



# Enduring occupation

Palestinians under siege in the West Bank

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Israel and the Occupied Palestinian Territories:  
Enduring occupation – Palestinians under siege in the West Bank

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Cover image: Israeli military checkpoint at Kalandia cutting off  
East Jerusalem from the rest of the West Bank. © Maan Images  
Back cover image: Gate in the fence/wall in the West Bank © AI



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## Palestinians under siege in the West Bank

### Contents

	Glossary	
1.	Introduction	1
2.	The fence/wall: unlawful land grab	5
3.	Blocked at every turn	14
4.	Israeli settlements: the reason for the restrictions	18
5.	State-sponsored 'outposts'	21
6.	Reduced to rubble: demolition of Palestinian homes	24
7.	Impunity for settlers	26
8.	Human rights defenders under attack	28
9.	Economy destroyed, growing poverty	30
10.	Violations of international law	33
11.	Recommendations	40
	Endnotes	42

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## GLOSSARY

ACRI	Association for Civil Rights in Israel
CESCR	UN Committee on Economic, Social and Cultural Rights
CPT	Christian Peacemaker Teams
DCO	District Coordination Office, a branch of the Israeli army in the OPT
Dunum	A unit of land, equivalent to around a quarter of an acre (1,000 dunum = one square kilometre)
FAO	Food and Agricultural Organization (of the UN)
ICJ	International Court of Justice
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
IWPS	International Women's Peace Service
OCHA	Office for the Coordinator of Humanitarian Affairs (of the UN)
OPT	Occupied Palestinian Territory
PA	Palestinian Authority
NIS	New Israeli Shekel, 100 NIS = US\$23.80
TIPH	Temporary International Presence in Hebron, an international observer mission from six countries that monitors events in Hebron
WFP	World Food Programme (of the UN)

Palestinians wait to pass through the Israeli military checkpoints at Beit Iba and Huwara, two of the checkpoints which cut off the West Bank town of Nablus from surrounding towns and villages



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© Nurit W. / Machsom Watch

# Enduring occupation

## Palestinians under siege in the West Bank

### 1. INTRODUCTION

Khaled Daud Faqih was just six months old when he died on 8 March 2007 at an Israeli army checkpoint. His parents, from the village of Kafr 'Ain, had been trying to rush their baby to the nearby hospital in Ramallah in the West Bank, but were forced to wait at the checkpoint by Israeli soldiers. His father Daud, a teacher, told Amnesty International:

*"My son Khaled was having difficulty breathing. I called a neighbour who has a car and with my wife and the baby we set off immediately for the hospital in Ramallah. It was quicker than waiting for an ambulance to come all the way to the village. It was just before half past midnight. Khaled had previously had attacks like this and we took him to hospital and there he was put under the oxygen tent and he always got better.*

*"We arrived at the Atara checkpoint at 12.45am. From there it was another 10 minutes to the hospital. The soldiers stopped us. There were five soldiers. I told them that my baby was sick and urgently needed to get to the hospital in Ramallah. I spoke to them in Hebrew. They asked for our IDs. The driver and I gave ours but my wife had left hers at home in the hurry. I told the soldiers and they said we could not pass without her ID. I begged them to let us pass. They looked in the car and saw that there was nothing and that the baby had problems breathing and his limbs were trembling. I told the soldiers that every minute, every second mattered; that the baby needed oxygen urgently. They told us to wait and I kept pleading with them. Then the baby died. It was 1.05am. I told the soldiers. They shone a torch into the car and saw that the baby was not moving any more and told us that we could pass. We drove to the hospital anyway. There it was confirmed that Khaled had died."*

Such cases are neither new nor rare. The hundreds of checkpoints and blockades which every day force long detours and delays on Palestinians trying to get to work, school or hospital, have for years limited their access to essential health services and caused medical complications, births at checkpoints and even death.

The West Bank, the focus of this report, is a relatively small territory – 130 kilometres from north to south and 65 kilometres from east to west at its widest point; 5,600 square kilometres in total. It is criss-crossed by a web of Israeli military checkpoints and

## Enduring occupation

Palestinians under siege in the West Bank

### LEGEND

- Fence/wall
- Fence/wall under construction
- Green Line
- Palestinian town/village
- Israeli settlement
- Israeli closed military area

### West Bank, including East Jerusalem, occupied by Israel since June 1967

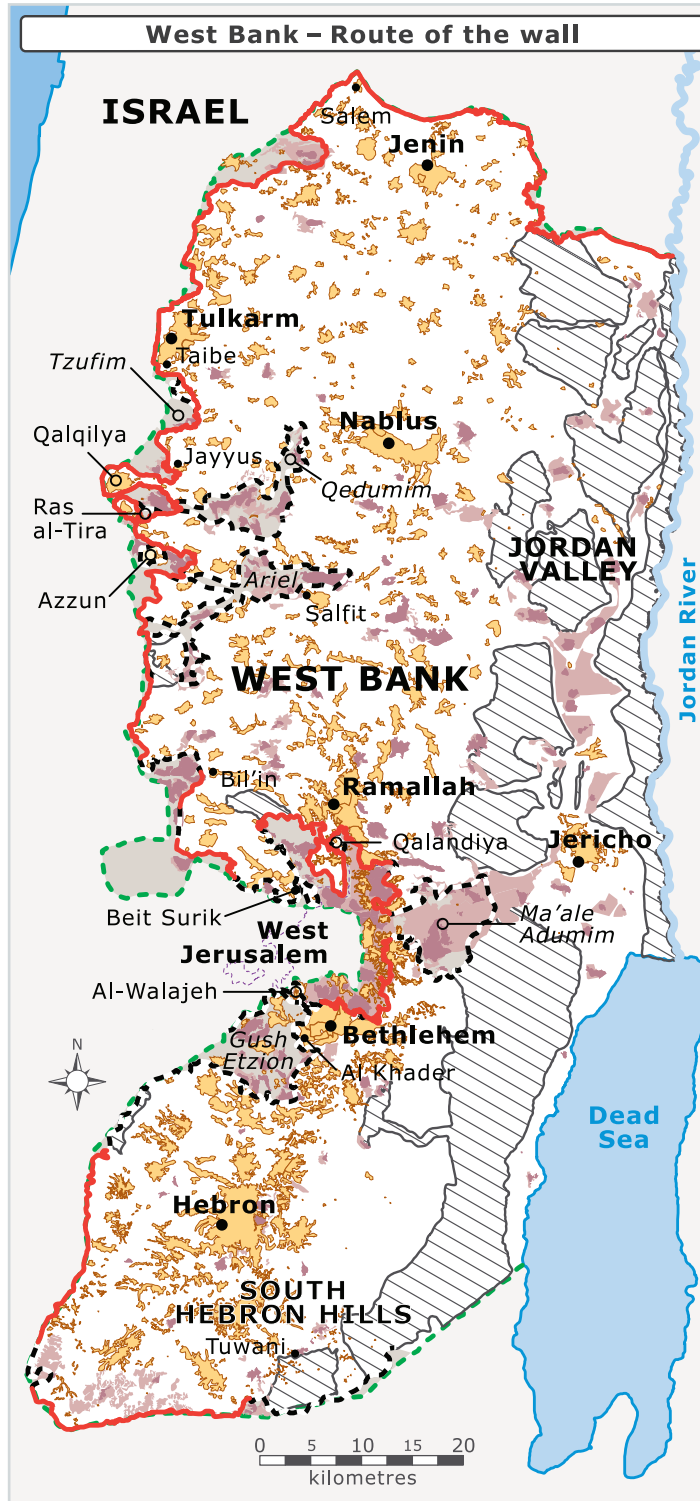
5,600km<sup>2</sup> total area: about 130km north-south and 65km east-west

200+ unlawful Israeli settlements and "outposts"

500+ Israeli military checkpoints and blockades

700km of roads that are banned for Palestinians

700km of fence/wall, 80 per cent of it on Palestinian land



blockades – some 550 – and a winding 700-kilometre fence/wall which runs from north to south, encircling Palestinian villages as well as whole neighbourhoods in and around East Jerusalem.

The Israeli authorities contend that this regime of closures and restrictions is necessary to prevent Palestinians from entering Israel to carry out suicide bombings and other attacks. However, virtually all the checkpoints, gates, blocked roads and most of the fence/wall are located inside the West Bank – not between Israel and the West Bank. They curtail or prevent movement between Palestinian towns and villages, splitting and isolating Palestinian communities, separating Palestinians from their agricultural land, hampering access to work, schools, health facilities and relatives, and destroying the Palestinian economy. The fence/wall itself, located as it is inside occupied territory, is unlawful, according to the International Court of Justice (ICJ).

The stringent restrictions on movement imposed for years by the Israeli authorities on more than two million Palestinians who live in the West Bank are unlawful as they are disproportionate, discriminatory and violate the right to freedom of movement. The restrictions are imposed on all Palestinians *because* they are Palestinians and in order to benefit the Israeli settlers whose presence in the occupied West Bank violates international law. They should be lifted now.

The fence/wall around Qaffin village, in the north of the West Bank, which cuts off the village from most of its land



© AI

## BACKGROUND: SPIRALLING ISRAELI-PALESTINIAN VIOLENCE

Since the beginning of the intifada in September 2000, Israeli-Palestinian violence has spiralled. Israeli forces have killed some 4,000 Palestinians, most of them unarmed civilians and including some 800 children. Many were killed in air strikes, artillery shelling and other attacks against refugee camps and densely populated residential areas throughout the Occupied Palestinian Territory (OPT). Others were extrajudicially executed in attacks which killed scores of bystanders. In the same period, Palestinian armed groups have killed more than 1,100 Israelis, some 750 of them civilians and including 120 children, in suicide bombings and shooting attacks in buses, restaurants, shopping malls and other areas frequented by civilians.

Killings and attacks by both sides decreased significantly in 2005, after an informal truce (*tahadiyeh* or “quiet”) was declared by Palestinian armed groups early that year. However, in 2006, while killings of Israelis by Palestinian armed groups decreased further, to half the previous year’s figure, and reached the lowest level since the beginning of the intifada, killings of Palestinians by Israeli forces increased threefold compared to the previous year.<sup>1</sup>

About a third of the Israeli civilians killed by Palestinian armed groups were Israeli settlers in the OPT. Palestinians consider Israeli settlers to be chiefly responsible for the confiscation and appropriation of their land and resources, and for the restrictions imposed on their movement in the OPT by the Israeli army.

Several factors have contributed to blurring the line between Israeli armed forces and civilian settlers in the eyes of Palestinians. These include the conversion of Israeli army bases or schools in the OPT to Israeli settlements, and the key role played by the Israeli army in establishing and maintaining settlements – from seizing the land and building the necessary infrastructure to enforcing the exclusion zones around Israeli settlements to keep Palestinians out. Many Palestinians who oppose the targeting of Israeli civilians in Israel consider Israeli settlers in the OPT to be as much a legitimate target as Israeli soldiers.

The fact that Israeli settlements are unlawful under international law does not alter the status of Israeli settlers, who are civilians and as such should never be targeted. Amnesty International has repeatedly condemned attacks by Palestinian armed groups on Israeli civilians, whether in Israel or in the OPT, and urged them to put an immediate end to such attacks.<sup>2</sup>



## 2. THE FENCE /WALL: UNLAWFUL LAND GRAB

The 700-kilometre fence/wall that Israel is building through the West Bank, from north to south and through parts of Jerusalem, is causing massive long-term damage to Palestinian life and is undermining the ability of those living in dozens of villages and communities to realise a wide range of their human rights.<sup>3</sup>

More than half of the length of the fence/wall has been completed and work is proceeding on the rest. Already, tens of thousands of olive and other trees and areas of fertile agricultural land have been uprooted and destroyed, dozens of homes have been demolished, and tens of thousands of Palestinians have been cut off from their land and means of earning a living.

According to the Israeli authorities, the fence/wall is “a defensive measure, designed to block the passage of terrorists, weapons and explosives into the State of Israel...<sup>4</sup> Its sole purpose, they say, is “to provide security.”<sup>5</sup>

However, most of the fence/wall is not being constructed between Israel and the West Bank along the Green Line (the 1949 armistice line which separates the State of Israel from the occupied West Bank). Some 80 per cent of it is located on Palestinian land inside the West Bank, separating Palestinian towns, villages, communities and families from each other; cutting off Palestinian farmers from their land; hindering access to education and health care facilities and other essential services; and separating Palestinian communities from reservoirs and sources of clean water.<sup>6</sup>

The Israeli authorities have an obligation to protect the security of those within Israel’s borders, including by preventing entry into Israel of people who may constitute a threat to its security. However, such measures must not violate Israel’s obligations under international human rights and humanitarian law. Security measures must be necessary, proportionate and non-discriminatory. This may, for example, include the building of fences, walls, barriers or other structures on Israeli territory, but not inside the occupied West Bank.

Because of the meandering route of the fence/wall, it is more than double the length of the Green Line. It is a complex structure, 50 to 100 metres in width and including barbed wire, ditches, trace paths and tank patrol lanes on each side as well as additional buffer zones and no-go areas of varying depths. Its route has been designed to encompass more than 50 Israeli settlements, where some 80 per cent of Israeli settlers live, and large areas of land around them. This will create territorial contiguity of these settlements with Israel while cutting the area off from the rest of the West Bank.

