government of Israel et al.*, Revised Response of the Respondents, 22 March 2006.

126. Bimkom, *Between Fences*, 34.

127. Regulations attached to the Hague Convention on the Laws and Customs of War on Land, of 1907, article 43.

128. Israel ratified the Covenant in 1991, and is thus required to implement it in respect of every person under its jurisdiction. Israel takes the position that the Covenant does not apply to its actions in the Occupied Territories. Contrary to that opinion, the UN Human Rights Committee, which is the competent body for interpreting the Covenant and monitoring its implementation, holds that the Covenant does apply in the Occupied Territories. See, for example, Concluding Observations of the Human Rights Committee: Israel CCPR/C/78/ISR, of 2003. In its advisory opinion in the matter of the Separation Barrier, given in 2004, the International Court of Justice held that human rights conventions, including the Covenant, apply to Israel's actions in the Occupied Territories as a supplemental source of

that, under international law, the State of Israel must protect the lives of every person in territory under its effective control, regardless of the circumstances or legality of their stay in the territory.

Clearly, protection of the lives of Israeli civilians in the West Bank has been a material consideration, and not only a declaration. But this consideration does not exist in a vacuum. It is derived from broad, improper political considerations without which the need to impose the restrictions on Palestinian movement would never have arisen. The main improper political considerations relate to Israel's desire to perpetuate the settlements and annex de facto certain roads in the West Bank.

The first consideration is improper because the establishment of the settlements in the West Bank, a long-established policy of the Israeli government, flagrantly contravenes international humanitarian law.¹³² The survey presented in the first two chapters of this report clearly show that the draconian restrictions on movement are not intended solely "to protect the lives of settlers," in the narrow sense of the term. Their purpose is, in addition and possibly primarily, to enable the settlers to move about rapidly, with minimum disturbance, to wherever their daily routine dictates. Toward this end, Israel has established an internal road network between settlements. This ability to move about is an additional component of the extensive "basket of benefits," added to the economic and other benefits, offered as an incentive to draw Israelis to the settlements and to aid in perpetuating their existence.¹³³

On this background, had the State of Israel wanted to fulfill – in good faith and with the recognition that the settler's presence is illegal and temporary – its obligation to protect the lives of every settler living in the West Bank, it clearly could have done so by pinpoint means causing much less harm to Palestinian movement than the means it has chosen.

The second consideration – de facto annexation of the roads – is illegal under international law.¹³⁴ Israel manifests this consideration by forbidding Palestinian travel on main roads in the West Bank that serve as principal routes for rapid travel between two points inside Israel. Examples are Route 443, which connects Jerusalem and the Tel-Aviv area, and Route 90 (the Jordan Valley Road), which

law. The High Court of Justice has made a similar holding. See the High Court's judgment, of 2006, in HCJ 769/02, *The Public Committee Against Torture in Israel v. Government of Israel*, para. 18.

129. See, for example, HCJ 2056/04, *supra*, footnote 71, para. 41.

130. UN Human Rights Committee, General Comment No. 27: Freedom of Movement, 2 November 1999.

131. During this period, Palestinians also killed 232 Israeli security forces inside the West Bank.

132. Article 49 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 1949, prohibits the occupying state from transferring parts of its own civilian population into the

runs between Jerusalem and the north of Israel. If Israel had a good-faith interest in protecting the lives of Israelis traveling from one place to another in Israel, without annexing roads in the West Bank, it could restrict, or even prohibit, Israelis from traveling on West Bank roads by developing, inside its territory, substitute roads and means of transportation linking the various points.

In the two cases, the desire to protect the lives of Israeli citizens living in the West Bank and those traveling on its roads is derived from a broader set of considerations relating, in the short term, to ensure the quality of life of those citizens, and in the long term, to advance improper political objectives. In doing so, Israel infringes, to an extent unprecedented in the history of the occupation, the Palestinians' right to freedom of movement. The conclusion is, therefore, that those restrictions on movement, whose primary justification is ostensibly "protection of the lives" of Israelis in the West Bank, are illegal, and the military commander is not authorized to impose them.

Disproportionate restrictions

In addition to the need to protect Israeli citizens living in the West Bank or traveling its roads, Israel claims that the restrictions on Palestinians are intended to help thwart terrorist attacks inside Israel itself. Here, too, it is hard to dispute the existence of the threat: since the beginning of the second intifada, Palestinians have killed 471 Israeli citizens inside Israel (including eighty minors), thirty-six foreigners, and eighty-seven Israeli security forces. Clearly, the military commander in the West Bank has the legal authority to take a variety of measures to meet this security need, including restrictions on movement. Contrary to the consideration of protecting the lives of Israelis in the West Bank which, as we have seen, is derived from improper political considerations, the desire to protect the lives of Israelis on Israeli soil is a legitimate objective not affected by improper considerations.

The primary question is, therefore, are the restrictions imposed by Israel to thwart attacks inside Israel proportionate? Another question also arises: if the means Israel used in protecting the lives of Israeli citizens inside the West Bank are not driven by improper political considerations, as argued above, would the means then be proportionate? These questions will be explored below, using the three tests of the principle of proportionality, and the requirement that the restrictions be specified in legislation, mentioned at the beginning of this chapter, as the basis for discussion.

Rational-connection test

The first test that any infringement of human rights must meet to be considered proportionate is a rational connection between the harm – in our case, restriction

on the freedom of movement – and the declared security objective. A few security experts and many human rights activists question the ability of achieving real security in Israel by the means Israel has chosen. According to this view, there is a converse relationship between restrictions on movement and security of Israelis: the more that Israel restricts Palestinian movement, the greater the hatred by the residents and the readiness to carry out attacks. Even ignoring this argument, the features of some of the restrictions show that the rational connection between restriction of freedom of movement and the declared security objective is, at best, slight. A few examples follow.

Although the restrictions on movement are aimed at making it difficult for Palestinians to sneak into Israel to carry out attacks, the manner in which some of the restrictions are implemented raise doubts as to a substantial rational connection between them and achievement of the declared security objective. By way of illustration, the al-Badhan checkpoint, located north of Nablus, restricts travel to and from the city. It is staffed a number of hours a day, but at night it is open and no soldiers are present. At peak times, Palestinians crossing the checkpoint have long waits, while at night anyone can pass through. The Jaba' checkpoint, at the entrance to Ramallah, also is of questionable security value: it is used to check vehicles entering Ramallah, but persons leaving the city, who can theoretically head toward Israel or a settlement to carry out an attack, pass through with almost no trouble at all.

The large number of such examples strengthens the suspicion that with the passage of time, the authorities have not reviewed the necessity and suitability of the means to achieve the security objectives for which they were ostensibly instituted. It appears that numerous means, such as staffed checkpoints and many physical obstructions, that might originally have been instituted to meet a threat or real security need, remained as a default means, and not because they still served a real security objective.

Doubts of a meaningful rational connection also arise in respect of the permit regime. As described in the first part of this report, the permit regime is aimed at providing a selective solution to the problems resulting from the prohibitions on movement. However, lacking known criteria for the granting of permits or the requirement that reasons be given when a request is denied, a substantial number of the rejections are made arbitrarily. This arbitrariness is evident in many cases in which requests are rejected on grounds that the applicant is “prevented for security reasons” and the decisions are subsequently overturned when a lawyer or human rights organization intervenes. Given the many cases of this kind, it is reasonable to assume that other requests were rejected in a similar manner, without any security justification.