### FENCE FACTS<sup>7</sup>

If the fence/wall is completed in line with the latest 2006 planned route:

- 60,500 Palestinians living in 42 West Bank villages and towns will live between the fence/wall and the Green Line or in closed areas;
- 12 of these villages and about 31,400 Palestinians will be completely encircled by the fence/wall;
- more than 10 per cent of Palestinian land in the West Bank will lie behind the fence/wall, some 57,518 hectares;<sup>8</sup>
- more than half a million Palestinians will live within a one-kilometre strip of the fence/wall.

## WALL OF DEATH



*“Mortal danger – military zone – any person who passes or damages the fence endangers his life”.* This message is written in Hebrew, Arabic and English on signs all along the fence/wall, as the picture shows.

In fact, simply being near the wall can put Palestinians in mortal danger. On 19 December 2006, 14-year-old Dua’a Nasser Abdelkader was shot dead by Israeli soldiers as she was playing near the fence/wall with her 12-year-old friend in Far’un village, south of Tulkarem. There is nothing to indicate that the two schoolgirls could have posed a threat to the Israeli soldiers, who shot at them from a nearby fortified watchtower. Israeli media reports of the Israeli army investigation into the incident

stated that a soldier had admitted to shooting at the schoolgirls as they were running away from the fence.<sup>9</sup> The platoon commander was dismissed from his post and reprimanded, and the military police reportedly opened an investigation. To date, none of the soldiers involved is known to have been brought to justice.

The extent of the negative impact of the fence/wall on Palestinians throughout the West Bank did not become clear until long after much of the damage was done. The creation of a fence/wall in parts of the West Bank was approved by a ministerial committee in 2001 and the route of Phase 1 was approved by the government in June 2002. However, a full map of the planned route was only made public by the Israeli authorities in October 2003 – long after construction had begun.<sup>10</sup>

Amnesty International researchers who visited the West Bank between mid-2002 and mid-2003 found that Palestinians whose land was directly affected by the fence/wall had received little or no information from the Israeli authorities. Most had found land seizure orders accompanied by maps pinned to trees or left under stones by the Israeli army in areas where the fence/wall was going to be built. The maps were unclear, generally poor-quality photocopies, and did not contain a scale or other details necessary to establish the exact route of the fence/wall. Only when Israeli army bulldozers began to uproot trees and dig could Palestinians deduce where the fence/wall would be located.

The destruction of property by an occupying power is prohibited “except where such destruction is rendered absolutely necessary by military operations”<sup>11</sup> – even with ample forewarning. In fact, “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly,” is a war crime.<sup>12</sup> Furthermore, the seizure of Palestinian land for the fence/wall without adequate notice, consultation and due process of law, amounted to forced eviction – a further violation of international



law<sup>13</sup> – and made it virtually impossible for many affected Palestinians to challenge the route of the wall/fence or the appropriation of their land.

For two years after the first phase of the fence/wall was approved by the Israeli government, the Supreme Court rejected all petitions filed by Palestinians objecting to the route of the fence/wall in the West Bank. Only on 30 June 2004, as the Advisory Opinion of the ICJ was about to be announced, did the Supreme Court order that the fence/wall in the Beit Surik area, north of Jerusalem, be re-routed to take in less Palestinian land. However, even this Supreme Court ruling accepted that Palestinian land could be seized, destroyed and cut off from its owners for the benefit of Israeli settlements whose presence in the OPT is unlawful.<sup>14</sup>

At the same time as the Beit Surik ruling, the Israeli government published a revised route of the fence/wall. Since then the Supreme Court has ordered the re-routing of small sections of the fence/wall in certain areas. However, the changes affect less than 10 per cent

The fence/wall snaking around the neighbourhood of Abu Dis and cutting it off from the rest of East Jerusalem

of the route of the fence/wall. Moreover, some of the ordered re-routing has yet to be implemented and in any case would only partially reduce the damage caused to the Palestinians in the area.

For example, on 15 September 2005 the Supreme Court ordered the state to consider an option in relation to a section of the fence/wall near the Israeli settlement of Alfe Menashe, south of Qalqilya, that would not enclose any Palestinian villages. The revised route of April 2006 places three of the five villages and some of their lands outside the fence/wall; the other two villages remain in the enclave. By May 2007 the changes to the fence/wall route had not yet been implemented and the five villages remained in an enclave.

In the areas where the fence/wall has been completed, it has devastated Palestinian farming, the main source of livelihood for the Palestinian communities there, and has had a disastrous impact on the lives of Palestinians.

Even for the farmers who have been able to obtain permits to reach their land, access is severely restricted. The gates through which authorized farmers can pass are far apart and only open two or three times a day (morning and afternoon) for about half an hour. Soldiers who are supposed to open the gates are often late.

Farmers are only allowed access on foot and only through the specific gate for which they have a permit. They then have to walk from the gate to their land. Tractors are only allowed in exceptional cases, conditional on farmers obtaining a special and additional permit. These restrictions and conditions make it extremely difficult for farmers. Moreover, the Israeli army has tended to grant permits for passage through the agricultural gates only to older farmers. As a result, most families cannot farm their land efficiently or at all as the working conditions are too difficult and elderly family members cannot manage the workload.

The Israeli government claims that the fence/wall is not intended to be “a political border”. However, Israel’s Prime Minister Ehud Olmert and other Israeli officials have repeatedly indicated that Israel intends to maintain the large Israeli settlement blocks in the occupied West Bank – that is, those settlements which are now on the western side of the fence/wall. Statements by Israeli state attorneys to the Israeli Supreme Court in response to Palestinian petitions to change the route of the fence/wall also indicate that the location of the barrier is intended to encompass Israeli settlements and large areas of land around them.

For example, in response to a petition filed in 2003 by Palestinian residents of the West Bank villages of Azzun and al-Nabi Elyas (north of Qalqilya) to the Supreme Court seeking the removal of the fence/wall, the State Attorney’s Office emphasized that the barrier had to be built along the route chosen “to protect the southern and eastern parts of [Tzufim settlement]”. It added: “In planning the route in the area, consideration was given to the existence of a plan that is under preparation, but has not yet gained official approval”, referring to a plan for large-scale expansion of Tzufim settlement, including the building of an industrial zone.<sup>16</sup> The fence/wall encroaches about seven kilometres inside the West Bank in order to encompass Tzufim settlement as well as a vast area of land around it. The Tzufim settlement is currently small, with some 1,000 residents, but building plans obtained by the Israeli human rights organizations B’Tselem and Bimkom (Planners for Planning Rights) reveal that substantial expansion of the settlement is planned.

### East Jerusalem

Around 200,000 Palestinian residents of occupied East Jerusalem, unlawfully annexed by Israel, are also adversely affected by the fence/wall. Many are cut off from the rest of the West Bank. Some, including those who live in Kufr ‘Aqab and in Sho’afat refugee camp, have ended up on the other side of the barrier and so have to pass through checkpoints to enter Jerusalem.<sup>15</sup>

## BULLETS GREET ANTI-WALL PROTESTERS

Israeli soldiers have often used excessive and unwarranted force against Palestinians as well as against Israeli and international peace activists demonstrating against the fence/wall. In the village of Bil'in alone, where such demonstrations have been taking place every Friday for two years, hundreds of demonstrators have been injured. On 8 December 2006, an Amnesty International delegation witnessed Israeli soldiers, who were on the roof of a civilian house in the village, firing in the direction of nearby children who were throwing stones at them. Inside the house a terrified family, including young children, told Amnesty International that the presence of the soldiers on their roof put them in danger.



© Magnus Johansson / Maan Images

Most of those injured in demonstrations against the fence/wall have been struck by plastic-coated metal bullets, often fired at close range. Beatings with rifle butts have also been common. Matan Cohen, a 17-year-old Israeli, was shot in the eye with a plastic-coated metal bullet by Israeli Border Police as he took part in a demonstration against the fence/wall on 24 February 2006 in the West Bank village of Beit Sira, south-west of Ramallah.<sup>17</sup>

At times, the Israeli army has used live ammunition against demonstrators near the fence/wall. A 22-year-old Israeli demonstrator, Gil Na'amati, was shot and seriously injured in the leg by several bullets fired by Israeli forces near the fence/wall in the village of Mas'ha on 26 December 2003. Gil Na'amati, a former soldier, said:

*"I was in the military and am familiar with the rules of engagement. What I did was not even close to something that I think would warrant opening fire... It's unbelievable."*<sup>18</sup>

Israeli soldiers on the roof of a Palestinian home in Bil'in village, in the West Bank, aiming at Palestinian anti-wall demonstrators and stone-throwers

The fence/wall in the area has long been completed. Since 2003 the inhabitants of four Palestinian villages and one town around the Tzufim settlement have been cut off from much of their land – some 12,000 dunums (approximately 12km<sup>2</sup>) in total, with an additional 2,000 dunums destroyed to make way for the fence/wall. Two-thirds of the agricultural land of Jayus and half of the land of the villages of Falamyra and 'Azzun now lie on the Israeli side of the fence/wall, and is inaccessible to most of the villagers.

Intense campaigning and long legal battles by the Palestinian farmers from Jayus resulted in the opening of the gates to their land from morning to evening. This unique arrangement was limited to this small area and was not repeated elsewhere. However, the improvement was short-lived. In November 2006 the opening times of the gates were again restricted to half an hour three times a day (morning, midday and afternoon). Moreover, at the end of 2006 the Israeli army closed the two gates used by farmers in Jayus, forcing them



Palestinian farmers waiting for Israeli soldiers to open the gate in the fence/wall in Anin, west of Jenin

to use a gate further to the north near Falamyia village. The new arrangement adds a further obstacle to the already difficult conditions faced by the farmers.

To obtain a permit to cross the gate a farmer in Jayus needs a clean security file, an ID, an inheritance certificate (*ikhraj qaid*) for the land/property, and a completed application form. The inheritance certificate is extremely difficult to obtain because inheritance is dealt with under customary Islamic law and is usually not registered. The process involves making a declaration in a mosque, placing an advertisement in newspapers, obtaining signatures of all brothers, sisters and other beneficiaries, and appearing before an inheritance court with two witnesses.

All the documents must then be photocopied and officially certified, which costs money. If all the papers are in order three separate visits must be made on a Thursday to the office of the District Coordination Office (DCO), a branch of the Israeli army in the OPT, in the Israeli settlement of Kedumim to complete the formalities. People who have jobs must obtain permission to take leave for those days.

In general, only those named in the inheritance certificate can apply. A child can apply on the father's certificate, but usually not nephews, nieces or cousins. Permits are never given to people who do not own land beyond the fence/wall – even though Palestinians generally work as a family, with relatives and friends joining in at harvest time.

Near Qalqilya, five Palestinian villages (al-Dab'a, Wadi al-Rasha, Ras al-Tira, Ramadi al-Janubi and 'Arab Abu Farda) are trapped in an enclave surrounded by the fence/wall. The fence/wall was routed this way to encompass the Israeli settlement of Alfe Menashe, located inside the West Bank, five kilometres from the Green Line, as well as a large area of land around it, where large-scale expansion of the settlement is planned.

## DESTRUCTION OF HOPE

In the village of 'Izbat Salman, south of Qalqilya, the Quzmar family has been cut off from most of their nearby land by the fence/wall since the end of 2002 and can no longer farm it. The younger family members have not been granted permits to access the family land and the distance from the family home to the gates and then on to their land is not manageable for the elderly members who could obtain a permit.

In order to reach their land, which is near their home but on the other side of the fence/wall, they have to walk for one hour to the gate and then another hour from the gate to their land – and the same to return home, sometimes carrying crops, tools and other heavy equipment.

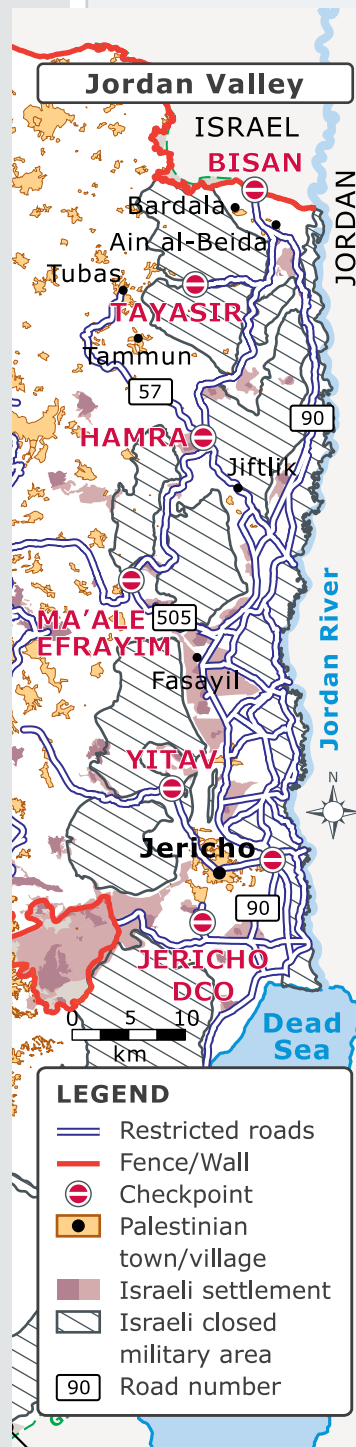
Just before they learned about the fence/wall, the family invested their savings in the farm to make it more efficient and productive. They built a sophisticated irrigation system and greenhouses, which were partly destroyed to make way for the fence/wall.

The family protested to the authorities and appealed to the courts without success. They now feel that they have no prospect for the future. As elsewhere, the fence/wall was built inside the West Bank to encompass an Israeli settlement – Oranit – and additional land around it for future expansion. The village of 'Izbat Salman lost most of its land when the Oranit settlement was established in 1984 and now has effectively lost most of what was left.

More than 1,000 Palestinians live in the five villages in a virtual state of siege. Schools, medical clinics and their land are all outside the enclave. They need permits to continue living in their homes, permits to go out of the enclave into the rest of the West Bank and return back home, and permits to go in and out of the enclave by car. They and any goods they bring home are inspected by Israeli soldiers at the gates and often passage is refused for certain goods, such as gas canisters for cooking. They also need permits to receive Palestinian visitors, and these are difficult or impossible to obtain. Even ambulances are not allowed to enter without prior authorization from the Israeli army. Permits are also required to build houses, but these are virtually impossible to obtain. Some homes have been demolished and others are under threat of demolition because they were built – before the fence/wall – without the permits which the families have no hope of obtaining.

After a protracted court battle in September 2005, the Israeli Supreme Court issued a verdict ordering the state to re-route the fence in this area so as to reduce the negative impact on Palestinians living in nearby villages. According to a new plan for an amended route, three of the five villages (al-Dab'a, Wadi al-Rasha and Ras al-Tira) will no longer be in the enclave. To date, however, the route of the fence/wall remains unchanged. Even if the fence/wall is re-routed as proposed, the inhabitants of the Palestinian villages inside the enclave will eventually be forced to leave as such living conditions are unsustainable.

The International Court of Justice (ICJ) examined the issue of Israel's construction of the fence/wall inside the occupied West Bank. In July 2004 it concluded that the measure violated



## JORDAN VALLEY BECOMES AN ENCLAVE

Since May 2005 the Israeli army has placed increased restrictions on access to the Jordan Valley (the eastern area of the West Bank), effectively turning this large area of fertile land into an enclave. The topography of the Jordan Valley makes it only accessible from the rest of the West Bank via a few roads, all of which are controlled by Israeli army checkpoints. Ditches and ridges have been added to close off the area even more hermetically.

Nowadays, special permits are needed to go to the Jordan Valley, restricting access for Palestinians who must prove that they reside, own land or work in the area. Those registered as living in other districts of the West Bank are denied passage at the checkpoints, harassed and expelled from the area, including people who had lived or worked there for years.

Majida Fawzi, a mother of seven children aged 15 and below, lives in the village of 'Ain al-Beida in the north of the Jordan Valley. She told Amnesty International that in February 2006 Israeli soldiers came to her home in the evening and took her and her children to the other side of the checkpoint. She had been living in the Jordan Valley for years, but had not changed her place of residence on her ID card. Eventually, the family was able to return to their home and Majida Fawzi managed to change her ID card because she could prove that she had been a long-term resident in the Jordan Valley. This option is not open to newcomers to the area.

Traditionally, people who owned land or worked or lived in the Jordan Valley spent the hottest months of the year away, usually in Nablus or nearby villages, where many are registered as residents.

Farmers have often relied on seasonal workers from outside the Jordan Valley, who in turn have depended on seasonal agricultural work in the area to feed their families. The new restrictions mean that labourers looking for work are prevented from entering the area because they do not have a job there, and cannot get work because they are not in the area.



international law. In its Advisory Opinion, it stated that Israel was obliged to stop building the fence/wall inside the OPT, dismantle sections already built there, and provide reparation to the Palestinians affected by the construction.<sup>19</sup> The Israeli government rejected the ICJ's recommendations.

On 15 December 2006, the UN General Assembly adopted Resolution A/ES-10/L.20, establishing a "United Nations Register of Damage caused by the Construction of the Wall in the Occupied Palestinian Territory", as recommended by the ICJ in July 2004 and as requested by the UN Secretary-General.

According to Resolution A/ES-10/L.20, the Register of Damage is to be located in Vienna, Austria, and composed of a yet-to-be appointed three-member board, and is "To serve as a comprehensive record, in documentary form, of the damage caused to all natural and legal persons concerned as a result of the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem". As of April 2007, none of this had been done.

In its Advisory Opinion, the ICJ noted that reparation must erase the consequences of the illegal act and re-establish the status quo ante, adequately compensate when restitution in kind is not possible, and award necessary damages for loss sustained and not covered by restitution or compensation. The ICJ stated:

*"Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction."*

This means that as well as removing the fence/wall from occupied Palestinian land, making restitution for seized property and providing compensation and other forms of reparation for physical damage caused, Israel must also compensate the affected Palestinians for loss of income resulting from the construction of the fence/wall.

However, it is not clear whether damage to communal village land, civilian infrastructure, water and other natural resources and the environment is included in the remit of the Register of Damage.

While the establishment of the Registry of Damage is an important first step, it is important that – some five years after the damage resulting from the construction of the fence/wall began to be inflicted – the necessary mechanisms are put in place to provide effective remedy and reparation to the tens of thousands of Palestinians who have been and continue to be negatively affected by the fence/wall.



An Israeli bulldozer destroys Palestinian land in the West Bank to make way for the fence/wall

© AI



Palestinian cars wait for Israeli soldiers to allow them to pass through Jit Junction, west of Nablus

### 3. BLOCKED AT EVERY TURN

'Adel 'Omar, aged 21, died on 17 February 2007 after Israeli soldiers delayed his passage at the gate between the village of Azzun 'Atmeh and the nearby town of Qalqilya. 'Adel 'Omar had been injured in a tractor accident. The village is surrounded by the fence/wall, and the only way out of it is through a gate which closes at 10pm. 'Adel arrived at the checkpoint after 10pm and the soldiers did not open the gate for over an hour. He was still alive when he was allowed to pass, but died before he reached the hospital, only a few kilometres from the gate.

Isma'il Sa'id Ibrahim al-Sifi, aged 44, died on 12 December 2006 on his way to Nablus hospital from his village, Tel, only a few kilometres away. He died minutes before reaching the hospital after the car in which he was travelling was forced to take a long detour on an unpaved road through the hills. Israeli soldiers had blocked the main road and did not let the taxi pass, even though Isma'il was unconscious and in need of urgent medical care. Nablus hospital was only 10 minutes away from the checkpoint, but the bumpy journey through the hills took more than half an hour.

Such deaths are not a new phenomenon. Rula 'Ashtiya, for example, was forced to give birth on the ground, on a dirt road by the Beit Furik checkpoint, after Israeli soldiers refused to allow her through the checkpoint in the early

morning of 26 August 2003. Her baby girl died soon after. Rula was in labour and was on her way to Nablus hospital, only a few minutes away. The soldiers manning the checkpoint took no notice of her condition and obvious distress, nor of her husband's pleading. They did not ask to check their IDs and simply told them they could not pass. Only after Rula had given birth and her baby had died did the soldiers allow her and her husband and their dead baby to pass through the checkpoint.<sup>20</sup>

It is not possible to know for certain if Adel, Rula's baby and other Palestinians who have died on their way to hospital could have been saved if they had not been delayed by Israeli soldiers at checkpoints. What is certain is that they could have reached the hospitals more quickly, which would have given them a better chance of survival. It is also clear that none of these people could have posed a threat to Israel's security as none was trying to enter Israel. All were attempting to travel between their villages and nearby towns within the occupied West Bank.

The checkpoints, closures and other obstacles disrupt all aspects of Palestinian life, including important social and family events. Muhammad Fudah, for example, missed his wedding on 8 February 2007 because Israeli soldiers refused him passage at two checkpoints as he and his wedding party were trying to reach a nearby village where the wedding was to take place. He told Amnesty International:

*"I set off from my home in Nur al-Shams refugee camp in Tulkarem with my relatives on the way to my wedding in the village of Beit Lid. It is not far and we had not expected any particular problems at the checkpoints on the way... However, when we arrived at the Anabta checkpoint, Israeli soldiers there did not let me and several of my young relatives pass. No young people from Tulkarem were allowed through. A relative who speaks fluent Hebrew explained to the soldiers that we were on the way to my wedding in Beit Lid; they said we could not go to Beit Lid. So we decided to travel to another checkpoint, by al-Ras village. However, there too some of my relatives and I were refused passage and were told to go back home to Tulkarem because we would not be allowed to go to Beit Lid.*

*"My relative again explained to the soldiers that we were going to my wedding in Beit Lid but they refused. They said that boys and girls aged between 16 and 30 were not allowed to pass. The Israeli women who monitor checkpoints [Machsom Watch] were there and also spoke to the soldiers but it made no difference. After an hour my other relatives who were young enough or old enough to be allowed to pass went on to Beit Lid and the others and I went back to Tulkarem and then back to Anabta checkpoint. By then it was late and we had to postpone the wedding to the following day. I eventually managed to reach Beit Lid by going on a detour and I did get married."*

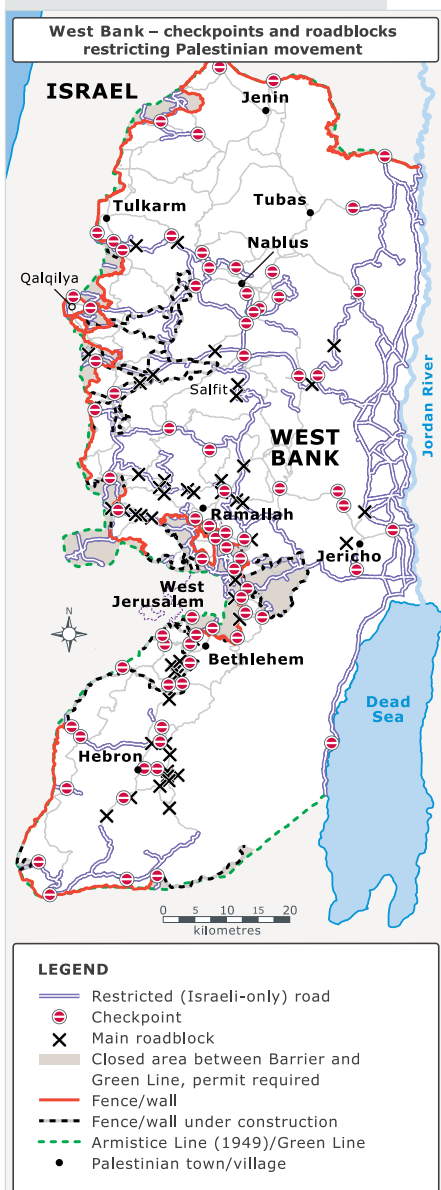
Machsom Watch – an Israeli women's human rights group – who were at al-Ras checkpoint at the time, recorded the following:

- ▶▶ 13.50: All people (male and female) between the ages of 16 to 30 who are residents of Tulkarem, Nablus and Jenin, and the villages surrounding these towns, are not allowed southward.



© Elat B. / Machsom Watch

Bridegroom Muhammad Fudah in his wedding suit at al-Ras checkpoint after Israeli soldiers refused to let him pass through to the nearby Beit Lid village, where his wedding was to take place



- ▶ 14.44: A car with a bridegroom arrives at the checkpoint. His wedding is in Beit Lid. However he is from Tulkarem and young and he is told he can't pass through. A relative of his who is from Taibe and who speaks fluent Hebrew, tries to talk to all the soldiers to convince them to let him pass through.
- ▶ 14.50: The bus with only women and children who are heading to Beit Lid for the wedding arrives at the checking booth. IDs are checked. Five of the young women, some with young children, are from Tulkarem and are told to leave the bus.
- ▶ 14.59: They are not allowed to pass. They get a taxi on the other side of the street to go back home. The bridegroom has still not been allowed through. Aunts, uncles and other relatives are all standing around trying to figure out what to do. The relative from Taibe continues to go from one soldier to the other to ask for help.
- ▶ 15.10: The bridegroom is told he cannot go through. He stands to the side.
- ▶ 15.37: The bridegroom is sent home.