Finally, it is questionable that the prohibition on the movement of Palestinian vehicles on certain roads contributes to the safety of Israelis using those roads.

As explained by Brigadier General (res.) Ilan Paz, who served as Binyamin Brigade Commander and as head of the Civil Administration, in his opinion filed with the High Court of Justice,

The idea... of creating roads on which only Israelis travel is based on the assumption that where only Israeli traffic is permitted there is a lesser risk of shooting attacks by passing vehicles... However, most of the commanders in the West Bank preferred not to use this measure because [it]... enables attacks by other means more easily. If it is known that a certain road is used only by Israelis – there is no danger in hitting a person who is not the intended target... These figures and considerations led to the conclusion that the creation of roads intended for Israeli traffic only leads to greater, and not less, danger.¹³⁵

Lesser-harm test

The second test that must be met for an infringement of a human right to be proportionate is the lack of an alternative that causes less harm in the course of achieving the security objective.

Regarding some of the restrictions, at least, the state was forced to admit that there were untried means that would have caused lesser harm. This was the case, for example, regarding restrictions on certain groups of persons leaving the besieged city of Nablus. In its response to a petition filed in the High Court on this issue, the state admitted that it intended to change its policy regarding implementation of these restrictions, so that they would be applied “only following a concrete warning – where it has information of a terrorist who is about to leave the city of Nablus, and there is no other way to capture him... and that its removal depended on developments in respect of the concrete warning.”¹³⁶ This statement clearly indicates that, until that time, the army preferred not to apply this alternative, and imposed sweeping restrictions unrelated to a concrete warning. It is evident that the harm that would have been caused by a tightening of the siege for a limited time only, as proposed in the framework of the petition, was clearly less than the harm caused by the alternative that was actually selected.

Israel's disregard for a less harmful alternative is seen also in the route chosen for the Separation Barrier, even assuming the mistaken assumption that inclusion of the settlements on the “Israeli” side of the barrier is a legitimate consideration. The route around Jerusalem is one example. This route generally follows the municipal boundary set after the 1967 annexation of land and does not run along the Green Line, leaving on the “Israeli” side not only the settlements in East Jerusalem

territory it occupies.

133. B'Tselem, *Land Grab: Israel's Settlement Policy in the West Bank* (May 2002), chapter 5.

("neighborhoods" in Israeli lexicon) but also Palestinian areas in East Jerusalem, with their 200,000 residents. As a result, tens of thousands of Palestinians living on the eastern outskirts of the city, who are left on the "Palestinian" side of the barrier, are severed from vital services and family and social ties in the city. This harm would be eliminated if Israel had chosen another route, like the one suggested by the Peace and Security Council, which separates the areas in which Israelis live and those areas in which Palestinians live, ignoring the municipal borders.¹³⁷ B'Tselem does not deem this proposal a legitimate solution, but such a route would surely cause substantially less harm than the existing route.

Furthermore, to meet this test, Israel must choose a substitute route, built entirely along the Green Line, that does not separate so many Palestinians and so much Palestinian land from the rest of the West Bank, as the present route does.

In its decision on the security barricade built on Route 317, the High Court of Justice held that there were a number of alternate means that would cause less harm, some suggested by the petitioners and their security experts but rejected by the state, and ordered that the barricade be dismantled. The justices stated that, "When the respondents were offered a number of rational alternatives to achieve the same security objective, they were required to select the one that infringes human rights the least. The respondents did not meet this obligation."¹³⁸

Finally, even if the reason underlying the decision was a legitimate security consideration, the prohibition on Palestinian vehicles on certain roads still fails to meet this test. Over the years, the authorities preferred to ignore alternatives that would provide proper protection for the settlers, such as protected, bullet-proof vehicles used by settlers or by having them use protected, bullet-proof public transportation, allocation of troops to accompany them, or army observation posts along the road.

Proper-relationship-between-harm-and-benefit test

In the third test, there must be a proper relationship between the harm that the restriction causes and the security benefit to be gained by the infringement. Even when there is a rational connection between harm and objective, and even when the means used result in the lesser harm, it is still necessary to determine whether the extent of the harm is in proper proportion to the benefit that will be achieved.

The sweeping and protracted restrictions on freedom of movement, as shown in chapter 3 of the report, greatly affect all aspects of life in the West Bank. These

134. Unilateral annexation of territory occupied in war is a flagrant breach of international customary law and infringes the right to self-determination of the people whose land is occupied. For a discussion on the sources of these principles in international law and their breach by Israel resulting from the

restrictions lead to the infringement of other human rights, such as the right to health, to family life, and to work and earn a livelihood. The restrictions on movement have severe long-term effects on economic and social development of the West Bank and of Palestinian society in general. Regarding some of the means used, there is concern that the security benefit attained is marginal and far inferior to the harm they cause. This is especially true in light of the large number of means that are used and the long period of time that they have been in force.

This is the case, for example, with the group restrictions on movement of the area of besieged Nablus. These restrictions cause extensive, profound harm and affect fundamental aspects of the fabric of life in the area: many of the residents have lost their jobs and ability to support their families; pupils and students cannot complete their studies and exams; residents of nearby villages are unable to receive regular medical care or other basic services; many persons find themselves separated from their families living outside the besieged area, and so forth and so on. The harm is aggravated as a result of the sweeping nature and extensive duration of the restrictions.

To aggravate matters, the group restrictions in the Nablus area are an additional means to the many others imposed on the area, the primary one being the necessity to leave and enter the city via the staffed checkpoints where the resident undergoes a stringent security check. In light of this, even if the group restrictions have a certain measure of effectiveness in achieving their security objective, it is hard to find a reasonable relationship between the added benefit that the army contends they provide and the unreasonable harm that they cause to the local population.

Failure to incorporate the restrictions in military orders and legislation

Almost none of the restrictions on the movement of Palestinians in the West Bank is incorporated in the military legislation or in any written order; rather, these directives, which have such a far-reaching effect on Palestinian life, are handed down the chain of command verbally until they reach the soldier at the checkpoint or patrolling the roads. There is no order precisely specifying the restriction's purpose, scope, or duration. This is true, for example, regarding the prohibition on use of certain roads by Palestinian vehicles, the sweeping prohibitions imposed on the Palestinians passing through the siege checkpoints of Nablus, and the prohibitions on entering the Jordan Valley.

A regime of restrictions that has continued for seven years without being enshrined in legislation or written orders is ripe for arbitrary infringement of Palestinian rights. Without an official, announced, and binding order delineating the rationale for the restriction, and setting the conditions for its enforcement, it is difficult, and sometimes even impossible, to monitor the restriction, and it grants

the authorities almost unlimited latitude in avoiding accountability, even to the extent of denying the very existence of the restriction.

For example, in response to journalist Akiva Eldar's question regarding Route 443, the IDF Spokesperson's Office stated that, for security reasons, "Central Command decided to close several access roads directly linking the villages to the road," but "there is no prohibition by IDF forces on Palestinian movement along the section of the road located in Judea and Samaria."¹³⁹ Later, in response to a petition filed by the Association for Civil Rights relating to the same matter, the army was forced to admit that such restrictions were indeed imposed, and that they "have been applied for a long time."¹⁴⁰

For this reason, too, one is hard-pressed to consider the varied restrictions on freedom of movement proportionate.

Restrictions on movement as collective punishment

In addition to the legal rules discussed so far, international humanitarian law prohibits collective punishment. Article 50 of the Hague Regulations states that, "No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they can not be regarded as jointly and severally responsible." Article 33 of the Fourth Geneva Convention states, similarly, that, "No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited." Regarding freedom of movement specifically, the UN Human Rights Committee, which is the authorized body for interpreting the International Covenant on Civil and Political Rights, stated that it is forbidden to deny freedom of movement except in the case of a person suspected of personally endangering public safety. The Committee justified its determination on protecting the relationship between the ability to exercise the right, which constitutes the rule, and the restriction, which is the exception.¹⁴¹ On this background, does Israel's policy constitute collective punishment?

Israel contends that the restrictions on movement are part of a continuing battle against security threats, and their purpose is to deter and not to punish. However, the vast majority of the victims of the restrictions are not suspected of personally being security threats. The state sought to justify the siege on Nablus, for example, on the claim that, "the intelligence in the hands of defense officials is not complete, and they do not have a complete list of terrorists who endanger

building of the Separation Barrier, see the Advisory Opinion of the International Court of Justice, especially para. 74, 75, 87, 88, 117, and 122.

135. HCJ 3969/02, *supra*, footnote 70.

the security of Israel," and, therefore, "the military commander's struggle with the terror operating within and from the civilian population requires that security actions be taken that are liable to harm all or part of the population of the area."¹⁴²

Even accepting the argument that there is no more selective way to restrict the freedom of movement of potential security threats, and that the intent is not to punish but to neutralize existing threats, the results of the restrictions and the fact that most of them have been imposed continuously for seven years lead to the inescapable conclusion that the restrictions constitute collective punishment.

The restrictions on movement are tainted by racial discrimination

International law prohibits states to discriminate between persons under their jurisdiction on grounds, among others, of national origin. This prohibition is enshrined, for example, in the Convention on the Elimination of All Forms of Racial Discrimination, which the UN General Assembly adopted in 1966, and which Israel ratified in 1979. Article 1.1 of the Convention defines "racial discrimination," as follows:

Any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Article 5(d)(1) of the Convention incorporates the right of every person to freedom of movement within the borders of the state without discrimination. In addition, article 4 of the International Covenant on Civil and Political Rights, which allows states to derogate from some of the rights specified in the Covenant, including from the right to freedom of movement, "in time of public emergency which threatens the life of the nation," prohibits in these cases as well measures that involve discrimination solely on the basis of race, color, sex, language, religion, or social origin.¹⁴³

Contrary to this prohibition, one of the major tenets of Israel's policy on freedom of movement in the West Bank, as seen in its implementation, is that every Palestinian constitutes a security threat, thus justifying infringement of the right to move about freely. State officials often argue that the collective restrictions on

136. HCJ 7757/06, *supra*, footnote 21, Response on Behalf of the Respondent, 7 January 2007, section 3.

movement are not racial discrimination, but result from the lack of alternative measures that can be aimed solely against the persons suspected of prohibited activity. However, given that the test under international law is based on results and not on motives, the very application of this tenet turns Israel's policy into racial discrimination.

Furthermore, Israel has argued on several occasions that the restrictions imposed on West Bank Palestinians do not constitute improper discrimination, but constitute permissible distinction between citizens and non-citizens of the state.¹⁴⁴ However, Israeli citizens living and traveling inside the West Bank are not citizens of the area in which the restrictions are placed, and are there in breach of law. Such a separation, which creates preferred conditions for citizens of the state to those granted non-citizens who are protected persons in occupied territory under its control, is not a permissible distinction. The UN Committee charged with implementing the Convention on the Elimination of All Forms of Racial Discrimination observed on this point:

The Committee recommends that the State party review its approach and interpret its obligations under the Convention in good faith, in accordance with the ordinary meaning to be given to its terms in their context, and in the light of its object and purpose. The Committee also recommends that the State party ensures that Palestinians enjoy full rights under the Convention without discrimination based on citizenship and national origin.

Specifically on the right to freedom of movement, the Committee added:

The Committee is deeply concerned that the severe restrictions on the freedom of movement in the Occupied Palestinian Territories, targeting a particular national or ethnic group, especially through the wall, checkpoints, restricted roads and permit system, have created hardship and have had a highly detrimental impact on the enjoyment of human rights by Palestinians, in particular their rights to freedom of movement, family life, work, education and health.

The State party should review these measures to ensure that restrictions on freedom of movement are not systematic but only of temporary and exceptional nature, are not applied in a discriminatory manner, and do not lead to segregation of communities. The State party should ensure that Palestinians enjoy their human rights, in particular their rights to freedom of movement, family life, work, education and health.¹⁴⁵

137. The opinion was submitted in HCJ 6080/04, *Dr. Ahmad Bader Muselmani et al. v. The Prime Minister et al.*

138. HCJ 1748/06, *supra*, footnote 72, Judgment, 14 December 2006.



Conclusion: Checkpoints Regime

As a result of the unprecedented restrictions on movement that Israel imposes in the West Bank, for close to seven years, hundreds of thousands of Palestinians spend, daily, many hours trying to get from one place to another within as reasonable a time as possible. Given that they learn only at the last moment if they will receive a permit, if they will be allowed to cross the checkpoint, or how much time they will have to wait before crossing, the residents of the West Bank live constantly in a state of uncertainty and are unable to make plans, even from one day to the next. The only thing they can be certain of is that their lives will revolve around their attempt to reach their destination. Meeting someone, attending a family affair, carrying out an obligation, anything that entails passing a checkpoint, always remains in doubt.

This being the case, many Palestinians cut back as much as possible on the need to travel from one section of the West Bank to another, and even from the subsection of the West Bank in which they live to a neighboring subsection. They refrain from traveling also because they do not want to undergo the humiliation of having to justify to the officials of the occupying state why they want to go from one place to another in their own country. Consequently, Israel's restrictions-on-movement regime limits many Palestinians to the area of the town or village in which they live, causing severe and prolonged harm to every aspect of their lives. Beyond the immediate harm they suffer, the geographic division of the West Bank causes long-term harm to the economic, social, and political life of the entire Palestinian society, making it very difficult for the Palestinian people to exercise its right to self-determination.

The State of Israel has the right, even the duty, to protect its citizens from threats to their security. Israel justifies the restrictions it imposes on Palestinian movement in the West Bank as necessary to achieve defined security objectives, and claims the measures are imposed for a limited period of time. It may be that this was initially true for some of the restrictions. However, it appears that these means have continued to be applied even after the temporary and specific security need has passed, and are now used to achieve other objectives. Chief among these objectives is the desire to control and regulate Palestinians' movement so as to separate them from settlers and other Israelis on West Bank roads.

In instituting the restrictions, Israel has done much to improve the means it uses: blocking a road by an army jeep and spikes led to temporary posts, which led to concrete structures, which over time became terminals, similar to any other international border, with three lanes and revolving gates with control buttons operated by a soldier posted a distance away.¹⁴⁶ The arbitrariness, vagueness, and uncertainty characterizing the restrictions regime also expand the scope of control, inasmuch as they deny the residents the ability to maneuver and plan that a system of draconian, but known, rules would provide.