The UN Office for the Coordinator of Humanitarian Affairs (OCHA) records the number of checkpoints and blockades in the West Bank. In March 2007 there were 549. Of these, 84 were manned checkpoints and 465 were unmanned blockades, such as locked gates, earth mounds or ditches that make roads impassable, cement blocks and other obstacles that block access to roads.<sup>21</sup>

In addition, thousands of temporary checkpoints, known as “flying checkpoints”, are set up every year by Israeli army patrols on roads throughout the West Bank for a limited duration – ranging from half an hour to several hours. OCHA recorded 624 flying checkpoints in February 2007 and 455 the previous month. In 2006 a total of 7,090 was recorded.<sup>22</sup>

The number of checkpoints has fluctuated in recent years. In mid- to late 2005, when the restrictions of movement imposed by the Israeli army were less stringent than they have generally been since late 2000, there were some 375 permanent checkpoints or blockades, while the number of additional flying checkpoints varied between 260 and 494 a month.<sup>23</sup>

The Israeli army also declares “general closures” in the OPT, usually on the occasion of Israeli national or religious holidays. When such general closures are imposed, no movement is allowed for Palestinians through checkpoints into East Jerusalem and Israel, as well as through other checkpoints between Palestinian areas near Israel, except for emergencies. However, when checkpoints are closed it is difficult and time-consuming for Palestinians to contact the appropriate Israeli army officials to notify them of the emergency and obtain authorization to pass.

Varying degrees of restrictions have been imposed by the Israeli authorities on the movement of Palestinians since Israel's occupation of the West Bank and Gaza Strip in 1967. Such restrictions increased in the 1990s and have reached an unprecedented level since the outbreak of the intifada in September 2000. The effect of the restrictions has been to deprive Palestinians not only of their freedom of movement but of other human rights – notably their right to work and to provide a living for themselves and their families, and their right to health and education.

## NAVIGATING THE MAZE OF BLOCKADES

*"I rarely visit my family because it takes me several hours to get to the village where they live, near Jenin in the north of the West Bank, and again several hours to come back to Ramallah, where I live. If there were no checkpoints and blocked roads and if we could travel on the main road all the way, it would take just over an hour. But it takes four, five, even up to seven hours. It depends on the day, but it is never what the normal time should be, not even close. It is usually especially difficult on the way back, because movement from the northern part of the West Bank to south of Nablus is very restricted and often not allowed at all. Mostly for males aged under 30 or 35 or even 40; sometimes it is also not allowed for women; it depends on the day.*

*"I have Ramallah as my place of residence and am over 30, so it is much easier for me and in theory I should be allowed to pass, most of the time at least. However, in practice it is not that easy. First of all I don't have a car and it is not easy to find a shared taxi where all the passengers meet all the requirements. In addition, even for those who are allowed to pass from the north to the south of Za'atara (Tapuah) junction there is usually a long line and it can take hours to get through the checkpoint.*

*"So, usually when I do visit my family I leave at about 2am or 3am to return to Ramallah, because that early in the morning it is less likely that there will be flying checkpoints. The shared taxi stays off the main road and travels on little country lanes, which are unpaved and so it travels very slowly. Sometimes at certain points it leaves even the little roads and cuts through the fields and keeps the lights switched off to avoid being seen from Israeli positions from a distance.*

*"The most difficult part is getting past the south of Za'atara junction. Then, from there on to Ramallah, it is easier.*

*"As for the issue of permits to travel through the West Bank, the situation is confusing. Many people do not accept to ask for permits. Others who have asked at the DCO [District Coordination Office] in Salem were told by the Israeli army that they cannot obtain a permit or that they do not need a permit; but then when they try to pass through checkpoints to go south of Nablus they are refused passage and are told that they need a permit."*

A human rights worker who lives in Ramallah<sup>24</sup>

Palestinians being stopped by Israeli soldiers in al-Khader, Bethlehem



© Madsom Watch



© Madsom Watch

Palestinian cars wait by a blocked road at al-Ja'aba, north of Hebron

## Israeli army notices,

March 2007<sup>25</sup>

**Friday 02/03/2007 00:15**

In accordance with a decision by the political echelon and in light of security assessments, a general closure will be imposed on Judea, Samaria [the West Bank] and the Gaza Strip, effective tonight and for the duration of the Purim holiday.

**Monday 05/03/2007 22:35**

The general closure implemented in the Gaza Strip and the Judea and Samaria region during the Purim holiday will be removed tonight at midnight following security assessments.

## 4. ISRAELI SETTLEMENTS: THE REASON FOR THE RESTRICTIONS

Some 135 officially recognized Israeli settlements and 100 settlement “outposts” (unauthorized but state-sponsored and funded by government ministries) have been established in the West Bank, including East Jerusalem, in violation of international law and in defiance of UN resolutions, since the beginning of Israel’s occupation in 1967. Israeli settlers number about 450,000, of whom some 200,000 live in settlements in and around East Jerusalem. Some settlements have fewer than 100 residents. Others, such as Ariel, Maale’ Adumim and Pisgat Ze’ev, with 15,000 to 30,000 residents, have become well-established and well-resourced towns.<sup>26</sup>

The establishment of Israeli settlements in the OPT violates international humanitarian law and fundamental human rights provisions, including the prohibition of discrimination, enshrined in international treaties which Israel has ratified and is obliged to uphold.

Israel’s settlement policy in the OPT is characterized by discrimination on grounds of nationality, ethnicity and religion. Settlements are for Jews only, who are entitled to Israeli nationality and to the protection of Israeli law even if they are migrants from other countries who go to live in settlements in the OPT without ever having resided in the State of Israel. Palestinians, who are subject to military law rather than Israeli civilian law, are not allowed to enter or approach Israeli settlements or to use settlers’ roads, and are thus restricted in their movement. Settlers also receive substantial financial and other benefits, and are allowed to exploit land and natural resources that belong to the Palestinian population.

The unlawful appropriation of Palestinian land for Israeli settlements and “bypass” roads, and of crucial resources such as water, has had a devastating impact on the local Palestinian population, including their rights to an adequate standard of living, to adequate food, water and housing, to the highest attainable standard of health, to education and to work.



Palestinian homes threatened with demolition by the Israeli army are overlooked by the expanding Israeli settlement of Karmel, in the south of the West Bank

The location of Israeli settlements in the West Bank and of the roads which connect the settlements to each other (“bypass” roads that are often prohibited to Palestinians) determine the location of the checkpoints and blockades that so restrict the movement of Palestinians in the West Bank. As Israeli settlements and “bypass” roads have continued to multiply and spread throughout the West Bank, so have the roads and areas prohibited to Palestinians. The location of settlements has ensured that there is no territorial contiguity between Palestinian communities in different areas of the West Bank.

Road 60, the main south-north road which runs through the centre of the West Bank, via the main towns of Yatta and Hebron in the south to Jenin in the north, is restricted for Palestinian

## GREEN FOR STOP, YELLOW FOR GO

The 100-kilometre journey from the Hebron area in the south of the West Bank to the Nablus area in the north of the West Bank takes less than two hours by car for Israeli settlers. For Palestinians, it can take the best part of a day – if it is possible at all.

Even Palestinians who meet the criteria laid down by the Israeli army – such as age, “security” clearance, place of residence and purpose of travel – cannot drive on most of the main roads in the West Bank. These are reserved for Israeli settlers, whose vehicles are easily identifiable by their yellow registration plates. Palestinian vehicles have green registration plates.

Palestinians have to take long detours via secondary and often unpaved roads through the hills. They have to wait at Israeli army checkpoints, and may eventually be refused passage. The opening hours vary from one checkpoint to another, and many are closed at night. Checkpoints often close unexpectedly during the day for unspecified periods of time. Soldiers manning the checkpoints do not inform the Palestinians waiting to pass when the checkpoint will re-open, making it difficult to know whether it is worth waiting or not.

Israeli settlers encounter few checkpoints on their journeys in the West Bank and when they do, are waved through without having to wait to have their documents and vehicles inspected.



Israeli soldiers inspect a Palestinian car at a “flying checkpoint” outside al-Sawiya village in the West Bank

vehicles because Israeli settlers also use it. Some sections of it are often completely off-limits to Palestinians. For example, some 60,000 Palestinians who live in 16 villages located along a short section of Road 60 south of Hebron have not had vehicular access to Road 60 for years because the Israeli army has blocked the entrances to the road. In February 2007 the Association for Civil Rights in Israel (ACRI), an Israeli human rights organization, asked the Israeli Defense Ministry to examine the legality of such measures.

Movement to and from scores of Palestinian villages on each side of the 50-kilometre stretch of Road 60 between the two main towns of Ramallah and Nablus is similarly restricted, also because of the proximity of Israeli settlements.

Road 443, the main highway connecting the town of Ramallah to Palestinian villages to its south-west, has long been restricted because Israeli settlers use it. In March 2007 ACRI petitioned the Israeli High Court seeking the removal of blockades that deny access to Road 443 for six Palestinian villages.<sup>27</sup>

The closer the settlements and "bypass" roads are to Palestinian towns and villages, the greater the restrictions. South of Nablus, passage through the intersection of Road 60 with the east-west Road 505, which is also used by Israeli settlers and which is mostly banned for Palestinians, is subject to stringent restrictions for Palestinians. Restrictions range from permit requirements to bans for certain age groups, generally males aged between 16

and 30 or 35, or residents of certain areas – usually residents of the north of the West Bank. Sometimes the junction is closed to Palestinians altogether.

The area that includes Nablus and the two refugee camps and several villages around it, with a population of over 200,000 Palestinians, is surrounded by Israeli settlements. For this reason the movement of Palestinians in the area is severely restricted. As a result, the once-vibrant economic life of Nablus has been virtually paralysed.

Areas where Palestinian villages are closely surrounded by Israeli settlements and "bypass" roads and fences have been declared "closed military areas". Access to these enclaves is restricted to those registered as living there. This means that Palestinian residents need special permits to

continue living in their own homes and to move in and out of these enclaves, often only on foot and at specified times. Many areas near settlements are in practice barred to Palestinians, even though they have not officially been declared closed military areas.

By building a network of settlements and a network of "bypass" roads around all the Palestinian towns and villages, Israel has removed the possibility of Palestinian territorial contiguity in the West Bank, constrained the growth of Palestinian towns and villages, and ensured effective control of the entire West Bank – and of the lives of more than two million Palestinians who live there.



New houses in the Revava Israeli settlement which are being built on Palestinian land confiscated from the nearby Hares and Deir Ballut villages in the West Bank

## “ HISTORIC OPPORTUNITY

*For the first time in history, Jews are able to buy Judea and Samaria. By buying out just 1% of the Arab population in Judea and Shomron, Jews can reclaim 58% of the Land because 99% of the Arabs live in concentrated areas on the other 42%. With so-called Palestinians confined to Cantons, the option remains open for them to sell and find a better life elsewhere.*

Website of the Israeli settlers' association<sup>28</sup>

”



## 5. STATE-SPONSORED 'OUTPOSTS'

In addition to the officially recognized 135 Israeli settlements, some additional 100 settlements of varying size have been established with the tacit rather than official approval of the Israeli authorities. These are generally referred to as settlement "outposts" and more than half of them have been established in the past six years. Even though these "outposts" are unauthorized, the Israeli army provides them with around-the-clock protection and many have been allowed to connect to electricity, telephone and water supply networks and to build roads connecting them to main roads and to other settlements. Many of the officially recognized settlements started as unauthorized "outposts" but were later granted official status. Others started as religious schools or army bases.

The Israeli government made repeated promises in the framework of the internationally sponsored "roadmap" peace plan of 2003 to dismantle and evacuate all the unauthorized settlement "outposts" established since 2001. However, little or no action has been taken to this effect beyond a few half-hearted attempts to remove "outposts", which have often been re-established soon after. In the meantime, new "outposts" have continued to be established on unlawfully appropriated Palestinian land.



© AI

Former state prosecutor Talya Sason was commissioned by then Prime Minister Ariel Sharon to prepare a report on settlement "outposts" in the OPT in 2004. A summary of her report was made public in March 2005. She found that the state authorities were unlawfully involved in establishing the unauthorized "outposts", evidence was concealed, and the law was not enforced. Two years later, little appears to have changed as settlement "outposts" continue to mushroom. One of the officials who, according to Talya Sason's report, participated in the establishment of "outposts", was recently appointed Deputy Prime Minister.

Large-scale expansion of the Har Homa Israeli settlement on occupied Palestinian land in East Jerusalem

Israeli settlements in the OPT have long been points of tension, and confrontations between Israeli settlers and local Palestinians have been frequent. The spread of settlements and "bypass" roads in the past 15 years has resulted in a proliferation of such points of tension.

Palestinians are losing more and more of their most fertile agricultural land and much of their water resources, which are being appropriated by Israel for the benefit of the Israeli settlements. They are no longer allowed access to the Israeli job market, on which they were heavily dependent in previous decades. Their opportunities for economic development are severely hampered by Israel's control of their movement and resources. The combined effect is increased poverty and despair in the OPT.