These features also characterize the false promises Israel routinely makes on "easing of restrictions" that it instituted or was planning. Against criticism of the human rights violations caused by the Separation Barrier's route, for example, state officials contended that the barrier will enable, among other things, a reduction in military activity and removal of some checkpoints and physical obstructions in the West Bank. Extensive sections of the barrier have been completed for some time, yet the promise has not been kept. Also, the government's declaration, made in December 2006, that it would ease inspections at fifteen checkpoints and remove forty-four physical obstructions has not been realized. The monitoring by B'Tselem and other organizations shows that most of the checkpoints in the plan were only partially staffed or were checkpoints where the inspections were superficial in any event. Also, the forty-four physical obstructions did not include those that greatly affected Palestinian life. In fact, some of them had been removed – after it was found they were useless – prior to announcement of the plan.¹⁴⁷

In light of the findings of this report, B'Tselem calls on the government of Israel and the defense authorities to:

- immediately remove all the permanent and sweeping restrictions on movement inside the West Bank, including those parts of the Separation Barrier that extend into the West Bank. In their place, Israel should concentrate along the Green Line or inside Israel the means used to protect Israelis;
- act immediately to evacuate all the settlements in the West Bank. Until this is done, Israel must safeguard the lives of the settlers, giving preference to means that restrict their freedom of movement and not that of the Palestinians, who are the protected population of occupied territory;
- verify, before any temporary restriction inside the West Bank is approved, that the restriction is indeed needed for a legitimate security purpose and that the resultant harm to the Palestinian population will be proportionate. Such a restriction must be incorporated in a written order that specifies the nature of the restriction and the period of time it will remain in force.

139. Akiva Eldar, "How they Read the Law on Route 443," *Ha'aretz*, 26 September 2006.

140. HCJ 2150/07, *supra*, footnote 34, Response on Behalf of the Respondents, 4 June 2007.

141. UN Committee on Human Rights, General Comment No. 27.

142. HCJ 7757/06, *supra*, footnote 21, Response on Behalf of the Respondent, 7 January 2007.

Response of the Ministry of Justice



State of Israel Ministry of Justice

The Human Rights and Foreign Relations Department

The following is a translation of the Hebrew version, In case of divergence of interpretation, the Hebrew text shall prevail.

Date: 21 Av, 5767

August 5th, 2007

Ref: 2879

To: **Ms. Anat Barsella**
Btselem Organization
8 HaTa'asiya St. 8, Talpiot
Jerusalem
Israel

Dear Ms. Barsella,

Subject: **Reference to the Btselem Draft Report Regarding Restrictions on Movement**

In response to the draft report which has been received in our office. Our response is as follows:

1. We were requested to submit our reference to the Btselem report in question.
2. At the outset, we shall present our general response with regard to restrictions on movement imposed in the region. Afterwards, we shall respond to specific claims raised by the report, based on the relevant facts as they are known to us.
3. We wish to point out that the present reference does not pretend to respond to the entirety of the report's specified, elaborate claims. As the majority of these claims are factual claims, we are unable to comment in regards to them.

4. It is superfluous to point out that presenting us with a report which refers to specific cases, but is devoid of identification details, does not allow the relevant bodies, (led by the IDF), to review the specific cases raised by the report, and to examine and deal with those claims as required.
5. Moreover, a considerable portion of the claims raised by the report have been rejected by the High Court of Justice, while others are pending, or at various other stages of deliberation before the High Court of Justice.

A. Restrictions on Movement– General

6. We wish to make clear at the outset that the report in question makes no reference at all to the State of Israel's' broader security needs, which are legitimate overall, and form the foundation of the restrictions on movement, as it has been imposed in Judea and Samaria. The report indicates only that there is a possibility that part of the restrictions on movement did at the outset serve legitimate security needs, however according to the authors of the report, those restrictions remained in force after the need for security had come to its end, and serve at present for inappropriate purposes.
7. With all due respect this last statement by the report's authors is by **its very nature groundless.**
8. As to the general security need that is at the basis of the restrictions on movement imposed in Judea and Samaria, we wish to remind that from the very beginning, that is, since September 2000, the State of Israel has been coping with a terror attack of unprecedented strength, which is addressed towards the citizens of Israel wherever they may be, and towards Israelis who live and pass through the region.
9. In this matter, please refer for example to the words of the former President of the Israeli Supreme Court, his honorable Justice Barak, regarding the Alfei Menashe Affair (HCJ7957/04, Maraaba v. the Prime Minister of Israel, Takdin-Supreme, 3333, (3)2005, as follows:

“1. Terrorism and the Response to It

1. In September 2000 the second intifada broke out. A mighty attack of acts of terrorism landed upon Israel, and upon Israelis in the Judea, Samaria, and Gaza Strip areas (hereinafter – the area). Most of the terrorist attacks were directed toward civilians. They struck at men and at women; at elderly and at infant. Entire families lost their loved ones. The attacks were designed to take human life. They were designed to sow fear and panic. They were meant to obstruct the daily life of the citizens of Israel. Terrorism has turned into a strategic threat. Terrorist attacks are committed inside of Israel and in the area. They occur everywhere, including public transportation, shopping centers and markets, coffee houses, and inside of houses and communities. The main targets of the attacks are the downtown areas of Israel's cities. Attacks are also directed at the Israeli communities in the area, and at transportation routes. Terrorist organizations use a variety of means. These include suicide attacks (“guided human bombs”), car bombs, explosive charges, throwing of Molotov cocktails and hand grenades, shooting attacks, mortar fire, and rocket

fire. A number of attempts at attacking strategic targets (“mega-terrorism”) have failed. Thus, for example, the intent to topple one of the Azrieli towers in Tel Aviv using a car bomb in the parking lot was frustrated (April 2002). Another attempt which failed was the attempt to detonate a truck in the gas tank farm at Pi Gllilot (May 2003). **Since the onset of these terrorist acts, up until mid July 2005, almost one thousand attacks have been carried out within Israel. In Judea and Samaria, 9000 attacks have been carried out. Thousands of attacks have been carried out in the Gaza Strip. More than one thousand Israelis have lost their lives, approximately 200 of them in the Judea and Samaria area. Many of the injured have become severely handicapped.** On the Palestinian side as well, the armed conflict has caused many deaths and injuries. We are flooded with bereavement and pain.

2. Israel took a series of steps to defend the lives of her residents. Military operations were carried out against terrorist organizations. These operations were intended to defeat the Palestinian terrorist infrastructure and prevent a reoccurrence of terrorist acts (see HCJ 3239/02 Marab v. The Commander of IDF Forces in the Judea and Samaria Area, 57(2) P.D. 349, hereinafter – Marab; HCJ 3278/02 The Center for Defense of the Individual v. The Commander of IDF Forces in the West Bank Area, 57(1) P.D. 385. These steps did not provide a sufficient answer to the immediate need to halt the severe terrorist attacks. Innocent people continued to pay with life and limb...” (bold text added)
10. As the former honorable President of the Israeli Supreme court, Mr. Aharon Barak, has noticed, in the on-going fight against terrorism, the security forces face various and different threats. In order to provide an answer to the threats addressed towards the State of Israel, and against the Israelis who live in the area, the military commander is authorized, **and is often obligated**, to undertake various security measures that may, as much as possible, provide a response to these threats.
11. Thus, as part of his duty to protect the State of Israel, and the lives of the area’s residents, the military commander undertakes security measures targeted at thwarting terrorist attacks. This authority has also been recognized in the ruling, in the verdict pronounced by the honorable judge (her title at the time), Beinisch, in HCJ 9593/04, the head of the Yanon village council v. the military commander of the IDF forces in Judea and Samaria, Tak-Al 4362(2) 2006 (2006) (Hereinafter: “The Yanon Village Affair”), as follows:

“12. The Judea and Samaria area is held by the State of Israel under a belligerent occupation, and there is no dispute that the military commander, appointed on behalf of the State of Israel over the region, is authorized to instruct, through an order issued, on the closure of the entire area, or part of it, and by this prevent the entry and exit of people from the closed area. This authority of the military commander derives from the belligerent occupation rules, based on the international public law, the military commander’s duties are to assure the peace of the region’s residents, their security, and the region’s public order (see article 23 (g) and article 52 of the Regulations concerning the Laws and Customs of War on Land, supplementing the fourth (IV) Hague Convention of 1907; respecting the Laws and Customs of War on Land and its annex (hereinafter: Hague Regulations); article 53 of the 4th Geneva Convention relative to the Protection of Civilian Persons in Time of

War, 1949 (hereinafter: the Fourth Geneva Convention); HCJ 302/72, Chilo v. the Government of Israel, verdicts KZ(2) 169,178-179 (hereinafter: "UCJ Chilo"). This military commander's allotted authority, is also anchored in the security legislation in article 90 of the Security Commands' Order (see for example: HCJ Chilo, at pages 174,179; Israeli Supreme Court 6339/05, Matar v. the IDF forces commander in the Gaza Strip, verdict NT (2) 846, 851-852)..."

12. Unfortunately, the terrorism threat which took the lives of over a thousand Israeli citizens', necessitates in certain cases, that there be a restriction on the freedom of movement within the area. **This need derives from the fact that the Palestinian Terrorism operates from within the civil population under its auspices, whilst obstinately and severely violating international law.** This intricate reality dictates, in certain cases, the imposition of restrictions on movement within the area.
13. One has to point out that when imposing these restrictions, the military commander recognizes the local population's needs. As such he undertakes great effort, including the allotment of vast resources, in order to alleviate, to the extent possible, any difficulties caused to that part of the population which is not involved in terrorist activity. He must do all this in parallel with fulfillment of his duty under the international law, to fight terrorism and to secure the public order, and public life in the area.
14. Thus, even though restrictions on movement are imposed, many efforts are made to relieve the local population, either by verifying the existence of reasonable alternatives for the movement of Palestinians in the area, and also by placing special emphasis on the freedom of movement of ambulances, medical crews, and those residents who are in need of medical care.
15. Finally, it should be stressed that operating in its jurisdiction as the High Court of Justice, the Israeli Supreme Court has affirmed, in a long list of verdicts, that the military commander is authorized to impose restrictions on movement within the area, in order to provide a solution to legitimate security needs, as long as these restrictions respect the principles of proportionality.

B. Placing Road Barriers and Roadblocks

16. One chapter of the report extensively examines the effect of physical obstructions placed by security forces on the roads of Judea and Samaria – i.e. physical blockages, manned barriers, and movable surprise barriers. The report claims that these obstructions dissect Judea and Samaria into segments, and that passage between those segments is limited and controlled.
17. Contrary to what is claimed in the report, the barriers so placed by security forces on the various roads of Judea and Samaria, have a clear security purpose. They constitute an important aspect of the overall effort by security forces to disrupt the activity of Palestinian terrorist organizations. These barriers aim to render the passage of attackers, and the transfer of war materials within the area, more difficult. The barriers assist in preventing the free and uncontrolled movement of terrorists in the region. Furthermore, where terrorists have attempted to execute attacks, (whether those attacks be within

the region itself, or on the Israeli home front), the existence of barricades makes it much harder for the attackers to subsequently escape- particularly into areas A and B especially.

18. This is evidenced by the fact that in recent years, **thousands of terrorist activists have been arrested** at various road blocks and barriers in Judea and Samaria. Some of those arrested were potential suicide bombers, high ranking members of terrorist organizations, collaborators and more. In addition the road blocks have prevented the passage of war materials, **including explosives' belts and various weapons**, which were intended for use against specific Israeli targets and innocent civilians.
19. In actual fact, one can say with certainty that the operation of road barriers has in recent years, thwarted dozens - perhaps hundreds, of sabotage attacks aimed at Israeli targets.
20. IDF forces are well aware of the problems faced by the local population in those parts of Judea and Samaria where road blocks are in use. In response, they are set to offer appropriate solutions where possible. Some of the solutions adopted by the IDF in recent years include the implementation of procedures which aim to provide better treatment of the local population, residing in the area and who regularly pass through the barriers situated there, and at the road blocks between Israel and the area.
21. In addition, the Ministry of Defence has invested vast resources (many millions), into improvement of the infrastructure of the various check points, in order to relieve the passage of the general population.
22. The implementation of barriers and road blocks in Judea and Samaria necessarily causes certain discomfort and delay of movement within the area. Considering however, the proven security effectiveness of these barriers and roadblocks, and their importance in the overall effort of fighting terrorism, and the steps undertaken in order to alleviate the damage caused to the local population, road blocks and barriers may be viewed as a much needed and proportional security measure.
23. It seems appropriate here to refer to what the former vice-president of the Israeli Supreme Court, Justice Mishael M. Cheshin, has written in a petition that dealt with the issue of roadblocks in the Nablus region:

“We all agree that the situation of the villages’ residents is not easy, but we have to take into account at the same time the security considerations, which led to the burdening of the traveling on the roads. As has been explained to us by the State representative, in writing as well as orally, the city of Nablus, serves as the source for terrorists who set out on killing and destruction missions in the territories and in Israel, and all those means undertaken by the IDF, are only for the purpose of protecting the lives of Israeli citizens and settlers in Judea and Samaria ...

We have heard the arguments of the petitioners’ lawyers, and with all the empathy which we may feel towards the petitioners, since all of them or, at least the majority among them certainly, did not sin – we did not find any cause to tell the respondent that actions committed by him, deviate from the domain of reasonability or from the suitable proportionality. Indeed, the respondent

could have also taken other means to protect the lives, but we have not found that the way he undertook indicate any fault or aberration” (HCJ 2847/03, Hassan Alaouna et. Al. v. the commander of the IDF forces in Judea and Samaria.

24. And in another verdict which dealt with the issue of placing road blocks in the Bethlehem area:

“There is no doubt that the blocking of free exit from Beit-Jalla puts a considerable burden on the residents of the western neighborhood, namely the “Tali Ta-Komi” neighborhood. A strong discomfort is caused to the residents of the neighborhood, and everyone agrees on that. Nevertheless the roadblocks, which have been erected at the place, were aimed to save human lives, and despite all that is said in the petitions and the oral arguments which we have heard, we have not found that the military authorities deviated from the appropriate measure, in wanting to protect human lives”. (HCJ 2410/03, Lemiya Arja et. al v. the IDF commander in Judea and Samaria.