## TALYA SASON'S REPORT ON SETTLEMENT 'OUTPOSTS': EXTRACTS<sup>29</sup>

*An initial inquiry already led me to the conclusion that the main relevant authorities involved in the matter of unauthorized outposts are the Ministry of Defense and the IDF [Israel Defense Forces], including the Civil Administration; the Ministry of Construction & Housing; the Settlement Division of the World Zionist Organization; the Ministry of Interior Affairs... Nevertheless, other bodies are involved in establishing the unauthorized outposts, including the area councils in Judea, Samaria and Gaza, and other governmental ministries...*

*Part of the information is accessible, but a major part of it is concealed...*

*In fact, the unauthorized outposts phenomenon is a continuation of the settlement enterprise in the territories... A substantial number of outposts were built with the involvement of public authorities and State bodies,*

*The Settlement Division [of the World Zionist Organization] established unauthorized outposts, disregarding the need for a valid detailed plan, and this not by accident, but rather as a system...*

*In 2001 the Ministry of Construction & Housing created a special budgetary clause, named "general development misc.", and used it for financing unauthorized outposts... between 2000 and 2004 the Ministry has spent an amount of NIS 71,870,000 [US\$17.2 million] on unauthorized outposts.*

*Ministers of Defense have avoided for years instructing the execution of destruction orders, except for single cases... I found that the Assistant to Defense Minister-Settlement Affairs wrote letters to the Settlement Division confirming that specific outposts, that are unauthorized outposts, are independent settlements eligible for budgets and emblems.*

*I find three main reasons for the failure of enforcing the law concerning unauthorized outposts:*

- A. *State authorities, State officials and public authorities were unlawfully involved in establishing the unauthorized outposts.*
- B. *Ineffective law enforcement.*
- C. *Lacking of suitable legislation and legal tools to deal with building unauthorized outposts...*

*[I]t seems that law violation became institutionalized. We face not a felon, or a group of felons, violating the law. The big picture is a bold violation of laws done by certain State authorities, public authorities, regional councils in Judea, Samaria and Gaza and settlers, while false presenting an organized legal system.*

*This sends a message to IDF, its soldiers and commanders, the Israeli police and police officers, the settler community and the public.*

*And the message is that settling in unauthorized outposts, although illegal, is a Zionist deed. Therefore the overlook, the "wink", the double standard becomes it...*

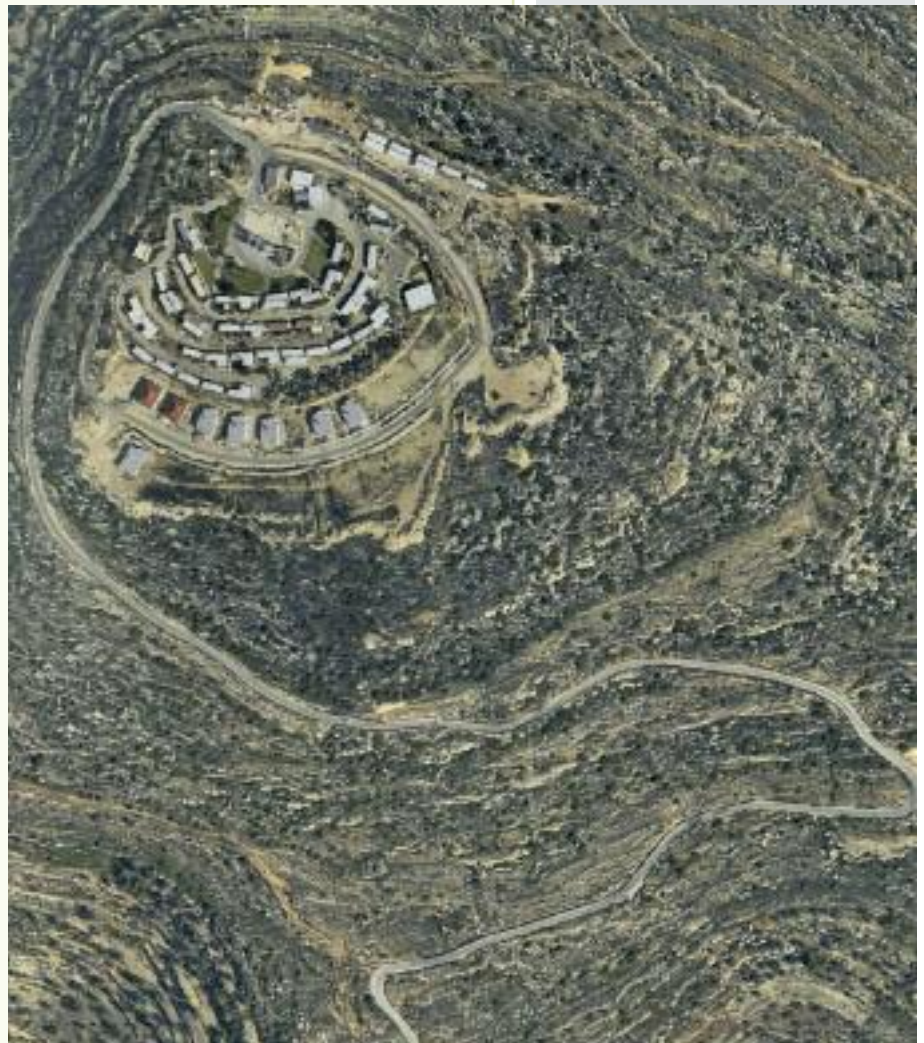
[All emphases added]

## Hersha 'outpost': unauthorized but supported by the state

In an ongoing case, the Israeli non-governmental organization Peace Now filed a petition in September 2005 asking the Supreme Court to order the army to dismantle Hersha (or Herasha) settlement "outpost" north of Ramallah in the West Bank. During the hearing in March 2007, the lawyer acting on behalf of the Israeli settlers requested that the "outpost" be granted official recognition and building permits. He argued: "The State of Israel has taken an active role in establishing the outpost through an array of branches and authorities" – notably the provision of funds by the Housing Ministry for the construction of infrastructure in the "outpost" (600,000 NIS – about US\$143,000 – in 1999, 500,000 NIS in 2001 and 650,000 NIS in 2002); and by the preparation by the Ministry in 2004 of a zoning plan for the "outpost", including schools. The state also built a meteorological survey station on the premises. The settlers provided letters from the Binyamin Regional Council (the council of the nearby Israeli settlement) dated May 2002 authorizing the settlers to begin construction of some 25 housing units.<sup>30</sup>

Talya Sason's report (see above) noted that Hersha "outpost" had been established in 1995 without a permit from the authorities to use the land or to build any structure; that the Ministry of Housing had provided 1,560,000 NIS (US\$372,000) to finance the establishment of infrastructure and 100,000 NIS for the construction of public buildings; that the Israeli authorities had approved the connection of the "outpost" to the electricity grid, with water being provided by the nearby Talmon settlement; and that the public ritual bath (*mikve*) had been approved by Ephraim Sneh, now the Deputy Defense Minister.

An aerial view of the Hersha Israeli settlement "outpost"



© Peace Now

## 6. REDUCED TO RUBBLE: DEMOLITION OF PALESTINIAN HOMES

Israel does not allow Palestinians to build outside the main towns or outside the boundaries of the already built-up areas in villages. The Israeli army frequently demolishes homes and properties that Palestinians have built on their own land in and around villages throughout the West Bank. In the past six months alone, dozens of Palestinian families have had their homes and animal pens destroyed by Israeli army bulldozers in villages that include Funduq, Hajja, Jinsafut, Hares (Salfit and Qalqilya area); Qawawis, Imnezeil, Um al-Kheir and other nearby villages (South Hebron Hills); and Sawahreh, Nu'man and Walajeh (Bethlehem and East Jerusalem area). Thousands of other Palestinians are at risk of house demolition and forced eviction without adequate notice, due process of law (including an opportunity to challenge the eviction or demolition order), compensation or assurances of adequate alternative accommodation.

### HOMES AND LIVES DESTROYED

*“When we arrived in the village of Funduq, Salfit, the aftermath of the first house demolition was already evident. A family stood on a pile of rubble, silenced and shocked. The second house demolition was just beginning, with the Caterpillar and Volvo bulldozers ripping into the top floor of the nearly completed house. The family, two of whom were handcuffed throughout the demolition, were powerless in this situation. Within an hour, years of labour and money were obliterated by the Israeli army.*

*“Without pause the bulldozers and army went to the site of the third demolition, an agricultural structure. Money had clearly been invested and no doubt many mouths were dependent on the income.*

*“The fourth demolition was in the nearby village of Hajja. The family had papers with their lawyer, which they hoped would prevent the demolition... We called everyone who might have been able to buy some time. The predictable happened. The army would not wait for the papers and the demolition started. It took two hours to rip this multi-storied building apart...*

*“The following morning, on 23rd November [2006], more house demolitions were underway in the village of Qarawat Bani Hassan. We arrived shortly afterwards but the army and bulldozers had gone, leaving in their wake more devastation: a family, including seven children, aged three to fourteen, left homeless. After three years of construction and many years of saving, the family had finally moved into their house just two months previously...*

*“On the same morning, 23rd November, in Kifl Hares, a car wash and garage were demolished. The business, which was shared by three families, had been operating for six years. The owners stated they had received no prior warning.”*

Extracts from the testimony of a member of the International Women Peace Service (IWPS)<sup>31</sup>

Israel bases its policy of prohibiting Palestinians from building outside the boundaries of the built-up areas on archaic Jordanian laws that are wholly inconsistent with international human rights law and standards, and patently no longer adequate for the current housing needs of the Palestinian population. Under these laws, Palestinian land zoned by the Israeli authorities as "green land" can only be used for agricultural purposes.

However, the Israeli authorities have never applied these laws to Israeli settlements, virtually all of which have been built on green land seized from Palestinians, in violation of international law. While homes in Palestinian villages continue to be demolished every week, illegal Israeli settlements continue to expand across the hills and fields throughout the West Bank.

The website of Itamar, a small Israeli settlement located about five kilometres south-east of Nablus, in the heart of the West Bank, proclaims:

*"Itamar looks out from its several hills on the thousands of dunums listed for its future development." 32*

A website advertising property in Israeli settlements in the West Bank, referring to Chashmonaim settlement, located west of Ramallah, boasts:

*"Building possibilities are extensive in Chashmonaim. Semi-detached properties are being built on 300m plots as well as single-family properties on 600m plots. The sky is the limit when it comes to design and building decision making." 33*

The remains of a Palestinian home demolished by the Israeli army in No'aman village in the West Bank



© AI



Armed Israeli settlers near the Tapuah settlement in the centre of the West Bank

## 7. IMPUNITY FOR SETTLERS

Palestinians accused of attacks against Israeli settlers are tried by Israeli military courts and receive harsh punishments. In some cases they are assassinated by Israeli forces. By contrast, Israeli settlers who have assaulted Palestinians and destroyed their property are almost never prosecuted, and on the rare occasions when they have been, have not received punishments commensurate with the gravity of the offence.<sup>34</sup>

In a rare case that actually went to trial, Israeli settler Yehoshua Elitzur was convicted in August 2005 of killing Sayel Jabara, a 46-year-old Palestinian, in September 2004. Although witnesses agreed that Yehoshua Elitzur was armed with an M16 assault rifle and deliberately shot dead the unarmed man for no apparent reason, the court contended that there was no proof that he intended to kill Sayel Jabara, and convicted him of manslaughter, rather than murder. Yehoshua Elitzur, who had been free on bail since the day after his arrest, did not appear in court to hear the verdict. He is not known to have been rearrested or to have served any sentence.

On 26 June 2006 the Israeli High Court of Justice ordered the Israeli army and police to protect Palestinian farmers and their property from attacks by Israeli settlers in the West Bank, and to take steps to end such attacks. The order was in response to a petition submitted by two Israeli

human rights organizations, the Association for Civil Rights in Israel and Rabbis for Human Rights, against the consistent failure of the Israeli security forces to carry out their law enforcement duties in cases involving violent attacks by Israeli settlers on Palestinians and their property in five West Bank villages.

The Court noted that the practice of the Israeli army to declare Palestinian land “closed” to their owners to protect them from Israeli settlers was tantamount to rewarding the settlers for their violent attacks. It accepted the petitioners’ claim that Palestinian farmers had been illegitimately denied access to their land located near Israeli settlements and unauthorized “outposts”.

This ruling sent a clear message to the Israeli army and security forces who have generally tolerated and sometimes been complicit in violence by settlers. Despite this, Israeli soldiers on the ground have continued to ignore the High Court’s orders in many cases.

### **‘WHAT THE ARMY DECIDES IS LAW’ – NO PROTECTION FOR PALESTINIAN FARMERS**

On 3 October 2006, the Israeli army prevented a Palestinian family, accompanied by international human rights activists, from harvesting their olives near the Israeli settlement of Braha, south-west of Nablus. After many telephone calls from international and Israeli activists, the army finally said that the farmers could harvest their olives.

In the nearby village of Kufr Qalil, Palestinian farmers were harvesting their olives, accompanied by Israeli and international human rights activists for several days. However, on 7 October, Israeli soldiers forced a Palestinian family to stop working at noon. The human rights activists told Amnesty International that at about 12.30pm soldiers arrived in an Israeli army Hummer vehicle and spoke to the farmer aggressively. They told him that according to the law he should have left at noon. They ordered the family to leave immediately. When one of the international activists argued that the High Court decision gave the farmers the right to work on their land without restriction, the soldiers told her that they didn’t care and that their noon deadline is “what the army decided, so it is the law”.

The international activist contacted Rabbis for Human Rights who spoke to the District Coordination Office (DCO), a branch of the Israeli army in the OPT. The DCO confirmed that the farmers had the right to continue working and promised to contact the soldiers on the ground. However, the soldiers continued to threaten the farmer, claiming it was the DCO that had said that the farmers had to leave at noon. The family eventually left, fearing that a confrontation would make it more difficult for them to continue harvesting their olives the following morning. The next day they harvested without interruption.<sup>35</sup>

When Israeli soldiers have been dispatched to patrol Palestinian land near Israeli settlements during the olive harvest to prevent attacks by Israeli settlers, such protection has been limited to small areas and has been for only a few days a year.<sup>36</sup> These arrangements came about as a result of pressure by human rights groups on the army. The work of the groups also secured the presence of Israeli and international human rights activists in the

areas most vulnerable to attacks by Israeli settlers – the presence of the activists as potential witnesses can act as a deterrent against such attacks.

Muhammad Shehadah 'Atiya Salah, his brother Salah and young children were attacked by Israeli settlers near the settlement "outpost" Neve Daniel North, near the village of al-Khader in the Bethlehem area on 9 February 2007. Muhammad Salah told the Israeli human rights organization B'Tselem that the settlers uprooted the plants which he and his brother had just planted, repeatedly threw stones at them and punched him in the face. His relatives called an ambulance and informed the police. However, the police did not go to where he was waiting at the scene of the attack but went to the settlement instead. On the way to hospital the ambulance was delayed for 10 minutes by the Israeli army. Later, Muhammad Salah went to the police station to file a complaint, but there was no Arabic speaker there so he had to file the complaint at Qiryat Arba Police Station in Hebron.<sup>37</sup> There is no indication that the Israeli settlers responsible for the attack have been brought to justice.

These efforts have led to improvements. However, the presence of international and Israeli peace activists is limited, and Israeli settlers have continued to attack Palestinians and their property when there are no witnesses present. To date, the Israeli army and security forces have failed to allocate adequate resources and to exercise due diligence to prevent and investigate attacks by Israeli settlers and to bring those responsible to justice.

## 8. HUMAN RIGHTS DEFENDERS UNDER ATTACK

In recent years Israeli and international human rights defenders have accompanied Palestinian farmers to work on their land near Israeli settlements. They have also escorted Palestinian children to school in areas near Israeli settlements. In some small and isolated villages, international peace activists have maintained a permanent presence. These villages include Yanun, north-east of Nablus, where in 2002 Israeli settlers attacked the village and forced all the inhabitants to flee, and Tuwani and other small villages in the South Hebron Hills. Human rights defenders have also been present in the town of Hebron, where Palestinians have been repeatedly attacked in their homes by Israeli settlers.

In response, Israeli settlers have stepped up their violent campaign against international and, in some cases, Israeli human rights activists in a bid to discourage their presence and deprive local Palestinians of even this limited form of protection and solidarity. The settlers have focused their attacks and threats on people filming or photographing their attacks, and have stolen their cameras and video recorders.

Eric Mohlin, a Swedish delegate of the international observer mission Temporary International Presence in Hebron (TIPH), was attacked by an Israeli settler in Hebron while he was in a TIPH vehicle near the Israeli settlement of Beit Hadassah on 5 March 2007. A young settler hurled a large stone at the front window of the car, which



then stopped at a nearby Israeli checkpoint. As Eric Mohlin was speaking to a soldier at the checkpoint, the settler apparently threw another stone at him. Bleeding heavily, Eric Mohlin was taken to hospital for medical treatment. The TIPH Head of Mission stated that this was the latest in a number of serious assaults on TIPH observers in this area.

On the same day, two members of the Christian Peacemaker Teams (CPT) in Hebron – Canadian national Art Arbour and British national Janet Benvie – were spat at, kicked and stoned by young Israeli settlers while they were waiting for Israeli soldiers to check their documents at an Israeli army checkpoint near the Beit Hadassah settlement in Hebron. Art Arbour was hit on his ear by a rock, causing heavy bleeding. The two CPT members said that when they asked the Israeli soldier why he had not intervened, he responded that it was not his job to do so.

In September and October 2004 Israeli settlers, wearing hoods and armed with stones, wooden clubs and metal chains, assaulted two US members of the CPT, an Italian member of the peace organization Operation Dove and Amnesty International delegates as they escorted Palestinian children to their primary school near Tuwani village in the South Hebron Hills. Complaints to the Israeli police were filed by the victims of these attacks, but to date no one is known to have been brought to justice.

In the first attack, CPT member Kim Lamberty sustained a broken arm and knee as well as bruising, and her colleague Chris Brown sustained a punctured lung and multiple bruises. In the second attack, the Operation Dove member sustained a dislocated wrist, a kidney injury and other bruises; and an Amnesty International delegate sustained a lacerated shoulder muscle and multiple bruises. The attackers also stole a video camera from the Operation Dove member, who had filmed the attackers coming from the nearby settlement “outpost” of Hovat Ma’on and then stoning the international human rights activists. The attackers returned to the Hovat Ma’on “outpost” after the attacks.

Immediately after the attacks, the security guard of the nearby Ma’on settlement, who is well known in the area, told the international human rights activists that their presence “upset the balance” in the area.

After the attacks attracted international attention, the Israeli army agreed to escort the Palestinian children daily on their way to and from school between Tuwani and nearby villages. This is the only place where such an arrangement exists. However, the army escort is limited to the children’s school journeys and no effective action has been taken to end attacks by Israeli settlers against other Palestinians and their property in Tuwani and nearby villages, which have continued.



Tove Johannsson, a 19-year-old Swedish human rights defender, was assaulted by Israeli settlers as she accompanied Palestinian school children through an Israeli army checkpoint near the Tel Rumeida Israeli settlement on 18 November 2006. She was struck with a broken bottle and sustained serious facial injuries. Israeli soldiers at a nearby checkpoint took no action to stop the attack or apprehend the perpetrators.

## 9. ECONOMY DESTROYED, GROWING POVERTY

A map showing the main closures and areas where the movement of Palestinians is subject to additional restrictions, including the requirement that they obtain special permits from the Israeli army to move between different areas of the West Bank

*"Since February 2006 new population groups have become food insecure (or more food insecure) in addition to the pre-existing food insecure groups... Several factors account for this deterioration in economic conditions, which has led, among other aspects, to the rise in the sense of food insecurity on the part of the population in the West Bank and Gaza Strip. The most significant factor is the system of movement restrictions imposed by Israel on the free movement of Palestinian goods and labour."*

World Food Programme (WFP) and Food and Agriculture Organization (FAO), February 2007

© OCHA



*"... under the current set of restrictive measures the Palestinian economy will remain moribund... Movement restrictions and border closures continue to stifle the normal conduct of commercial activities."*

World Bank, February 2007

The set of restrictive measures on Palestinians and the Palestinian economy has exacerbated the Palestinians' already fragile conditions of life and work. As a result, there has been growing poverty and food insecurity in the OPT.

Freedom of movement of people and goods, within borders and to the outside world, is an essential requirement for any economy. UN agencies and other major international humanitarian and development organizations all agree that restrictions and blockades imposed by Israel on the movement of people and goods within the OPT and between the OPT and the outside world are the primary cause for the virtual collapse of the Palestinian economy in recent years. All agree that there is no realistic prospect for economic recovery in the OPT as long as the stifling regime of military checkpoints, blockades, closed areas and forbidden roads remains in place.

Other factors have negatively affected the Palestinian economy since the victory of the Islamic Resistance Movement (Hamas) in January 2006 elections.<sup>38</sup> Most notable have been the confiscation by Israel of the import tax (custom duties) which it collects from all goods imported into the OPT on behalf of the Palestinian Authority (PA) – some US\$50 million to US\$60 million a month, representing half of the PA government budget; banking sanctions

imposed by Israel and the USA; and a cut in aid paid to the PA by major international donors. As a result, some 150,000 public sector employees received no salaries or partial salaries for several months.<sup>39</sup> However, the stringent movement restrictions remain the main obstacle to economic activity.

Poverty and food insecurity are affecting a growing number of Palestinians. Malnutrition, anaemia, stunted growth, vitamin deficiency and other health problems have increased. According to the WFP and FAO, nearly half (46 per cent) of the population in the OPT is at or below the poverty line (an income of US\$2.20 a day). A further 20 per cent are close to the poverty line.<sup>40</sup>

Closures and curfews have also made family support networks hard to maintain. Palestinian children have been unable to attend school for prolonged periods and some have ended up working in order to supplement the household's meagre income.

Although relief assistance has prevented an even worse situation from developing, a growing number of Palestinians are now forced to depend on charity. Coping mechanisms – savings, the ability to borrow, dispensable possessions to sell – have been exhausted by years of economic hardship. Families are now reducing the quality and quantity of the food they consume and selling assets that are essential for their livelihoods. Such measures will have a negative long-term impact on their health and their ability to become self-reliant in the future. For example, farmers who are prevented from reaching their land and plumbers who cannot find work are forced to sell their equipment in order to provide for their families. They will therefore not be able to resume their work if the movement restrictions are lifted or eased.

In the Gaza Strip, from where Israeli settlements were removed in 2005, closures imposed by Israeli forces continue to keep the 1.5 million inhabitants cut off from other parts of the OPT and from the rest of the world for much of the time. Despite the redeployment of its troops in 2005, the Israeli army retains effective control over the Gaza Strip. All access points for people and goods into and out of the Gaza Strip, as well as Gaza's airspace and territorial waters, remain under the control of Israeli forces. In the past year the Israeli army has kept the Rafah pedestrian crossing to Egypt – the only passage for the inhabitants of the Gaza Strip to the outside world – closed most of the time. The Israeli authorities only allow merchandise to enter or leave the

Palestinians carrying their goods by foot across a blocked road near Hebron



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Gaza Strip via Israel, through the Karni crossing, which is frequently closed and only functions at reduced capacity the rest of the time. Israel does not allow the Gaza Strip to have an airport or a port. This stranglehold on the Gaza Strip has resulted in increased economic paralysis and poverty.

Even if Israel were to immediately dismantle the checkpoints, blockades and the fence/wall, and restore freedom of movement for Palestinians in the OPT, it would take a long time and considerable resources to reverse the damage done over the past six and a half years. However, this prospect seems remote as Israel's policy of dividing the OPT into disconnected and non-viable fragments continues to be implemented at a growing pace. In the occupied West Bank, Israeli settlements, roads for Israeli settlers, fences and walls continue to be built on Palestinian agricultural land – each surrounded by buffer zones and closed military areas, also on Palestinian land.

Men standing next to the fence/wall in Bir Naballa, south of Ramallah

© Neta E. / Madsom Watch



## 10. VIOLATIONS OF INTERNATIONAL LAW

In the OPT two sets of complementary legal frameworks apply: international humanitarian law and international human rights law. Aspects of both are highlighted below.

### International humanitarian law

Israel's conduct as the occupying power in the OPT must comply with the provisions of international humanitarian law applicable to belligerent occupation, including:

- the Hague Convention (IV) respecting the Laws and Customs of War on Land and its annexed Regulations respecting the Laws and Customs of War on Land of 18 October 1907 (hereafter Hague Regulations);
- the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (hereafter Fourth Geneva Convention);<sup>41</sup>
- the rules of customary international law, including Article 75 of the 1977 Protocol Additional to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts (Protocol I).

The core idea of the international rules governing belligerent occupation is that occupation is transitional, for a limited period. One of the key aims of the rules is to enable the inhabitants of an occupied territory to live as "normal" a life as possible.

As an occupying power Israel is required by international law to ensure the protection of the fundamental rights of the Palestinian population in the OPT, and to treat them humanely at all times.

Measures of control or security must be "necessary as a result of the war" (Article 27, Fourth Geneva Convention). However, "regulations concerning occupation... are based on the idea of the personal freedom of civilians remaining in general unimpaired... What is essential is that the measures of constraint they adopt should not affect the fundamental rights of the persons concerned... those rights must be respected even when measures of constraint are justified" (ICRC Commentary to Article 27 of the Fourth Geneva Convention).

### *Illegality of settlements and the fence/wall*

Israeli settlements in the OPT are illegal under international law, notably Article 49 of the Fourth Geneva Convention, which states categorically: "The Occupying Power shall not deport or transfer parts of its own civilian population in the territory it occupies."

The Rome Statute of the International Criminal Court, which includes the most contemporary and comprehensive enumeration of war crimes agreed by the international community, includes among the war crimes within the jurisdiction of the

court the “transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies... when committed as part of a plan or policy or a part of a large scale commission of such crimes.”<sup>42</sup>

The international community has long recognized the unlawfulness of the Israeli settlements in the Occupied Territories. The UN Security Council, in Resolution 465 of 1 March 1980, called on Israel to: “... dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem.” The ICJ, in its Advisory Opinion on the fence/wall (see above), concurred that the settlements “have been established in breach of international law.”

For almost four decades Israel has repeatedly violated international law by its continued construction and expansion inside the Occupied Territories of unlawful settlements and related infrastructure, notably the extensive network of “bypass” roads for Israeli settlers.