C. Restrictions and Prohibitions to Movement on the Road

25. The report refers to roads on which the movement of Palestinians has been limited. It is claimed that there are a large number of roads on which free movement is almost exclusively confined to Israeli citizens in general, and settlers of Judea and Samaria in particular.
26. Our answer to this argument, is that the absolute majority of the roads in Judea and Samaria, enable the movement of Palestinians, without the need for a certain permit. Only in a few isolated cases, where the measure is proportionate, and there is a clear security concern requiring as much, will the military commander limit Palestinian movement on the road.
27. Take for example, the illustration cited in the report of the 443 road. As stated in the report, the movement of vehicles carrying Palestinian license plates is partially limited on this axis. What has not been mentioned in the report, is that this limitation was imposed by the military commander for lack of any alternative, and as a response to a long list of murderous terrorist events along the road, which have claimed the lives of several Israeli citizens and injured many others who were traveling on the road in question.
28. With complete understanding of the importance of freedom of movement for the local population, the military commander could not consent to the reality of the given security concern, at the beginning of the fighting events, when every Israeli who drove along road no. **443** – was putting his/her life at risk.
29. Bear in mind that in many cases, security needs required movement restrictions, to be imposed on Israeli citizens only - a fact which was not mentioned in the report. As an example, we shall point out that travel on all roads in the “A” area, is prohibited for Israelis (unless a specific permit is issued by the authorized entities). Similar prohibitions apply to many other roads which extend throughout the area.

30. Nonetheless, it is important to note that ongoing assessments of the matters, based on the security reality are conducted, and as far as possible, and subject to the security constraints, alleviations will be carried out in favor of the local population.

D. Discriminatory Enforcement of the Traffic Laws

31. As occurs throughout Israel, enforcement policy in the Judea and Samaria District specifically targets traffic violations of a kind that commonly cause road accidents, and is intended to save lives, and it has no discrimination on any basis, and any other claim is fundamentally groundless.
32. Traffic Department Officers in Judea and Samaria District pull over vehicles systematically and routinely, ignoring the drivers' identity whatever it may be. Having regard to the composition of the regions population, in that the Palestinian population per capita significantly exceeds that of the Israeli population, it is certain that the numerical claim raised in the report has no hold in the given data.
33. Moreover, contrary to what is claimed in the report, Judea and Samaria District Police data indicate that of the 51,198 reports written in 2006, 45% were against Palestinian drivers, while 55% were against Israeli drivers.
34. Also contrary to what is stated in the report, the majority of the issued reports, (over 85%), were made in response to violations that cause road accidents, disturb the quality of life, and constitute acts of hooliganism. Enforcement of these acts maintains safety and saves lives, and are violations in which by their very nature, the driver's conduct bears no relation to his identity.

E. Imposing Encirclement on Specific Regions in the Area

35. Additional movement restrictions discussed by the report make reference to the imposition of a "siege", meaning the "encirclement" of a specific region within an area.
36. The main security rationale behind the imposition of encirclement around a certain cell within the area is to manifest complete control over those who enter and exit the area. An encirclement is based on permanent roadblocks, which enable control and supervision of the local population, the level of which varies according to ongoing security assessments. Additionally, the encirclement prevents the flow of potential attackers and war materials to and from the region, it facilitates security forces in thwarting attacks and arresting wanted terrorists throughout the city, and it makes it considerably more difficult for terrorist organizations to execute terrorist attacks.
37. At the end of the year 2000, and consequential to the outburst of violent attacks in the area, an encirclement was imposed on most of the cities in Judea and Samaria. This action was taken in response to the security considerations detailed above. It had become apparent that it was from these cities that the majority of the attacks against the State of Israel were launched, and that these cities have become a center for the activity of the Palestinian terrorism infrastructures.

38. These days, the only city under encirclement, is the city of Nablus. This city is the focal point for the terrorist organizations in Judea and Samaria, and throughout the years of armed conflict, the largest number of terrorist attacks have been initiated from there, taking effect both within the area itself, as well as in the heart of the State of Israel, where many murderous attacks were executed. It is not for nothing that this city has gained the dubious title, "the Capital of Terrorism".
39. All the Palestinian terrorist organizations operate throughout the city. The most central among them are: "Hamas", the "Islamic Jihad", the "PLO" and the "Tanzim". Despite the many changes which have taken place over the years on the "Terrorism Map", both in Judea and Samaria in general, and in the Nablus district in particular, the terrorist infrastructure throughout the city relentlessly continue in their attempts to execute terrorist attacks. The launching of suicide bombers and attacks is directed, in particular, inside the State of Israel.
40. In illustration, our data indicates that during the year 2004 alone, the terrorist infrastructures in Nablus attempted **over 120 attacks of various description**, which represent about **60% of the overall attempts of the terrorist organizations in Judea and Samaria to execute attacks from the area**. In 2004, some 18 explosives belts were caught in this region, and an additional 11 explosives belts, which got out of this region were caught in neighboring districts (namely, the overall number which has been detected by the IDF forces during 2004, amounts to **29 explosives belts which had been manufactured in the city of Nablus**).
41. Between the months March-May 2006, some 45 wanted persons from the city of Nablus were arrested at the encirclement roadblocks, and 108 wanted persons were arrested in their homes within the encirclement region. Among them were 30 potential suicide bombers. On average, some 50 wanted persons were arrested per month from the city of Nablus during this period. Furthermore, during the months May-July 2006, the IDF forces thwarted no less than 14 suicide attacks that originated from the city of Nablus, and were targeted at the rear of the State of Israel.
42. As specified above, a central feature of encirclement in general, and particularly of the encirclement of Nablus, is the implementation of permanent barriers and roadblocks stationed on the main roads leading to the encirclement area. These roadblocks enable security control to be executed, which is at the basis of the security need in imposing the encirclement, **and owing to which dozens, even hundreds, of terrorist attacks against Israeli targets, have been thwarted**. Thus, for example, during 2004 some 350 wanted persons were arrested at the roadblocks surrounding the city of Nablus. In addition many war materials, including explosives belts ready to use, bombs, weapons and more, were caught at these barriers.
43. **It should be emphasized that in light of a security situation estimate, no limitations are currently imposed on the entry and exit of the residents of Nablus and its surroundings. Excluding those who wish to exit the city by vehicle, residents of Nablus and its surroundings are authorized to exit the encirclement district without the need to obtain any authorization**. Furthermore, the age limit mentioned in the report as a restriction on movement, is imposed only for very short periods, when a concrete security alert is announced regarding the exit of a potential attacker from the Nablus city area, where that situation can not be coped with by other means. (This was

also the position taken by the State in a petition filed to the High Court of Justice in the matter of the Nablus encirclement, which is still pending – HCJ 7577/06).

44. It should also be stressed that IDF forces devote considerable effort and resources in order to minimize the harm to the daily life of the local population living in the encirclement area. First and foremost, in recent years substantial resources and monies have been invested to improve the infrastructures at the permanent roadblocks surrounding the encirclement area. This has been done in order to alleviate the inconvenience of the conditions of passage, and security checks performed on the local population at these roadblocks. This improvement is an ongoing process. At present the intention is to invest additional resources in this domain, in order to further facilitate movement for the local population. Moreover, factors within the Civil Administration, (MATAK Nablus), also undertake constant efforts to reduce the harm inflicted on the local population within the encirclement area, and to solve problems made apparent to them by Palestinian residents.
45. As to claims regarding the passage of Palestinians to the Jordan Valley district, we have to note that at present there exists no prohibition as to the passage of Palestinians by foot to the Jordan Valley area, even though such a passage is subject to security checks at both the Tyasser and Bekaot passages.