The security exceptions in the Fourth Geneva Convention cannot be invoked to justify measures that benefit unlawful Israeli settlements at the expense of the occupied Palestinian population. The construction of 80 per cent of the 700-kilometre fence/wall inside the occupied West Bank is such a measure.

The Israeli authorities legitimate need to secure Israel’s borders and prevent access to people who may constitute a threat to its security does not include the building of such a fence/wall inside the West Bank as such a structure can be built on Israeli territory along the Green Line.

The routing of the fence/wall inside the West Bank in order to benefit unlawful Israeli settlements and resulting in the appropriation of Palestinian property, unlawful destruction

and other grave violations of Palestinian rights is neither proportionate nor necessary. The fence/wall, in its present configuration, violates Israel’s obligations under international humanitarian law.

Article 55 of the Hague Regulations forbids the occupying state from changing the character and nature of state property, except for security needs and for the benefit of the local population. The Israeli settlements and roads for Israeli settlers and the fence/wall around the settlements inside the West Bank do not meet the criteria of these two exceptions. They benefit the Israeli settlers unlawfully residing in the OPT to the detriment of the Palestinian population.

Palestinian homes under threat of demolition in Jiftlik, Jordan Valley



### ***Destruction of homes and property***

As the occupying power, Israel is forbidden from destroying the property of Palestinians in the West Bank and Gaza Strip, unless it is militarily necessary to do so. Article 53 of the Fourth Geneva Convention stipulates that:

*"Any destruction by the occupying power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or co-operative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations."*

According to Article 147 of the Fourth Geneva Convention, "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" is a grave breach and hence a war crime.

Lawful military purposes **do not** include construction of a fence/wall inside the OPT or other measures aimed at facilitating the expansion and consolidation of unlawful Israeli settlements.

### ***Collective punishment***

The regime of closures, the effects of the construction of the fence/wall and other restrictions on freedom of movement amount to collective punishment of the entire Palestinian population in the West Bank.

The Fourth Geneva Convention specifically prohibits collective punishment. Its Article 33 stipulates:

*"No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."*

As explained in the authoritative commentary of the ICRC:

*"This paragraph then lays a prohibition on collective penalties... penalties of any kind inflicted on persons or entire groups of persons, in defiance of the most elementary principles of humanity, for acts that these persons have not committed."<sup>43</sup>*

## **International human rights law**

In the OPT Israel is also bound by international human rights law, including the international human rights treaties that Israel has ratified. Some of the most relevant to the concerns addressed in this report are the:

- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- International Covenant on Civil and Political Rights (ICCPR);
- International Convention on the Elimination of All Forms of Racial Discrimination;
- UN Convention on the Elimination of All Forms of Discrimination against Women; and
- UN Convention on the Rights of the Child.



Palestinian villagers from Kufr Qadum waiting for Israeli soldiers to open the gate Kedumim settlement in the West Bank

### **Discrimination**

The prohibition of discrimination, including on the basis of race, colour, national or ethnic origin, is a fundamental principle of human rights law enshrined in the treaties which Israel has promised to uphold and in customary international law.<sup>44</sup> Despite this, discrimination is integral to the issues discussed in this report – the Israeli settlements and the fence/wall inside the occupied West Bank, and the stringent restrictions imposed on the movement of Palestinians in the OPT:

- **Israeli settlements** and large areas of land around them in the OPT are specifically for Jews only; they both exclude Palestinians and cause them hardship. Palestinians cannot build on or farm or otherwise use this land.
- **The settlement-related infrastructure** in the West Bank is intended to benefit the Israeli settlers and it does so at the expense of the Palestinian population. **The “bypass” roads** that link the Israeli settlements with each other and to Israel are designed to bypass Palestinian towns and villages – not to serve them.
- **Restrictions on the movement** of Palestinians in the West Bank aim to prevent Palestinians from approaching Israeli settlements or roads used by Israeli settlers.



The restrictions are imposed on all Palestinians – because they are Palestinians – and not on specific individuals who may be reasonably suspected of posing a security threat. In cases of attack or risk of attack by Israeli settlers on Palestinians, Israeli forces have consistently responded by imposing movement restrictions or curfew on the Palestinians – not on the Israeli settlers who pose a threat of violence.

- **Application of different laws:** Israeli settlers living in the OPT are governed by Israeli civilian law, whereas Palestinians are subject to more restrictive and less protective military law.

### Freedom of movement

Freedom of movement is guaranteed by Article 12 of the ICCPR, which stipulates:

*"Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence."*

Restrictions to this right imposed to protect national security and public are permissible – but must be necessary, proportionate, provided by law and consistent with the respect for other internationally guaranteed human rights. The UN Human Rights Committee has clarified that:

*"The application of the restrictions permissible under article 12, paragraph 3, needs to be consistent with the other rights guaranteed in the Covenant and with the fundamental principles of equality and non-discrimination..."*

*"The permissible limitations which may be imposed on the right protected under article 12 must not nullify the principle of liberty of movement..."*

*"The application of restrictions in any individual case must be based on clear legal grounds and meet the test of necessity and the requirements of proportionality. These conditions would not be met, for example... if an individual were prevented from travelling internally without a specific permit." 45*

The regime of stringent restrictions on movement imposed for years by Israel on more than two million Palestinians who live in the West Bank violates the right to freedom of movement of Palestinians. These restrictions are disproportionate and discriminatory – they are imposed on all Palestinians because they are Palestinians and in order to benefit the Jewish settlers whose presence in the occupied West Bank violates international law. The restrictions do not target particular individuals who are believed to pose a threat. They are broad and indiscriminate in their application and as such are unlawful. Moreover, they have a severe negative impact on the lives of millions of Palestinians who have not committed any offence.

Blocked road near Hebron



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### **Impact on economic, social and cultural rights**

The fence/wall is routed so as to ensure the territorial contiguity of Israeli settlements with Israel and to encompass large areas of Palestinian land for the future expansion of the settlements. The seizure and appropriation of land, water and other resources for Israeli settlements have had a devastating impact on the economic, social and cultural rights of the local Palestinian population. For example, Israeli settlers use water from the West Bank and are allowed five times as much as Palestinians. The discriminatory allocation deprives the Palestinian population of this vital and scarce resource and undermines their right to water.<sup>46</sup>

The rights to work, to the highest attainable standard of health, to education, to an adequate standard of living, to adequate housing, food and water, and to family life are among the rights recognized in the ICESCR and other international human rights treaties.

Elderly Palestinians crossing the Huwara checkpoint in wheelchairs in the West Bank



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As a party to the ICESCR, Israel is required to take steps “to the maximum of its available resources” to progressively achieve the full realization of the rights recognized in the ICESCR to everyone in its jurisdiction without discrimination. It is obliged to ensure no retrogression in the exercise of these rights without compelling justification. It is also required to take steps towards ensuring progressively full realization of the rights and refrain from actions that violate these rights.

The worsening economic situation of the Palestinian population in the OPT, with increased poverty and food insecurity and declining health standards, is not

due to natural causes, nor to lack of state resources or spending. Rather, it is largely the consequence of measures taken by the Israeli authorities – including the establishment of Israeli settlements, the building of the fence/wall, and the restrictions imposed on the movement of Palestinians – which have used considerable financial and human resources. The provision of charity and international assistance to Palestinians in the OPT does not absolve Israel of its obligations to allow Palestinians the necessary freedom to provide for themselves and their families with dignity.

Article 6 of the ICESCR requires Israel to take steps to safeguard the right to work of Palestinians, which includes: “the right of everyone to the opportunity to gain his living by

work which he freely chooses or accepts". However, the measures taken by Israel to hinder or prevent the movement of Palestinians have frustrated the efforts of the Palestinian population to exercise their right to work and have caused high levels of unemployment in the OPT.

The right to work is instrumental to the realization of other rights, including the right to an adequate standard of living. Article 11 of the ICESCR requires states parties to "recognize the right of everyone to an adequate standard of living for himself and his family, and to the continuous improvement of living conditions". States must refrain from impeding access to the resources needed for the realization of this right, including income-generating activities that allow individuals to maintain an adequate standard of living.<sup>47</sup>



Movement restrictions imposed by Israel on Palestinians in the OPT have placed huge obstacles in the way of Palestinians exercising their right to family life (Article 10 of the ICESCR), education (Articles 13 and 14) and to the highest attainable standard of health (Article 12).

#### Forced evictions and house demolitions

Forced evictions have been defined as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection".<sup>48</sup> They have been recognized by the UN Commission on Human Rights as a violation of a range of human rights, including the right to adequate housing.<sup>49</sup>

Hundreds of Palestinian homes and properties have been destroyed by Israeli forces in the West Bank on the grounds that they were built without authorization. The Israeli authorities used old Ottoman and Jordanian laws pre-dating the Israeli occupation of the West Bank to declare that land not officially registered or cultivated was state land – some 60 per cent of the West Bank.<sup>50</sup> The authorities then used a discriminatory administrative process to prohibit Palestinians from building while allowing Israeli settlers to build and expand houses and commercial buildings in the West Bank, in violation of international law. The evictions of Palestinians from their homes and land they owned or occupied was without adequate notice and consultation, without due process of law, without assurances of adequate alternative land or housing. As such they were a gross violation of human rights.

Amnesty International's Secretary General, Irene Khan, by a closed gate south of Jayus village, which has been cut off from most of its land by the fence/wall, December 2006

## 11. RECOMMENDATIONS

In light of the devastating impact on Palestinians in the OPT of Israel's policy of closures, blockades and the building of the fence/wall, as well as Israel's flagrant disregard for international human rights and humanitarian law, Amnesty International makes the following recommendations:

### To the Israeli government:

- ▶▶ End the regime of closures in its current form, as well as other forms of restrictions on freedom of movement of people and goods, that result in collective punishment. Any restriction may only be imposed if it is necessary to respond to security threats, is non-discriminatory and proportionate in terms of its impact and duration, and is imposed on named individuals, not on whole communities.
- ▶▶ Stop the construction of the fence/wall inside the West Bank, including East Jerusalem, which results in unlawful restrictions on the right to free movement of Palestinians and the arbitrary destruction or seizure of their homes and property, and which undermines other rights, including the rights to adequate housing, to work, to an adequate standard of living and to respect for family life. Sections of the fence/wall already constructed that violate these rights should be removed. Israel only has the right to build a barrier between Israel and the West Bank.
- ▶▶ Immediately stop construction or expansion of Israeli settlements and related infrastructure in the OPT as a first step to removing Israeli civilians living in such settlements in the OPT.
- ▶▶ Stop immediately the destruction of houses, land, and other properties without absolute military necessity as prescribed by international humanitarian law. Anyone whose property has been unlawfully destroyed without adequate prior notification and the effective opportunity to challenge the decision before a court of law should receive reparation and be allowed, where possible, to rebuild their property in the same place.
- ▶▶ Cancel all demolition orders of unlicensed houses in the OPT. Responsibility for planning and building policies and regulations in the OPT should be removed from the Israeli authorities and placed solely with the local Palestinian communities. All those whose properties have been destroyed in violation of international law should be granted effective redress. Israel should ensure reparation to those whose houses were unlawfully destroyed.
- ▶▶ Ensure that Israeli forces protect Palestinian civilians and their property against violence by Israeli settlers by instructing them to arrest Israeli settlers who assault Palestinians or destroy their property, by carrying out prompt, detailed and thorough investigations of complaints of settler violence submitted to them, and by deploying patrols to protect Palestinian schoolchildren and other civilians in areas where there is a danger of settler violence.
- ▶▶ Ensure proper investigation of alleged violations by Israeli forces, and bring to justice anyone found responsible in fair trials.

## To Palestinian armed groups:

- » End attacks on civilians and other abuses of international humanitarian law, whether in the OPT or inside Israel.

## To the Palestinian Authority:

- » Take effective measures to prevent attacks on Israeli civilians by Palestinian armed groups and bring to justice those responsible for such attacks.

## To the international community:

- » Deploy an effective international human rights monitoring mechanism across Israel and the OPT to monitor the compliance of each party with its respective obligations under international law; report publicly; and recommend corrective measures to be adopted by the parties, other countries or international organizations.
- » Ensure accountability of both parties, in compliance with their obligations under international human rights and humanitarian law. Investigate and, where feasible, prosecute through the exercise of universal jurisdiction those responsible for war crimes or other crimes under international law.
- » Ensure that any peace process includes concrete provisions that address fundamental human rights issues at the heart of the conflict, including the removal of Israeli settlements from the OPT; the dismantling of the fence/wall inside the West Bank; ending the closures; impunity for serious violations of international human rights and humanitarian law; and, in the longer term, a fair solution to the refugee question.
- » States parties to the Geneva Conventions must uphold their obligation under Article 1 of the Fourth Geneva Convention to “respect and ensure respect for” the Convention, including by prosecuting grave breaches under Article 147.
- » Ensure that Israel as the occupying power fulfils its obligation to provide for the protection and welfare of the Palestinian population, and refrain from imposing sanctions that negatively affect the provision of humanitarian assistance to the Palestinian population. The international community and donor states providing humanitarian assistance to the PA, notably the USA and EU countries, must take immediate steps to minimize the adverse impact on human rights of their suspension of funding. They must ensure that emergency assistance essential to fulfilling fundamental human rights is never used as a bargaining tool to further political goals.