F. The Security Fence and the Seam Zone

46. As mentioned at the outset, from the end of the year 2000, the State of Israel found itself confronted by an unprecedented and ferocious terrorist attack, aimed specifically at the citizens of Israel, and Israelis residing and traveling within the area. In light of this situation, the Israeli Government decided on the erection of the security fence. The security fence **is a temporary measure which has been erected solely for security reasons.**
47. As at the last government resolution, dated 30.4.06, the Government of Israel reaffirmed that the fence was constructed for security reasons. This position has also been consistently adopted in the Supreme Court's ruling.
48. It is the right and duty of the State of Israel, to protect its citizens, and this applies not only to those living in its sovereign territory, but also to the citizens of the State of Israel living in Judea and Samaria. This principle was given explicit recognition by the Supreme Court in a series of verdicts, (see for example, HCJ 2645/04, Farres Ibrahim Nasser et. Al. v. the Prime Minister of Israel et. al. - a verdict given on 25.4.07 by a panel of judges presided over by her Honorable President Beinisch, regarding a segment of the security fence at the Modiin -Illit area).
49. The data in the report concerning the number of Palestinian residents residing within the "seam zone" is unfounded. At present there are some 7,000 residents within the seam zone. The completion of the route will result in some additional 1,000 residents, mostly in the "Jerusalem Envelope" area, "[Otef Jerusalem]", being included within this zone.
50. Moreover, the planned route alterations announced by the State at the Barta area, Harbat Jabarra, and Alfei Menashe, will eventually leave several hundred Palestinian residents within the Seam zone. The report includes within the Seam zone the 19,000

future residents of the Gush Etzion region. In this context it should be pointed out that within the Gush Etzion region, the announcement of the Seam zone shall not apply, and therefore a "closed area" is not the issue.

51. Regarding the declaration of the seam zone, it is for now applied only to phases A and B of the security fence – or that area between Tirat Zvi and Elkana.
52. It is appropriate to note, that there are two pending petitions before the Supreme Court, which deal with the issue of the permits' regime within the seam zone:- H CJ 639/04, H CJ 9961/03. A court session was held regarding these petitions on 18.2.07 and we are awaiting the verdict of them.
53. It should be clarified that even after the declaration shall apply to additional Judea and Samaria areas, access to them **shall not be prevented**, but shall be made possible on the basis of a permanent residency certificate, and/or a permit issued by the Civil Administration to those having linkage to the area.
54. Entry to the seam zone, following the application of its declaration as a seam zone, will be made possible on the basis of **Permanent Resident Certificates** (without permit) which are issued to the residents of the seam zone, as long as they prove their legitimate claim for permanent residency in the area. We do not know of any case where the authorities have refused to issue a certificate to anyone who has proved his rightful claim of permanent residency within the seam zone area. Moreover, access for residents of the Judea and Samaria region is enabled, (outside the fence's area), on the basis of a permit to the seam zone and the authorizations to sojourn within it.
55. Regarding passage in the Jerusalem area, the erection of the fence has not altered the status of East-Jerusalem residents. For permanent residents and holders of Israeli identification cards, the erection of the fence has not harmed the ability to access Jerusalem. The entry and exit of Israelis to and from Jerusalem is made possible, without any difficulty, through 12 passages spread around Jerusalem. Waiting times at these points are relatively short. The entry of Palestinians into Jerusalem requires an entry permit to Israel. This has been the case since the abolition of the general permit in 1991, and is not related to the erection of the fence.
56. With regards to Azoun-Atma. The gate leading to Azoun-Atma, which is situated to the north of the village, is open at all hours of the day enabling the free movement of its residents to and fro. At night the opening of the gate is carried out by soldiers who are stationed at a guard post adjoined to the passage. It should also be noted that, based on the resolutions of the Government of Israel, security administration is now at advanced stages of an updated fence route plan for the village area. The updated route will include the dismantling of the fence north of the village, thus enabling direct passage between it and the rest of the Judea and Samaria, without the need to pass through the said gate.
57. Regarding the relationship between the security fence and the permits regime, see the Supreme Court's reference in H CJ 4825/04, *Alian v. the Prime Minister of Israel* Tak-Al 2006 (1)3736 (2006)

"16. The conclusion according to which it is impossible to draw an alternative geographical route to the fence, the damage of which is less significant, does not conclude, in itself, the evaluation of proportionality in its second meaning.

When examining the proportionality of damage which the fence creates, the geographical outline, the permits regime and the passages to the lands left west of it are linked one to the other...

17. ...the fence's erection stemmed from an imperative security need. Its aim - is to protect the lives of Israeli citizens from terrorist attacks. Its foreseen efficiency is therefore extremely great. On the other hand, the damage to the petitioners is not hard and severe to such an extent, that it is an un-proportional one. The damage of the security fence to the residents of the villages petitioning should not be taken lightly. As described, the erection of the fence at the Boudrus area, involves damage to tens of trees, the seizing of a land strip of an overall area of some 45 dunam, and cutting off a land strip in a similar area which was west to the fence. The erection of the fence at the Shoukba area necessitated the transfer of some 130 olive trees, the seizing of a land strip in the area of 121 dunam, and leaving 510 additional dunam of village's lands, west of the fence. However, it is not stated this is a severe damage to an extent which is not proportionate... the damage to property is immeasurably smaller. For the damage, an appropriate compensation is paid. The permits' regime, enables access to the lands left west of the fence. The route of the fence at the villages' area also does not separate the villages' residents from vital services, does not create Palestinian residents within the seam zone, and does not create "a real strangling ring, which hurts severely the daily lives", (compare: 855 Beit Sourik affair; The Alfei Menashe affair, paragraphs 102-110). Under these circumstances, it can not be said that the fence's route, in the areas of the petitioning villages, violates the third secondary trial of the proportionality". (bold text added A.H, G.S.)

See also, HCJ 6027/04, the head of the El-Zawiya village council v. the Minister of Defense, Tak-A12665 (3)2006, (2006).

"21. The conclusion according to which it is impossible to draw an alternative geographical route to the fence, the damage of which is less significant, does not conclude, in itself, the evaluation of proportionality in its second meaning. When examining the proportionality of damage which the fence creates, the geographical outline, the permits regime and the passages to the lands left west of it are linked one to the other (see the Shoukba affair, paragraph 16). Lands belonging to the petitioners have been disconnected from the Separation fence. In this state of affairs, the respondents are to ensure the existence of passage arrangements, and a reasonable accessibility regime to the petitioners' lands, in a manner which reduces, as far as possible, from the security point of view, the damage caused to them. We have been informed that south to Elkana, an agricultural gate will be stationed, which shall be opened at hours set in coordination with the residents. The petitioners do not request the erection of additional passages, or a change in the opening hours. Their petition does not deal at all with the passage arrangements and with the permits regime. Under this state of affairs, in light of the fact that this petition is not aimed at the gates policy' and passages' arrangements policy of the security fence, we do not take any side on this issue, and this does not reduce from the conclusion that the

fence's route does not infringe the second secondary test of proportionality. This assertion is based on the assumption, that the petitioners will have a reasonable access to their lands, through reasonable passage arrangements at the fence. In case this assertion shall not withstand the reality test, they have an open path to re-approach the court.”