## ENDNOTES

- 1** In 2006 Israeli forces killed some 650 Palestinians, most of them unarmed and including some 130 children, while Palestinian armed groups killed 23 Israelis, 17 of them civilians and including one child.
- 2** See, among others, Amnesty International's report: *Without distinction – attacks on civilians by Palestinian armed groups* (MDE 02/003/2002).
- 3** Construction of the fence/wall was approved in June 2002 and construction began later that year. Its route has since been revised several times.
- 4** Israeli Ministry of Defense on 31 July 2003. News on briefs, at: <http://www.seamzone.mod.gov.il/Pages/ENG/news.htm>.
- 5** Israel's Security Fence: Purpose, at: <http://www.seamzone.mod.gov.il/Pages/ENG/purpose.htm>.
- 6** For maps and further details about the consequences of the fence/wall see, among other sources: [http://www.ochaopt.org/?module=displaysection&section\\_id=130&format=html](http://www.ochaopt.org/?module=displaysection&section_id=130&format=html).
- 7** According to OCHA, based on the revised route of April 2006.
- 8** 1 hectare = 10,000 square metres.
- 9** See: <http://www.haaretz.com/hasen/spages/804999.html>.
- 10** Plans drawn up by the National Security Council for construction of a fence/wall in parts of the West Bank, including East Jerusalem (exact location unknown), were approved by the Ministerial Committee for National Security as early as July 2001. The final plan was approved by the Israeli Cabinet on 23 June 2002 (Government Decision 2077).
- 11** Article 53 of the Fourth Geneva Convention.
- 12** See list of grave breaches of the Fourth Geneva Convention, Article 147.
- 13** General Comment 7 of the UN Committee on Economic, Social and Cultural Rights.
- 14** For three decades, since Palestinians began filing petitions to the Supreme Court, the Supreme Court has systematically refused to rule on the fact that the establishment of Israeli settlements and related infrastructure in the OPT violates international law, and has limited itself to ruling on technicalities. In the case of the fence/wall, it has considered whether the damage caused to the Palestinians is "proportionate" to the "security considerations" put forward by the Israeli army.
- 15** Amnesty International will address the impact of the fence/wall in and around East Jerusalem in a forthcoming document.
- 16** Response of the State, Section 17; HJC 2732/05, *Head of the 'Azzun Local Council et al. v Government of Israel et al.*, quoted by B'Tselem-Bimkom, at: [http://www.btselem.org/Download/200512\\_Under\\_the\\_Guise\\_of\\_Security\\_Eng.doc](http://www.btselem.org/Download/200512_Under_the_Guise_of_Security_Eng.doc).
- 17** See other reports of the incident at: <http://www.ynetnews.com/articles/0,7340,L-3220888,00.html> and: <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=687066&contrassID=1&subContrassID=5>.
- 18** See: <http://www.jewishjournal.com/home/preview.php?id=11598> and <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=415851>.
- 19** ICJ Advisory Opinion rendered on 9 July 2004, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", at: <http://www.icj-cij.org/icjwww/idocket/imwp/imwpframe.htm>.
- 20** For further details of this case, see Amnesty International's report, *Conflict, occupation and patriarchy – women carry the burden* (MDE 15/016/2005).
- 21** Report No 34, Implementation of the Agreement on Movement and Access (21 February - 6 March 2007), issued by OCHA, 14 March 2007, at: [http://www.ochaopt.org/documents/AMA\\_34.pdf](http://www.ochaopt.org/documents/AMA_34.pdf).

- 22** OCHA's Summary data tables of March 2007, at: [http://www.ochaopt.org/documents/OCHA\\_oPt\\_PoC\\_MonthlyTablesFeb07.pdf](http://www.ochaopt.org/documents/OCHA_oPt_PoC_MonthlyTablesFeb07.pdf).
- 23** OCHA's Summary data tables, as above.
- 24** For further details about frequent abuses by Israeli soldiers against Palestinians travelling south from Jenin towards Ramallah, see also B'Tselem: [http://www.btselem.org/english/Beating\\_and\\_Abuse/20060907\\_beating\\_and\\_abuse\\_at\\_Ramin\\_plain.asp](http://www.btselem.org/english/Beating_and_Abuse/20060907_beating_and_abuse_at_Ramin_plain.asp).
- 25** First notice: [www1.idf.il/DOVER/site/mainpage.asp?sl=EN&id=7&clr=1&docid=62057.EN](http://www1.idf.il/DOVER/site/mainpage.asp?sl=EN&id=7&clr=1&docid=62057.EN)  
Second notice: [www1.idf.il/DOVER/site/mainpage.asp?sl=EN&id=7&clr=1&docid=62082.EN](http://www1.idf.il/DOVER/site/mainpage.asp?sl=EN&id=7&clr=1&docid=62082.EN)
- 26** Four small settlements in the north of the West Bank were dismantled in mid-2005 in the context of Israel's "disengagement plan", the focus of which was the dismantling of the 16 Israeli settlements in the Gaza Strip and the redeployment of Israeli troops from inside the Gaza Strip. The main reason for the dismantling of the four settlements was their isolated and impractical location, which limited their potential for growth. Israelis living in two of these settlements had publicly expressed their desire to leave.
- 27** See <http://www.acri.org.il/english-acri/engine/story.asp?id=364>.
- 28** See <http://yesha.homestead.com/buyshomron.html>.
- 29** The full report has not been made public. The summary is on the Israeli Foreign Ministry's website, at: <http://www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Summary+of+Opinion+Concerning+Unauthorized+Outposts+-+Talya+Sason+Adv.htm#background>.
- 30** "Settlers: We might leave our homes for compensation," by Nadav Shragai, *Haaretz*, 23 March 2007, at: <http://www.haaretz.com/hasen/spages/841041.html>.
- 31** See <http://www.iwps-pal.org/en/articles/article/php?id=993>.
- 32** See <http://www.amana.co.il/Index.asp?ArticleID=185&CategoryID=100>.
- 33** See <http://www.jewishuniverse.net/realestate>.
- 34** See also *A semblance of law: Law Enforcement upon Israeli Civilians in the West Bank*, a report by the Israeli human rights group Yesh Din, June 2006, at: <http://www.yesh-din.org/site/index.php?page=report&lang=en>.
- 35** See IWPS at <http://www.iwps-pal.org/en/articles/article/php?id=976>.
- 36** In November 2006 OCHA recorded at least 14 incidents of Israeli settlers harassing or attacking Palestinians while they were picking olives in the West Bank. The Israeli settlements involved were Itamar, Elon Moreh, Shaout Rahel, Talmon, Yitzhar, Genot Shomron, Bracha and Tel Rumeida. Olive trees were damaged and picking equipment was stolen. OCHA field offices noted intervention by Israeli authorities during the incidents. Nevertheless, OCHA recorded six incidents where the Israeli army prevented Palestinians accessing farmland, including in the closed areas between the fence/wall and the Green Line. See: [http://www.ochaopt.org/documents/OCHA\\_HUProtectAccess\\_November06.pdf](http://www.ochaopt.org/documents/OCHA_HUProtectAccess_November06.pdf).
- 37** See [http://www.btselem.org/english/Testimonies/20070209\\_Neve\\_Daniel\\_Settlers\\_attack\\_farmers.asp](http://www.btselem.org/english/Testimonies/20070209_Neve_Daniel_Settlers_attack_farmers.asp).
- 38** A government was established by Hamas in March 2006 after the defeat of Fatah in the polls. Fatah had been the governing party since the establishment of the PA in the mid-1990s. The ensuing inter-factional clashes between security forces and armed groups linked to Fatah and Hamas resulted in the killing of some 300 people, including scores of civilians. In February 2007, the two sides reached a power-sharing agreement and in March 2007 a government of national unity was formed, with the participation of Fatah and Hamas, as well as other smaller parties.
- 39** The PA is the largest employer in the OPT, with salaries accounting for 95 per cent of total public expenditure. *Growth in West Bank and Gaza: Opportunities and Constraints*, World Bank Report No. 36320 WBG (Volume 1); September 2006, at:

<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/294264-1159361805492/CEMSept25,06.pdf>.

**40** *Comprehensive Food Security and Vulnerability Analysis (CFSVA) West Bank and Gaza Strip*; WFP and FAO, February 2007.

**41** The Israeli government stands alone in the international community in contending that the Fourth Geneva Convention does not apply to the OPT.

**42** Article 8(2)(b)(viii) of the Rome Statute.

**43** ICRC, Commentary: IV Geneva Convention relative to the Protection of Civilian Persons in Time of War, p.225, (Geneva: ICRC, 1958).

**44** According to the International Convention on the Elimination of All Forms of Racial Discrimination, "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, 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 1(1)).

**45** Human Rights Committee General Comment 27 of 2 November 1999 (CCPR/C/21/Rev.1/Add.9), at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6c76e1b8ee1710e380256824005a10a9?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6c76e1b8ee1710e380256824005a10a9?Opendocument).

**46** The UN Committee on Economic, Social and Cultural Rights (CESCR) recognized the right to water as an element of the right to a decent standard of living, CESCR, General Comment 15, The right to water, UN Doc. E/C.12/2002/11.

**47** CESCR, General Comment No.12 (E/C.12/1999/5).

**48** CESCR, General Comment No.7, The right to adequate housing (Article 11(1) of the Covenant: forced evictions, para 3).

**49** UN Commission on Human Rights, Resolution 1993/77; see also the authoritative interpretation of Article 11.1 by the CESCR, General Comments No. 4 (the right to adequate housing) and No.7 (forced evictions).

**50** In the West Bank, Palestinians are not allowed to build on or lease land which has been declared "state land" by Israel as such land is not for leasing or building on by "alien persons", and the whole of the local Palestinian population of the OPT is defined as alien. An alien is defined as one who is not in one of the following categories: (1) An Israeli citizen; (2) One who has immigrated (to Israel) under the (Israeli) Law of Return; (3) One who is entitled to immigrant status under the Law of Return – that is, a Jew by descent or religion; (4) A company controlled by (1), (2) or (3).












## AMNESTY INTERNATIONAL'S WORK ON ISRAEL AND THE OCCUPIED PALESTINIAN TERRITORIES

In recent years Amnesty International delegates have frequently visited Israel and the OPT to carry out field research and discuss the organization's concerns with the Israeli and Palestinian authorities. They have interviewed Palestinians, Israelis and international representatives from a wide range of professional backgrounds who have lived or worked in the OPT and whose lives and work have been affected by the regime of closures, checkpoints, blockades and restrictions imposed by Israel on freedom of movement in the OPT.

Amnesty International delegates frequently witnessed Palestinians being subjected to human rights abuses or harassment, and being delayed or denied passage at checkpoints by Israeli soldiers in the West Bank and Gaza Strip. The delegates have themselves routinely experienced lengthy delays in their movement in the OPT, and have at times been harassed or threatened by Israeli soldiers. On one occasion delegates were assaulted by Israeli settlers.

Amnesty International has published numerous reports and statements on different aspects of the human rights situation in Israel and the OPT over the years. These have covered abuses by the Israeli security forces and settlers, by Palestinian armed groups, and by the Palestinian Authority. Available at [www.amnesty.org](http://www.amnesty.org), these include:

-  Excessive use of lethal force (MDE 15/041/2000)
-  Mass arrests and police brutality (MDE 15/058/2000)
-  State assassinations and other unlawful killings (MDE 15/005/2001)
-  Broken lives – a year of intifada (MDE 15/083/2001)
-  Without distinction – attacks on civilians by Palestinian armed groups (MDE 02/003/2002).
-  Killing the future – children in the line of fire (MDE 02/005/2002)
-  The heavy price of Israeli incursions (MDE 15/042/2002)
-  Mass detention in cruel, inhuman and degrading conditions (MDE 15/074/2002)
-  Shielded from scrutiny – IDF violations in Jenin and Nablus (MDE 15/143/2002)

- 📄 Surviving under siege – the impact of movement restrictions on the right to work (MDE 15/001/2003)
- 📄 Israel must end its policy of assassinations (MDE 15/056/2003)
- 📄 The issue of settlements must be addressed according to international law (MDE 15/085/2003)
- 📄 The place of the fence/wall in international law (MDE 15/016/2004)
- 📄 Under the rubble – house demolition and destruction of land and property (MDE 15/033/2004)
- 📄 Torn apart – families split by discriminatory policies (MDE 15/063/2004)
- 📄 Israeli settlers wage campaign of intimidation on Palestinians and internationals alike (MDE 15/099/2004)
- 📄 Conflict, occupation and patriarchy – women carry the burden (MDE 15/016/2005)
- 📄 Briefing to the Committee on the Elimination of Racial Discrimination (MDE 15/002/2006)
- 📄 Road to nowhere (MDE 15/093/2006)



WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, AMNESTY INTERNATIONAL CAMPAIGNS FOR JUSTICE AND FREEDOM FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD.

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# Enduring occupation Palestinians under siege in the West Bank

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AI Index: MDE 15/033/2007

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