58. The report paints a tough picture, referring to the alleged damage, **to the freedom of movement within Judea and Samaria**, resulting from the erection of the security fence.
59. In this context, it should be noted, that two axis of the “fabric of life” have already been opened for traffic a year ago, both due south to the north: Beit Hanina – Bir Nabala and Bir Nabala – Kalandia, which enable ongoing traffic from the Bir-Nabala zone to Ramallah and A-Ram. These days the road-building of the East-West “fabric of life” axis is at its midst: Between Bidu and El-Jeeb, this will enable a continuous traffic between the western villages block, (Bidu, Beit Sourik, Beit Ajza, Koubeiba etc.), to Ramallah, via the previously mentioned axis. The road-building of the axis in question has been authorized by the Supreme Court in a verdict pronounced in the matter of **Bir Nabala**.
60. In the near future, the further paving of three “fabric of life” axis, is planned at the Maale Adumim region, which will enable continuous movement between the Judea, Benjamin and the Jordan Valley regions: an axis based on road 80, south-west to north-west; an axis between Azaria to Mazmoria; and an axis between Rimoni to the Jordan Valley.
61. **Claims as to the difficulty of accessing agricultural lands which are situated at the “Israeli” side of the fence, via the agriculture gates, are not accurate:** One must differentiate between gates leading towards lands where the cultivation is seasonal, (like the olive orchards), which indeed open only during the agricultural seasons, and subsequently following coordination for the rest of the year; to many other gates, which enable access to agricultural lands on a daily basis. Opening hours at these latter gates varies between opening for several hours of the day, to opening all through the day.
62. It should be pointed out in this context, that an instruction has been given to mark on the permits – which allow access to agricultural lands through a seasonal gate, also the number of the nearest daily gate- in order to enable access to the lands throughout the year. Within the security administration, a follow-up is conducted as to the implementation of the commitments regarding the opening hours of the gates, and the facts prove that there are almost no deviations in the opening hours. Moreover, in the vicinity of every agricultural gate, is posted a sign on which appear the phone numbers of the coordination and liaison headquarters of the Civil Administration, as well as the gate’s opening hours.
63. **Regarding the Bir-Nabala area and the El Hallayla neighborhood.** In a ruling which was given by a panel of nine judges, the Supreme Court approved the erection of the security fence. Access of Palestinians who live in the region is enabled through the above mentioned “fabric of life” axis, just as the entering of Israelis who live in the Jerusalem region, is facilitated through the Atarot passage (Kalandia). For the residents of the El Haleliya neighborhood, a special passage has been erected at the security fence

- the El Jeeb passage - which enables them a comfortable passage across the security fence, to the remainder of the Judea and Samaria parts.

G. “Fabric of Life” Roads

64. In the report it is claimed at length that the “fabric of life” roads, recently paved by the security administration for the Palestinian population, are intended to remove that population from the central roads in the Judea and Samaria, consequentially turning them into “Israeli Roads”.
65. With all due respect, these allegations are groundless. The “fabric of life” roads which were built in recent years by the security administration in Judea and Samaria for the Palestinian population, have utilized countless resources, and form an integral part of the security fence project. These roads are intended, mainly, to replace other roads, to which the access has been disconnected by the fence’s route. The claim that these roads are intended to turn main roads in Judea and Samaria into “Israeli roads” is not true.
66. Even the Supreme Court’s ruling has recognized the importance of the “fabric of life” roads as an important and inseparable layer of the security fence erection. Thus for example, it has been stipulated in the Bir-Nabala Affair:

“Indeed, if the fabric of life roads had not been erected, we would have assumed that the same rule applies to the fence in the Bir-Nabala area as to the fence at the Alfei Menashe enclave. But due to the existence of fabric of life roads, the situation is different in the case put before us, from the reality created in the Alfei Menashe Affair...,” the situation in our case is different. It can not be said that the fence creates a strangling ring around the villages and their residents. The connection between the villages and the Ramallah district, is maintained through the Bir-Nabala-Kalandia road. This road is open to traffic, and enables free and undisturbed movement of the region’s residents to the Ramallah zone or, through the Kalandia passage to Jerusalem. The respondents have declared that the road has been improved and broadened, in order to adjust it to the foreseen traffic volume on it. The connection between the villages to the Bidu-Beit-Sourik area shall be maintained upon the road-building of the Bidu-El-Jeeb road. On this road also, free undisturbed traffic shall be enabled. The respondents have said that up to its completion, the movement between the two zones will be made possible through public transportation between Bidu and El-Jeeb. The connection between Beit-Hanina to Bir-Nabala, and from there to the Ramallah area, has been improved by the road-building of the Beit-Hanina – Bir-Nabala road. As aforesaid, the connection between the villages’ residents and their lands shall be maintained through several agricultural gates, which will be erected along the route. The respondents undertake to continue, and shall act towards the reduction of the harm to the fabric of life of the district’s residents, as shall be needed from time to time. Under these circumstances, and given the great security benefit, which is latent in the security fence in this region, one can not claim that the damage of the fence route, in the Bir-Nabala route, is difficult in an un-proportional manner”. (HCJ 4289/05, Bir-Nabala local council v. the Government of Israel.

H. East-Jerusalem

67. As is well known, any territory which is within the municipal district of Jerusalem, is part of the sovereign territory of the State of Israel. The residents of East-Jerusalem have an Israeli permanent residency. It is clear, therefore, that the legal structures which apply to them, are different from those which apply to those who are not Israelis.
68. The erection of the fence does not change the status of East-Jerusalem residents who are permanent residents, and holders of Israeli identity cards, or the status of the Palestinians who live in Judea and Samaria/Jerusalem.
69. Since the canceling of the general permit in the year 1991, the entry of Palestinians to Jerusalem requires an entry permit into Israel. This has occurred irrespective of the fence's erection. The entry of Palestinian residents is enabled through a designated passage, and not through all the passages. This is due to security considerations, and additionally enables the provision of a quick and efficient service for the residents of Jerusalem, who by their residence, have stronger attachments to the city.

Respectfully Yours,

Hila Tene, Advocate

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Since the beginning of the second intifada, in September 2000, Israel has imposed restrictions on the movement of Palestinians in the West Bank that are unprecedented in scope and duration. As a result, Palestinian freedom of movement, which was limited in any event, has turned from a fundamental human right to a privilege that Israel grants or withholds as it deems fit. The restrictions have made traveling from one section to another an exceptional occurrence, subject to various conditions and a showing of justification for the journey. Almost every trip in the West Bank entails a great loss of time, much uncertainty, friction with soldiers, and often substantial additional expense.

The restrictions on movement that Israel has imposed on Palestinians in the West Bank have split the West Bank into six major geographical units: North, Central, South, the Jordan Valley and northern Dead Sea, the enclaves resulting from the Separation Barrier, and East Jerusalem. In addition to the restrictions on movement from area to area, Israel also severely restricts movement within each area by splitting them up into subsections, and by controlling and limiting movement between them. This geographic division of the West Bank greatly affects every aspect of Palestinian life.



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